

BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

COMMITTEE: Joint Overview & Scrutiny Committee	REPORT NUMBER: JOS/18/16
FROM: Councillor Nick Ridley – BDC Cabinet Member – Planning Councillor Glen Horn – MSDC – Cabinet Member - Planning	DATE OF MEETING: 3 SEPTEMBER 2018 AT 11.30 AM
OFFICER: Philip Isbell - Corporate Manager Growth & Sustainable Planning	KEY DECISION REF NO. N/A

REVIEW OF THE IMPLEMENTATION OF CHARGED PRE-APPLICATION FEES FOR PLANNING ADVICE

1. PURPOSE OF REPORT

To review available information about the effect of the introduction of charged pre-application advice and in particular;

[a] Whether there has been different take-up of different levels of service and charging? Whether our service experience is in line with other Councils including the actual income / predicted outturn. To consider is the system working well for us? How is it working for other Councils (having regard to volume / income)?

[b] To review the quality of user experience. In particular to review the quality of professional advice given and any difference between advice provided on site or in writing.

[c] Investigate evidence from witnesses. To investigate evidence of witness(es) from SCC Highways and from professional repeat users.

[d] Review operational aspects including continuity of officer input – consistency of professional advice, arrangements for mentoring and opportunities for professional career development of staff arising from involvement in pre-application advice provision. To review arrangements for advice checking & safeguarding the quality of advice.

[e] The timings to be improved and addressed in the report

Consider any beneficial side effects & impact on resources.

2. OPTIONS CONSIDERED

2.1 Options considered include [i] ceasing to charge for pre-application advice and resuming the provision of a free service or [ii] ceasing to provide pre-application advice.

- 2.2 Option [i] is not recommended because this would impose additional time and resource burdens upon the Development Management (DM) service with no additional income to support that activity. The take-up of the charged service has indicated that a charged pre-application advice service offer is in principle accepted by enquirers, professional agents and the development industry.
- 2.3 Option [ii] is not recommended because this would foreseeably lead to an increase in refused or unsuccessful applications and less ability to plan for anticipated workloads. With potentially with fee exempt resubmissions this option would be likely to lead to a reduction in customer service standards, reputational damage and less predictable workload management and some duplication of costs.

3. RECOMMENDATIONS

- 3.1 That the contents of the report be scrutinised by the Joint Overview & Scrutiny Committee for review and
- 3.2 That the Joint Overview & Scrutiny Committee agree that the recommendations below are robust enough to ensure the continued improvement of the charged pre-application service:
- Embed a “right first time, on time” approach to pre-application advice offer through consistent use of Enterprise and 1-2-1s.
 - Establish management monitoring and intervention measures to ensure nil rate of refunds in the forthcoming year.
 - Review charging arrangements for site visit elements of pre-application advice services to better reflect time and resource costs.
 - Review pre-application charge exemptions or discounts for community groups or other organisations where relevant support is already being provided by the Councils.
 - Introduce cancellation administration charge where meetings are cancelled by the enquirer at short notice.
 - Repeat customer satisfaction survey mid-2019.
 - Review potential for and introduce as appropriate additional service offers and cost recovery associated with other internal stakeholders (including Housing Enabling, Communities, Public Realm, CIL, Planning Policy) with appropriate Service Level Agreements to underpin delivery.

REASON FOR DECISION

- 3.3 A review of the charged pre-application service introduced in July 2017 to establish any areas for improvement.

4. KEY INFORMATION

4.1 **[a] Whether there has been different take-up of different levels of service and charging? Whether our service experience is in line with other Councils including the actual income / predicted outturn.**

4.2 The charged pre-application advice service is offered, in summary, in either written form without a related meeting, in written form following a related meeting or in written form following an on-site meeting. The take up of service has differed between the two Councils and the 5 most popular service offers by % of total requests (01/07/17 to 30/6/18) were:

At Babergh:

1. Enquiry Listed Buildings (19.4%)
2. Enquiry Written Householder (15.8%)
3. Enquiry on site 1-9 dwellings (11.7%)
4. Enquiry Meeting 1-9 dwellings (11.4%)
5. Enquiry Written 1-9 dwellings (10.3%)

At Mid Suffolk:

1. Enquiry Meeting 1-9 dwellings (15.3%)
2. Enquiry Written Householder (15.0%)
3. Enquiry Written 1-9 dwellings (14.4%)
4. Enquiry Listed Buildings (12.3%)
5. Enquiry on site 1-9 dwellings (9.0%)

The volume of Major planning applications considered by the Councils are usually low in comparison.

