

**North East Derbyshire District Council**

**Cabinet**

**18 July 2024**

**Implementing a chargeable pre-application advice service**

**Report of Councillor S Pickering, Portfolio Holder for Environment and Place**

**Classification:** This report is public

**Report By:** David Thompson – Assistant Director of Planning

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**PURPOSE / SUMMARY**

For Cabinet to consider the appropriateness of charging for pre-application planning advice.

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**RECOMMENDATIONS**

1. To approve the implementation of a chargeable pre-application advice service, in accordance with the charging schedule attached at appendix 1 and the draft service standards at appendix 2.
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**IMPLICATIONS**

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**Finance and Risk:** Yes  No

**Details:**

Charging for pre-application advice will provide an income stream to support proposals for additional resources within the Planning Service and will reduce the reliance on the general fund to subsidise the cost of delivering pre-application advice.

On Behalf of the Section 151 Officer

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**Legal (including Data Protection):** Yes  No

**Details:**

Powers are delegated to Assistant Directors under section 22 (Delegation of Council Function and Executive Functions to Officers), paragraph 9.9 of the constitution to 'decide the terms upon which services will be provided to the public (which may include providing services on different terms to different individuals or classes of individuals.)' The introduction of a chargeable pre-application advice service would be covered by this delegation but Cabinet approval is advisable given that this would be a new charge.

On Behalf of the Solicitor to the Council

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**Staffing:** Yes  No

**Details:**

There are no significant adverse staffing implications directly arising from the introduction of a chargeable pre-application advice service other than a shift towards time spent negotiating with developers at this stage rather than during the determination of formal application stage. This will be a shift in culture within the Service but will not require additional resource within the Development Management team to deliver in the short term.

On behalf of the Head of Paid Service

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**DECISION INFORMATION**

<b>Decision Information</b>	
<b>Is the decision a Key Decision?</b> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:  <b>NEDDC:</b> <b>Revenue - £125,000 <input type="checkbox"/> Capital - £310,000 <input type="checkbox"/></b> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No
<b>District Wards Significantly Affected</b>	None
<b>Consultation:</b> <b>Leader / Deputy Leader <input checked="" type="checkbox"/> Cabinet / Executive <input checked="" type="checkbox"/></b> <b>SMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/></b> <b>Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/></b>	Yes  Details: Click here to enter text.

<b>Links to Council Plan priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.</b>
Council Plan – A Great Place to Access Good Public Services

## REPORT DETAILS

### 1 **Background** *(reasons for bringing the report)*

- 1.1 The value of an effective pre-application advice service is recognised in the National Planning Policy Framework states (at paragraph 39) that '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.'
- 1.2 The Council currently offers an informal and free pre-application advice service. The current arrangement has two main weaknesses:
  1. There are no clear expectations in terms of how much time officers will spend providing pre-application advice and what information is required from customers to be able to provide appropriately detailed advice; and
  2. The cost of officer time to provide the service is borne entirely by the General Fund.
- 1.3 The lack of clarity about the current pre-application advice offer (point 1 above) means that there is inconsistency in the quality of the information provided by customers seeking advice and no clear expectation in terms of the time officers will commit to providing a response.
- 1.4 Due to the informal nature of the existing process, we are not currently realising the benefits that an efficient pre-application advice service can deliver at the application stage. Officer time is spent both responding to the informal advice requests (including multiple meetings in several cases) and trying to make improvements to schemes at the application stage.
- 1.5 Whilst that does show a proactive approach by officers, it is a labour intensive approach. By setting clear expectations in relation to both the information that we need from customers and the level of service that the customer can receive from the Local Planning Authority (LPA) in return, these inefficiencies will reduce.
- 1.6 The previous government recently consulted on changes that would speed up the determination of planning applications. The proposals include an Accelerated Planning Service, whereby major applications for commercial development would have a target determination period of 10 weeks.
- 1.7 The existing 13 week target would apply to all other major applications, likewise the 8 week target for the determination of non-major applications (less than 10 houses, less than 1000 square metres floorspace etc.) Under the current system, applications that take longer than the target period can also be classed as 'in time' if there is an agreed extension of time between the LPA and the applicant.

