

**PLANNING PRE-APPLICATION CHARGING REGIME**

**REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)**

**WARDS AFFECTED: ALL WARDS**



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1. PURPOSE OF REPORT

- 1.1 To seek approval to implement a new planning pre-application charging regime.

2. RECOMMENDATION

- 2.1 That Council approves the new pre-application charging regime as set out in section 4 of the report below.

3. BACKGROUND TO THE REPORT

- 3.1 Although pre-application advice is a discretionary/non-statutory service, it is an important part of the development management process, as it adds value to the quality of planning application submissions, as well as encouraging the delivery of high quality and appropriate development. Early, collaborative discussions between developers, the local planning authority and communities can help shape better quality, more accepted schemes. As a result such developments can be brought forward more quickly and deliver improved outcomes for the community and the council as local planning authority. Effective pre-application discussions can result in the avoidance of wasted effort and cost for both the developer and the council in dealing with withdrawn or refused planning applications and appeals.
- 3.2 In addition, the Government's 'Planning Guarantee' sets out that no planning application should spend more than a year with decision-makers, including any appeal. In practice, notwithstanding statutory 8 and 13 week targets, this means that planning applications should be decided in no more than 26 weeks, allowing a similar period for any appeal. For the council, this means that if a planning application is not determined within 26 weeks, the authority may have to reimburse the planning application fee. For major development proposals this can run into many thousands of pounds and due to the scale of such developments these are often the ones that can take the longest to determine. An effective pre-application service would in effect 'front load' discussions with applicants and developers potentially resolving issues and offering guidance prior to a formal planning application being issued which would help speed up the determination of a planning application once submitted.
- 3.3 The council currently offers two forms of pre-application advice to developers and homeowners. The first is for major developments of over 10 dwellings and is charged at £1700 + VAT. This service was introduced in 2012. The second is for householder pre-application advice where a charge of £75 + VAT is made. This was introduced by Full Council in February 2015 and implemented in June 2015. The council has received feedback and complaints from developers, and in particular smaller local housebuilders, that the council does not offer any form of pre-application engagement for schemes larger than a domestic extension or smaller than 10 dwellings. It is therefore considered timely to review the current fees and charges but also comprehensively the pre-application service that the council offers.

#### 4. PROPOSALS

4.1 In 2014 a cross sector group of councils, the development industry and statutory consultees worked with the Local Government Association Planning Advisory Service to establish 10 commitments that would improve the contribution of pre-application discussions to good planning. These commitments are seen as best practice guidance and have been used in the development of the new pre-application charging regime:-

- 1) **Enable sustainable development to proceed efficiently from proposal to completion.** How? Via open and integrated working with all parties. Adopt a positive approach to find solutions to enable a clear path through the planning system.
- 2) **Offer a range of pre-application services to developers, making sure that each choice can be delivered in a timely, effective manner proportionate to the size of the proposal.** How? Make choices available, including setting out the process, costs, timetable and output for each level and make this information clear and available on the council's website.
- 3) **Help potential applicants? to select the level of engagement necessary to deal with the issues raised by the proposal.** How? Recognise that potential applicants will only opt to use a pre-application service that offers them good value for business and provides an effective service.
- 4) **Demonstrate that pre-application services are good value for money.** How? Pre-application engagement costs both the council and the developer and therefore the service will be efficiently run and effective with costs charged justified and related to the service offered.
- 5) **Co-operate to bring together the right people to address all of the development issues.** How? Processes will be established to ensure the right people both internally within the council and externally with statutory consultees to ensure the advice given and the commitments made are carried through into a planning application.
- 6) **Have an open exchange of information.** How? We will ensure that all information pertinent to the decision making is freely available to all interested parties prior to the submission of an application.
- 7) **Be collaborative; the requirements of all parties should be given consideration.** How? The Development Plan will be the starting point, but to ensure delivery is possible, the needs of other parties will be taken into consideration. Planning Performance Agreements will be used on the most major and significant schemes to provide a shared project management schedule.
- 8) **Provide an opportunity for councillors to be actively involved in pre-application discussions.** How? Councillors will be closely involved in key proposals that affect their wards bringing developers and elected members together to produce a scheme that meets the area's needs.
- 9) **Engage with local communities about development proposals as early as possible.** How? Developers will be encouraged to discuss proposals with parish councils, neighbourhood forums, stakeholder groups and local residents by providing key contacts and sharing the community's aspirations

10) **Maintain an agreed record of information submitted, advice given and any agreements reached.** We will follow up all meetings in writing, providing written responses to advice given in a timely manner.

