

9. **REVIEW OF CHARGING FOR PRE-APPLICATION PLANNING ADVICE (JRS)**

Purpose of the report

1. To review the performance of the scheme of charging for pre-application advice related to developments.

Recommendations:

1. **That the pre-application charging schemes for development be continued and for any future changes to the scheme to be delegated to the Director of Planning.**
2. **That the principle of charging for advice be extended to other areas of the Authority's work, in accordance with Standing Orders.**

How does this contribute to our policies and legal obligations?

2. The introduction of charges for pre-application advice is permitted under Section 93 of Local Government Act. The introduction of charges for pre-application planning advice presents an opportunity to recoup some of the costs associated with undertaking pre-application discussions with potential applicants for planning permission, and to offset some of the costs of the planning process.

3. Pre-planning application guidance is seen as a key part of delivering a good planning service. The National Planning Policy Framework states:

“Early engagement has a significant potential to improve the effectiveness of the planning system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community. 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 of any pre-application services they do 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 before submitting their applications. The more issues that can be resolved at pre-application state, the greater the benefits. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs”

Pre-application advice is advantageous both to applicants and to Local Planning Authorities for the following reasons:

- It provides an opportunity to suggest that an application should not be submitted if the proposal is wholly unacceptable;
- It enables officers to influence the proposal to provide a better development, particularly in terms of design and layout;
- It allows discussion regarding the information required to accompany an application and any draft legal requirements; and
- It allows liaison with other departments and consultees (internal and external) to bring out any conflicting views and issues.

Corporate Strategy 2015

4. Cornerstone 3 of the Performance and Business Plan for 2015/16 says that there will be a focus on “Our Services – delivering our services in a way that helps resident

communities deepen their understanding and support for the special qualities of the national park”. The Corporate Strategy 2012-15 included Corporate Objective 3: to provide a high quality planning service to the community of the National Park that achieves national park purposes and that is responsive to and contributes to the debate on planning reform nationally and locally. The introduction of charging was intended to support the provision of a high quality planning service at a time of budget constraints.

Current Position

5. The principle of charging for pre-application advice was initially agreed by the Authority in December 2013 and was introduced on 1 April 2014. That scheme covers a wide range of developments which were considered to be commercial or business related, but it did not include householder developments. A target of £20,000 has been set from charging for planning advice in 2014-15. When the initial scheme was agreed in December 2013, it was agreed that a report would be brought to the Authority after 12 months of operation to review its performance and effectiveness. There was a partial review of the original scheme when the Authority considered the proposed extension to include householder developments in February 2015 and, based on that assessment, Members agreed to extend it to householder developments. At that meeting the Authority agreed to extend the scheme to include householder developments, with a flat rate fee of £100. This report provides a full review and an initial assessment of the scheme to include householder development, which has now been operating for 6 months
6. The Planning Service is currently funding in two ways – an allocation in the annual budget from the DEFRA grant given to the Authority and from planning application fee income, with the additional income from pre-application charging now added to this. Planning application fee income is variable and cannot easily be predicted, but in recent years it has been relatively consistent at around £210-230,000 pa. The position for 2014-15 was that application fees were around £50,000 above expectation, at approximately £318,000, largely because of a number of high fee-earning applications. Fees are set nationally and rarely cover the cost of determining an application; proposals for local fee setting were considered by the Government but were not progressed.
7. The background to charging for pre-application charges was set in some detail in the report to Authority in December 2013, so this is not repeated here. That report also set out the background to, and proposals for, introducing Planning Performance Agreements (PPAs). Although PPAs were agreed by the Authority in December 2013, none have been used to date. This is partly because they are voluntary and require an applicant to either offer one or agree to one. They are particularly useful for the pre-application stage of major developments, including minerals and waste proposals. Officers are expecting to make greater use of these in the coming year and will actively promote them with applicants.
8. The Authority encourages prospective applicants to seek pre-application advice so that issues that could arise during the application process are identified and dealt with as early as possible and the application is submitted in the best form possible. It can also help to avoid validation problems and delays. Detailed planning advice is largely provided through the Planning Service, but a significant amount of general advice on more straight forward matters is provided by the Customer Service Team, particularly by the Planning Advisor. In addition to this, other officers provide specialist advice - for example on developments which affect listed buildings, conservation areas, trees, features of ecological or archaeological interest, for example.
9. The principle that the person receiving a service should cover part of the cost of providing that service was considered to be acceptable and equitable by the Authority in

December 2013.