- 1.8 The recent consultation referred to above proposed performance targets that will require a significant reduction in the number of cases that have extensions of time. Whilst there has been a change in national government, officers consider it likely that a focus on speeding up the planning system is likely to be maintained, given the stated priorities around increase the supply of housing and delivering infrastructure projects.
- 1.9 With these national objectives in mind, we need to move to a position where officers spend more time giving comprehensive pre-application advice and less time trying to make up for a lack of prior engagement at the planning application stage.
- 1.10 In relation to the second weakness identified at 1.2 above, the Council currently bears the full cost of providing pre-application advice. When one considers the financial benefit realised by an applicant, particularly as a result of securing planning permission for a major development, alongside the general pressures on Local Government finance, this is considered not to be a tenable position.
- 1.11 Alongside the decision to introduce Planning Performance Agreements, a decision endorsed by Cabinet in January this year, charging for a structured pre-application advice offer will give the planning department an income stream that can be invested (alongside additional fee income) in specialist resources which are currently either not present at all (urban design) or stretched beyond capacity (conservation).
- 1.12 Charging for pre-application advice is now fairly commonplace nationwide. North East Derbyshire is one of 3 Councils (at the time of writing) in the County that does not charge for pre-application advice and one of those Councils has not provided pre-application advice at all since 2019. Widening out to the Combined Authority area, all of the Nottinghamshire Authorities operate a chargeable service, with varying categories and costs.

## **2. Details of Proposal or Information**

- 2.1 Officers have undertaken a detailed benchmarking exercise across the Combined Authority area to establish a baseline for the chargeable service that North East Derbyshire may want to adopt. The Draft Fee Schedule attached at appendix 1 is the result of the benchmarking exercise, alongside a period of recording of officer time spent on providing pre-application advice. A summary of the key issues that arose from the benchmarking exercise are detailed in the following paragraphs.
- 2.2 Officers are proposing not to charge for enquiries regarding whether planning permission is required for a development. The vast majority of such enquiries will relate to minor developments, often from residents wanting to install dropped kerbs to the highway, put up new boundary treatments or make minor alterations to their property.
- 2.3 A number of Authorities that charge for pre-application advice do not charge for this service (including Chesterfield and the Peak District National Park), others

charge in the region of £50-60. To ensure that technical support resources are not overstretched, officers propose a 4 week response time. Not charging for this advice hopefully demonstrates a focus on recouping the costs of those schemes that require more significant amounts of officer time.

