



11th July 2017

Agenda Item:12

REPORT OF CORPORATE DIRECTOR – PLACE

REVIEW OF THE COUNTY COUNCIL'S PRE-APPLICATION PLANNING ADVICE CHARGING SCHEDULE

Purpose of Report

1. To advise Members of the proposal to update and relaunch the County Council's pre-application planning advice service, including a proposed increase in fee levels.

Background information

2. In June 2014 Members of the Planning and Licensing Committee gave approval for the introduction of a charging regime for providing a pre-application advice service for minerals, waste and Regulation 3 (Council's own) developments. The Council started charging for this service on July 1st 2014.
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. Prior to July 2014 the pre-application advice service was provided free of charge.
4. When the charging regime was introduced it was anticipated that the service could potentially generate up to £18,000 over a three year period. The introduction of charging was considered to be justified in the light of the Council's financial situation in an attempt to recoup some of the costs associated with providing this service and bring the authority in line with similar authorities. Nationally almost all counties, districts and unitary authorities have now introduced charges for their pre-application advice service. A number of statutory bodies, such as the Coal Authority, Environment Agency and Natural England also now charge for their advice at pre-application stage.
5. Total income generated from providing this service is £5,480 over the three year period since its introduction, which is well below the anticipated level. This is due to a number of factors, including the failure of developers to engage with the service, for instance on large scale proposals which are subject to screening/scoping as required under the Environmental Impact Assessment Regulations, or where the proposed developments fall below the charging

thresholds. A review of the service, including an adjustment of the thresholds and an increase in fee levels, is therefore considered to be timely and appropriate. It is anticipated that the proposed fee levels will generate an income of around £2000 per annum.

Legislative context and Policy Framework

6. Section 93 of the Local Government Act 2003 gave powers to Local Authorities to charge for “discretionary activities” i.e. those which they do not have a mandatory duty to provide. This provision enabled Local Planning Authorities to charge for, inter alia, providing pre-application advice. The Act stipulated that fees should not, however, exceed the cost of providing the service.
7. 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.
8. 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) published in 2012 also encourages pre-application discussions; it states early engagement has the potential to improve the efficiency and effectiveness of the planning application system. The Framework further states that local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage. The accompanying Guidance to the NPPF was published in March 2014 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,*
- *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.

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

9. In line with this policy framework, it is considered appropriate to continue to charge for providing pre-application advice. The County Council's Policy on Validation Requirements for Planning Applications (the Local List) also encourages applicants and their agents to seek pre-application advice.

The need for pre-application advice charges

10. 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.
11. 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 open cast mine involving prospective developers and other interested parties. Providing this comprehensive service is expensive in terms of resources and officer time.
12. 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. The proposal needs to be considered in the light of the significant financial constraints currently being experienced by the County Council. Costs for this service are transferred from the "public purse" to those using, and therefore benefiting from, the service.
13. Charging developers for pre-application advice on minerals and waste proposals brings in new income for the County Council however, charging for the Council's own developments (Regulation 3) applications sometimes involves 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. it would seem fairer to treat internal and external applicants alike and the Local Government Ombudsman often cites the need to treat internal applicants no differently from external applicants.
 - For larger scale Reg. 3 developments it is likely there will be some element of external, i.e. private sector, funding e.g. PFI schools.
 - Reg. 3 applications are not exempt from nationally set planning fees.
 - There is already the precedent for cross-charging between departments, for example, funding routinely comes from the Planning Group's budget to pay for advice provided by the County Council's noise engineer, landscape architects and contaminated land officers.
 - Advice given directly to schools for instance on whether planning permission is required for a proposal will continue to be provided for free.

Proposed new fee levels and summary of the proposed changes

14. The table below sets out the proposed fee levels for pre-application charges

Category	Definition	Fee level
Significant	<p>Significant minerals and waste schemes:</p> <ul style="list-style-type: none"> • All new and extensions to opencast coal sites. • All new quarries or landfill sites. • Any extensions (site area, mineral reserve, void area or life) to existing quarries or landfill sites where extraction or deposit exceeds 30,000 tpa • Any waste management facility processing over 30,000 tpa. • Major energy, minerals or infrastructure proposals, including all stages of hydro-carbon development. <p>Any development involving creation or change of use of 500 sq.m or more floorspace</p>	<p>£1000, plus VAT (meeting/s and written advice)</p>
Major	<ul style="list-style-type: none"> • 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 • Any waste management facility processing between 5,000 and 30,000 tpa. • Any development involving the 	<p>£600 plus VAT (meeting/s and written advice)</p>

	creation or change of use of between 150 and 500 sq.m floorspace.	
Minor	<ul style="list-style-type: none"> 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. Any development involving the creation or change of use of floorspace less than 150sqm or development involving no new floorspace. 	£300 plus VAT (meeting/s and written advice)
Other	<ul style="list-style-type: none"> Informal, office-based meeting up to one hour to discuss any proposal 	£100, plus VAT (no written advice)
Free	<ul style="list-style-type: none"> Confirmation as to whether planning permission required. Any proposal for which there is no planning fee. Any proposal relating to the needs of people with disabilities 	Free Free Free

15. The main changes proposed to the existing fee levels are as follows;

Significant category

- Increasing the fee level for advice on significant development from £500 to £1000 (plus VAT),

- Reducing the threshold of any development involving the creation or change of use of floor space from 2,000sqm to 500sqm (this will now capture new schools and significant school extensions for instance),
- Reducing the waste management facility criteria from 50,000 tpa to 30,000 tpa to be consistent with mineral sites.

