

RURAL, ECONOMIC & ENVIRONMENTAL AFFAIRS COMMITTEE

10 NOVEMBER 2010

REPORT OF HEAD OF REGULATORY SERVICES

FEES FOR PRE-APPLICATION PLANNING ADVICE

1.0 PURPOSE OF THE REPORT

- 1.1 To present to the Committee potential options for the charging of pre application advice and consider their respective impact and desirability

2.0 RECOMMENDATIONS

2.1 It is recommended that:-

- (a) The Committee determines, based on the information within the report, whether it wishes to introduce a scheme for charging for pre-application advice**
- (b) In the event that a scheme is adopted, it is delegated to the Head of Regulatory Services in consultation with the chairman, to devise a scheme in accordance with the Committee's instructions, on the basis of a cost recovery approach**

3.0 KEY ISSUES

- 3.0 The Council welcomes and actively encourages informal pre-application discussion (especially on major schemes) before those proposing development submit an application for planning permission. Such advice is intended to streamline the planning process and remove delays by informing would be applicants of the issues associated with a development project. It also provides an opportunity to outline the Council's expectations and the provision of informal without prejudice opinion of the likelihood of success at the formal planning stage. This service is currently free, to encourage pre-application advice to be sought.
- 3.1 However, charging for the service is discretionary under the Local Government Act 2003 and be introduced so that the substantial cost of providing this service can be recovered from those proposing development and not fall as a general cost to the council taxpayer. The current statutory planning fees do not cover pre-application advice.
- 3.2 The Killian Pretty Review "Planning Applications – A Faster and More Responsive Service" November 2008 looked at the development management process and one of the recommendations was that pre application discussions were vital as a way of improving the quality of applications and avoiding later delays. The Review advocated a formal pre application service for all major applications. It also encouraged Local Authorities to issue a statement or Code of Practice setting out the opportunities for pre-application discussions and the service standards the Local Authority would use. A wide range of Local Authorities have introduced charging regimes.
- 3.3 The service and the charging structures differ between authorities, but there are some general themes in terms of the applications under the scheme and the standard of service provided. For example, some have formalised pre-application advice with forms to complete, some make pre-application meetings compulsory, and some restrict the charge to major applications whilst others charge a small fee to respond to a pre-application enquiry by letter or meet a householder on site.

3.4 It is considered that the main disadvantage of charging is the disincentive it introduces for potential applicants. There is no data available, but anecdotally it is reported that charging reduces the incidence of pre application discussions by up to 50%. Any decision should take into account the implications of this, examples of which are follows:

- An increase in applications with little or no prospect of success
- Poorly prepared applications which take officer time to develop into a workable condition
- Poorly presented applications whose progress is delayed due to the information included; possible impact on determination times.
- Reduced opportunities for 'shaping' proposals at pre-application stage
- Reduced opportunity to effectively manage staff resources to accommodate major applications.
- Costs of administering the fees, any disputes etc
- Increased expectations that advice should be 'binding' on the Council – pressure on the discretion exercised by the Committee

3.5 There are a range of potential options which include levying a fee based on:-

- Size or complexity of development;
- Time spent / seniority of officer involved;
- A flat rate;
- A combination of the above.

It is clear that any fee structure needs to be simple to understand, operate and administer and be transparent to its users. The most important point to remember is that the Local Authority cannot "make a profit" on the service but must only cover costs. However, it seems sensible to choose a method of charging that is both simple to operate in terms of administration, transparent in terms of understanding the charging structure and is seen to be reasonable to the development industry.

3.6 It is important for the Council to be clear about setting service standards and to ensure that users of the service are clear that:

- Any advice given by Council officers for pre-application enquiries does not constitute a formal response or decision of the Council in respect of any future planning applications;
- Any views or opinions expressed are given in good faith, based on existing planning policies and standards, and without prejudice to the formal consideration of any future planning application which will be the subject of public consultation and ultimately decided by the Council's Planning Committee;
- It follows that officers cannot give any guarantees about the final formal decision that will be made on any future planning application. However, the advice note will be referred to in any report, subject to the proviso that circumstances and information may change, and so alter the position;
- Little or no weight should be given to the content of the Council's pre-application advice for schemes which are submitted more than two years after the advice being issued;
- Any advice given in relation to planning history of the site, planning constraints or statutory designations does not constitute a formal response under the provisions of the Local Land Charges Act 1975, the Town and Country Planning Act 1990 and other relevant legislation.

