

North East Derbyshire District Council

Services Scrutiny Committee

Tuesday 17 September 2024

Implementing a chargeable pre-application advice service

Report of the Assistant Director for Planning

Classification: This report is public

Report By: David Thompson – Assistant Director of Planning

PURPOSE / SUMMARY

To update Members on the rationale for implementing a chargeable pre-application advice service, which came into effect on 02 September 2024 (following approval by Cabinet at their meeting on 18 July 2024.)

RECOMMENDATIONS

1. That Members note the contents of the report.
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IMPLICATIONS

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

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 was covered by this delegation but Cabinet approval was advisable given that this would be a new charge.

On Behalf of the Solicitor to the Council

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 applications. This will be a shift in culture within the Service but will not require additional resource within the Development Management team to deliver in isolation or in the short term.

On behalf of the Head of Paid Service

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, which 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 Prior to 02 September 2024, the Council offered an informal and free pre-application advice service. That arrangement had two main weaknesses:
 1. 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 previous pre-application advice offer (point 1 above) means that there was inconsistency in the quality of the information provided by customers seeking advice and no clear expectation in terms of the time officers would commit to providing a response.

- 1.4 Due to the informal nature of that process, the Council was not realising the benefits that an efficient pre-application advice service can deliver at the application stage. Officer time was 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 demonstrated a proactive and diligent approach by planning officers, it was labour intensive and meant that the same issues were being revisited on multiple occasions during the course of managing a caseload.
- 1.6 By setting clear expectations in relation to both the information that we need from customers and the level of service that the customer can expect to receive from the Local Planning Authority (LPA) through the new system, these inefficiencies will reduce.
- 1.7 The previous government recently consulted on changes that would speed up the determination of planning applications. The proposals included an Accelerated Planning Service, whereby major applications for commercial development would have a target determination period of 10 weeks.
- 1.8 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.
- 1.9 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 and workloads are likely to increase, given the stated priorities around increase the supply of housing and delivering infrastructure projects.
- 1.10 With these national objectives in mind, we needed 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.
- 1.11 In relation to the second weakness identified at 1.2 above, prior to introducing a chargeable service, the Council bore 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 was considered to be an untenable position.
- 1.12 Alongside the introduction of Planning Performance Agreements, a decision endorsed by Cabinet in January this year, charging for a structured pre-application advice offer gives 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).

- 1.13 It also allows for greater financial resilience when managing change in workload, which may well be an impact in the relatively short term if the current consultation on changes to national planning policy comes to fruition.
- 1.14 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.

3. Details of how the chargeable service was benchmarked.

- 2.1 Officers undertook a detailed benchmarking exercise across the Combined Authority area to establish a baseline for the chargeable service that North East Derbyshire now offers. The Fee Schedule (attached at appendix 1 for information) was the result of the benchmarking exercise, alongside a period of recording of officer time spent on providing pre-application advice.
- 2.2 A summary of the key issues that arose from the benchmarking exercise are detailed in the following paragraphs.
- 2.3 The decision was taken not to charge a fee for enquiries regarding whether planning permission is required for a development. The vast majority of such enquiries 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. The need to provide an accessible service for residents and the relatively modest cost to the Council of responding to these queries were key factors in deciding not to charge for this specific service.
- 2.4 For householder developments, all Authorities in the Combined Authority area, with the exception of High Peak, charge for advice. At a charge of £60 for written advice only on this type of enquiry, North East Derbyshire is charging approximately £10 below the average fee for that same service amongst those Authorities that offer it.
- 2.5 The decision was taken to charge an additional £100 for householder enquiries that affect heritage assets e.g. Listed Buildings, properties within Conservation Areas. The same fee applies where works that would require Listed Building Consent are proposed and cases requiring the input of the Arboricultural Officer. This is broadly in line with what other Authorities charge for similar enquiries.
- 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 considered that the most practical approach was to have one category

for minor applications (up to 9 dwellings, up to 999 square metres of floor space). A separate fee category covers 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, the service charges 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 fee is £3915 for pre-application advice, encouraging developers to enter into Planning Performance Agreements that also allows the Council to recoup the cost of officer time spent dealing with the formal planning application that are likely to follow. The fee 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 includes 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 fee charged by the Council 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. After excluding Derby City 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 The offer for the more complex schemes includes 2 x 1 hour meetings, as opposed to the single meeting offered by most of the Authorities included in the benchmarking exercise. These 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 the range. Fees exceeding £1500 are charged for this scale of development by a number of Councils in the Combined Authority region.
- 2.13 For larger scale major schemes, the fee charged is a rate based on a Planning Performance Agreement model. This involves agreeing a bespoke service with the prospective applicant, proportionate to the complexity of the scheme.

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 this fee reflects the resources required to provide comprehensive advice on the largest scale schemes.

3.0 Other evidence that was added to the benchmarking exercise to form the adopted charging schedule.

3.1 In addition to the benchmarking exercise, officers recorded the time that they spent providing pre-application advice over a 6 month period which started in November 2023. The informal nature of the previous pre-application advice offer (as described earlier in this report) makes it difficult to compare the time spent delivering an informal system verses the more structured service that we now deliver.

3.2 For example, officers did not routinely hold meetings with applicants on all pre-applications above householder level and site visit were not always undertaken in the informal system. These elements are important to ensuring an accurate and consistent approach to pre-application advice. A template letter has been produced to provide a consistent approach to responses and ensuring appropriate levels of detail are provided.

3.3 Taking examples where these elements have been included and the officer time recorded, the benchmarking exercise produced the following results:

- Householder (highest) - £83.04 (adopted charge - £60);
- Listed Building (highest) - £183.31 (adopted charge for Heritage input - £100);
- Minor scale development (highest) - £314.32 (adopted 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 more formal process now in place and would equate to at least £500 worth of officer time (adopted charge – either £1000 or £1500 depending on size);
- Larger scale major – 1 Planning Performance Agreement has been entered into where the fee of £3915 for all schemes of this scale has been paid.

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

3.5 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 adopted approach strikes the right balance between ensuring that officer time is accurately recouped (by avoiding potentially 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.

- 3.6 This approach has led to the fee exemptions for Parish/Town Councils and affiliated community groups. There is also no charge for registered charities/charitable trusts where the specific scheme is dependent on grant funding, for adaptation works that would improve the accessibility of buildings and for queries about whether planning permission is required.
- 3.7 There are also no charges for other public sector organisations although it should be noted that Planning Performance Agreements are still offered in that situation.
- 3.7 As part of the decision taken by Cabinet, there is a commitment that the service is reviewed annually, to ensure that the offer to customers and the fees charged remain appropriate. Fees will be updated each financial year and as a minimum would be adjusted in line with inflation, as is currently the case with nationally set planning application fees.

4.0 Budget forecasting

- 2.24 The period between the introduction of the chargeable service and the end of the current financial year will produce data that will evidence the process of setting a realistic income target. 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.

5.0 Reasons for Recommendation

- 5.1 To ensure that Members are aware of the changes that have been implemented to the provision of pre-application advice by the Planning Service.

Appendix No	Title
Appendix 1	Fee Schedule

Appendix 2	Service Standards
Background Papers (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)	
None.	