



AGENDA ITEM:

CABINET: 14 JUNE 2016

Report of: Borough Solicitor

Relevant Portfolio Holder: Councillor I. Moran

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SUBJECT: LOCAL LAND CHARGES RULES 2017

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To agree the Council's response to the Land Registry's consultation exercise regarding the draft Local Land Charges Rules 2017.

2.0 RECOMMENDATIONS TO CABINET

2.1 That the consultation response at Appendix 1 be approved for submission.

2.2 That call in is not appropriate for this item as the consultation exercise closes on 11 July 2016.

3.0 BACKGROUND

3.1 Local Land Charges are financial charges or other restrictions on the use of land. Each district council in England is under a statutory duty to maintain a Register of Local Land Charges, which are open to public inspection.

3.2 In a property transaction a prospective purchaser will usually conduct a search of the Local Land Charges Register via an "LLC 1" search which will reveal what land charges are registered in respect of the property searched against. Examples of land charges include:

- Charges recoverable by the Local Authority for work they have undertaken in respect of the property, e.g. to make safe dangerous buildings
- Planning Conditions attached to Planning Permissions
- Tree Preservation Orders

- Article 4 Directions
 - Planning Obligations
 - Community Infrastructure Levy Charges
- 3.3 At the same time as making an “LLC 1” search, prospective purchasers often seek additional (non-statutory) enquires of a Local Authority using form CON29R. The combined “LLC1” and “CON29R” search is known as a “Full Search”. The replies to the “CON29R” search may reveal important information about a property and its immediate surroundings, such as:
- Building Regulations
 - Proposals for road schemes
 - Planning applications in respect of the property that have been refused
- 3.4 In addition to a “Full Search” a prospective purchaser may also ask “CON29O” enquiries. A “CON29O” search may reveal:
- Road proposals by private bodies
 - Nearby public paths or byways
 - Completion Notices,
 - Registered common land and town or village greens
- 3.5 Each local authority sets its own fees with regard to its Land Charges Service within the scope provided for by regulations. In West Lancashire a “Full Search” currently costs £75, comprising an LLC1 search (£18) and a CON29R search (£57). Individual CON29O enquires can be made at a cost of £10 each. For the financial year 2015/16 the Council’s Land Charges Service received an income of £80,897, recording a net favourable variance against budget of £10,157. Of that £80,897 income £17,442 was derived from LLC1 searches.

4.0 LAND REGISTRY PROPOSALS

- 4.1 Under the Infrastructure Act 2015 the responsibility for maintaining the Local Land Charges Register will be transferred from all local authorities in England (and Wales) to the Land Registry. Importantly, however, local authorities will still be responsible for making applications to add or remove Local Land Charges in respect of their Local Authority area and for responding to CON29R and O search requests.
- 4.2 It is the Land Registry’s intention to keep a single digital Local Land Charges Register, with the Land Registry being responsible for providing official search results and personal search facilities. It is proposed that the Land Registry will retain all search income they receive.
- 4.3 Transitional provisions provide for the Land Registry to take over responsibility for Local Land Charges in phases from local authorities. It is anticipated that the process of transferring responsibility will take up to 8 years with the Government pushing for London authorities to transfer their data first. Once the necessary preparation for the transfer of data in respect of a local authority area has been carried out, the Land Registry will publish a notice. On expiry of that notice the Land Charges Rules 2017 will come into force for that local authority area and

responsibility for the Local Land Charges Register will then transfer to the Land Registry.

