

# DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DELVELOPEMENT DIRECTORATE	DEVELOPMENT MANAGEMENT COMMITTEE	10 FEBRUARY 2016	7

## REVIEW OF CHARGING FOR PRE APPLICATION PLANNING ADVICE

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

This report outlines the proposed charges for pre-application planning advice and meetings to be charged by the Planning & Regeneration Service for the year 2016/17 commencing 1 April 2016. The projected outcome is an increase in income generation to support the Council's budget and an improvement in the efficiency and effectiveness of the Development Management team.

### RECOMMENDATION

1. To recommend to Council, as part of the budget proposals, that the new fees and charges, as set out in Appendix 2, be approved and adopted from 1 April 2016.
2. That future requests submitted in writing to determine whether development requires an application for planning permission be determined by way of a formal submission of a Certificate of Lawfulness in accordance with S 192 of the Town & Country Planning Act 1990.

### CORPORATE PRIORITIES

To Promote the Enhancement of The Natural & Built Environment ( <b>Place</b> )	√	To Encourage Cohesive Communities ( <b>People</b> )	
To Promote a Thriving Economy ( <b>Prosperity</b> )	√	To Meet Expectations of our Customers ( <b>Performance</b> )	√

### SUMMARY OF PREVIOUS DECISIONS

The proposed fees and charges for services that are within the terms of reference of each programme committee are recommended to Council for approval as part of the annual budget-setting process. The fees for pre application charges relating to major development proposals under the current scheme were considered on 20 January 2016.

## REPORT

### 1.0 Background

1.1 In September 1999 the Audit Commission published “The Price is Right” which advised Councils to focus attention on charges and addresses the following issues:

- Establishing clear principles for charging;
- Integrating charging into service management and forging links with corporate objectives;
- Setting clear objectives and targets to qualify success in charging e.g. what level of service is required or what level of take-up are we hoping to achieve;
- Building an understanding of users and markets;
- Improving decision making by taking into account of the likely impact of Portfolio Holder Report changes to charges; and
- Innovating via imaginative use of charging structures.

1.2 The Planning Advisory Service (PAS) has published a pamphlet ‘A Material World’ on the subject of charging for pre-application planning advice. In the summary, it recognises that many local planning authorities devote considerable time and effort to offering pre-application planning advice, seeing it as a key part of delivering a good planning service. Many requests for advice are of a speculative nature and do not lead to the submission of an application. If an application is eventually submitted, the application fee is for considering the application, rather than for the cost of the pre-application discussions. The Local Government Act 2003 gives planning authorities a discretionary power to charge for providing pre-application advice (as a service that an authority has the power, but is not obliged, to provide) and therefore allows authorities to recover at least some of those costs incurred before the application is submitted.

1.3 In January 2008, the Audit Commission published a further report entitled “Positively Charged”, which identified how different councils’ use their powers to charge for services and draws conclusions that support their earlier publication in that:

- Charging for local services makes a significant contribution to council finances and for district councils charges make the greatest contribution to service delivery;
- Councils use charges to influence individuals’ choices and to bring benefits to local communities. Charges can be set to encourage or discourage people to use services and through concessions to pursue local objectives; and
- Councils need to understand better the likely impact of charges on users and on patterns of service use.

1.4 Most recently revised on 26 March 2015 the National Planning Practice Guidance (NPPG) states that local planning authorities may charge for providing discretionary services under section 93 of the Local Government Act 2003, and that where charges are made they must not exceed the cost of providing the service. The guidance states that it is important that any charging does not discourage appropriate pre-application discussions and that local planning authorities need 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. Local planning authorities are strongly encouraged where possible to provide at least a basic level of service without charge.

1.5 It is recognised that every Local Planning Authority (LPA) is different, including having regard to development pressures and the level of available resources, and charging may not be appropriate for every LPA. Likewise, those that do charge may elect to do it in various ways with various fee regimes and charging policies. The NPPG states that there is no 'one-size fits all' approach to providing efficient and effective pre-application services and that LPA's are encouraged to take a flexible, tailored and timely approach to pre-application services. The National Planning Policy Framework (NPPF) states that early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties.