10. The charging scheme generates additional income which helps to provide/maintain resources within the Planning Service at a time when budgets are constrained. The process also results in a clearer expectation by applicants/agents and Planning officers about the nature of the advice being given, with a more business-like approach being adopted to the submission of information and the provision of advice in return.
11. The following principles were adopted when the current pre-application advice charging scheme was introduced:

Principles:

- Fees should be set at a level which will not be prohibitive and which would not deter most applicants/agents from seeking advice, whilst be sufficient to justify the administrative costs and time taken to collect and process them.
 - The proposed fee scales are not intended to meet the whole cost of providing the Planning Service; this would require a level of fees which would be significantly higher than proposed. The purpose is to generate some additional income which would help to provide/maintain resources within the Planning Service at a time when budgets are constrained.
 - Fees should be simple and easy to understand.
 - Fees should be fixed rate for single meetings, letters and reports for all but major developments where variable fees may be more appropriate.
 - No fee should be charged for confirming whether or not planning permission is required as this is an important piece of advice which applicants require
 - Fees for major developments shall be based on the above principles, but with project specific fees being negotiated with applicants and agents at an initial meeting. Where possible the applicant will be encouraged to enter into a Planning Performance Agreement, which will include agreement on fees, at the outset (see below for further guidance on PPAs).
 - Where an hourly rate is to be charged, it is recommended that this be charged at £45 per hour.
 - All fees include VAT.
 - The fees shall be reviewed every 12 months and revised as necessary on 1 April each year.
12. When the introduction of charging for pre-application advice was agreed in December 2013 the principle of charging for businesses for advice was accepted, but it was considered that householders should not be charged at that stage. However, given the nature and scale of applications received by the Authority each year, with a predominance of householder applications, Members agreed in February 2015 that charging householders for pre-application advice could provide a reasonable level of income, although it was acknowledged that it would also impact on a wider range of applicants. In 2013-14 over 300 householder applications were received in the Peak District, approximately 30% of the total received.
 13. Using the same principle as was adopted with charging for non-householder developments, the fee for pre-application advice to householders was set at a flat rate of £100.
 14. It was anticipated that if a fee of £100 is charged and approximately 50% of householder proposals are the subject of pre-application advice (although some may not proceed to an application), then this would result in around 150 x £100, giving an income of £15,000 per annum in addition to the existing pre-application fee income. This would contribute to the target of £25,000 additional income which has been set for the Planning Service in

2015-16. The remainder of this income is expected to be generated through additional income from the existing pre-application charging scheme and through making better use of Planning Performance Agreements (PPAs).

15. **Review of the Scheme**

As noted above, Members had a detailed discussion about the operation of the scheme at the Authority meeting in February 2015 when the scheme was extended to householder developments, but it was agreed that a further report would be brought to Authority after a full 12 months of operation; the initial charging scheme has now operated for 18 months and the householder for 6 months. In general the schemes have worked well, with very few complaints about the level of fees and how the system has worked. The key facts are as follows:

Number of paid for enquiries:

- 115 from 1 April 2015 to 22 September 2015 (out of a total of 1240 enquiries in total logged as enquiries by the Customer Service Team, excluding enforcement enquiries)

Fee income received:

- 2014-15: £23,091 (excluding VAT – all fees paid to the Authority included VAT at 20%). This exceeded the target of £20,000
- 2015-16: to 22 September £14,558, exc. VAT (target for 2015-16 £35,000).

16. An analysis was carried out of two months pre-application enquiries for which a fee was paid (non- householder) to assess the effectiveness of the system. This showed that in these two separate months (July and December 2014) between half and three-quarters of applications determined had sought and received pre-application advice. Of those applications where pre-application advice had been received, all had been approved. Of those where it had not been sought, the majority of applications had been refused. In one month this comprised 4 applications, 3 of which would have been capable of approval had pre-application advice been sought and followed; the fourth application was unacceptable in principle, so had the applicant sought and followed pre-application advice they would not have submitted an application and would not have incurred a planning application fee and any other fees they had incurred (such as consultant's fees).
17. Feedback from agents has largely been that they understand the need for the Authority to cover some of its costs and that the level of fees charged is reasonable. Their main focus is on the quality and speed of advice as they rely on this to advise their clients. Those complaints and concerns which have been received have been where advice has been delayed and, in some cases, the fee has been returned as gesture of goodwill.
18. A key principle of the system is that, where possible, the planning officer who gave the pre-application advice should be the officer who deals with the subsequent application. It is also expected that the officer's approach to the application will be consistent with the pre-application advice given unless there is a very clear and material change in circumstances. The pre-application advice is always given on a "without prejudice basis" so it does not commit the Authority or the Planning Committee. This is accepted practice for local planning authorities.
19. All enquiries are allocated a unique enquiry number and they are then scanned to the Authority's information storage system (currently for internal access only). Many of the enquiries received are relatively minor matters which can be dealt with by the Planning Advisor who works within the Customer Service Team. The majority of these are

