

For publication

Pre Application Charging – Planning

Meeting:	Cabinet
Date:	18 th July 2023
Cabinet portfolio:	Economic Growth
Directorate:	Regeneration
For publication	

1.0 Purpose of the report

- 1.1 To consider the appropriateness of introducing a charge for the provision of pre application planning advice.

2.0 Recommendations

- 2.1 That the charges for pre application advice by the Planning Service, as set out in Appendix A, are introduced from 1st September 2023.
- 2.2 That data on pre application submissions is collected to assist in a 6 monthly assessment and review of the charging schedule fees.

3.0 Reason for recommendations

- 3.1 To secure the recovery of costs associated with provision of pre application advice in accordance with s93 of the 2003 Local Government Act. This will assist the Council in meeting its budgetary requirements and provide a formal process to pre application planning advice.

4.0 Background

- 4.1 Paragraph 38 of the 2021 National Planning Policy Framework (NPPF) sets out that local planning authorities should approach decisions on proposed development in a positive and creative way and that they should use the full range of planning tools available to work proactively with applicants to secure

developments that will improve the economic, social and environmental conditions of the area.

- 4.2 NPPF Paragraph 39 comments that early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties and that good quality preapplication discussion enables better coordination between public and private resources and improved outcomes for the community. At paragraph 40 it states that local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage and whereas they cannot require that a developer engages with them before submitting a planning application, they should encourage take-up of any pre-application services they 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 and, where relevant, with statutory and non-statutory consultees, before submitting their applications.
- 4.3 The government advice comments that the more issues that can be resolved at pre-application stage, the greater the benefits. Paragraph 41 sets out that for their role in the planning system to be effective and positive, statutory planning consultees will need to take the same early, pro-active approach, and provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs.
- 4.4 Paragraph 42 therefore advocates that the participation of other consenting bodies in pre-application discussions should enable early consideration of all the fundamental issues relating to whether a particular development will be acceptable in principle. The right information is crucial to good decision-making, particularly where formal assessments are required (such as Environmental Impact Assessment, Habitats Regulations assessment and flood risk assessment). To avoid delay, applicants should discuss what information is needed with the local planning authority and expert bodies as early as possible and the guidance in the NPPF states that local planning authorities should publish a list of their information requirements for applications for planning permission.
- 4.5 The National Planning Practice Guidance (NPPG) contains a chapter called “before submitting an application” which focuses on pre-application discussions and which builds on the NPPF by providing guidance on process.
- 4.6 The legislative framework for the provision of charging fees for providing discretionary services is set out under section 93 of the Local Government Act 2003. These provisions allow fees to be charged in relation to any function of a local planning authority and for matters ancillary to those functions (ie

Preapplication discussions) however it clearly states that the income from a fee must not exceed the cost of performing the fee – related function. ie the fee cannot be used to make a profit.

4.7 The government’s current consultations also promote opportunity for local authority to charge for preapplication guidance. The Levelling-up and Regeneration Bill promotes planning reform but also intends to introduce changes where there is a requirement for applicants on certain applications to consult with local communities, and specified persons prior to submitting a planning application. This is already the case for certain wind turbine development however there will be new types of applications where this will become mandatory and the government intend on further consultation in due course.

5.0 **Research by Planning Advisory Service (PAS)**

5.1 PAS has worked with the University of Gloucestershire, Hyas and the Countryside and Community Research Institute to deliver a DLUHC funded programme on best practice in pre-application advice and PPAs. This research has resulted in a comprehensive set of guidance for use by councils. They compared the fees at 87 different councils and carried out a detailed analysis of the fee approaches at 10 councils. From the research comparative information is available to help set fees, provides guidance on working out fees and lessons that can be learnt from to address common issues. A set of 10 principles for having a successful pre application and PPA service are established.

✓ Principle 1 – a good pre app or PPA service relies on having the right staff with the right skills to deliver a quality service
✓ Principle 2 - You need to set appropriate charges that meet the cost of the council's input and enables the council to provide the service that applicants need
✓ Principle 3 - You need to understand and communicate the benefits of pre-application services and Planning Performance Agreements (PPAs)
✓ Principle 4 - You should consider using PPAs throughout the planning process
✓ Principle 5 - You need a clear and reliable pre application service offer
✓ Principle 6 - Provide sufficient flexibility in your pre application service offer
✓ Principle 7 – It is really important to have a proper collaborative approach with statutory consultees
✓ Principle 8 - Pre applications and PPAs engagement can be greatly improved with effective community engagement
✓ Principle 9 - staff involved in pre apps and PPAs need to have great project management skills so that they really add value to the engagement with an applicant
✓ Principle 10- You should regularly review and monitor your pre application service

5.2 Principle 1 advocates that through a pre application process an applicant is paying for planning officers and other specialists to provide expert advice that will de-risk a development proposal and if the quality and quantity of staff are not available at the Council then the pre application service will not be effective. PAS suggest that the Council should use income received to bring in technical specialisms and additional planners.