## **2.0 Key issues and Proposals**

2.1 There are two main areas where charges can be applied. Firstly in relation to whether a particular development requires planning permission, and secondly, whether any particular development proposal is likely to be granted planning permission. Regarding whether planning permission is or is not required may be relatively simple to answer, and in such cases a fee would not be justified and will not be requested. For those circumstances where a more detailed assessment of a proposal is required to determine the need or otherwise for planning permission (i.e. where the development is one to which the Town and Country Planning (General Permitted Development)(England) Order 2015 applies) there is an existing statutory process which should be used. This requires the submission of an application for a Certificate of Lawfulness, the fee for which is set by the Government in the Fee Regulations. The council currently operates a system which charges for advice relating to the need to submit a planning application outside the legislative process. The key benefit of this service is that a person intending to carry out development can confirm that their proposal is permitted development and so does not require the submission of a planning application. Whilst this advice is provided in writing, it is not binding on the Council and has no legal status. Furthermore, there is no ability to appeal against the Council's advice if an applicant disagrees with it. A review of the charging regimes operated by other local authorities has revealed that a number have ceased to offer this service and now rely on formal applications for Certificates of Lawful Use for a Proposed Use or Development under Sn 192 of the Town & Country Planning Act 1990.

2.2 The present charging scheme deals only with the need for planning permission and pre application discussions relating to major development proposals, the purpose of which is primarily to advise whether planning permission is likely to be granted and how a scheme could be amended to make it more acceptable. This report proposes replacing the informal written advice on the need for planning permission with the statutory process for determining such submissions, and the extension of the major application scheme to include all smaller scale development types.

2.3 The fees for submitting planning applications required by Planning Legislation are set nationally and therefore the Council has no control over the level at which such fees are set. These fees have not increased from those set by Government on the 22 November 2012. The Council does, however, have control over other miscellaneous charges for non statutory services provided by the Planning & Regeneration Service.

2.4 In order to decide whether extending the scheme for charging for pre-application advice is appropriate for Fylde the following issues need to be considered:

- What are the possible reasons for charging?
- What are the possible reasons for not charging?

- What should we charge for and how should we set the charges?
- How will we collect payment?
- What level of service will we offer?
- What do we expect the outcomes to be?

#### What are the possible reasons for charging?

2.5 It is considered that the main drivers for extending the scope of charging are budgetary pressures and to partially recover costs of officer time engaged in carrying out a non-statutory function. It is also considered that it will lead to an improvement in the quality of submissions and filter out ill thought out proposals. For major and large scale major developments it has formalised the Development Team approach to pre-application discussions and has led to internal efficiencies benefiting service delivery. A significant proportion of officers' time is still however spent on minor development proposals which often involve complex issues that justify a more formal approach to pre application discussions. The more formal approach to giving pre-application advice arising from introducing charging will also provide more certainty to a prospective developer or resident. Furthermore, other local planning authorities in Lancashire have already extended their charging schemes and there has been general acceptance of such from local agents and developers.

#### What are the possible reasons for not charging?

2.6 It is considered that a possible result of introducing charging will be to discourage developers or residents from entering into pre-application discussions resulting in more ill thought out and unacceptable applications. However, this will be more likely to occur if disproportionate charges are imposed for minor development schemes or householder developments as the costs of pre-application discussions would represent a greater proportion of the overall development costs. Charges that are proportionate to the scale of the development should not give rise to negative impacts.

#### What should we charge for and how should we set the charges?

2.7 As with the current scheme, it is considered that for major, large scale major and minor developments a charge should be made for both written advice and for meetings at the same rate, to encourage developers to request a meeting. For householder development proposals a meeting may be impractical and unnecessary and it is proposed, therefore, that a lesser charge would be payable for written advice only. This will allow residents making enquiries without an agent some flexibility on the level of engagement they wish to receive from the Local Planning Authority. It is considered that a flat rate fee regime based on a proportionate fee will not deter discussions. Developers accept that paying for professional advice is part and parcel of the development process and any fees paid would, in any event, only form a very small proportion of the overall development costs. Furthermore, if developers felt that having such discussions would positively benefit the development process, perhaps in helping to save costs overall, then the opportunity for such discussions is likely to be welcomed. Engaging with the planning service at an early stage to discuss potential schemes also avoids unnecessary costs in terms of financial outlay and time delays in drawing up detailed schemes which are not likely to be acceptable.

