

BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

From: Assistant Director – Planning for Growth	Report Number: BCa/17/3
To: MSDC Cabinet BDC Cabinet	Date of meeting: 5 June 2017 6 June 2017

PRE-APPLICATION SERVICES

Executive Summary

The pre-application service has been reviewed with the aim of providing the best, most effective service for all customers.

A free service is currently provided across the two offices at Needham and Hadleigh including a drop-in service and appointments. This has identified issues with service delivery, performance, quality of service, consistency and outcomes during the subsequent application process.

Various alternative options have been explored for this service, with the proposal for a service which provides a simple telephone service, written advice, and appointments, with a charge for written advice and appointments.

This retains the free and fast response for the most straightforward enquiries, but also ensures that the time-consuming pre-application services can recoup this cost from developers and applicants.

This allows us to include advice on Landscape and Ecology, Heritage, Legal aspects, and in tandem with Suffolk County Council to provide pre-application advice on Highways and Floods, creating a comprehensive pre-application service as necessary with the departments most involved in providing pre-application advice.

A flat rate fee structure is proposed to provide clarity of charges and to limit issues with subsequent invoicing and chasing. The fee structure proposed includes charges for Suffolk County Council work and allows customers certainty with regards to the charge and service provided. The fees proposed are set out at Appendix (a).

The pre-application service would provide an immediate and free response to the most straightforward enquiries, dealt with over the phone by admin technical support officers. All other enquiries would be dealt with by way of a formal enquiry, providing us with the ability to request details and simple plans, addressing some of the biggest problems experienced in respect of pre-application advice.

Enquiries would be allocated to a Planning Officer who would be expected to be the handling officer for both the enquiry and any subsequent application. In addition to support consistency all enquiries would be subject to a checking process to enable advice to be reviewed and agreed.

1. Purpose of Report

- 1.1 To gain approval for a new charged Planning pre-application service, as set out in the Executive Summary to this report.

2. Recommendation

- 2.1 That Cabinet approve a new format of Pre-Application Advice Service and the proposed fee charges for such services with introduction with effect from 1 July 2017.

3. Financial Implications

- 3.1 Providing any Pre-Application service moving forward has cost implications for the Councils.
- 3.2 Retaining the current range of 'Free' Pre-Application Services is the most expensive option going forward and is estimated to cost in the region of £45-50K in Mid Suffolk and £40-£45k in Babergh per annum just in terms of officer time without on costs.
- 3.3 Providing a charged for written advice and appointments service with a free telephone service is estimated to cost in the region of £15-25k per annum for the service across both Districts just in officer time without on-costs to retain a telephone service, but costs for other advice would be covered by new pre-application fee income.
- 3.4 There is currently an enquiry rate of approximately 2500 per annum in Mid Suffolk, and 2000 in Babergh. Depending on the take up of the new service this could result in income of approximately £60-80k per annum for the service across both Districts. This is dependent on the successful establishment and continued use of the service and uptake by customers may change significantly given the proposed change in the service offer itself as well as the proposed charge. The projected income of £60-80k per annum includes officer time and on-costs which are not included in the cost to provide the services noted above at 3.2 and 3.3.
- 3.5 The charges proposed are attached at Appendix (a). These have been developed to reflect the range and complexity of advice, in particular differences between householder, minor and larger scale developments.

4. Legal Implications

- 4.1 Section 93 of the Local Government Act 2003 introduced a discretionary provision which enables LPAs to charge for pre-application advice, but it is also clear that where charges are 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.

4.2 Planning Practice Guidance 2015 advises that it is important that any charging does 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. It further advises that where possible, LPAs are strongly encouraged to provide at least a basic level of service without a charge. Retaining a free telephone service ensures that would happen as part of the proposed pre-application service offer.