3.7 In order to consider the impacts, 2 approaches are explored, the details of which are contained in appendix B. These comprise a wider, more comprehensive scheme and one limited in scope to more significant applications only. The potential proceeds from each are addressed in section 5 below. Appendix A is an initial draft of a potential Service level scheme that would set out what developers would receive for their fee. However, it should

be noted that the Committee is not limited to these examples and it remains possible to progress on an alternative basis (possibly a hybrid of the two examples), a 'by the hour' rate or indeed the option of not introducing charging.

- 3.8 The fees are calculated on the basis on the staff input estimated to be likely for the nature of application proposed. This incorporates the number, seniority and hours required in order to deliver robust and reliable advice of the nature described in Appendix A. For clarity, the scheme would cover contributions from staff from teams other than Development Control (most notably, but not exclusively, Planning Policy) although the former would be responsible for collecting the fee and administering the payments.

4.0 POLICY AND CORPORATE IMPLICATIONS

- 4.1 It is not considered that there are significant corporate implications arising from this initiative.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

- 5.1 At present the Council provides formal, written, pre application advice to approximately 275 customers per annum on a wide range of proposals, ranging from domestic extensions to major development such as supermarkets and wind farms. In addition informal advice is provided verbally through the 'duty officer' system to approximately 1000 customers per annum.
- 5.2 In addition, advice is provided to a further 260 customers per year to confirm whether developments require planning permission is required under the relevant legislation. It is not intended that these enquiries should form part of the scheme, but it remains an option to include this should it be desired. A separate assessment would be required for this type of enquiry.
- 5.3 Based on the two examples set out at Appendix B, the following calculations have been made on the fees that could be generated were a scheme to be implemented:

Option 1: MAJOR AND STRATEGIC APPLICATIONS ONLY

These sums are based on the assumption that senior staff (Head of Service and Principal Officer level) would be required to coordinate and deliver comprehensive advice.

Extrapolating the sums by the number of examples (based on 2009/10 levels but mitigated by 25% to allow for the deterrent created by the fees themselves).

Potential annual income= £8,000

Option 2: GRADUATED ACROSS MAJOR DEVELOPMENT TYPES

These sums are calculated by extrapolating the anticipated frequency of use against all levels of staff, based on the nature of work they are typically engaged in.

Potential annual income = £20,000

6.0 LEGAL IMPLICATIONS

- 6.1 Legal implications/powers are set out at paragraph 3.1 above.

7.0 COMMUNITY SAFETY

- 7.1 There are no community safety issues arising from this report.

8.0 EQUALITIES

8.1 The proposals would significantly disadvantage applicants with a limited capacity to pay. It is not considered that there are significant equalities issues relating to issues of race, gender, language, sexuality or age.

9.0 RISKS

9.1 Please refer to para 3.8 above.

10.0 CLIMATE CHANGE

10.1 There are no climate change issues arising from this report.

11.0 CONSULTATION

11.1 Staff in Development Control have been apprised of the proposals and have contributed to the comments set out in para. 3.8 above.

12.0 WARDS AFFECTED

12.1 To varying degrees all wards are affected

Contact Officer: J Worley

Date: 30 October 2010

Appendices: A: example of service level statement
B: examples of charging strategy.

Background Papers: Killian Pretty review.

Reference: X:/REEA/2010-1/101110/Fees for Pre-Application Planning Advice

APPENDIX A

- A pre-application advice request form can be downloaded from the Council website. This will ensure that the Planning Officer is able to obtain an overview and understanding of your proposal prior to providing pre-application advice. It will also allow you to elect to receive the advice in writing without a meeting. Alternately, you can call to arrange an initial meeting. If you choose this option, the form should be completed and submitted at the initial meeting.

On receipt of a form we will:

- Contact you within 10 working days of receiving the fee to arrange a date for a meeting and agree any additional information required
- Arrange a meeting with you and the specialist Council officers needed to advise you on your case, including any site visits needed.