2.8 It is proposed that general planning information, verbal advice on permitted development and specialist information, e.g. on trees and listed buildings will not be included within the charging

regime. It is also considered appropriate for there to be no charge for advice on any commercial alterations that do not create any additional floorspace, for example replacement shopfronts or for extensions/alterations to a dwellinghouse required to meet disabled needs. As with the existing scheme, it is considered that the charging regime should be simple and easy to understand and be such that the fee is paid up front. This avoids the need for complicated calculations of fee based on time, number of officers present, officer seniority or experience, which are more difficult for developers to understand, more difficult to administer and audit, and require invoices to be sent out after the meetings with the consequent problems of securing and chasing up payments. It also ensures that officers do not spend time on enquiries where no fee has been received. The existing scheme for Major and Significant Major charges £300 and £500 respectively for an initial meeting, with any follow up meeting half the initial fee. It is proposed that the revised scheme operates under a fixed fee basis where there will be no further charge for follow up meetings, exchange of correspondence etc. when part of the same pre-application enquiry. This will encourage developers to further engage with the Local Planning Authority prior to submitting a formal application and allow them to demonstrate they have taken the LPA's views on board and allow for engagement with elected members. Having regard to Fylde's circumstances and to other charging regimes used in other LPA's, it is considered appropriate that the fees (inclusive of VAT) to be charged should be those set out in Appendix 2.

#### How will we collect payment?

2.9 As stated above, a fee that can be collected up front is considered to be the best option. It is considered that once a request for a meeting has been accepted and all relevant details have been submitted, the relevant fee should be paid by cheque or preferably by credit/debit card over the phone prior to the meeting date. Failure to meet this deadline will result in the meeting being cancelled or rescheduled. It is also proposed that the Council's website be updated to be allow customers to submit their enquiries on an online form, and be able to make payment at the same time.

#### What level of service will we offer?

2.10 For major/large scale major and minor development proposals where advice is sought requests should be made by completing the Pre Application Advice Request Form available on the Council's web site or from our offices. For householder development it will be encouraged that the Council website and online form is used but to allow flexibility for resident's requests for advice can also be made in writing, either by letter or email. In all cases as much information as possible should be provided, including:

- a detailed description of the proposal
- details of current use(s)
- a plan identifying the location and extent/size of the site
- any draft plans of the proposed development where applicable showing height and scale of development.
- photographs may also be submitted if these assist in illustrating the proposed development

2.11 Where a meeting is required, it will normally be held within 28 days of the receipt of the written request, subject to the receipt of any further information that has been requested and providing the required fee has been paid in full. Before the meeting, the case officer will undertake a preliminary assessment of the proposal against current national and local planning policy, check the

site history and identify any likely constraints. If the proposal relates to a listed building or affects a conservation area, the case officer will arrange for the council's Conservation Officer to provide relevant advice.

2.12 In order to provide a meaningful response to the request, it may sometimes be necessary to involve internal and external consultees such as the local highway authority (Lancashire County Council). Some external consultees have their own arrangements for charging for pre-application advice, whilst service limitations may not allow other organisations to engage in pre application discussions. In the cases where the case officer thinks their involvement is appropriate the developer will be responsible for meeting this charge. The case officer will aim to provide a written response within 28 days of receipt of the request, or in cases where there is a meeting required, within 14 days following the date of the meeting. Whilst a meeting will be provided as part of the service, not all proposals will require a meeting and in those cases the case officer will discuss the matter with the applicants. For example, if a scheme put forward for pre-application discussion in principle is completely unacceptable, the developer will be informed in writing. If, after the developer has been informed of the council's view, they still wish to proceed with a meeting this will be made available to them.