5. Risk Management

5.1 This report is most closely linked with the Council's Corporate / Significant Business Risk No. 1b – Failure to unlock barriers to growth and 5g – Failure to implement more efficient and effective public access arrangements. Further key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
<p>The new pre-application service is not taken-up by customers.</p> <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 which in turn may lead to an increased number of refusals and appeals.</p>	2. Unlikely	1. Minimal	<p>The process has been designed to provide added-value to customers and will be reviewed to ensure that the level of advice provided is beneficial and attractive to customers. Planning Performance Agreements are also available as an alternative if this is preferred by 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) has been concluded 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-application advice in relation to landscaping, ecological, heritage and urban design matters.</p> <p>An internal Service Level Agreement is being 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>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 Senior officers will 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 at the inception of the service will be 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 will be given to highlight and discuss the importance of consistency in the evaluation and weighing planning policies and material considerations.</p>

<p>This may limit the uptake of the charged service and an increased volume of applications unsupported by officer pre-application discussion. 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>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>	3.Probable	2.Noticeable	<p>Member training 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 report to Portfolio Holders any evident trends that emerge.</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>	3.Probable	1.Minimal	<p>The proposed 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>	2.Probable	2.Noticeable	<p>The Development Management leadership team including Senior 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>

6. Consultations

- 6.1 The proposed fee schedule has been the subject of discussion with Portfolio Holders with service specific responsibilities but no formal consultations have taken place. A briefing for Members is being arranged.
- 6.2 The proposal has been developed in consultation with internal stakeholders, including Heritage team and with relevant Suffolk County Council stakeholders and appropriate costings are included in the tables proposed.
- 6.3 Engagement has also been undertaken with developers and agents. The changes to the proposed service, including timescales and charging have been discussed at our Client Side Panel. This identified that they want to see an uplift in the quality of pre-application service offered and that they would be prepared to pay for this service if they were offered an improved understanding and certainty of issues. A briefing for Parish Councils is being arranged.

7. Equality Analysis

- 7.1 There are no immediate equality and diversity issues arising from this report. The proposed 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.

8. Shared Service / Partnership Implications

- 8.1 The proposed pre-application service includes provision for Suffolk County Council advice to be provided and charged for as part of the pre-application offer. This advice will usually relate to highways, sustainable drainage, education and other County delivered infrastructure which might be subject to CIL or Section 106 as the case may be. This has been formalised within a Service Level Agreement which establishes time parameters for response and cost recovery measures appropriate to the delivery of charged pre-application advice. The charges proposed reflect Suffolk County Council cost estimates.
- 8.2 Other matters that foreseeably need to be the subject of pre-application advice include landscaping, ecology, urban design and heritage aspects. A Service Level Agreement (SLA) with Place Services, a trading arm of Essex County Council, was concluded at the point that Suffolk County Council withdrew from supporting landscape and ecology advice to the District. This SLA is able to support the charged pre-application service in all of these matters with cost recovery. It is intended to call upon this SLA in the short term to support heritage pre-application advice as an interim measure whilst the internal Heritage team develop capacity and skills to support charged pre-application activity. An internal SLA with the Heritage team is under discussion to establish a credible cut-over plan from Place Services to the internal heritage team as their capacity develops. This SLA will establish service and time parameters for response and cost recovery measures appropriate to the delivery of charged pre-application advice by the Heritage team. The charges are expected to reflect Heritage team or Place Services cost estimates.

8.3 Consultations have also been carried out with other internal departments with a view to including relevant services within the planning pre-application offer wherever reasonable and justified. The use of service specific SLA with other internal teams to safeguard delivery of charged pre-application advice to time and service standards will be put in place as need be.

9. Links to Joint Strategic Plan

9.1 The Development Management service contributes to a number of the key priorities identified in the Joint Strategic Plan, including the delivery of housing, supporting strong and healthy communities and boosting and developing the local economy.

9.2 As such, delivery of the pre-application service has the potential to impact significantly upon the Council's Strategic aims and priorities.

10. Key Information

10.1 The Development Management Team currently provides a free drop-in and appointment service across the two offices at Needham and Hadleigh as well as ad hoc meetings, where requested. The provision of this free, flexible service has several issues which affect the quality of service provided to customers, the team's ability to maintain performance levels when dealing with planning applications, and has cost implications which the service has currently subsumed into existing budgets.

10.2 As limited information is often available or provided by applicants who 'drop-in', this affects the nature and detail of advice officers are able to offer at the pre-application stage. Subsequently, this can lead to delays during the Council's formal consideration of planning applications and is an inefficient use of officer time in circumstances where officers need to review advice previously given to applicants as a result of new issues arising. Whilst the current service provides ready, 'free' access for customers, the time and cost associated with the provision of this service is also considerable and at present is borne by all tax payers rather than those who are directly benefitting from the pre-application service. Any form of pre-application service of course, remains a discretionary service offered to developers, but is recognised as 'best practice'.