4.3 It is clear that income generation has exceeded expectations. In the year prior to introducing the charged service there was an enquiry rate of approximately 2500 per annum in Mid Suffolk, and 2000 in Babergh serviced with free advice costing the Councils circa £45-£50k (MSDC) and £40-45k (BDC) without on costs. When assessing the predicted income for the pre-app service the experiences of other authorities were considered including the experiences with the down-turn in demand experienced on implementation of the service. As such a significant reduction in the number of enquiries was allowed for, resulting in a predicted combined income of approximately £60-80k per annum for the Districts.

4.4 Both Districts have experienced a sizeable reduction in the number of enquiries received, with 604 received from 1/7/17 to 30/6/18, compared to 4500 in the previous year. The outturn is still in excess of that expected, such that the income from this period was well in excess of prediction.

4.5 Given the differences in the approaches to charging between the Councils and other authorities comparisons must be weighed up carefully. Your officers consider that some comparison can be drawn between the Babergh and Mid Suffolk service and that offered by South Norfolk whose charges are not entirely dissimilar. Their projected income was £50k in year one, rising to just under £100k by year 4. At their 6 month review in 2015 South Norfolk found that their income was already nearly

£35,000 and that they had also experienced a greater level of demand for pre-application services than expected.

- 4.6 The actual income to the Councils, net of refunds, in the period 01/07/17 to 31/06/17 was £115586 (MSDC) before external recharges of £8936 to SCC (MSDC) and £97561 (BDC) before external recharges of £8886 to SCC. The underlying reason for this volume of take-up may be related to the position with 5 Year housing land supply as in both Councils over 30% of the activity related to proposals for 1-9 dwellings. In simple terms the sustained take-up of the service offer indicates that this is working well for us.
- 4.7 **To consider is the system working well for us? How is it working for other Councils (having regard to volume / income)?**
- 4.8 In considering whether the charged pre-application service is working well for the Council it is important to note that challenges to staff resourcing in the team have been a factor in consistency of quality and timeliness in service delivery. The service has balanced the need to meet CLG targets whilst delivering the charged pre-application service. That said the higher income is an indicator that the offer is being taken up as expected and to that extent is working well.
- 4.9 This is, however, dependent on the continued use of the service which may change subject to the 5 year housing land supply position, the emerging Local Plan, as well as any changes to the service and external factors, including the economy and impact of central Government directives.
- 4.10 There is limited information publicly available from other Councils as to the effectiveness and experience of their introduction of charged pre-application advice services. Other Councils pre-application services were reviewed as part of the development of our own pre-application service proposal prior to its inception. The other services of Districts in our locality had been implemented before the Planning Advisory Service (PAS) detailed further the expectations and parameters for pre-application services, which included calculations for determining the cost of providing advice.
- 4.11 For these reasons there are some significant differences in services and charging for pre-application advice between our service and that of others. By way of an example Ipswich charges 10% of the application fee for the relevant proposal, having implemented their charged service prior to the guidance, so that a householder proposal which would cost £206 at application stage would cost £20.60 plus VAT for pre-application advice.
- 4.12 In summary many councils offer a written only response, others also offer the choice of written, meeting or on-site meeting similar to our own. It is uncommon, however, to find a comprehensive response offer incorporating Heritage, Highways, Floods, Ecology and Landscaping advice elements. Each of these “add-on” services has had enquiries through the first year of our pre-application service, with 110 involving Heritage, 120 Highways, 21 Landscaping, 18 Flood and Water, and 12 for Ecology (one or more of these consultees can be involved with any enquiry depending on the scale and impacts of the proposal).
- 4.13 These guaranteed “add-on” elements may well be a factor in attracting users to take pre-application advice rather than simply lodge applications with or without their own

professional advice. Experience indicates that these elements do help to “de-risk” a proposal for applicants. Overall it appears that our experience of establishing and delivering a charged pre-application service has been positive and in line with other Councils.

