

Committee(s): Planning & Transportation	Dated: 11/05/2023
Subject: Charges for Property Searches	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	6,9
Does this proposal require extra revenue and/or capital spending?	No
If so, how much?	£0
What is the source of Funding?	N/A
Has this Funding Source been agreed with the Chamberlain's Department?	N/A
Report of: Gwyn Richards, Planning & Development Director	For Decision
Report author: Peter Shadbolt, Head of Planning Policy	

Summary

HM Land Registry is responsible for maintaining a register of land charges that records prohibitions, restrictions and obligations affecting land. Prospective purchasers can request additional information that could affect the future use or development of a property from the local authority, through a process known as Con29 and Con29O enquiries. Local authorities are allowed to make a charge for providing this information, on a cost recovery basis.

Responsibility for property searches in the City of London rests with the Planning & Development Service. Fees are applied to each Con29 and Con29O enquiry, with income allocated to central risk. These fees have not been increased since 2009. In 2022/23, fees for Con29 and Con29O enquiries to the City Corporation generated an income of £106,209, a figure which no longer fully covers the full cost of delivering the property search function going forward. An increase in fees for property searches of 10%, in line with the February rate of CPI, is therefore recommended, to be applied from 1 June 2023.

Recommendation(s)

Members are asked to:

- Agree the increase in fees for Property Searches, as set out in Appendix 1.

Main Report

Background

1. Every local authority in England and Wales, with the exception of the county councils, is required to hold a local land charges register that records prohibitions, restrictions and obligations affecting land within their administrative area. Under the Infrastructure Act 2015 responsibility for the 331 registers was transferred to HM Land Registry (HMLR) in a phased approach. The City Corporation transferred its register to HMLR in 2018.
2. Outside of the HMLR register, prospective purchasers can request additional information from the local authority, using a process known as Con29 and Con29O enquiries. The format of these enquiries and response is set out by the Law Society.
3. Con29 enquiries may provide information that could affect future use or development of the property or impose financial burdens. This could include:
 - decisions
 - anything waiting for approval
 - proposed road building
 - transport systems
 - rights of way
4. The CON29O process is used for optional questions for local authorities, covering for example:
 - completion notices
 - noise abatement
 - land maintenance notices
5. Under the Local Authorities (England) (Charges for Property Searches) Regulations, 2008, local authorities are allowed to charge for providing responses to Con29 and Con29O enquiries, provided that they have regard to the cost to the authority of answering questions about the property.
6. Appendix 1 sets out the City's current fees for Con29 and Con29O enquiries. These fees have not been amended since 2009.

Current Position

7. The City Corporation's property services function lies within the Policy & Strategy Section of the Planning & Development Service of the Environment Department. It is discharged by the City's Land Charges Officer. Con29 and Con29O enquiries cover a range of issues and responses are required not just in relation to planning policy and planning decisions, but also Community Infrastructure Levy and s106 planning obligations, environmental health and transport considerations. The Land Charges Officer therefore works closely with colleagues across the City Corporation to provide responses to enquiries.

8. Operating costs for the property services function are met out of the Planning & Development Local Risk budget. Income from searches is, however, allocated to Central Risk. Table 1 sets out the number of Con29 enquiries received in the past 3 years, together with the income received. Income will vary from year to year, with income in some years exceeding the cost of provision and in others falling below the cost of provision.

Table 1: Con29/Con29O enquiries and income

	Con29/29O Enquiries	Actual Income
2020/21	658	£76,941
2021/22	767	£114,375
2022/23	623	£106,209

9. In 2022/23, the cost of providing the property search function within the Policy & Strategy section of the Planning & Development Service, including staff costs, on-costs and managerial oversight, was approximately £99,000.
10. Property searches are currently managed through the use of an in-house computer system, which will need to be updated to ensure that it remains compliant with City Corporation IT requirements and/or replaced with an external 3rd party system, incurring an annual licence fee. It is estimated that between £10,000 and £20,000 will need to be set aside in 2023/24 to fund this software upgrade.
11. Taken together, Policy & Strategy section staff costs for providing property searches, combined with IT costs, exceed the average income received over the past 3 years. Additional staff costs incurred within the CIL/s106, environmental health and transportation teams to enable the Con 29/29O enquiries to be answered have not been separately calculated, but it is likely that the total cost to the Environment Department of providing the property search function is greater than the fee income received by the City Corporation.

Proposals

12. Given that income from property searches is not currently covering the cost of providing the service, an increase in fees is considered necessary. It is recommended that fees be increased broadly in line with the rate of the Consumer Price Index, which has stood at over 10% since September 2022. It is therefore recommended that an increase of 10% be applied, with effect from 1 June 2023. For illustration, had fees in 2022/23 been raised by 10%, total projected income for the year would have increased to approximately £117,000 based on actual income received for 2022/23 of £106,209.
13. Details of the revised fee structure are set out in Appendix 1, alongside the current fee structure.
14. It is also recommended that property search fees are reviewed annually and adjusted as necessary to ensure that income is aligned with the cost of service provision.

Corporate & Strategic Implications

Strategic implications – The proposed increase in property search fees will ensure that this key service to the City’s property owners and developers can continue, meeting Corporate Plan objectives 6 and 9.

Financial implications – the proposed increase in fees of 10% will mean that the cost to the City Corporation of providing the property search function will continue to be met on a cost recovery basis, averaged over several years. This will likely generate an additional £11,000 per annum to meet the increased costs forecast in 2023/24.

Resource implications - none

Legal implications – none

Risk implications - none

Equalities implications – The proposed increase in fees will not impact on people protected by existing equality legislation.

Climate implications - none

Security implications - none

Conclusion

15. The City Corporation provides information to prospective property purchasers through Con29 and Con29O enquiries. This service is provided within the Policy & Strategy section of the Planning & Development Division of the Environment Department. A fee is charged for this service, on a cost recovery basis. City Corporation fees have not increased since 2009. All fee income is allocated to Central Risk.

16. The current cost of providing the property search function, including staff and on-costs across the Environment Department and IT system costs, will now exceed the average annual fee income and an increase in fees of 10%, broadly in line with CPI, is therefore recommended.

Appendices

- Appendix 1 – Current and Proposed Property Search Fees

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Appendix 1

Current and proposed property search fees

Type	Current Fee	Proposed Fee
CON 29	£133.20 (£111 + VAT)	£146.52 (£122.10 + VAT)
CON 290	£7.20 per question (£6 + VAT)	£7.92 per question (£6.60 + VAT)
Each parcel of land added to a CON29/CON290	£36 (£30 +VAT)	£39.60 (£33 + VAT)
Each question added by a solicitor to a CON29/ CON290	£36 (£30 +VAT)	£39.60 (£33 + VAT)