currently dealt with in 2-3 working days. Many of these are enquiries seeking advice on whether planning permission is required and these do not incur any fee. Proposals where advice is being sought on a specific proposal for which planning permission is required are allocated to a Planning Officer. The target for these is 15 days (25 days for major development), but the initial contact is often the start of a two-way dialogue with an applicant/agent about a proposal. Whilst the current charging schedule allows the Authority to seek additional fees on an hourly rate for further advice after the initial advice, in practice the advice we have given to date has been based on the fixed initial rate. This is more likely to be used in future for major development. An hourly rate of £45 is given in the schedule, this being based on work carried out in 2011 on the cost to the Authority of dealing with a planning application.

20. Overall, the charging scheme for pre-application advice is considered to be working well. For the Authority it provides a more focussed way of registering and dealing with pre-application enquiries and it provides a source of income which helps the Authority to fund this service. It could also help to reduce the number of frivolous enquiries the Authority receives and to improve the quality of those submitted. For applicants and agents the system provides a more structured way of seeking and receiving pre-application advice which is given in writing, with an expectation that Planning officers will be consistent with this advice in dealing with any subsequent applications. The benefit of pre-application advice is that it helps an applicant or agent to get the application “right first time”, avoiding unnecessary and abortive fees for redrawing plans and providing additional advice.

21. **Next Steps:**

Following the successful introduction of fees for pre-application advice, the Authority's Tree Service has introduced charges for providing the owners of trees with tree management advice. This is at a relatively low level so it was introduced under authority delegated to officers. The Legal team also has a charging scheme for work on section 106 legal agreements. There have been cross team discussions about the possibility of introducing charges for other specialist advice which the Authority provides on a discretionary basis - for example advice to owners of listed buildings, or advice on the ecological interest of land, and on land and farming matters. In the past this advice has been given free of charge, but it is largely discretionary. However, the role of the Authority's officers in providing this advice can be invaluable to the land/building owner and it can help the Authority to achieve some of its statutory purposes and duties. Introducing a charging scheme for some of these aspects of the advisory role is therefore considered to be an appropriate way of helping to fund these specialist areas of work, some of which do not fall within the planning system or are related to it in others ways (e.g. listed building advice). The bringing together of planning and specialist advice in the new Directorate for Conservation and Planning will help to provide a more coordinated service to the public on this wider range of matters. The introduction of additional non- planning charging schemes is delegated to officers up to £50,000 (from £30,000 to £50,000 in consultation with the Chair and Vice Chair of ARP).

22. With regard to the current charging scheme, it is recommended that the annual revision of specific charges and the introduction of any new charges for specific proposals which, based on the experience of the last 18 months, were not properly covered in the schedule introduced in April 2014, should be delegated to the Director of Planning (Director of Conservation and Planning from April 2016) in consultation with Chair and Vice Chair of Planning. This will allow for relatively minor changes to cover operational issues to be dealt with at an appropriate level, but any significant changes would be referred to the Authority.

23. **Are there any corporate implications members should be concerned about?**
No
24. **Financial:** There are obviously financial implications a fee charging schedule. Firstly, it will provide additional income, although the level can only be estimated and cannot be guaranteed. In terms of costs to the Authority, a system for collecting fees has been set up so there is no additional cost or significant officer time involved in extending this to householder developments. A target of £20,000 from the original charging scheme was set in the Planning Service budget for the year 2014-15 and this was exceeded. The additional income from the extended charging scheme £15,000 in 2015-16. This will be kept under monthly review so if income is falling well short of target, a mid year review will have to consider additional mitigating action.
25. **Risk Management:** The financial risk is covered above. The other risk which should be considered is that of the possible damage to the reputation of the Authority and its relationship with applicants and agents, who may consider that they are paying for a service which should be covered by the planning application fee. However, the principle of charging for pre-application advice is now well established in the planning system and within the Peak District. The majority of LPAs in the areas surrounding the Peak District now have a charging regime. If the income can be seen to support the retention of a good planning service, then the public is more likely to accept the principle that users should pay for the service.
26. **Sustainability:** None
27. **Consultees:** Head of Finance
28. **Background papers (not previously published):** None
29. **Report Author, Job Title and Publication Date:**
John Scott, Director of Planning, 24 September 2015.