- 4.14 Given the variety of other services and the impact of PAS guidance clearly there is difference in the services available, however given the uptake of our service and the requests for consultee input within this it is considered that this is something that is in demand, and indeed we currently have requests to consider including further consultees in order to further widen the advice we give. The inclusion of advice from either internal or external consultees is not the norm for other Council’s pre-app services, however we have experienced good take-up of this offer and the desire of other departments to be included.
- 4.15 **[b] To review the quality of user experience. In particular to review the quality of professional advice given and any difference between advice provided on site or in writing.**
- 4.16 In order to gauge the experience of users a survey was conducted in May 2018. The results of this have been shared with Committee and the Client Side Panel and are appended to this report.
- 4.17 Of the 67 responses received 62% of respondents rated the quality of service higher than 6/10. Quality was specifically mentioned by 6 respondents as the most important thing we could improve. Consistency is relevant to quality and this was specifically mentioned by 8 respondents as the most important thing we could improve. Timeliness can also be a measure of overall quality and this was specifically mentioned by 15 respondents as the most important thing to improve upon.
- 4.18 In simple terms quality of advice can also be measured by the correlation between pre-application advice and application outcome. In this respect a summary of the expected outcome of an application is recorded in the planning database when pre-application advice is given. This can then be matched against the outcome of the subsequent application. From a randomly selected sample of enquiries since the inception of the charged pre-app service which have had applications, the outcomes of planning applications were as recommended in 83% of cases for BDC and 94% of cases for MSDC.
- 4.19 It is also possible to measure the rate at which applications are the subject of a re-submission application claiming a fee exemption due to the re-submission and in cases where pre-application advice was provided. There is not an absolute correlation between re-submission and quality of pre-application advice and this is being investigated, a verbal update will be provided at the meeting.
- 4.20 As is noted elsewhere the provision of late advice entitles the enquirer to a refund of the fee paid. At Babergh refunds of £1548 were made for late advice. At Mid Suffolk £3175 was refunded for late advice.
- 4.21 **[c] Investigate evidence from witnesses. To investigate evidence of witness(es) from SCC Highways and from professional repeat users.**
- 4.22 Witnesses colleagues from Suffolk County Council highway authority team are making themselves to attend Committee. The Development Management service

have also invited professional users who participate in the Client Side Panel liaison meeting to attend. Two professional users James Tanner of Hollins Architects and Philip Cobbold of Phil Cobbold Planning Ltd have indicated their willingness to attend Committee and give evidence.

- 4.23 **[d] Review operational aspects including continuity of officer input – consistency of professional advice, arrangements for mentoring and opportunities for professional career development of staff arising from involvement in pre-application advice provision. To review arrangements for advice checking & safeguarding the quality of advice.**
- 4.24 It is acknowledged that the turnover in staff during the year has challenged an ability to deliver continuity and quality of pre-application advice. Planning case work of both applications and pre-application advice requests has had to be re-allocated as resources dictate and this has led to some lack of continuity and anecdotal lack of consistency reported by users.
- 4.25 The challenges upon staff resources in the Development Management team have had consequences for the continuity of pre-application enquiry handling as team leaders have, over time, sought to maintain balance in the whole caseloads of their teams. The practical effect of this has been pre-application case re-allocation.
- 4.26 As first designed the intention was that officers' pre-application advice would be mentored and coached by their team Principal Officer or Area Manager and subsequently checked and signed off by an Area Manager before despatch. This allows the team to provide mentoring and development for staff within the process, whilst also looking to deliver consistent advice of the quality expected by customers.
- 4.27 In order to promote continuity and consistency of approach it is desirable to ensure that applications are handled by the case officer who has provided pre-application advice. This should be more efficient as the case officer will be most familiar with the matter, already aware of the relevant policies and considerations and aware of the advice provided. This can be a tension when the case officer already has a high caseload or is unable to deliver the advice balanced with other work commitments. In those circumstances the re-allocation of the case can be expected to reduce efficiency, but is undertaken to try and deal with both applications and enquiries in a balanced and timely way.
- 4.28 The new uniform software system allows early identification of the pre-application case officer when an application is received which enables team leaders to allocate cases to those who dealt with pre-application enquiries where possible. This is intended to support the continuity of advice and make best use of time to help enable us to deliver planning applications within the statutory time periods.
- 4.29 **[e] The timeliness of pre-application advice**
- 4.30 As part of the service offer guaranteed response deadlines were proposed, namely to offer responses in 14 or 21 days (subject to the type and size of proposal). In the largest of cases a bespoke timetable is offered. This compares favourably with other Districts, with other authorities offering 21 or 28 day response times (Ipswich and East Suffolk respectively), whilst Fenland and Peterborough offer 42 days for major applications but without the guaranteed add-on advice elements from SCC and others mentioned above.

