



**17 December 2024**

**Agenda Item: 6**

## **REPORT OF EXECUTIVE DIRECTOR – PLACE**

### **REVIEW OF THE COUNTY COUNCIL’S PRE-APPLICATION PLANNING ADVICE CHARGING SCHEDULE**

#### **Purpose of report**

1. To seek approval from Members to update the County Council’s pre-application planning advice service, including a proposed increase in fee levels.

#### **Background information**

2. In July 2014 the County Council introduced a charging regime for providing a pre-application advice service for minerals, waste and Regulation 3 (Council’s own) developments. Prior to July 2014 the pre-application advice service was provided free of charge. In July 2021 fee levels for this service were reviewed and increased. Given that three years has now elapsed since the last review it is considered timely to review and uplift the current fee levels.
3. Planning officers within the County Council’s Development Management Team provide pre-application advice to all potential applicants upon request. The purpose of pre-application advice is to improve the quality of planning applications and provide relevant guidance and engagement which, in turn, increases the efficiency of the subsequent planning application process.
4. It is now common practice for county, district and unitary planning authorities to charge for their pre-application advice service. Several statutory bodies, including the Coal Authority, the Environment Agency, Natural England, and Historic England now charge for their advice at pre-application stage. The County Council as Highway Authority charges for pre-application advice where this is sought directly and over and above any advice being sought from either the County Council or any of the district and borough councils. Their charging regime falls outside the remit of the pre-application charges under consideration in this report, but it can be confirmed that they are kept under regular review.

#### **Legislation and policy context**

5. Section 93 of the Local Government Act 2003 gives powers to Local Authorities to charge for “discretionary activities” i.e. those which they do not have a mandatory duty to provide. This provision enables Local Planning Authorities to charge for, inter alia, providing pre-application advice. The Act stipulates that fees should not, however, exceed the cost of providing the service.

6. The effectiveness and importance of the pre-application process was endorsed by the Planning Act 2008. This Act introduced a statutory requirement for applicants to engage in consultation with local communities, local authorities and other parties who would be directly affected by proposals in relation to nationally significant infrastructure projects. This requirement was further consolidated in 2011 by the Localism Act which introduced a requirement for applicants to engage with local communities in advance of submitting planning applications for certain developments.
7. Underpinning the whole Development Management approach is the need for good communication and collaboration between relevant parties and front-loading the process. The National Planning Policy Framework (NPPF) updated in 2023 encourages pre-application discussions; relevant paragraphs state the following:

*Para 39: "Early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community."*

*Para 40: Local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage. They cannot require that a developer engages with them before submitting a planning application, but they should encourage take-up of any pre-application services they offer. They should also, where they think this would be beneficial, encourage any applicants who are not already required to do so by law to engage with the local community and, where relevant, with statutory and non-statutory consultees, before submitting their applications."*

*Para 41: The more issues that can be resolved at pre-application stage, including the need to deliver improvements in infrastructure and affordable housing, the greater the benefits. For their role in the planning system to be effective and positive, statutory planning consultees will need to take the same early, pro-active approach, and provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs."*

*Para 42: The participation of other consenting bodies in pre-application discussions should enable early consideration of all the fundamental issues relating to whether a particular development will be acceptable in principle, even where other consents relating to how a development is built or operated are needed at a later stage. Wherever possible, parallel processing of other consents should be encouraged to help speed up the process and resolve any issues as early as possible".*

8. The Government's Planning Practice Guidance was updated in March 2019 and in respect of pre-application advice states the following:

*Pre-application engagement by prospective applicants offers significant potential to improve both the efficiency and effectiveness of the planning application system and improve the quality of planning applications and their likelihood of success. This can be achieved by:*

- *providing an understanding of the relevant planning policies and other material considerations associated with a proposed development*
- *working collaboratively and openly with interested parties at an early stage to identify, understand and seek to resolve issues associated with a proposed development, including, where relevant, the need to deliver improvements in infrastructure and affordable housing*
- *discussing the possible mitigation of the impact of a proposed development, including any planning conditions*
- *identifying the information required to accompany a formal planning application, thus reducing the likelihood of delays at the validation stage. The information requested must be reasonable.*
- *putting in place a Planning Performance Agreement where this would help with managing the process and agreeing any dedicated resources for progressing the application.*

