

CABINET

Proposed Introduction of Fees for Pre-Planning Application and Householder Development Advice 24 July 2012

Report of the Head of Regeneration and Policy

PURPOSE OF REPORT			
To seek to introduce fees for currently free, householder development advice and pre-planning application advice.			
Key Decision	<input checked="" type="checkbox"/>	Non-Key Decision	<input type="checkbox"/>
Date Included in Forward Plan		July 2012	
This report is public			

RECOMMENDATIONS OF COUNCILLOR HANSON

- (1) That the principle of charging for householder development advice and pre-planning application advice be agreed.
- (2) That responsibility for determining the precise fees in each case each year is delegated to Cabinet, working in conjunction with Financial Services and that the General Fund Revenue Budget is updated to reflect the estimated additional income for 2012/13 during the Revised Budget process.
- (3) That future years' fees are incorporated into the council's Fees and Charges policy for review thereafter as part of the annual budget and planning process, taking into account service demands.

1.0 Introduction

- 1.1 This report provides information regarding service activities which are in high demand but which the Development Management Team currently provides free of charge. This is in contrast to the core work of determining planning applications, which is fee-earning.
- 1.2 Two of these activities, namely the provision of householder development advice and the provision of pre-planning application advice, are service areas where fees have been recently introduced by other local planning authorities,

and this report seeks support for the principle of introducing fees for these two service activities.

1.3 Nationally, local planning authorities are encouraged to pursue joint working with applicants, consultees and residents at the pre-application stage to attempt to resolve any problems that may occur during the planning application. Pre-application advice has always been in high demand but with greater encouragement from the Government, it is a service area which is becoming increasingly important, and as such the current methods of service delivery and the current staffing capacity able to deliver the service are relevant issues.

1.4 This comes at a time when many Councils, including the City Council, have reduced staff in their Development Management functions because of reduced fee income. If the economic climate eventually improves, higher demands for Officer time will not be accommodated easily.

2.0 Legislation and Case Examples

2.1 The Government and its Planning Advisory Service have confirmed that fees for pre-planning application advice can be appropriately levied by local planning authorities, and legislation is in place to support this. The Local Government Act 2003 gave local authorities a discretionary power to charge for providing pre-planning application advice. Westminster District Council was one of the first authorities (June 2004) to undertake a charging regime for some of its discretionary activities, including pre-planning application advice.

2.2 Since then the Government's Killian Pretty Review (November 2008) has recommended that local planning authorities "*...should take steps to substantially improve the critically-important pre-application stage of the application process, in order to improve the quality of the application and to avoid problems and delays at later stages*". The Local Government Association have previously written to Government (September 2010) to offer their support for decentralised planning, advocating Councils having freedom "*to charge appropriate local fees to support an effective planning service*".

2.3 Initially interest in pre-application charging was confined to south-east England. However in recent years the practice has become more widespread as local planning authorities adapt to an increased demand for quality planning services in a challenging economic environment.

2.4 Within Lancashire, the following authorities currently operate a Charging Regime for pre-application advice:

- Blackpool
- Blackburn with Darwen
- Chorley
- Hyndburn
- Pendle
- Preston

- Ribble Valley
- South Ribble
- West Lancashire
- Wyre

In most of these authorities, the practice of fee charging commenced in 2010-2011. The fees levied are determined on the type of application (e.g. major development, householder development, etc) and in the majority of cases are reviewed annually.

3.0 Proposal Details

3.1 The proposed introduction of fees referred to in this report should not be confused with the national planning application fee regime which stipulates the level of fee that should accompany the many different types of planning application. Whilst there are current Government proposals to devolve responsibility for planning application fee-setting to local authorities, the Government's timescale for the introduction of this proposal has slipped, and so at the present time the national planning application fee system remains in place and this is unaltered by the proposals contained in this report.

3.2 However there are a number of related Development Management-related activities that currently do not incur a fee. These are:

- (i) Enforcement Investigations;
- (ii) Tree and Hedgerow Enquiries;
- (iii) Householder (Questionnaire) Development Advice; and,
- (iv) Pre-Planning Application Advice.

Enforcement

3.3 As part of its review of planning fees, the Government has stated that planning enforcement (i.e. the investigation of alleged breaches of planning control, which are highly-specialised and time-consuming) would not be a fee-bearing activity, and so there are no proposals to introduce local or national fees for this service area.

Trees and Hedgerow Advice

3.4 The Development Management Team currently responds to many enquiries regarding trees and hedgerows. These can include the investigation of alleged unauthorised work to protected specimens; the making of new Tree Preservation Orders; and the consideration of any applications for work to protected trees or hedges.

3.5 Whilst local planning authorities are not discounted from charging for this type of work, it is considered that the introduction of charges would lead to an increase in unauthorised tree/hedgerow works, including specimen removals. Unlike unauthorised built development, which ultimately can often be

remedied via the use of enforcement methods, the loss of trees, particularly any specimens that are protected by Tree Preservation Order status or protected by virtue of their location within a Conservation Area, cannot usually be satisfactorily ameliorated for many years to come, due to the length of time it would take a compensatory specimen to grow.

