



27 July 2021

Agenda Item: 6

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 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 2017 fee levels for this service were reviewed and increased. Given that four 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. The introduction of charging is considered to be justified to recoup some of the costs associated with providing this service and bring the authority in line with many other planning authorities. Nationally almost all counties, districts and unitary authorities have now introduced charges 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 also separately charge for Highways pre-application advice. (These rates for Highways advice were reviewed in March 2020 and are set at £67 per hour subject to a minimum 4-hour charge).

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 2019 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 Policy on Validation Requirements for Planning Applications (the Local List) also encourages applicants and their agents to seek pre-application advice. This Policy, which was last updated in February 2020, 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 offers applicants 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. Basic Need.
 - 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.

Proposed new fee levels and summary of the proposed changes

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

Category	Definition	Fee level
Significant	Significant minerals and waste schemes: <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. 	*£1250 to £2000 plus VAT (meeting and written advice) *The amount charged will be dependent on the scale and complexity of the proposal. If the larger fee is required, this will

	<ul style="list-style-type: none"> 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>	be confirmed in advance.
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 creation or change of use of between 150 and 500 sq.m floorspace. 	£750 plus VAT (meeting and written advice)
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. 	£375 plus VAT (meeting and written advice)
Follow-up meetings	<ul style="list-style-type: none"> Follow up meetings will be held, where appropriate, for all the above categories (significant, major, and minor). Where necessary (and relevant to the proposal) specialist officers may be invited to attend follow up meetings 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 	<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>

Other	<ul style="list-style-type: none"> • Informal, office-based or virtual meeting (up to one hour to discuss any proposal) 	£150 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. 	Free Free

16. The main changes proposed to the existing fee levels are as follows:

Significant category

- Increasing the fee level for advice on significant development from £1000 (plus VAT) to £1250 - £2000 (plus VAT). This proposed range would allow the Council to charge £1250 for most of the significant inquiries but for the largest and most complex cases the maximum would be charged. If the larger fee is applicable applicants would be advised in advance.

Major category

- Increasing the fee level for advice on major development from £600 (plus VAT) to £750 (plus VAT).

Minor category

- Increasing the fee level for advice on major development from £300 (plus VAT) to £375 (plus VAT).

All the categories above (i.e. significant, major, and minor) would involve a meeting, which would be held in the office, virtually or on site as appropriate. This would be followed up with comprehensive written advice.

Other category

- Informal, office-based or virtual meetings for up to one hour to discuss any proposal would be increased from £100 (plus VAT) to £150 (plus VAT). No written advice would be provided for this fee. As is the case at the present time, this fee would be deducted from any future fee if further detailed written advice is sought.

Follow-up meetings

- A new category has been introduced to charge for follow-up meetings which may take place after the initial meeting and could be held for proposals falling within the significant, major, or minor categories. These would involve planning officers and, where relevant, specialist officers may be invited. There would be a flat rate charge of £150 (plus VAT) per officer, per meeting.
- This charge would also apply where planning or specialist officers are asked to attend meetings arranged by third parties to address a specific/technical issue.

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 application fee (this includes works to buildings which benefit disabled people such as providing means of access).

Reasons for the changes

17. The current pre-application charging schedule has now been in place for four years and it is therefore considered timely to review whether the existing fee levels are still appropriate and reflect the increased amount of time officers spend on providing pre-application advice. As part of this, a bench marking exercise was carried out against other planning authorities who deal with similar applications. A summary of the fee levels of other authorities is set out in the table below.

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

Authority	Type of application / service	Schedule of fees
Kent County Council	Meeting on site (verbal advice)	£480
	Meeting at County Hall (verbal advice)	£360
	Written advice following either of above	£180
		£180
	Subsequent meetings will attract a further meeting charge as above. Where additional specialist advice is required, consultant's fees will be charged at cost. Attendance of other officers at the meeting, including specialist advisors, will be at the case officer's discretion	
	Planning history/solicitor enquiries	Depending upon complexity of request – price upon application based upon hourly rate
	Written advice including commenting on a draft application (prepared following advice contained in the Council's validation documents)	
		All prices include VAT
Hampshire County Council	Small scale development	£500, plus VAT
	Large scale development	£1000, plus VAT
	EIA development	£1400, plus VAT