5.3 Under Principle 2 PAS advocate that the most simple route to establishing a fee is to establish an hourly rate for internal staff involved which includes the whole cost to the Council (salary including oncosts and overheads). This can be an hourly rate for a planning officer, senior planning officer and principal planning officer which can then be used to determine the fee for each pre application enquiry type (ie planning officer responding to householder but a principal planner responding to more complex proposals)

6.0 **Opportunity for PreApplication Charging**

6.1 The introduction of pre application charging is a way of increasing fee receipts in the Planning Service and which has been promoted in budget papers as an opportunity to achieve approximately £15,000 over the year.

6.2 Pre-application engagement by prospective applicants offers significant potential to improve both the efficiency and effectiveness of the planning application system and improve the quality of planning applications and their likelihood of success. This can be achieved by:

- providing an understanding of the relevant planning policies and other material considerations associated with a proposed development
- working collaboratively and openly with interested parties at an early stage to identify, understand and seek to resolve issues associated with a proposed development
- discussing the possible mitigation of the impact of a proposed development, including any planning conditions
- identifying the information required to accompany a formal planning application, thus reducing the likelihood of delays at the validation stage.
- putting in place a Planning Performance Agreement where this would help with managing the process and agreeing any dedicated resources for progressing the application

6.3 Pre-application engagement is a collaborative process between a prospective applicant and other parties which may also include statutory and non-statutory consultees, elected members and / or local people. It is recognised that the parties involved at the pre-application stage will vary on a case by case basis,

and the level of engagement needs to be proportionate to the nature and scale of a proposed development.

- 6.4 Under s93 of the Local Government Act it is made clear that it is important that any charging does not discourage appropriate pre-application discussions. In this context, local planning authorities are advised to consider whether charging is appropriate in all cases, given the potential for pre-application engagement to save time and improve outcomes later in the process. Where possible, local planning authorities are strongly encouraged to provide at least a basic level of service without charge.
- 6.5 To ensure transparency, where local planning authorities opt to charge for certain pre-application services, they are strongly encouraged to provide clear information online about:
- the scale of charges for pre-application services applicable to different types of application (eg minor or major and other)
 - the level of service that will be provided for the charge, including:
 - the scope of work and what is included (eg duration and number of meetings or site visits)
 - the amount of officer time to be provided (recognising that some proposed development requires input from officers across the local authority; or from other statutory and non statutory bodies)
 - the outputs that can be expected (eg a letter or report) and firm response times for arranging meetings and providing these outputs
- 6.6 Democratically elected members are strongly encouraged to participate at the pre-application stage, where it is appropriate and beneficial for them to do so. Section 25 of the Localism Act 2011 confirms that elected members do not have a 'closed mind' just because they have historically indicated a view on a matter relevant to the proposal.
- 6.7 The NPPF is also clear that statutory consultees have an important role to play at the pre-application stage. In order for their role to be effective and positive, statutory consultees will need to take an early, pro-active approach and provide advice in a timely manner and local planning authorities also have a role to play in encouraging statutory consultees to be as co-ordinated as possible.
- 6.8 Pre-application engagement with the community is encouraged where it will add value to the process and the outcome. It is currently mandatory to carry

out pre-application consultation with the local community for planning applications for wind turbine development involving more than 2 turbines or where the hub height of any turbine exceeds 15 metres.

6.9 Pre-application advice provided by the local planning authority cannot pre-empt the democratic decision making process or a particular outcome, in the event that a formal planning application is made. The advice could, however, be a material consideration to be taken into account and given weight in the planning application process.

7.0 **Planning Application Fees**

7.1 It is accepted that fees received by the Council from planning application submissions are an important component in the revenue it receives for the services it delivers however the annual outturn cannot be guaranteed as this is not controlled in any way by the Council.

7.2 The introduction of a pre application charging service, which is likely to be taken advantage of by the applicants of larger schemes, can however help provide some certainty over the timing of submissions helping to predict and monitor fees received period by period.

7.3 Planning Application fees were last increased in 2018 and the government has indicated, and consulted on, an intention to increase them again this summer by 35% for majors and 25% on all other submissions. The government has indicated that the increase in fees should be reinvested in the planning service to improve the service provided for its customers. In the event that the fees are increased as suggested and whether or not the increases are ring-fenced to planning, the increase is substantial and which will undoubtedly assist the Councils financial position by covering additional costs of the service it provides.