- 3.6 It is for this reason that the introduction of fees for tree and hedgerow-related work is regarded as inappropriate and counter-productive to the Council's district-wide aim to protect and promote our natural assets.

Householder Development Advice (Householder Questionnaire)

- 3.7 Domestic properties have recently benefitted from an extended range of 'Permitted Development' (PD) rights, meaning that homeowners or occupants can carry out more works without the need to apply for planning permission. Advice regarding PD rights is currently available on the Council's website and also via the Government's Planning Portal, free of charge, albeit in a generalised format.
- 3.8 Notwithstanding the availability of this advice, householders often prefer to have the comfort of a written letter from the local planning authority, giving an informal view as to whether their building project requires the benefit of planning permission. To obtain this, they must fill out a Householder Questionnaire and provide a sketch plan for consideration. Again this is currently provided free of charge. This also has a financial and legal value for homeowners as evidence is now often required for mortgage and house purchase purposes, in the same way as evidence is required of any formal consents through the Land Charges system. Calculating whether a building project requires planning permission can be time-consuming due to the complexity of the national planning regulations and also any local land designations or previous planning permissions that may affect the property in question.
- 3.9 At the time of drafting this report six other Lancashire authorities have introduced fees for this service. Fees range from £30 up to £75, although the average fee is approximately £40. Given the extent of work and time involved in responding to Householder Questionnaires and the value that the Council's written response has for the householder, and taking into account the wide availability of free online advice, it is now considered reasonable to levy a fee for undertaking formal householder advice requests.

Pre-Planning Application Advice

- 3.10 Pre-planning application advice differs from householder development advice. The latter indicates whether planning permission is required. The former is a more qualitative judgement, indicating whether planning permission for a development project is likely to be granted or refused. This view would typically be provided by a Planning Officer and is qualified as a professional opinion which is not binding on the Council's formal decision-making function.
- 3.11 In addition, the nature of pre-planning application advice is evolving. The

transition from the traditional 'Development Control' regime to the Government's preferred 'Development Management' system is more resource-intensive. Development Management work starts much earlier than the submission of a planning application and continues beyond the issue of the planning decision. A key facet is the use of more collaborative ways of working, with applicants, developers, agents, consultees and residents to ensure a more responsive and direct approach to planning application submission, consideration and decision-making. This is often referred to as a 'Development Team' approach.

3.12 Many neighbouring local planning authorities have introduced fees for providing written pre-planning application advice, ranging from householder proposals to major, strategic developments. At the time of drafting this report only three Lancashire authorities, including Lancaster, do not levy fees for all or part of this service. Within the County boundaries, Pre-Planning Application Advice fees range between the following:

- Householder development: £Free - £50;
- Non-major, non-householder development: £50 - £300;
- Major development: £300 - £500 (with fees incurred for follow-up meetings where necessary on a 'per meeting' basis or hourly rate); and,
- Major, strategic development: £300 - £1000 (with fees incurred for follow-up meetings where necessary on a 'per meeting' basis or hourly rate).

3.13 There has never been any statistical recording of the number of pre-planning application requests received, due to the informal and cost-free nature of the Council's response. Since the restructure of the Service in April 2010, and the loss of three Senior Officer posts, the Development Management Team has had to restrict access to some pre-planning advice due to the reduction in the number of Planning Officers.

3.14 However, the recent commitment to funding a Temporary Major Applications Officer for 2 years from April 2012 and the continued financial commitment to retaining a Temporary Planning Assistant for a further period of 12 months (currently expiring May 2013) has assisted in alleviating the current caseload pressure for Planning Officers, which continues to exceed suggested national figures. These previously-agreed additions to the establishment currently increase capacity, enabling the Development Management Service to introduce a more formal, chargeable pre-planning application advice scheme with the specific aims of securing fee income to help maintain a healthier establishment.

3.15 Whilst the introduction of fees is considered necessary to improve the current pre-application process, it is also recognised that the introduction of fees will have an impact upon the number of requests received. It may dissuade potential applicants from making a request, or the service may be popular due to the collaborative elements referred to in paragraph 3.11.

Setting the Fees

- 3.16 If it is resolved to introduce charging for these activities, then the precise level of fee would be determined following a timesheeting exercise within the Development Management Service, to quantify the amount of time being spent on householder development advice and pre-planning application activities and to ensure wherever possible that the cost of service provision is recovered. It is anticipated that a flat fee would be introduced for the householder development advice response, and that fees for pre-planning application advice would be determined by the type of development involved (i.e. whether it falls within the nationally-defined 'major' or 'minor' categories) and/or the amount of floorspace that is the subject of the enquiry.
- 3.17 A Charging Scheme Charter would then be introduced explaining the necessary requirements (for householders, applicants and developers) and standards of service (for Officers). The level of fees would thereafter be incorporated into the council's Fees and Charges policy and reviewed as part of the annual budget process, whilst taking into account service demands.