### Benchmarking

- 4.2 Councils can choose to recover the cost of pre-application work by making a charge under s93 of the Local Government Act 2003 for providing a discretionary service. When making a charge, councils must set the charge at a level that does not generate a surplus. For this reason it is important when setting a new pre-application charging regime that the charges set should be justifiable against the costs of delivering that service, principally in relation to officer time but also associated on-costs.
- 4.3 The Planning Advisory Service (PAS) and Chartered Institute of Public Finance and Accountancy (CIPFA) conducted a national benchmarking exercise in 2012 with 250 participating planning authorities (including HBBC) and more than 8,500 planning officers taking part. Following individual planning officers and support staff recording their time on an average basis it was calculated that the average hourly rate of development management staff is £20.12 an hour. For HBBC the average cost for development management staff was higher at £29.60 an hour. Allowing for inflation over this period since 2012 of 2.1% a year this figure in 2016 equates to £31.52. This figure includes the range of staff involved in the development management process – managers, planning officers and support staff.

The total on-cost including accommodation, corporate costs, annual leave, training and sickness is an average of 135%. Therefore the average composite hourly rate is £74.07 an hour. This would be higher for more senior planning officers and managers and lower for junior officers and support staff.

- 4.4 Some degree of estimation and averaging is therefore inevitable and reasonable in order to establish such a charging regime. This will be kept under review to ensure that charges are reflective of the service offered and particularly in relation to officer time.
- 4.5 A number of local planning authorities throughout the country have been/are charging for pre-application advice for some time now. Further to a review of other local planning authorities in Leicestershire and that bound Hinckley and Bosworth in Warwickshire, it is noted that all charge for pre-application advice in some form or another. The charges levied by the various authorities are set locally and therefore there is a significant degree of variation from authority to authority. A table showing the schedule of pre-application charges levied in nearby authorities is attached at **Appendix 1**.

### Proposed Charging Regime

- 4.6 A proposed schedule of pre-application charges for is set out below. The proposed fees have been devised having regard to legislation (that charges must be on a not-for-profit basis); the unit/hourly costs normally involved in dealing with pre-application enquiries, as identified by the PAS benchmarking exercise; the existing charges levied by other nearby authorities; and, the actual planning application fee for the type of development. It is therefore considered that such charges would be both reasonable and sustainable, whilst ensuring that an appropriate level of income is received to support the level of resource needed to respond to such pre-application enquiries.

For a more complex and larger development the greater the cost that is incurred to process in relation to time spent dealing with the pre-application request by

potentially more than one officer and undertaking meetings and providing a written response, whereas a minor development proposal that is likely to be more straightforward in nature and can be dealt with by a junior officer will have less costs incurred in processing.

<b>Development Type</b>	<b>Fee</b>
Major strategic developments where a Planning Performance Agreement is required	To be negotiated on a case by case basis
Large scale residential, retail, leisure or employment sites, 100 + dwellings or 9,999 + m <sup>2</sup> floor space (Planning Performance Agreement)	£3,000 + VAT (£3,600)
50 - 99 dwellings or 5,000 – 9,999 m <sup>2</sup> floor space	£1,200 + VAT (£1,440)
10 – 49 dwellings or 1,000 – 1,499 m <sup>2</sup> floor space	£800 + VAT (£960)
5 – 9 dwellings or 500 – 999 m <sup>2</sup> floor space	£500 + VAT (£600)
1 – 4 dwellings, agricultural, change of use or other minor development proposals	£300 + VAT (£360)
Householder extensions or outbuildings	£75 + VAT (£90)

4.7 The proposed categories reflect the scale of development and estimated costs for processing such pre-application queries. For the larger developments statutory consultees are likely to need to be consulted, the policy position established, heads of terms for S106 agreements established and site visits and meetings which will usually be undertaken by a senior officers which equates on average to either £1,200 or £3,000 depending on the scale of the proposal. For a smaller proposal of a single dwelling which may be relatively straightforward with a site visit, research of the site history and written response only it may take an officer 4 hours in total which would equate to £300.

4.8 Proposed exemptions:

- Planning discussions following enforcement investigations.
- Where the enquiry is made by a local authority or the county council.
- Where the enquiry is made by a parish, town council or neighbourhood forum.
- Where the proposal is for extensions/alterations for the direct benefit of a disabled person/s (and as such there would be no fee incurred to make a planning application).
- Works in respect of Tree Preservation Orders.
- Works to a listed building or in a conservation area, where no planning application fee would be required.
- Advice about how to submit a planning application or a fee enquiry.
- Any other pre-application discussion which the Chief Planning & Development Officer considers is in the council's or public interest to exempt from a charge.