10.3 Following discussions with developers and agents as part of the planning transformation work, it is clear that whilst they enjoy the current free service and the flexibility it often provides, many want to see an uplift in the quality of pre-application service the Council presently offers. Furthermore, they would be prepared to pay for an improved quality of service if pre-application advice offered them an improved understanding and certainty of the issues they need to deal with at formal planning application stage. The risks identified above do therefore require serious consideration and effective mitigation which will include training and monitoring. As these include matters dependent upon those beyond the immediate planning service it is essential that the pre-application service is introduced, monitored and developed iteratively to safeguard its credibility.

- 10.4 Developers and agents are also keen to ensure that any new pre-application service provides more consistent advice and includes value-added input from the most critical consultees, identified as highways, flooding and heritage. These are all areas which can affect the principle and delivery of a development and the involvement of consultees at pre-application stage can help to improve resolution of proposals. The focus of this and the pre-application service proposed is to provide a value-added response, addressing major issues, to bring forward development, with the focus on planning advice. In this light, detailed discussions have taken place with Suffolk County Council to develop their input into an improved pre-application service.
- 10.5 In this light, detailed discussions have taken place with Suffolk County Council to develop their input into an improved pre-application service. The fees provide a range to allow developers to choose these options, when relevant.
- 10.6 Following consideration of options for pre-application advice, including retention of the Council's current, free service, charging for the current service and alternative service options, officers have concluded that a new pre-application service, with a charge, offering several different 'products' at different fee levels, is the best way forward.
- 10.7 The income from this will look to cover the costs of providing the new fee-paying service and, if approved, will be used to help support the provision of the quality of service proposed.
- 10.8 To provide a service with the added value, quality, and consistency necessary the offer proposed includes specific areas of advice to be covered and with timescales set out for providing this. For the purposes of consistency a template for advice and topics to be covered will be used by officers which will include validation issues, relevant policies, other technical considerations and expected consultations / publicity arrangements, planning merits, expected application fees, decision making process, level and risk and other foreseeable risks.
- 10.9 Allocation to Officers will be undertaken at a senior level having regard to overall workloads. It is expected that officers providing advice will subsequently deal with any application to provide an enhanced degree of consistency and avoid duplicate briefing on issues and sites overcoming some of the main issues currently experienced. Advice will be given as an officers professional opinion and subject to the details provided, without prejudice to the consideration of any formal application, which will obviously be the subject of formal consultation and publicity.

With appropriate risk assessment it is believed that confidence and credibility can be built around this issue.

- 10.10 In respect of charging for the service there are various options for the type of fee, however a flat rate fee is proposed as this provides clarity and transparency as to the cost from the outset. Furthermore, as the fee will be payable in order for the pre-application enquiry to be accepted this will avoid the need to spend time on either billing or chasing up fees owed once work has been undertaken.

- 10.11 This fee is based on the average expected time for dealing with the scale of each enquiry and a bench-marked hourly rate including on-costs. For much larger schemes, to allow officers to deal with the more complex nature of enquiries, this can form part of a bespoke Planning Performance Agreement (PPA). The flat rate fees being proposed are set out in Appendix (a) to this report.
- 10.12 The fees proposed will be subject to review, as when making a charge the Planning Advisory Service is clear that *“When making a charge, councils must set the charge at a level that does not generate a surplus. For this reason, LPA’s should review their fees regularly and compare costs and income.”*
- 10.13 The fees proposed are generally comparable to neighbouring authorities, however overall to the higher end of the spectrum. This is in part because other authorities introduced these charges some 5+ years ago before the Planning Advisory Service provided advice and benchmarked figures in 2014, on which the proposed charging schedule is based.
- 10.14 The fees proposed are to recover the cost of providing the pre-application service. Fees will be refunded in cases where an enquiry has not been made valid, or in some instances if the enquiry is not responded to within the expected timescale. There would be no refund once the enquiry has been made valid if the customer chooses to withdraw from the process, or if a response has been provided within the timescale.
- 10.15 In order to introduce the new service in a managed way and to safeguard effective delivery to intended pre-application service standards from the outset it is proposed to stage implementation starting with Major development category proposals from May. It is proposed to introduce Minor and then Other category pre-application charging subsequently. This will allow for a managed introduction of charged activity and the development of good practice with effective performance monitoring. This phased approach will also reduce the risk of conflict or underperformance with the introduction of Uniform in mid May.

11. Appendices

Title	Location
(a) Draft charging schedule	Attached

12. Background Documents

12.1 N/A

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