- 4.31 For MSDC 332 enquiries were received within the first year of the service and 73% of these were dealt with inside the expected deadline. For BDC 272 enquiries were received and 72% were dealt with inside the expected deadline.
- 4.32 In comparison, from figures available online, Fenland issued 75% in time in 2016/17 and 57% in 2017/18, and Peterborough issued 90% in time in 2016/17 and 81% in time in 2017/18. It should be noted that Fenland and Peterborough dealt with an average of 170 enquiries per annum in that two year period.
- 4.33 Having regard to the volume of enquiries we received and advice we issued our performance is easily comparable with that offered in other districts. Nevertheless it is recognised that this is an additional paid-for service being offered and that a business-like approach warrants delivery of service to the promised timetable. The ongoing monitoring by Area Managers and support of delivering advice in time is a matter of importance. As our recruitment introduces new staff resources it is expected that this will help build both robust capacity and professional experience in the team. Furthermore the introduction of Enterprise to provide “dashboard” performance monitoring is expected to help staff manage and deliver pre-application advice in an increasingly effective and timely way.
- 4.34 It remains the case that pre-application advice work will have to be balanced with the determination of applications but the service aspires to deliver “right first time” pre-application advice which should help reduce avoidable work in the system.
- 4.35 Clearly the implementation of the service has reduced the number of enquiries received, with officers no longer needing to spend extended periods of time as a duty officer as well to offer an overall benefit in this respect. Overall whilst the pre-apps take slightly longer the reduction in enquiries, combined with the enhanced level of advice being offered results in a better service for our customers. This also allows officers a greater chance to provide a thorough assessment of a proposal and to provide formal advice based on detailed plans, all of which is recorded and available during any subsequent application, making the application process more straightforward as well.
- 4.36 One key concern with regards to resource efficiency is the time now being spent on site visits in more straightforward Minor cases, which were somewhat less available previously. The mid-level officer time being spent on these is a noticeable element of some DM planning officers working week and the added value of a site visit to both enquirer and to planning authority is open to question. Experience suggests that these could often very easily be addressed without a site visit and that the additional time and resource costs of this needs to be better reflected in the price charged.

5. LINKS TO JOINT STRATEGIC PLAN

5.1 This report is most closely links with the following key outcomes:

- Housing delivery – More of the right type of homes, of the right tenure in the right place,
- Business growth and increased productivity – Encourage development of employment sites and other business growth, of the right type, in the right place and encourage investment in skills and innovation in order to increase productivity,

- An enabled and efficient organisation – The right people, doing the right things, in the right way, at the right time, for the right reasons

6. FINANCIAL IMPLICATIONS

Revenue/Capital/ Expenditure/Income Item	Total	2017/18	2018/19	2019/20
Charged Pre-Application Advice Income BDC (Re-charges)		£97,561 (£8,886)	£80,000 (£12,000)	
Charged Pre-Application Advice Income MSDC (Re-charges)		£115,586 (£8,936)	£98,000 (£12,000)	
Net Effect		£195,325	£154,000	