The advice provided at the meeting will include:

Land use

- If proposals are in line with the National, Regional and Local planning policy framework, if it is not, how they could be justified
- If the site is covered by any specific policies or covered by any other designations or safeguards
- If proposals take account the impact on local needs and facilities, for example the impact on transport, education or community use and how a S106 Agreement or Obligation might mitigate against such effects

Design

- The characteristics of the existing site and surrounding context
- The architectural approach including the height, scale, massing and materials
- The environmental impact of the development including sustainable design and construction
- The design of the public realm including open space and landscape treatment

Housing

- Provide advice on the Council's affordable housing requirements

Conservation

- The impact your proposal may have on a listed building or, if within a conservation area, an unlisted building on or near the site
- When a proposal is in or adjoining a conservation area, in our opinion the development would preserve or enhance the character and appearance of that conservation area

Environment

- Where there are any trees or hedgerows that are protected and require special treatment
- How the council's public open space policies will impact on your proposal and whether a financial contribution under a S106 agreement might be appropriate
- If, the proposal is within a flood plain, whether it is feasible to build in the area or advise on the level of mitigation required.
- Habitats regulations/ Environmental Impact Assessment information

General

- Advice about which other agencies you need to speak to e.g. County Council, Natural England etc.
- In the opinion of the Council, any further information that would require submission with a full planning application

We will also agree a timescale with you for the production of the written confirmation advice given by us at the meeting and/or site visit. If this is part of a pre-arranged block of meetings, we will also agree milestones for the delivery of further information or the arrangement of future meetings will be discussed.

IMPORTANT INFORMATION TO NOTE

- Any advice given by council officers to pre-application enquiries is the informal opinion of that officer, and does not constitute a formal response or decision of the Council in respect of any future planning application.
- Planning officers will ultimately make a recommendation to the Council, as Local Planning Authority, on how the application should be determined. The officer's duty remains to advise the Council on determining the application in the public interest. It follows that officers cannot give any guarantees about the final formal decision that will be made on any future planning application.
- Any advice given in relation to planning history of the site, planning constraints or statutory designations does not constitute a formal response under the provisions of the Local Land Charges Act 1975, the Town and Country Planning Act 1990, and other relevant legislation.
- Views or opinions expressed are given in good faith, based on existing planning policies and standards and the information supplied by the applicant. Circumstances and information may change, and so alter the position and affect the final recommendation on the application. Any views provided will also be without prejudice to the formal consideration of any future planning application which will be the subject of public consultation and may ultimately be decided by the Council's Planning Committee or by senior officers.

APPENDIX B

OPTION 1 – MAJOR AND STRATEGIC APPLICATIONS ONLY

	RESIDENTIAL	COMMERCIAL	HRS	OFFICER INPUT	COST/FEE
STRATEGIC PROPOSAL	50 dwellings or more	10,000 + sq m floor space	20	Head of Service/ Principal	£ 1200
MAJOR PROPOSAL	10-50 dwellings	1,000 – 9,999 sq m floor space	15	Principal/ Officer	£ 750

Option 2 – GRADUATED ACROSS ALL DEVELOPMENT TYPES

Major developments	10-20 dwellings	10	Principal/ Officer	£500
	21+ dwellings	15	Principal/ Officer	£750
	Offices / research & development / light industry	10	Principal/ Officer	£500
	Heavy industry/ storage/ warehousing	10	Principal/ Officer	£500
	All other major development	10	Principal/ Officer	£500
Minor developments	1 dwelling	2	Officer	£100
	2-9 dwellings	4		£200
	Offices / research & development / light industry	2		£100
	Heavy industry / storage / warehousing	2		£100
	Retail and distribution	2		£100
	All other minor development	2		£100
Other developments	Change of use	1	Officer	£40
	Advertisements	1		£40
	Listed building consents to alter / extend	2		£80
	Listed building consents	2		£80
	Conservation area consents	1		£40
	Other (not included above)	1		£40
	Other ancillary charges: history and investigation	1		Technician
	Certificate of Lawful Development	2	Officer	£80
Domestic	Residential extensions and outbuildings	1	Technician	£30