	<p>Also have a separate Preapplication Highway advice service as follows:</p> <p>Minor development</p> <p>Medium scale development</p> <p>Large scale development</p> <p>Major scale development</p> <p>Additional meeting</p> <p>Site visit</p>	<p>£350, plus VAT</p> <p>£750, plus VAT</p> <p>£1250, plus VAT</p> <p>£2000, plus VAT</p> <p>£100, plus VAT</p> <p>£150, plus VAT</p>
Derbyshire County Council	<p>Large scale</p> <p>Major</p> <p>Minor</p> <p>Other developments, any development involving less than 500sqm, e.g. boundary treatment</p> <p>For more complicated proposals a number of meetings may be required to cover all relevant issues before a formal application is submitted, and will attract the following fees for additional meetings.</p> <p>Large Scale</p> <p>Major</p> <p>Minor</p> <p>Other developments</p>	<p>£500, plus VAT</p> <p>£300, plus VAT</p> <p>£150, plus VAT</p> <p>Free</p> <p>£250 plus VAT</p> <p>£150 plus VAT</p> <p>£75 plus VAT</p> <p>Free</p>
Northumberland County Council	<p>Minor</p> <p>Medium</p> <p>Major</p> <p>Strategic</p> <p>2-hour meeting with Senior Planning Officer</p>	<p>£445</p> <p>£1000</p> <p>£2000</p> <p>£3000</p> <p>£250</p>

		(all prices are inclusive of VAT)
Gloucestershire County Council	Significant development	£2781, plus VAT
	Major development	£1854 plus VAT
	Minor development	£927 plus VAT Fees are reviewed annually
Oxfordshire County Council	Major development	Written response £700 Meeting at council offices and follow-up written response £1000 Meeting on-site and follow up written response £1500 Follow up meeting £250 Specialist officers to attend meeting (per additional officer) £76.50
	Minor Development	Written response £350 Meeting at council offices and follow-up written response £500 Meeting on-site and follow up written response £750 Follow up meeting £250 Specialist officers to attend meeting (per additional officer) £76.50
Bradford Unitary Authority	All minerals, waste, commercial and housing.	
	Large scale complex proposals	£1,474, inc VAT
	Other major development	£819, inc VAT
	Other non- major complex developments	£504, inc VAT

	Additional charges for follow up meetings:	£680, £378, and £226 respectively
Surrey County Council	<p>Web based pre-application advice-officer verbal advice (30 mins)</p> <p>Major applications</p> <p>Minor applications</p> <p>Follow up advice fees - Where an initial meeting has taken place, to further scope the proposal and to provide relevant detailed advice on the content of a planning application.</p> <p>To discuss consultee requirements including outcome of EIA screening and scoping.</p>	<p>Free</p> <p>Site visit meeting (£1335 +VAT) Officer meeting (£1065 +VAT) Written advice (£675 +VAT)</p> <p>Site visit meeting (£660 +VAT) Officer meeting (£390 +VAT) Written advice (£450+VAT)</p> <p>Further meetings (Deposit of £250 required, Planning Officer attendance invoiced at hourly rate of £200 +VAT per hour)</p> <p>Further meetings including specialists (Deposit of £500 per topic area, attendance by specialists charged at cost and Planning Officer attendance invoiced at hourly rate of £200 +VAT per hour) Written advice (£675 +VAT)</p>
Essex County Council	<p>Minor development</p> <p>Major development</p> <p>Large scale major development</p>	<p>Written advice £175</p> <p>Written advice and meeting with planning officer at County Hall £236</p> <p>Written advice and meeting with planning officer on site £350</p> <p>As above £350, £467, and £585</p> <p>As above £585, £760, and £878</p>

	Follow up meetings costs are regardless of time. Follow up telephone calls and correspondence will be based on an hourly rate confirmed in advance and invoiced in arrears.	£120 at County Hall and £180 on site (All prices include VAT)
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18. 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. 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, and a formal written responses 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.

19. Over the last four years, since the last review, the amount of income generated from the pre-application advice service (and the planning application fee income) is as follows:

Year	Pre-application fee income	Planning application fee income
2017-2018	£4,138	£245,449
2018-2019	£6,557	£265,764
2019-2020	£4,180	£230,467
2020-2021	£6,296	£210,525

20. Income from the pre-application advice service is extremely 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, particularly on Regulation 3 applications. 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 work involved to achieve a more realistic level of fee income without being a disincentive to applicants using the service.

21. Details on how the pre-application service operates is currently set out on the County Council's website. A proposed updated webpage is attached to this report as Appendix A.

Statutory and Policy Implications

22. 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

23. 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

24. 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

25. 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

26. 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 2021.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments [SG 02/07/2021]

This decision falls within the Terms of Reference of the Planning and Rights of Way Committee to whom responsibility for the exercise of the Authority's functions relating to pre-application planning advice charging schedule.

Finance Comments [RWK 05/07/2021]

The report proposes the increase in fees for its pre-planning application service and the introduction of some new fees. In the last 4 years the income from this service has been between £4,000 and £6,500. The changes detailed in this report are estimated to increase the annual income by £1,000 to £2,000 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

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