Major category

- Increasing the fee level for advice on major development from £300 to £600 (plus VAT),
- Reducing the threshold for any development involving the creation or change of use of floor space from between 1,000sqm and 2,000sqm to between 150sqm and 500sqm (this will now capture medium sized developments on school sites such as a double classroom extension for instance),
- Reducing the waste management facility criteria to 30,000 tpa as the upper limit.

Minor category

- Increasing the fee level for advice on major development from £150 to £300 (plus VAT),
- Reducing the threshold for any development involving the creation or change of use of floor space from between 500sqm and 1,000sqm to any development less than 150sqm or development involving no new floor space (this will now capture small developments on school sites such as a mobile classroom or new car park for instance).

Other category

- A new proposal involves the introduction of an informal, office based meeting for up to one hour to discuss any proposal for £100 (plus VAT). No written advice would be provided for this fee. This fee would be deducted from any future fee if further more detailed, written advice is sought.

All the other categories above (i.e. significant, major and minor) would involve a meeting, either office or site based, and comprehensive written advice.

Free category

- Planning officers will continue to provide advice for free confirming whether planning permission is required and for advice relating to proposals for which there is no planning fee.

Reasons for the changes

16. 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 and thresholds within the categories are still appropriate. As part of this, a benchmarking exercise was carried out against other planning authorities who deal with

similar applications. A summary of the results from the authorities who responded to us for this information is set out in the table below. (Note the Unitary authorities included in the table deal with all applications in their area including residential and commercial developments and therefore have significantly more applications and hence distort the figures).

The table below shows comparative figures for pre-application charging at similar planning authorities.

County	Amount raised from pre-application fees	Fee levels summary
Essex County Council	About £10,000 per annum	£750 Large scale major £500 Major £300 Minor For written advice and meeting on site Also separate schedule for just written advice and also just written advice and meeting with officer at County Hall
Surrey County Council	£660 - 22/09/2104 to 31/03/15 £2870 - 1/04/2015 to 31/03/2016 £9090 – 1/04/2016 to 31/03/2017	First 30 minutes verbal advice –Free Major development –site visit £1335/officer meeting £1065/written advice£665 Minor development- site visit £660/officer meeting £390/written advice£450 Further meetings £200 per hour
Cumbria County Council	£5,000 for 2016/2017	Major development £489.60 Minor development £244.80
Cornwall Council (Unitary Authority)	£311,102 for 2016/2017 £53,868 (from requests for Do I need planning permission?) for	£640 Major £385 Medium scale £200 Small scale Also, reduced scale of

	2016/2017	charges for just desktop response
West Sussex County Council	£7,750 -2013 £2,600 -2014 £2,800- 2015 £3,650- 2016	£2000 –Major £1250 –Large £800 – Medium £500 – Small
Gloucestershire County Council	£6,480 for 2016	£2700 Large scale major £1800 Major £900 Minor
Bradford Metropolitan District Council (Unitary Authority)	No information provided	Large scale/usually EIA £1,404 Medium sized £780 Small scale £480
Derbyshire County Council	Reduced amount last financial year, previous years around £10,000 per annum	£500 Large scale £300 Major £150 Minor Other free For additional meetings the following additional amounts are charged £250/150/75/£0

17. The proposed new fee levels more truly reflect the cost of providing this service. Even with the proposed increases this Authority would still be in the mid-range of fee levels charged by other counties. A typical example of the pre-application advice would include meeting with the applicant/agent, either in the office or on site, a search of planning history of the site, provision of a summary of relevant policies and details of any likely planning constraints, such as ecological designation or flood risk potential. Any follow up meetings with the applicant/agent or correspondence to them relating to the same proposal on the same site would not be charged for. 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.
18. Changes to the thresholds are proposed to ensure that the pre-application scheme is more consistent and captures some of the smaller scale development which can often be controversial.

19. It is anticipated that the take up of the proposed new category offering an informal office based meeting for up to one hour to discuss any proposal is likely to be relatively high. This would pick up many of the more ad-hoc meetings that regularly take place at present without being charged for. This would cost £100, plus VAT which would be deducted from the fee if further, more detailed written advice were sought from any of the significant, major or minor categories.

Statutory and Policy Implications

20. 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

21. 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

22. 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

23. An Equality Impact Assessment was undertaken and approved for this proposal in September 2013. It concluded that the proposal would impact on all sectors of the community equally with no disproportionate impact on people with protected characteristics.

RECOMMENDATIONS

24. It is RECOMMENDED that Members approve the revised fee schedule for the pre-application advice service as set out in this report to come into effect on 1st September 2017.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments [RHC 21/06/2017]

Planning and Licensing Committee is the appropriate body to consider the contents of this report.

Comments of the Service Director - Finance [RWK 21/06/2017]

It is estimated that the revised fee schedule proposed in the report will result in income to the County Council of £2000 per annum

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
Jane Marsden-Dale
0115 9932576

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