- 2.4 For householder developments, all Authorities in the Combined Authority area, with the exception of High Peak, charge for advice. Officers are proposing to charge £60 for written advice only, approximately £10 below the average fee for that same service amongst those Authorities that offer it.
- 2.5 Officers are proposing an additional £100 is charged for householder enquiries that affect heritage assets e.g. Listed Buildings, properties within Conservation Areas. This is broadly in line with what other Authorities charge for enquiries involving Listed Buildings. The same fee is also proposed for cases requiring the input of the Arboricultural Officer, including proposed works to trees within Conservation Areas and those protected by Tree Preservation Orders.
- 2.6 For applications larger than householder scale, there is a variation in how many different fee categories are available across the Combined Authority area. Officers consider that the most practical approach is to have one category for minor applications (up to 9 dwellings, up to 999 square metres of floor space). One fee category is also proposed to cover major commercial development schemes with a floorspace between 1000 and 9999 square metres.
- 2.7 In recognition of the often more graded complexity of residential developments, it is proposed to have one category for schemes of 10-50 units, with a second category for schemes of between 51 and 149 dwellings.
- 2.8 For commercial schemes proposing 10,000 or more square metres floorspace or 150 or more dwellings, the proposal is to charge £3915 for pre-application advice, encouraging developers into Planning Performance Agreements that would also allow the Council to recoup the cost of officer time spent dealing with the formal planning application that would follow. The proposed schedule includes a breakdown of the tasks/officer time that is required when dealing with these major projects and the fee is derived from the hourly rates for this time.
- 2.9 The fee schedule at appendix 1 proposes a charge of £350 for minor scale proposals, inclusive of 1 meeting with the case officer. For minor scale residential schemes, considering the range of different approaches, the average fee across the Combined Authority region for this service is approximately £352. For commercial schemes, the average is approximately £377. These findings suggest that the proposed fee is not out of kilter with the benchmark.
- 2.10 For commercial developments of between 1000 and 9999 square metres, officers are proposing a fee of £1000, which would include 2 x 1 hour meetings before the written advice is issued. Derby City Council charge £3000 for advice on this scale of development, reflecting the urban environment within their boundaries. After excluding Derby from the benchmarking results and taking a mid-point in the range of a number of LPAs, the average cost for this category across the Combined Authority region is approximately £1055.

- 2.11 A fee of £1000 is also considered appropriate for the smaller scale major housing developments, moving up to £1500 for schemes of between 50 and 149 units. Some Authorities have one category to cover both (Chesterfield for example charge £794.35 for a letter and a meeting) but officers consider that the time recording exercise (described in more detail below) demonstrates that a distinction is appropriate given the greater complexity of larger scale schemes.
- 2.12 Both proposed fees would also include 2 x 1 hour meetings, as opposed to the single meeting offered by most of the Authorities included in the benchmarking exercise. The fees are considered to be comparable with the benchmark, with the average (excluding Derby City with a higher fee) fee for up to 199 dwellings being £1133 when taking the mid-point of a range that exceeds £1500 at the top end in a number of cases (including the Peak District National Park Authority, Erewash and Broxtowe).
- 2.13 For larger scale major schemes, the proposal is to charge a rate based on a Planning Performance Agreement model. This would involve agreeing a bespoke service with the prospective applicant, proportionate to the complexity of the scheme. The draft fee schedule at appendix 1 itemises how officer time will be spent to reach this figure and offers up to 4 meetings and includes time to complete the EIA screening process which is generally required for such schemes.
- 2.14 The fee of £3915 is higher than a number of Authorities included within the benchmarking exercise. However, most commit only to a letter and 1 or 2 meetings for this fee and some Authorities charge higher. Having recorded the time spent on a smaller but complex recent case, officers feel that the proposed fee reflects the resources required to provide comprehensive advice on the largest scale schemes.
- 2.15 In addition to the benchmarking exercise, officers have also been recording the time that they have spent providing pre-application advice over the last 6 months. The informal nature of the current pre-application advice offer (as described earlier in this report) does make it difficult to compare the situation we are in now with the position that we need to be in to respond to the national pressures to speed up the planning system.
- 2.16 For example, officers do not routinely hold meetings with applicants on all pre-applications above householder level and site visit are not always undertaken at this stage. These elements are important to ensuring an accurate and consistent approach to pre-application advice. A template letter was also introduced for the time recording exercise, to ensure appropriate levels of detail were consistently provided in written responses.
- 2.17 Taking examples where these elements have been included and the officer time recorded, the benchmarking exercise produced the following results:
- Householder (highest) - £83.04 (proposed charge - £60);

- Listed Building (highest) - £183.31 (proposed charge for Heritage input - £100);
- Minor scale development (highest) - £314.32 (proposed charge - £300 or £350 inclusive of 1 meeting);
- Smaller scale majors (1 example) - £1062.79 but this excluded engagement with a number of consultees (at the applicant's request), a member briefing and the time taken to complete the EIA screening opinion, all of which would be required under the formal process proposed and would equate to at least £500 worth of officer time (proposed charge – either £1000 or £1500 depending on size);
- Larger scale major – 1 Planning Performance Agreement has been entered into where the proposed fee of £3915 for all schemes of this scale has been paid.