*The approach to pre-application engagement needs to be tailored to the nature of the proposed development and the issues to be addressed.*

9. The County Council's Guidance Note on the Validation Requirements for Planning Applications also encourages applicants and their agents to seek pre-application advice. This Guidance, which was last updated in March 2024, states "*The County Council encourages applicants and their agents to seek pre-application advice. This is particularly relevant for larger, more complex, or potentially controversial proposals. This should help applicants identify the information and details that needs to be submitted with their application. Such an approach can help minimise delays later in processing the application and identify whether other consents may be required.*"
10. In addition to the pre-application advice service the County Council also has an approved Planning Performance Agreement Charter in place which includes the opportunity to seek pre-application advice alongside other services at various stages of the planning application process. Fees within the PPA Charter are reviewed annually and no changes are proposed as part of this pre-application review.

### **The need for pre-application advice charges**

11. Engagement prior to submitting any planning application can be extremely important and enables the applicant and local planning authority to gain a clear understanding of the objectives and constraints associated with a particular development. It also provides an opportunity for wider engagement with other stakeholders, where appropriate. This can in turn deliver better outcomes for all parties.
12. The scope of the current pre-application service provided by the Development Management Team is extremely diverse. It ranges from ad hoc emails/telephone

calls about new boundary treatment around a school, for instance, to more in-depth and formal meetings about a proposed new quarry involving prospective developers and other interested parties. Providing this comprehensive service is expensive in terms of resources and officer time.

13. Justification for this charging regime arises from the need to recover at least some of the costs incurred by the County Council for providing this service. Costs for this service are transferred from the “public purse” to those using, and therefore benefiting from, the service.
14. Charging developers for pre-application advice on minerals and waste proposals brings in new income for the County Council. However, charging for pre-application advice on the Council’s own developments (Regulation 3) will sometimes involve transferring money from one department’s budget to another. Notwithstanding this, there are logical reasons for continuing to include Reg. 3 applications in the proposed charging regime, these include:
  - To ensure consistency and transparency in the applications process i.e. internal and external applicants should be treated alike and the Local Government Ombudsman often cites the need to treat internal applicants no differently from external applicants.
  - Pre-application advice on Reg 3 applications take up just as much officer time as for minerals and waste development and there is no reason why the Development Management Team should not recoup its costs in the same way.
  - For larger scale Reg. 3 developments it is likely there will be some element of external, i.e. private sector, funding e.g. Section 106 contributions.
  - Reg. 3 applications are not exempt from nationally set planning fees.

### **Proposed new fee levels and summary of the proposed changes**

15. The table below sets out the current and proposed fee levels for pre-application charges, alongside the proposed changes in advice categories:

Category	Existing Definition	Existing Fee Level	Proposed Alterations to Definition	Proposed Fee Level
<b>Significant</b>	<p>Significant minerals and waste schemes:</p> <ul style="list-style-type: none"> <li>All new and extensions to opencast coal sites.</li> <li>All new quarries or landfill sites.</li> <li>Any extensions (site area, mineral reserve, void area or life) to existing quarries or landfill sites where extraction or deposit exceeds 30,000 tpa</li> <li>Any waste management facility processing over 30,000 tpa.</li> <li>Major energy, minerals, or infrastructure proposals, including all stages of hydro-carbon development.</li> </ul> <p>Any development involving creation or change of use of 500 sq.m or more floorspace</p>	<p>*£1250 to £2000 plus VAT (meeting and written advice)</p> <p>*The amount charged will be dependent on the scale and complexity of the proposal. If the larger fee is required, this will be confirmed in advance.</p>	<p>Significant minerals and waste schemes:</p> <ul style="list-style-type: none"> <li><del>All new and extensions to opencast coal sites.</del></li> <li>All new quarries or landfill sites.</li> <li>Any extensions (site area, mineral reserve, void area or life) to existing quarries or landfill sites where extraction or deposit exceeds 30,000 tpa</li> <li>Any waste management facility processing over 30,000 tpa.</li> <li>Major energy, minerals, or infrastructure proposals, including all stages of hydro-carbon development.</li> </ul> <p>Any development involving creation or change of use of 500 sq.m or more floorspace</p>	<p>*£1,500 - £2,400 plus VAT (meeting and written advice)</p> <p>*The amount charged will be dependent on the scale and complexity of the proposal. If the larger fee is required, this will be confirmed in advance.</p>
<b>Major</b>	<ul style="list-style-type: none"> <li>Any extensions (site area, mineral reserve, void area or life) to existing quarries or landfill sites where extraction or deposit is between 5,000 and 30,000 tpa</li> <li>Any waste management facility processing between 5,000 and 30,000 tpa.</li> <li>Any development involving the creation or change of use of between 150 and 500 sq.m floorspace.</li> </ul>	<p>£750 plus VAT (meeting and written advice)</p>	<ul style="list-style-type: none"> <li>Any extensions (site area, mineral reserve, void area or life) to existing quarries or landfill sites where extraction or deposit is between 5,000 and 30,000 tpa</li> <li>Any waste management facility processing between 5,000 and 30,000 tpa.</li> <li>Any development involving the creation or change of use of between 150 and 500 sq.m floorspace.</li> </ul>	<p>£900 plus VAT (meeting and written advice)</p>

Category	Existing Definition	Existing Fee Level	Proposed Alterations to Definition	Proposed Fee Level
<b>Minor</b>	<ul style="list-style-type: none"> <li>Minor minerals and waste proposals, not listed in the significant or major categories, such as minor variations / non-compliance to existing schemes /installation of plant and machinery.</li> <li>Any development involving the creation or change of use of floorspace less than 150sqm or development involving no new floorspace.</li> </ul>	£375 plus VAT (meeting and written advice)	<ul style="list-style-type: none"> <li>Minor minerals and waste proposals, not listed in the significant or major categories, such as minor variations / non-compliance to existing schemes /installation of plant and machinery.</li> <li>Any development involving the creation or change of use of floorspace less than 150sqm or development involving no new floorspace.</li> </ul>	£450 plus VAT (meeting and written advice)
<b>Follow-up Meetings</b>	<ul style="list-style-type: none"> <li>Follow up meetings will be held, where appropriate, for all the above categories (significant, major, and minor).</li> <li>Where necessary (and relevant to the proposal) specialist officers may be invited to attend follow up meetings</li> <li>Officers may also attend meetings arranged by relevant consultees/third parties as required (this may arise where consultation is required with other bodies to address a specific / technical issue</li> </ul>	<p>£150, plus VAT per officer, per meeting.</p> <p>Specialist officers will be charged for at the above rate</p> <p>£150, plus VAT per officer, per meeting.</p>	<ul style="list-style-type: none"> <li>Follow up meetings will be held, where appropriate, for all the above categories (significant, major, and minor).</li> <li>Where necessary (and relevant to the proposal) specialist officers may be invited to attend follow up meetings</li> <li>Officers may also attend meetings arranged by relevant consultees/third parties as required (this may arise where consultation is required with other bodies to address a specific / technical issue</li> </ul>	<p>£180 plus VAT per officer, per meeting.</p> <p>Specialist officers will be charged for at the above rate</p> <p>£180, plus VAT per officer, per meeting.</p>
<b>Other</b>	Informal, office-based or virtual meeting (up to one hour to discuss any proposal)	£150 plus VAT (no written advice)	Informal, office-based or virtual meeting (up to one hour to discuss any proposal)	£180 plus VAT (no written advice)

Category	Existing Definition	Existing Fee Level	Proposed Alterations to Definition	Proposed Fee Level
<p><b>Permitted Development Enquiry (new category)</b></p>			<ul style="list-style-type: none"> <li>Confirmation as to whether planning permission is required.</li> </ul>	<p>£0 - £76*</p> <p>*If the applicant has indicated which relevant article(s) in the GPDO they consider exempts them from requiring planning permission, no charge will be applied. If no such information is provided and the applicant wants a full examination of whether planning permission is required, a £76 charge will be applied.</p>