7. LEGAL IMPLICATIONS

- 7.1 Section 93 of the Local Government Act 2003 introduced a discretionary provision which enabled LPAs to charge for pre-application advice but it was also clear that where charges were made they must seek to recover costs only. Authorities are not required to charge for these discretionary services and may provide them for free if they decide to do so, but the vast majority of local planning authorities do now charge for pre-application advice, including all of our neighbouring Suffolk authorities.
- 7.2 Planning Practice Guidance advised that charging should not unduly discourage appropriate pre-application discussions and that, in considering the introduction of a charging regime, LPAs should 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. LPAs were strongly encouraged to provide at least a basic level of service without a charge.
- 7.3 The Councils have continued to provide a free telephone service to answer or signpost enquirers with straightforward enquiries to online sources of advice including The Planning Portal website. Whilst some pre-application activity has reduced it is considered that the charged service does not on the evidence of use unduly discourage discussions and given level of take-up still offers the opportunity to save time and improve outcomes in the planning process.

8. RISK MANAGEMENT

- 8.1 This report is most closely linked with the Council's Corporate / Significant Business Risk No. 1b – We may be unable to meet housing needs in the District and 1c –We may be unable to deliver the right homes in the right locations.
- 8.2 Further key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
Usage of the charged pre-application service declines substantially.	2. Unlikely	1. Minimal	The process has been designed to provide added-value to customers and remains

<p>This will limit the fee income achieved by the service and may lead to an increased volume of applications submitted without the benefit of pre-application advice. If this happens there may be an increased number of refusals, fee exempt resubmissions and appeals with related cost and time burdens.</p>			<p>under operational review to ensure that the quality and timeliness of advice provided is beneficial and attractive to customers. Planning Performance Agreements are also available as an alternative if this is preferred by major customers.</p>
<p>The advice given fails to take account of or accurately assess potentially relevant considerations.</p> <p>This may lead to advice given being incomplete or inaccurate leading to an increased risk of refusals and appeals. Consequent risks include reputational damage and foreseeable complaints about service quality and value.</p>	3.Probable	2. Noticeable	<p>Officers giving advice will follow a template for the advice response. Draft advice will be mentored and screened by more senior officers throughout the process.</p> <p>Training for the team at the inception of the service will be given and the importance of addressing all relevant considerations highlighted. Refresher training will also be programmed.</p>
<p>Relevant professional or technical advice is not obtained in appropriate time to inform the pre-application advice given.</p> <p>This may lead to advice given being incomplete or inaccurate leading to an increased risk of refusals and appeals. Consequent risks include reputational damage and foreseeable complaints about service quality and value.</p>	3.Probable	2.Noticeable	<p>A Service Level Agreement (SLA) exists with Suffolk County Council to safeguard the delivery of pre-application advice in matters that they would usually advise upon (Highways, Sustainable Drainage, Education & other County delivered infrastructure).</p> <p>A Service Level Agreement has been concluded with Place Services (Essex County Council) to safeguard the delivery of pre-</p>

			<p>application advice in relation to landscaping, ecological, heritage and urban design matters.</p> <p>An internal Service Level Agreement has been concluded with BMSDC Heritage team to safeguard the delivery of pre-application advice in relation to heritage matters. Where appropriate other SLA's will be considered as need be.</p> <p>Performance against these SLA is actively monitored by both parties.</p>
<p>The advice given is not consistent with the outcome of the application by reason of case officer differences of opinion with officer exercising delegated authority. This may lead to an increased volume of refusals and appeals together with an increase in foreseeable complaints about service quality and value.</p>	3.Probable	2.Noticeable	<p>The Development Management leadership team including Area Planning and Strategic Planning Managers and Principal Planning Officers oversee and monitor consistency of advice and identify potential areas of professional difference over the interpretation of policy and weight to be attached to considerations.</p> <p>Training for the team has been given and the importance of consistency and reporting potential differences highlighted.</p>
<p>The decision reached is not consistent with the officer pre-application advice given by reason of committee overturn of officer recommendation.</p>	3. Probable	2.Noticeable	<p>Member training has been and will continue to be given to highlight and discuss the importance of consistency in the evaluation and weighing</p>