8.0 **Derbyshire wide position**

8.1 The picture across Derbyshire is mixed with the only authorities currently charging for pre application advice being Derby, Derbyshire Dales, Erewash, High Peak and Derbyshire County Council. Amber Valley and the National Park Authority have recently stopped charging as a result of lack of staff resources to respond. Bolsover, North East Derbyshire and South Derbyshire do not have charges for pre application advice.

8.2

Authority	Pre appl charging	Meetings + Letters	Letters	Exemptions

Amber Valley	X – stopped 21/6/19			
Bolsover	X			
Derby	✓ from 1/1/23	<p>Householder - £100</p> <p>Single dwelling - £100</p> <p>Change of Use - £250</p> <p>Listed building - £600</p> <p>Minor - £1,560+£300 / extra meeting/hour (2-9 dwellings or 0-1ha or 0-1,000m2)</p> <p>Major - £3,000+£400 / extra meeting/hour (10-199 dwellings or 1-4ha or 1,000-9,999m2)</p> <p>Major - £3,600+£500 / extra meeting/hour (>200 dwellings or 4ha or 10,000m2 for offices, industry and retail or 2ha for other uses)</p>		
DCC	✓	<p>Major - £1,200 (Quarries, landfill, >5.0ha, >2,000m2)</p> <p>Major - £750 (1-5ha, 1,000-2,000m2)</p> <p>Minor - £350 (<1ha or 1,000m2)</p> <p>Meeting only - £150</p> <p>Additional meetings - £150</p>		Anything not covered in categories
Derbyshire Dales	✓ from 1/4/23	<p>Householder - £123.17</p> <p>Listed Building - £184.70 (household)</p> <p>Listed Building – £246.23 (Commercial)</p> <p>Uses/Buildings - £184.70 (0-499m2)</p> <p>Uses/Buildings - £430.92 (500-999m2)</p> <p>Uses/Buildings - £615.62 (1,000-9,999m2)</p> <p>Major – £923.37 (10-99 dwellings or 0.5-1.99ha)</p> <p>Major – £1,080.03 (99-199 dwellings or 2.0-4.0ha)</p> <p>Major - £1,231.11 - > 200 dwellings, 10,000m2, 4.0ha</p> <p>Subsequent exchanges - £half original fee</p>	<p>Householder – £61.53</p> <p>Listed Building - £61.53 (household)</p> <p>Listed Building – £123.17 (Commercial)</p> <p>Uses/Buildings - £123.17 (0-499m2)</p> <p>Uses/Buildings - £184.70 (500-999m2)</p> <p>Uses/Buildings - £369.34 (1,000-9,999m2)</p> <p>Major – £615.62 (10-99 dwellings or 0.5-1.99ha)</p> <p>Major – £800.21 (99-199 dwellings or 2.0-4.0ha)</p> <p>Major - £923.37 - > 200 dwellings, 10,000m2, 4.0ha</p> <p>Advert – £61.53</p> <p>Change of Use – £123.17</p>	Adaptations; Fully Affordable schemes; Parish Council;
Erewash	✓ from 1/4/23	<p>Minor - £240 (single building)</p> <p>Minor - £480 (multiple building)</p> <p>Major - £1,200 (up to 20 dwellings or 2,000m2)</p>	<p>Minor - £120 (single building)</p> <p>Minor - £240 (Multiple building)</p>	Charities; Community Groups; Parish Council; County Council; Government Agencies;

		Major - £3,000 (over 30 dwellings or 2,000m2) Major – £1,200 subsequent meeting	Householder - £60	Own Development;
High Peak	✓	Strategic - £1,130 (over 50 dwellings or 10,000m2) Major - £845 (10-50 dwellings or 1,000-10,000m2) Minor/Other - £570	Strategic - £565 Major - £425 Minor/Other - £285	Householders; Listed Building; Advertisements; CLUD;
North East Derbyshire	X			
Peak District National Park	X – stopped 10/1/22			
South Derbyshire	X			