Category	Existing Definition	Existing Fee Level	Proposed Alterations to Definition	Proposed Fee Level
<b>Free and Self-Service (new category)</b>	<ul style="list-style-type: none"> <li>Confirmation as to whether planning permission required.</li> <li>Any proposal for which there is no planning fee.</li> </ul>	Free  Free	<ul style="list-style-type: none"> <li><del>Confirmation as to whether planning permission required.</del></li> <li>Any proposal for which there is no planning fee.</li> <li>Nottinghamshire County Council's validation requirements: <a href="#">final-validation .pdf</a></li> <li>Planning application forms and associated guidance: <a href="#">Apply for planning permission   Nottinghamshire County Council</a></li> <li>The Nottinghamshire Minerals Local Plan: <a href="#">adoptedmineralslocalplancompressed.pdf</a></li> <li>Nottinghamshire and Nottingham Waste Core Strategy: <a href="#">waste-core-strategy-1.pdf</a></li> <li>Nottinghamshire and Nottingham Waste Local Plan: <a href="#">Adopted Waste Local Plan - Complete Document</a></li> <li>Online Planning Register: <a href="#">Nottinghamshire County Council - Development Planning</a></li> </ul>	Free  Free Free Free Free Free Free



## Summary of the main changes proposed

### Permitted Development Enquiries

16. We are proposing to introduce a fee for some enquiries into whether planning permission is required. We have never charged for this service before, however we are receiving an increased amount of permitted development enquiries (most of which contain multiple plans and reports), which can take considerable time to deal with. Furthermore there is plenty of free advice available on our website and elsewhere, such as on the Planning Portal's website and the General Permitted Development Order itself, which applicants could read in order to determine a proposal's permitted development status without the need for significant officer intervention.
17. We propose to create a new permitted development page on our website along with a permitted development enquiry request form. The form will ask the applicant to state which Article of the General Permitted Development Order (GPDO) they believe applies to the proposed development which may mean it is exempt from planning permission. Applicants who complete the form in full will not be charged for their permitted development enquiry as the information provided will reduce officer time and promote a deeper understanding of what is considered permitted development, thereby potentially reducing the number of permitted development enquiries we receive. Where the answer to this question is left blank, thereby requiring officers to research the matter themselves, we propose a charge of £76 to cover the cost of officer's time.

### Free category

18. We will also update our website to provide a more concise, organised and clear section for free guidance. Whilst this information is already on our website, ensuring it is all available in one place marked up as 'Free Advice and Tools' will increase accessibility and create a streamlined and more user-friendly service where applicants can find the answers to their enquiry much more quickly. The page will include links to our minerals and waste local plans, allowing applicants to consider their proposals against relevant local plan policy, and also a link to our validation webpage so that applicants can further understand what matters need to be covered in their applications.

### **Reasons for the changes**

19. The current pre-application charging schedule has now been in place for three years and it is therefore considered timely to review whether the existing fee levels are still appropriate and reflect the amount of time officers spend on providing pre-application advice. Furthermore, advice has been taken from Finance colleagues who have deemed the Consumer Prices Index including owner occupiers' housing costs (CPIH) as the most appropriate measure to use to increase our fees based on the rate of inflation.
20. The proposed new fee levels more truly reflect the cost of providing this service. It is worth highlighting that the provision of pre-application advice does not simply mean having a meeting with an applicant. A typical example of the pre-application advice would include meeting with the applicant/agent, either in the office, virtually

or on site, a search of planning history of the site, a consultation with internal teams or external bodies (where deemed appropriate), and a formal written response highlighting the relevant planning policies and details of any likely planning constraints, such as ecological designation or flood risk potential. The objective is to produce comprehensive pre-application advice to enable any subsequent planning application to be fit for purpose and progress through the planning application stage with minimum delay. In some circumstances advice may be given confirming that a proposal is likely to be contrary to planning policies or that the site has such significant constraints that planning permission is unlikely to be granted. This can help avoid a considerable amount of costly and abortive work.