5.0 CONSULTATION EXERCISE

- 5.1 On 9 May 2016 the Land Registry commenced a consultation exercise, www.gov.uk/government/consultations/consultation-on-draft-local-land-charges-rules-2017 seeking views on the draft Local Land Charges Rules 2017. The rules will provide the framework for how the centralised Local Land Charges Register Service will work. It is intended that the Local Land Charges Rules 2017 will come into force 6 April 2017. However, as mentioned at 4.3 above, the rules will only take effect in relation to each local authority area in phases.
- 5.2 The draft Local Land Charges Rules 2017 are technical in nature and broadly replicate the current rules (Local Land Charges Rules 1977). The main difference is to accommodate a move from a separate register maintained by each local authority to a single Local Land Charges Register maintained by the Land Registry.
- 5.3 Officers have carefully considered the consultation document and have prepared a consultation response at Appendix 1. Consultation questions 1 – 19 focus on operational matters such as how local authorities are to make applications to the Land Registry to add or remove Local Land Charges, the relevant forms that are required to be used for registration and what documentation the Land Registry should retain. Question 20 seeks wider views on the accompanying Regulatory Impact Assessment and question 21 on the relationship between the Local Land Charges Register, which is to be transferred to the Land Registry and the CON29 service, which is to remain with local authorities.
- 5.4 Although the Land Registry's proposals in respect of operational matters (consultation questions 1 – 19) generally reflect current best practice and assist in creating a single digitised register the proposed consultation response highlights areas where clarity is needed to ensure that key parts of the administrative burden of maintaining the register are not shifted back to local authorities. In addition the proposed consultation response to questions 20 and 21 highlight concerns on a number of important issues, the more prominent of which are commented upon in paragraphs 5.5 to 5.7 below.
- 5.5 Whilst the Land Registry have set a policy objective of reducing the fee charged to customers for a search of the Local Land Charges Register, the Regulatory Impact Assessment indicates that it is the Land Registry's intention to charge a fee of £25.00 from 2017. The Council's current fee is £18.00 and so this would represent a fee increase of £7.00 per search. Although it is acknowledged the Land Registry's stated aim is to reduce this fee to £4.60 by 2024 (once the Land Registry's costs of transition are paid off) there appears to be no mechanism to ensure that this reduction in fee occurs and that costs savings are passed on to customers.
- 5.6 In addition it is considered that the Land Registry's view of the impact on local authorities is incomplete and unclear. Whilst the Land Registry have calculated global transition costs at £110.5 million, it has not separately provided its

estimate of the amounts to be paid to local authorities for the data transfer exercise. There is also uncertainty as to whether the Council, in addition to receiving sums in respect of the costs of data transfer, is to receive an on-going payment in respect of the fundamental and time-consuming work of collecting and disseminating the data that creates and updates the register. Officers also consider that the concerns of the conveyancing industry regarding the additional burdens they face by splitting up the LLC1 and Con29 search service have not been properly addressed, nor has the potential impact on the resilience of local authorities to continue to maintain the remnants of Local Search Service (Con29 search).

- 5.7 Finally, it is noted that whilst Regulatory Impact Assessment makes provision for the Land Registry's on-going costs of "Insurance" it is unclear whether such provision means that Land Registry are therefore assuming liability for the accuracy of the data revealed by a search of the Local Land Charges Register.

6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 6.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 There are no significant financial or resource implications arising from the Council responding to the Land Registry's consultation exercise. However, once the Local Land Charges Rules come into force in respect of this local authority's area the Council will see a reduction in the income received from the Land Charges Service as the Land Registry will retain all search fees arising from a search of the Land Charges Register. As noted at paragraph 3.5 above, for the financial year 2015/16, the Council derived an income of £17,442.00 from searches of the Local Land Charges Register.
- 7.2 On 11 May 2016 the Land Registry announced that it will fund the costs of data preparation prior to migration, migration support and the upkeep of the register. The Land Registry advise that this approach has been agreed between Land Registry and the Local Government Association who have established the New Burdens Working Group. The working group will consider a number of areas including IT, data preparation, migration support, applications to register new charges, and the updating or removal of existing registrations. The group will develop a methodology for assessing payments to Local Authorities and the final methodology will be agreed by the Land Registry and approved by the Department for Business Innovation & Skills, Ministry of Justice, the Department for Communities and Local Government, and HM Treasury.
- 7.3 It is, as yet, unclear whether provision will be made with regard to the loss of search income to be experienced by local authorities. In addition, and as noted at paragraph 5.6 above, it is also uncertain whether an on-going provision will be made with respect to the fundamental and time-consuming work of collecting and disseminating the data that creates and updates the register, .Officers will

continue to actively monitor matters to ensure representations are made, as appropriate, to best protect the Council's financial position.

8.0 RISK ASSESSMENT

- 8.1 Responding to the consultation exercise allows the Council opportunity to make representations regarding the detailed rules that will govern the operation of the Local Land Charges Register following transfer to the Land Registry.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

1. Consultation response