9.0 **The case for charging at Chesterfield**

- 9.1 The Council has a considerable number of ongoing pre application enquiries of all scales, many of which are not currently being processed due to other competing demands. There are currently between 60 and 80 such ongoing enquiries.
- 9.2 Each case is afforded considerable time and effort (proportionate to scheme being considered) to offering pre-application advice, seeing it as a key part of delivering a good planning. Each case is usually provided with written advice and usually involves a site visit, planning history check, internal and specific statutory party consultation and meetings where requested.
- 9.3 Currently the offer of free pre application advice is encouraged on all development proposals in Chesterfield Borough varying from simple domestic extensions through to major redevelopment schemes. Many requests for advice are of a speculative nature and do not lead to the submission of an application.
- 9.4 The introduction of a charge will certainly help with the Councils budgetary pressure and which is likely to generate additional income of say £15,000 a year (but not guaranteed). Furthermore, charging will remove from the system a number of enquiries which would otherwise have been made thereby better focusing staff resources on delivering better outcomes.
- 9.5 There is a cost associated with the current free service which is met by the Boroughs council tax payers, many of whom will never use or engage with the Planning Service. A large amount of officer time is spent on dealing with

requests for pre-application advice and recovery of at least some of the cost of providing this service may be beneficial.

- 9.6 For those taking advantage of pre application discussions it will help ensure better quality application submissions by filtering out speculative and poorly thought out development proposals. Charging may help focus the thoughts of potential applicants, making it less likely that planning officers would be presented with poorly thought out or purely speculative proposals. This has the potential to improve the quality of actual planning application submissions, thereby reducing the number of invalid applications;
- 9.7 On the other hand charging may discourage development with a risk of discouraging developer interest and inward investment particularly where the economy is not so buoyant. Indeed charging when neighbouring authorities at Bolsover and North East Derbyshire District Councils do not charge would potentially put the authority at a competitive disadvantage.
- 9.8 Furthermore whilst the government are advocating pre application discussions, they would be introduced at a time when the government are trying to reduce the perceived burden of planning control on businesses.
- 9.9 Once a charge is introduced for a service provision, a customer will expect a specific level of service in response and such service level standards would need to be set. It will not be sufficient to just apply a fee charge to pre application enquiries but there will also need to be sufficient staff resources and commitment from statutory consultees if such standards are to be maintained. It is the case as at Amber Valley that the pre application service has had to be stopped due to the shortage of resources to be able to provide the committed service levels.
- 9.10 The introduction of charges will undoubtedly discourage some from taking pre application advice potentially resulting in an increase in unacceptable development, an increase in refusals and potentially an increase in appeals.

10.0 **A Possible Charging Scheme**

- 10.1 It is considered that major developers would be generally happy to pay if they believe they will receive in return assured and timely access to a planning officer and carefully considered written advice at the end of the process. A written response would need to be as constructive as possible. A response that simply lists policy constraints and other obstacles will represent a poor return for the fee and it would defeat the object of the exercise if positions were to become entrenched at the outset. Having paid for the advice received developers may well expect this to be advice on which they can rely and

would become more of an issue if planning committee arrived at a different conclusion to officers however this is accepted and would be unusual.

- 10.2 A Charging schedule would need to be easy to understand and to administer. For this reason a standard fee based on the average Development Management hourly rates at Chesterfield can be established and multiplied by the expected time taken to deliver a response. The hourly rate can be charged for follow-up meetings.
- 10.3 Charging guidance would need to include the rationale for charging, the levels of charges, what the customer will be required to submit by way of drawings and background information when requesting a meeting (or written advice if appropriate) and what they can expect from the council in return. This would include target timescales within which the request would be processed.
- 10.4 The charging schedule set out at Appendix A is recommended to be introduced at Chesterfield.
- 10.5 It is suggested that no fee would be charged to provide advice to Parish Councils, government departments, County Council, local voluntary and community groups or for Borough Councils own proposals.
- 10.6 The introduction of charges for pre application advice will involve entering each request into uniform (remain sensitive with no public access) where a number of standardised letters can be used to acknowledge, invalidate/validate and respond. It is suggested that each entry includes a PREAPP suffix. Advice and guidance including appropriate forms will need adding to the Councils website.
- 10.7 A written service response to the enquiry would be expected within 6 weeks of the detailed query and fee and the dedicated case officer involved in the pre-app process would be likely to see the scheme to application stage.
- 10.8 The charging schedule should be kept under review and an initial annual assessment be made to establish what changes or improvements can be made to enhance its efficiency.