2.18 Recognising that there will remain some inconsistency in current practice until a more structured service is introduced, officers consider that the time recording exercise provides sufficient evidence to justify the charges being proposed for each category of development.

2.19 A group of officers within the team have led the development of the proposed fee charging schedule appended to this report and are developing content for the website, including an online application form and details of what customers can expect from the service. A draft version of the 'Service Standards' are attached to this report at appendix 2.

2.20 The officer group has considered the number of categories and different levels of charging. Some Councils within the Combined Authority region have more categories and vary the fees accordingly. Officers consider that the proposed approach strikes the right balance between ensuring that officer time is accurately recouped (by avoiding potential under or overcharging through too few categories) and also offering a service that reflects good value for money, focussing the cost on larger scale schemes.

2.21 This approach has led to the proposed fee exemptions for Parish/Town Councils and affiliated community groups. It is also proposed not to charge registered charities/charitable trusts where the specific proposal is dependent on grant funding, for adaptation works that would improve the accessibility of buildings and for queries about whether planning permission is required.

2.22 Officers are also proposing that the service is reviewed annually, to ensure that the offer to customers and the fees charged remain appropriate. Fees would be updated each financial year and as a minimum would be adjusted in line with inflation, as is the case with nationally set planning application fees.

#### Proposed timetable for implementation

2.23 In the event that Cabinet supports the adoption of a chargeable pre-application advice service in the form proposed, officers would plan to implement this service once agents and regular service users have been notified via a Forum with officers. In that event, officers will need to update the Council's website,

including a new page devoted to the pre-application service, allowing customers to clearly understand the offer and the information that we require from them, before the service formally commences.

- 2.24 The period between introduction of the chargeable service and the end of the current financial year would also give us an evidence base from which to set a realistic income budget. Officers have estimated the income that would have been generated had the Council charged for pre-application advice since financial year 2021/22, using charges lower than those proposed in order to take a precautionary approach. The results are as follows:

2021/22 – circa £68,500;  
2022/23- circa £57,600; and  
2023/24 – circa £60,100

- 2.25 The evidence from the first 6 months (approximately) of charging will clearly need to be factored into the budget setting process and the figure would need to be set below the lowest figure above to ensure the risk of underperformance is adequately mitigated but the last 3 years demonstrate that pre-application charging could be an important component of a more financially resilient Planning Service.

### **3 Reasons for Recommendation**

- 3.1 As set out in the main body of the report, it is considered that providing a chargeable but also clearly structured pre-application service is a key part of speeding up the decision making process. The service will give customers greater clarity about depth of the advice that they will receive and the timeframes that their enquires will be responded to.
- 3.2 The income received by charging for the Service, when combined with the increase in planning fees last financial year will be the basis of ongoing discussions with the Section 151 Officer about investing in further specialist resources within the team. As referred to earlier in this report, this represents a 'self-financed' expansion of resources that will be required to meet the future demands placed on all LPAs, as opposed to additional demand being placed on the General Fund.

### **4 Alternative Options and Reasons for Rejection**

Not to charge for pre-application advice and/or not to introduce a more structured service with clear expectations on and for customers.

- 4.1 Any combination of these options is not recommended by officers due to the missed opportunity for the Service to become more financially resilient and facilitating the shift in time and resource to the pre-application stage, in conjunction with much shorter turn around times for formal applications.
- 4.2 Making these changes alongside the introduction of a validation checklist and a 'customer charter' (subject to further discussions between officers and



Members) is considered vital in making sure the Service is going to meet future challenges.

## DOCUMENT INFORMATION

Appendix No	Title
Appendix 1	Draft Fee Schedule
Appendix 2	Draft Service Standards
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	