2.13 The written response shall make it clear that any views or opinions expressed are given in good faith, without prejudice to the formal consideration of any planning application, which will be subject to public consultation and ultimately may be decided by the Development Management Committee. It shall also be made clear in the response that subsequent alterations to local and national planning policies might affect the advice given and may affect the consideration of any applications, particularly if applications are submitted some length of time after pre-application discussions take place.

#### What do we expect the outcome to be?

2.14 The outcomes will include:

- Increased income from pre application discussions to recover the cost of providing the service and thereby reducing budgetary pressure.
- Service delivery improvements – dealing with fewer speculative enquiries, increased speed in handling major applications and drop in the number of refused applications.
- Consistent approach to pre-application enquires from each officer.

### **3. Delegated Functions.**

3.1 The advice provided to developers under the pre application advice service falls within the approved scheme of delegation. If the Development Management Committee agree with the proposed scheme as set out in this report, they are able to recommend the introduction and setting of charges to the Finance and Resources Committee.

### **4. Conclusion**

4.1 The charging for the provision of pre application planning advice is a long established concept which has been adopted by many council's across the country. Whilst it may be argued that the introduction of fees will add to the costs of carrying out development, the benefits of running such a service can outweigh the disadvantages and may, in the long run, save unnecessary time and

expanse. Furthermore, the Council currently receives in the region of 900 planning applications per year which is a small number given that there are more than 35,000 households and many commercial premises within the borough. Whilst they are generally accompanied by the statutory application fee, this does not cover the cost of delivering the service or any pre-application advice that is given out. This means that the pre application advice that is currently being provided to these applicants by the Council is subsidised by the majority of residents and businesses who are not directly using the service as it is currently funded through the general revenue budget. The introduction of reasonable fees and charges would, therefore, pay for the service at its point of use and would reduce the financial burden on those residents and businesses who do not use the service.

IMPLICATIONS	
Finance	The adoption of the new charges will, it is expected, generate additional income. The actual figure is, however, dependent upon the number of pre-application enquiries received and the number of applications for Certificates of Lawfulness submitted. Applying the proposed scheme of charges to the pre-application enquiries received during 2015, the proposed fee schedule would have raised in the region of £25,000. It should be noted that the introduction of fees may result in a lower number of pre-application submissions. The additional income that is expected to be raised will be reflected in future updates of the Councils Financial Forecast.
Legal	The legislation that supports the proposals to provide pre-application planning advice and to charge for providing this service are contained in section 111 of the Local Government Act 1972- subsidiary powers of local authorities, section 1 of the Localism Act 2011- General Power of Competence and section 93 of the Local Government Act 2003- power
Community Safety	None
Human Rights and Equalities	The impact of the proposed scheme of charging on minority groups has been considered and it is proposed that a charge would not be made in regard to pre application submissions relating to improvements to facilitate disabled persons.
Sustainability and Environmental Impact	The scheme of pre application charging would maximise the opportunities to improve the sustainability and environmental impact of development proposals.
Health & Safety and Risk Management	None

LEAD AUTHOR	TEL	DATE	DOC ID
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LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Pre Application Advice on Major Development Schemes		<a href="http://www.fylde.gov.uk/assets/files/412/Documents-Strategic-Development-Planning-Pre-App-Advice-Leaflet.pdf">http://www.fylde.gov.uk/assets/files/412/Documents-Strategic-Development-Planning-Pre-App-Advice-Leaflet.pdf</a>

## Appendix 1

Examples of charges for pre application planning advice.

LPA	Minor development - Initial meeting (£)	Significant major development - Initial meeting (£)
Wyre	50	740
Blackpool	144	600
Carlisle	No charge	No charge
Cheshire East	200	700
Chorley	120	720
Fylde	No charge	500
Hyndburn	120	600
Pendle	50	500
Preston	No charge	600
Ribble Valley	190	775
Rochdale	310	615
South Lakeland	36	720
South Ribble	50	500
St Helens	No charge	No charge
West Lancs	120	1200*
Wigan	No charge	No charge
Wirral	150	900

\* Includes two site visits and two meetings for a 'significant development' (over 49 dwellings); £600 is charged for a 'major development' (10-49 dwellings) to include one site visit and one meeting. An hourly rate of £60 is applied.