<p>This may limit the continued use of the charged service and an increased volume of applications unsupported by officer pre-application discussion.</p> <p>Foreseeably a greater number of cases will be reported to committee where there is a difference of view between Councillor and Officer.</p> <p>The credibility and reputation of the charged service will be undermined.</p>			<p>planning policies and material considerations.</p>
<p>That optimum pre-application service use and income is not achieved because professional agents limit their use of the pre-application service in preference to Councillor lobbying to reach their clients preferred outcomes through committee overturn of officer recommendation.</p>	<p>3.Probable</p>	<p>2.Noticeable</p>	<p>Member training has been and will be given to highlight and discuss the consequence of rejecting officer recommendations on a regular or foreseeable basis either by Ward or type of application.</p> <p>Officers will monitor the frequency of committee overturns and register any evident risks that it is appropriate to record in the Risk Register.</p>
<p>The advice fails to identify risks within the decision making process e.g Member call-in. This presents a risk to the credibility and reputation of the charged service</p>	<p>3.Probable</p>	<p>1.Minimal</p>	<p>The advice template will require officers to specifically evaluate decision making risks and to assess these on a case by case basis for enquirers.</p> <p>Advice will be given without prejudice in the usual way and proper risk assessment will build customer confidence.</p>

<p>The pre-application service as delivered does not safeguard the open for business reputation of the Council. This could undermine the reputation of the Council and risk the credibility of the economic development offer to the business community and development industry.</p>	<p>2.Probable</p>	<p>2.Noticeable</p>	<p>The Development Management leadership team including Area Planning & Strategic Planning Managers and Principal Planning Officers will oversee and monitor the delivery of the pre-application service for quality and training purposes in consultation with stakeholders and customer groups. Where appropriate training, support and professional development measures will be implemented.</p>
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9. CONSULTATIONS

- 9.1 Since the inception of the charged service Officers have undertaken iterative discussions with stakeholder teams to monitor the delivery of the service and identify issues. This has indicated through discussion with the Communities team that it is appropriate to consider widening the scope of pre-application exemptions for community groups and others where the Council is providing grant funding or other support to those groups. This will ensure a more joined-up approach to Council services. Discussions with other internal teams including Housing Enabling and Public Realm indicate that there is an opportunity, with appropriate service level agreements in place, to improve the service offer and include those elements as chargeable so as to recover their service costs.
- 9.2 An online survey of charged pre-application users was undertaken in May 2018. The results of this survey have been shared and discussed with the Councils Client Side Panel which includes professional planning consultants, architects and other related professionals.
- 9.3 The results of the survey have also been shared with internal stakeholders and with external stakeholders including Suffolk County Council Highways and Flood & Surface Water Management teams.

10. EQUALITY ANALYSIS

10.1



Equality Impact Assessment (EIA) not required. There are no immediate equality and diversity issues arising from this report. The charged pre-application service has a positive impact in that it includes charging exemptions for enquiries relating to proposals to alter or extend a house for the benefit of a registered disabled person

and those to provide a means of access for disabled persons to buildings to which members of the public are admitted.

11. ENVIRONMENTAL IMPLICATIONS

- 11.1 The provision of a charged pre-application service has a positive impact in that it can ensure that development proposals are appropriately screened and evaluated at an early stage so as to safeguard environmental considerations which might otherwise be adversely affected.

12. APPENDICES

Title	Location
(a) Pre-App Charging Schedule	https://www.midsuffolk.gov.uk/assets/DM-Planning-Uploads/Fees-for-pre-app-web-version2.pdf Attached
(b) Pre-App Enquiry Forms	https://www.midsuffolk.gov.uk/planning/development-management/pre-application-advice/pre-application-service-from-july-2017/ Attached
(c) Pre-App Survey	 Pre-App Survey FINAL 310518.pdf Attached
(d) Pre-App Presentation Survey	 Pre-App Survey Presentation.pdf Attached

13. BACKGROUND DOCUMENTS

Fenland Cabinet Report	http://www.fenland.gov.uk/aksfenland/images/att7104.pdf
South Norfolk Cabinet Reports	8/12/2014 https://www.south-norfolk.gov.uk/sites/default/files/cab2014-12-08-agenda.pdf 25/7/2015 https://www.south-norfolk.gov.uk/sites/default/files/cab2015-07-20-agenda.pdf