#### Confidentiality

4.9 The Environmental Information Regulations 2004 include a presumption in favour of disclosure of information, including pre-application advice, unless such disclosure would cause an adverse impact. Whilst the pre-application proposal would not be subject to any publicity, if it includes any confidential or commercially sensitive information then applicants will be advised to clearly mark this as such. The council

retains discretion in regard to any disclosure of information and prior to disclosing any information marked confidential or commercially sensitive then this will be done in collaboration with the applicant before release wherever possible. Once a planning application has been submitted there is an expectation that the pre-application advice will come into the public domain for the sake of transparency.

#### Conclusion

- 4.10 Therefore, in view of the above, Members are asked to endorse the new pre-application charging regime in order to recoup the majority of the costs in officer time of providing such advice to developers and consequently off-setting the cost attributed to the local tax payer for providing this non-statutory service. Subject to approval of the new charging regime a detailed protocol will be prepared and it is likely that the new regime will be introduced in May 2016.

#### 5. FINANCIAL IMPLICATIONS (TF)

- 5.1 There is an income budget of £30,000 for pre-application advice and as at February 2016 it is anticipated that this budget will under achieve by £20,000. It is anticipated that the updating of the pre-application advice charge will assist in achieving the income budget of £30,000 for the financial year 2016/17.
- 5.2 The charges set out in paragraph 4.5 are set using estimates of costs from the national bench marking exercise which was performed in 2012, as mentioned in paragraph 4.3, and the benchmarking against the charges made by other local authorities in the area.

#### 6. LEGAL IMPLICATIONS (MR)

- 6.1 The section 93 charging power is not intended to provide a new income stream. The Council is under a general duty to secure that from one financial year to the next the income from charges does not exceed the costs of provision and must offset any surplus or deficit in income as a result of any over or under recovery of charges when setting future charges.
- 6.2 There are no provisions in section 93 for calculating income and expenditure. That is left to the Council's discretion. 2003 government guidance suggests how income and expenditure should be calculated and suggests that it might be helpful to draw on CIPFA's Best value Accounting Code of Practice.
- 6.3 The Council can set the level of charge as long as income from charges does not exceed the cost of its provision.

#### 7. CORPORATE PLAN IMPLICATIONS

- 8.1 The recommendations relate to all the aims of the Corporate Plan. The posts are essential to help to deliver economic growth, protect open spaces and provide decent and affordable homes. Through planning decisions, the posts also works to improve the health and well-being of residents.

#### 9. CONSULTATION

- 9.1 None

#### 10. RISK IMPLICATIONS

- 10.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

10.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

10.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Raised expectations from developers in providing improved pre-application advice, potentially leading to increased complaints if the service is not delivered.	Ensure staff adequately resourced and trained and that the pre-application protocols, including the timescales set therein are met.	Nic Thomas

## 11. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

11.1 A well-managed and appropriately resourced planning service would ensure that resources are in place to provide a high quality planning applications and enforcement service for the whole borough.

## 12. CORPORATE IMPLICATIONS

12.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Human Resources implications
- Planning Implications
- Voluntary Sector

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Background papers: Schedule of current pre-application charges levied at other Local Planning Authorities (Appendix 1)

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**Appendix 1 - Schedule of current pre-application charges levied at other Local Planning Authorities**

<b>Local Planning Authority</b>	<b>Charge for strategic development</b>	<b>Charge for major development</b>	<b>Charge for minor development</b>	<b>Charge for other</b>	<b>Charge for householder</b>
North West Leicestershire	£3,400	£1,800	Free	Free	Free
Blaby	£240 - £360	£180 - £300	£90 - £120	£50	Free
Charnwood	£4320	£1440 - £2880	£360 - £735	£144	Free
Melton	£1476	£615 - £922	£123 - £246	£49 - £98	Free
Harborough	£290 - £420	£200 - £360	£141 - £200	N/A	£40 - £80
Rutland	£360 - £489	£240 - £360	£183 - £120	Free	£61
Nuneaton	£3000	£1000 - £2000	£200 - £400	£40 - £80	Free
North Warwickshire	Free	Free	Free	Free	Free
<b>HBBC (Proposed Charges)</b>	<b>£3,000</b>	<b>£800 - £1,200</b>	<b>£300 - £500</b>	<b>£300</b>	<b>£75</b>