4.0 Details of Consultation

- 4.1 There has been no formal consultation although discussion has occurred with other local planning authorities within the county. The matter has also been informally raised at a 'Meet the Planners' event with local planning agents and architects chaired by the Lancaster Chamber of Commerce.
- 4.2 Some planning agents and architects have advised the Development Management Team (within the last six months) that they would be more willing to pay for planning advice as a method of obtaining a guaranteed, written, pre-application assessment of their client's proposals.

5.0 Options and Options Analysis (including risk assessment)

	Option 1: To introduce charges for both Householder Questionnaire Advice and Pre-Application Advice	Option 2: To introduce a charge solely for Householder Questionnaire Advice	Option 3: To introduce a charge solely for Pre-Application Advice	Option 4: To not introduce charges for either activity
Advantages	This would allow for a more formal and transparent process to the	This would allow a fee to be levied for permitted development enquiries	This would require a new, formal and transparent process to responding to pre-application	No advantages to the Service. Although the activities would remain free of charge to the

	pre-planning application regimes and would provide added certainty for developers pursuing development projects. It would also provide an income stream based on cost recovery which aims to cover the cost of service demands.	which are time-consuming and are not a statutory function, also providing an income stream which could potentially support existing service provision for this element.	enquiries which would assist Officers and would provide added certainty for developers pursuing their development projects. Again this could provide an income stream which could potentially support existing service provision for this element.	user, this free service would need to continue to be limited and this is unlikely to provide any improvements in service provision.
Disadvantages	The new system could potentially be more resource-intensive than the current informal system, dependent upon developer interest. The introduction of fees for Householder Development advice may be off-putting to some householders, who may choose to continue with a development project irrespective of whether they require permission or not (although with lenders often demanding evidence of PD rights this is unlikely).	The introduction of fees for Householder Development advice may be off-putting to some householders, who may choose to continue with a development project irrespective of whether they require permission or not. Introducing a fee for this service activity alone would not respond to the demand for pre-application advice from developers.	The new system could potentially be more resource-intensive, dependent upon developer interest.	This would not assist in addressing the capacity issues and ongoing modernisation of the Development Management Service.
Risks	The process would require	This is a service that is	The process would require	Service provision would

	annual review to be certain that staffing capacity and fee levels are commensurate with the service being offered.	currently provided free of charge and so it is anticipated that it would not result in an increase in workload which would create staffing capacity issues.	annual revision to be certain that staffing capacity and fee levels are commensurate with the service being offered.	continue in accordance with current priorities, with little capacity for pre-application discussions.
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4.1 The preferred option is Option 1. This would allow appropriate and commensurate fees to be levied regarding the existing Householder Questionnaire service and the proposed new Pre-Application Advice service.

6.0 Conclusion

5.1 The setting of fees for these activities would allow the Development Management Service to formalise its current arrangements. A formal, chargeable process would put greater onus upon applicants and developers to provide quality, written information to the Development Management Service at the earliest opportunity, thus allowing for a considered, formal, written response from Planning Officers. The clarity offered by the new arrangement would be a significant improvement to the quality of service.

5.2 The potential income stream arising from the introduction of charges could potentially be redirected to ensure that permanent staffing capacity remains commensurate with the service's pre-planning application workload.

RELATIONSHIP TO POLICY FRAMEWORK

There is no direct relationship to the policy framework.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The proposals would improve the quality of service being offered to potential planning applicants and would lead to greater consideration of development proposals by all parties, thus resulting in a more transparent, usable and sustainable local planning system.

LEGAL IMPLICATIONS

There are no direct legal implications arising from the proposal. Advice given at the pre-application stage would be caveated in such a way that it would represent an officer-level opinion and would not automatically guarantee a favourable planning decision.

FINANCIAL IMPLICATIONS

The proposals have the potential to deliver a new income stream for the Regeneration & Planning Service, which in turn increases its ability to cover the cost of existing service provision. Although it is anticipated that implementation will be from 1st November 2012, the precise extent of fees to be charged during 2012/13 and therefore impact on the General Fund Revenue Budget have not yet been finalised, hence the request for Members to agree the proposals in principle for 2012/13 with the final decision delegated to the Head of Regeneration and Policy in conjunction with Financial Services. This will to some extent be determined following a timesheeting exercise to ensure that costs are proportionate to the time spent on delivering the service as well as being informed by the council's policy on fees and charges and service demands.

Future years' fees although delegated will be incorporated into the council's fees and charges policy for review thereafter as part of the annual budget and planning process, taking into account service demands. It should be noted however, that where fees are recovered on a cost recovery basis as will need to be the case here, fees are increased annually by inflation and adjusted to reflect changes in service demand. They are not set to maximise income but to ensure, where possible, that they recover the cost of the service provision and as such are limited by this. Specific statutory provisions can also apply, which prevent a surplus (or deficit) being made.

OTHER RESOURCE IMPLICATIONS

Human Resources:

The proposed new arrangements could impact upon workload-ratio levels, depending upon 'take-up' of the pre-application planning service.

Information Services:

None.

Property:

None.

Open Spaces:

None.

SECTION 151 OFFICER'S COMMENTS

The S151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

None.

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