21. Over the last four years, since the last review, the amount of income generated from the pre-application advice service is as follows:

<b>Year</b>	<b>Pre-application fee income</b>
2021 - 2022	£7,096
2022 - 2023	£9,705
2023 - 2024	£3,025
So far in 2024 - 2025	£10,150

22. Income from the pre-application advice service is low in comparison with the income received from the nationally set planning application fees. However, a considerable amount of officer time goes into providing pre-application advice and the fees received do help to support the Development Management Team. Evidence shows that time spent at the pre-application stage does reduce the work and time once the planning application is submitted and is therefore considered to be worthwhile. This is reflected by the County Council's continued high performance in determining applications within statutory Government timescales or agreed time extensions. The proposed increase in pre-application fee levels are intended to more closely reflect the current value based on increased inflation rates, as well as the work involved to achieve a more realistic level of fee income without being a disincentive to applicants using the service. As part of this review of fee income, officers have looked at the pre-application fees charged by other county planning authorities and can confirm that the fee levels being proposed are broadly comparable.
23. Details on how the pre-application service operates is currently set out on the County Council's website which would be updated to reflect the proposed changes.

## **Discretionary pre-application and pre-submission advice services for Biodiversity Net Gain (BNG)**

24. The County Council's Conservation Team is also proposing a discretionary, paid-for service to applicants seeking pre-application advice where BNG will apply, however this service will be introduced separately.

### **Statutory and Policy Implications**

25. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment, and those using the service and where such implications are material they are described below.

### **Implications for Service Users**

26. The proposed revised scheme with charging rates at a more realistic level will enable to provision of a continued professional pre-application advice service available to applicants and agents. It is anticipated that this will assist in the formulation of comprehensive and fit for purpose planning applications that progress through the planning application process with fewer potential delays.

### **Human Rights Implications**

27. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6 (Right to a Fair Trial) are those to be considered. In this case, however, there are no impacts of any substance on individuals and therefore no interference with rights safeguarded under these articles.

### **Equality Impact Assessment**

28. An Equality Impact Assessment has been undertaken and approved which concludes that the proposal would impact on all sectors of the community equally with no disproportionate impact on people with protected characteristics. One exception to this is the positive impact arising from the fact that there continues to be no fee for providing pre-application advice on proposals for works to buildings which benefit disabled people, such as providing means of access.

## **RECOMMENDATION**

29. It is RECOMMENDED that Members approve the revised fee schedule, for the pre-application advice service, subject to any further processes required by the Council's Constitution, as set out in this report to come into effect on 1<sup>st</sup> January 2025.

30. It is RECOMMENDED that Members give officers delegated powers to uplift the fees annually in subsequent years in accordance with any procedures set out in the Council's Constitution line with Consumer Prices Index including owner occupiers' housing costs (CPIH).

**Derek Higton**

**Executive Director for Place**

### **Constitutional Comments [JL 04/12/2024]**

Planning & Rights of Way Committee is the appropriate body to consider the contents of this report by virtue of its terms of reference set out in the Constitution of Nottinghamshire County Council

### **Finance Comments [PAA29 03/12/2024]**

As set out in paragraph 5, the Local Government Act 2003 stipulates that fees charged for the provision of a discretionary activity such as pre-planning application advice should not exceed the cost of providing the service. Income received from fees for the provision of pre-planning application advice from 2020/21 to 2023/24 and in 2024/25 (to 31 October 2024) is shown in paragraph 21. The proposed increase in pre-planning application advice fees from those last agreed in July 2021 is intended to reflect increases in costs over this period and ensure that the fees cover the cost of providing pre-planning application advice.

### **Background Papers Available for Inspection**

The application file available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

### **Electoral Divisions and Members Affected**

All

Report Author  
Rebecca Kirkland  
0 115 993 2584

For any enquiries about this report, please contact the report author.