Examples:

Householder

Staff member	Hourly rate (exc VAT)	Time Taken (hrs)	Cost (£)
Technician	£17.70	0.25	£4.43
Senior Case Officer	£29.78	1.5	£44.67

Total			£48.97
-------	--	--	--------

Minor commercial

Staff member	Hourly rate (exc VAT	Time Taken (hrs)	Cost (£)
Technician	£17.70	0.25	£4.43
Senior Case Officer	£29.78	1.5	£44.67
Total			£48.97

Listed Building

Staff member	Hourly rate (exc VAT	Time Taken (hrs)	Cost (£)
Technician	£17.70	0.25	£4.43
Conservation Officer	£36.72	2.0	£73.44
Site visit	£36.72	1.0	£36.72
Meeting	£36.72	1.0	£36.72
Total			£114.59 or £151.31 with meeting

Minor Residential

Staff member	Hourly rate (exc VAT	Time Taken (hrs)	Cost (£)
Technician	£17.70	0.25	£4.43
Senior Case Officer	£29.78	3.0	£89.34
Transport officer	£36.72	1.5	£55.08
Policy/Biodiversity	£36.72	1.5	£55.08
Flood Authority	£36.72	1.5	£55.08
Principal Officer	£40.13	0.5	£20.06
Meeting	£36.72	1.0	£36.72
Total			£279.07 or £315.79 with meeting

Large Scale Major Residential

Staff member	Hourly rate (exc VAT	Time Taken (hrs)	Cost (£)
Technician	£17.70	0.5	£8.85

Principal Case Officer	£40.13	10.0	£401.30
Urban Design Officer	£36.72	2.0	£73.44
Transport officer	£36.72	2.0	£73.44
Policy/Biodiversity	£36.72	2.0	£73.44
Flood Authority	£36.72	2.0	£73.44
Team manager	£42.63	2.0	£85.26
Meeting	£36.72	2.0 x 2 staff	£146.88
Total			£789.17 or £936.05 with meeting

11.0 **Alternative options**

11.1 The only alternative is not to progress with introducing a charge for pre application enquiries however this will not realise the potential additional fee income.

12.0 **Implications for consideration – Financial and value for money**

12.1 The introduction of charging for pre application advice is discretionary but brings with it an opportunity for the Council to recover costs. The charges put forward cannot result in a profit being made and so have been worked out based on the costs of providing the service. One of the LGA commitments referred to above commits councils to demonstrating their pre-application services are good value for money, whether or not a charge is made for the service. For prospective applicants, an effective pre-application service is one where the longer term benefit of having the LPA's advice and early community involvement outweighs the short term cost of both providing the information and paying for the LPA's service.

12.2 It is clear that the service must have the capacity to deliver useful answers and advice within a promised timeframe and this will need careful analysis as part of the monitoring of the scheme. It is crucial that the correct cost is levied to avoid the risks of applicants being deterred because of a charge.

12.3 The prospect of generating an income estimated up to £15,000 towards service delivery is a realistic proposition.

13.0 **Implications for consideration – Legal**

13.1 Pre-application advice provided by the local planning authority cannot pre-empt the democratic decision making process or a particular outcome, in the event that a formal planning application is made. The advice provided would be offered without prejudice to the outcome of any subsequent application received. The advice provided will however be a material consideration to be taken into account and given weight in the planning application process.

14.0 **Implications for consideration – Human resources**

14.1 Other than the potential to ensure the pre application advice service is adequately resourced there are no HR issues. It is considered that in the first instance the service can be provided within existing staff resources.

15.0 **Implications for consideration – Council plan**

15.1 No significant issues to consider with the introduction of charges for the service. There are however obvious links between being customer focused with the intention of promoting good quality development in Chesterfield to make it a thriving borough and working together positively as a team to promote investment in the town.

16.0 **Implications for consideration – Climate change**

16.1 None of relevance.

17.0 **Implications for consideration – Equality and diversity**

17.1 None of relevance.

18.0 **Implications for consideration – Risk management**

Description of the Risk	Impact	Likelihood	Mitigating Action	Impact	Likelihood
Fees set too high discouraging applicants from seeking advice	high	high	Consider reducing costs as part of a review	medium	low
Fees set too low such that the cost of delivering the service is not recovered.	high	high	Consider increasing costs to cover full costs as part of a review	medium	low
giving more priority to pre-application work may affect the	medium	medium	Results in better quality applications	medium	low

council's ability to maintain the performance standards in relation to time periods for determination of planning applications					
Expectation that pre application advice will result in planning permission being granted.	medium	medium	It will be made clear to applicants that all advice is given without prejudice and does not prejudice the decision making powers of the Local Planning Authority.	medium	low

Decision information

Key decision number	1187.
Wards affected	all

Document information

Report author	
<i>Paul Staniforth – Development Management & Conservation Manager – Economic Growth Directorate.</i>	
Background documents	
<ul style="list-style-type: none"> • Calculating the cost of pre-application services – PAS • Pre-application Fee Calculator – LGA • Evidence based research on National Best Practice in Local Authority approaches to pre-application discussions and PPAs March 2023 - PAS 	
Appendices to the report	
A	Pre-Application Charging Schedule