## Appendix 2

### Proposed Schedule of Pre Application Charges

#### **PRE – APPLICATION ENQUIRY FEE SCHEDULE – [\*\*\*month 2016\*\*\*]**

From [\*\*\*date\*\*\*], the relevant fee below will be payable in advance by cheque or credit/debit card payment through the Council's Contact Centre. **Please note a 1.85% charge is applied to credit card payments.**

With the exception of householder enquiries (unless specifically paid for), the enquirer will receive **at least** one meeting and a written response. The intention of the pre-application system is, however, to guide applicants through the entire process on a fixed-fee basis (i.e. there will be no further charge for follow up meetings, exchange of correspondence etc. as part of the same pre-app).

All prices are inclusive of VAT. Where a development falls into multiple categories, the highest fee applicable will be charged. Initial charges will be levied on the basis of what is proposed as part of the original enquiry. There will be no refund of fees in cases where schemes of a reduced size are negotiated during the pre-application process. If, however, a larger scheme than originally applied for is proposed during the pre-app, then the Council reserves the right to apply any uplift in charges, or to require a new pre-app, at its ultimate discretion.

Type of Enquiry	Charge
<b>1. Large Scale Major Development</b>	
<ul style="list-style-type: none"><li>Residential development of 200 dwellings or more (including changes of use).</li><li>All forms of development on sites of 10 hectares or more.</li><li>Non-residential development with a floorspace of 10,000 square metres or more (including changes of use).</li></ul>	<b>£1,000</b>
<b>2. Significant Major Development</b>	
<ul style="list-style-type: none"><li>Residential development of between 50 and 199 dwellings (including changes of use).</li><li>All forms of development on sites between 5 and 10 hectares.</li><li>Non-residential development with a floorspace between 2,500 and 10,000 square metres (including changes of use).</li></ul>	<b>£750</b>
<b>3. Small Scale Major Development</b>	
<ul style="list-style-type: none"><li>Residential development of between 10 and 49 dwellings (including changes of use).</li><li>All forms of development on sites between 1 and 5 hectares.</li><li>Non-residential development with a floorspace between 1,000 and 2,500 square metres (including changes of use).</li></ul>	<b>£500</b>

4. Minor Development (A)		
<ul style="list-style-type: none"><li>Residential development of between 5 and 9 dwellings (including changes of use).</li><li>All forms of development on sites between 0.5 hectares and 1 hectare.</li><li>Non-residential development with a floorspace between 500 square metres and 1,000 square metres (including changes of use).</li></ul>	£350	
5. Minor Development (B)		
<ul style="list-style-type: none"><li>Residential development of 4 dwellings or less (including changes of use).</li><li>All forms of development on sites under 0.5 hectares.</li><li>Non-residential development that creates additional floorspace of under 500 square metres (including changes of use).</li></ul>	£250	
6. Householder Development		
Any extension or alteration to a dwellinghouse, including development within its curtilage (except where this falls into another category).	Written advice only	Meetings
	£50	£100

**No charge is payable for the following enquiries:**

- Permitted development enquiries – **verbal advice only** through the duty officer. If written confirmation is required, a Certificate of Lawful Development will be required.
- Applications for prior approval.
- Commercial alterations where no additional floorspace is created (e.g. shop fronts).
- Works to listed buildings.
- Advertisements.
- Extensions/alterations to a dwellinghouse required to meet disabled needs.

**N.B.** The fees above do not include any additional charges that may be levied by other external consultees who have adopted their own pre-application charging schedules (e.g. The Environment Agency, Natural England etc.). If applicants wish to engage with these bodies separately, they may need to pay additional charges to obtain the advice of the relevant organisation independently of the Council's pre-application advice procedure.