

CABINET – 19TH JANUARY 2012

Report of the Head of Planning and Regeneration Services Lead Member: Councillor Matthew Blain

Part A

ITEM 12 CHARGING FOR PRE-APPLICATION PLANNING ENQUIRIES

Purpose of the Report

To seek Cabinet approval to introduce a charging schedule for the provision of pre-application advice.

Recommendations

1. That the proposal to introduce a charge for the provision of pre-application advice on 2nd April 2012, in accordance with the charging schedule and exemptions attached at the Appendix be approved.
2. That the policy be reviewed after a period of one year and delegated authority is given to the Head of Planning and Regeneration Services in consultation with the Lead Member for Planning, to withdraw the charge if necessary or to amend the charging schedule.

Reasons

1. To ensure that the cost of providing pre-application advice is recovered, subject to the exemptions as set out in the Appendix.
2. To enable the impact of the charge on service users to be reviewed and to comply with the duty under section 93(3) of the Local Government Act 2003 to ensure that the income from charges does not exceed the cost of provision.

Policy Justification and Previous Decisions

Cabinet approved an Income and Charging Policy Framework on 27th July 2004 which embraces fees and charges to individuals, businesses, community groups and other organisations external to Charnwood.

Implementation Timetable including Future Decisions and Scrutiny

The decision will come into effect on 2nd April 2012 and will be reviewed after one year, following customer feedback and a further analysis of the costs associated with the provision of pre-application advice.

Existing customers will be advised in advance of the introduction of the charge. The schedule of charges and the service standards will be published on the web site.

Report Implications

The following implications have been identified for this report.

Financial Implications

It is estimated that the introduction of a charge will provide annual income of £15,000.

Risk Management

The risks associated with the decision Cabinet is asked to make and proposed actions to mitigate those risks are set out in the table below.

Risk Identified	Likelihood	Impact	Risk Management Actions Planned
Customers do not receive a standard of service that justifies the proposed charge.	Unlikely	Major	A protocol setting out the details of the pre-application service together with service standards will be published on the web site.
Customers who receive positive pre-application advice may complain in the event that a subsequent planning application is not granted permission.	Possible	Moderate	The advice will be provided in writing and will contain a caveat to ensure that the advice is given without prejudice to the final decision of the local planning authority. The published protocol will clarify the basis of any advice provided.
The introduction of a charge may deter investment in Charnwood.	Remote	Major	Evidence demonstrates that developers benefit from pre-application advice, particularly on larger, complex development proposals. Procedures will be in place to ensure the advice given is timely, constructive and reliable.
The proposed charge may not reflect the actual cost of providing pre-application advice.	Remote	Major	The charges have been set following a rigorous analysis of the costs of providing planning services and benchmarking with other local planning authorities, in anticipation of local fee setting. The pre-application activity and costs will be monitored and reviewed after a period of one year.

Equality and Diversity

An Equality Impact Assessment of the proposed charge has been undertaken. It has concluded that subject to the exemptions as set out in the charging schedule, there will not be any negative equality or diversity impacts as a result of the introduction of the charge.

Key Decision: No

- Background Papers:
1. Local Government Act 2003
 2. General Power for Best Value Authorities to Charge for Discretionary Services – Guidance on the Power in the Local Government Act 2003
 3. The Planning Advisory Service ‘A material world – charging for pre-application advice’
 4. Income and Charging Policy Framework – Approved July 2004

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Steve.lewisroberts@charnwood.gov.uk

Part B

Background

1. As part of the development management approach to planning in Charnwood, it is important that the Council can provide the best possible advice to a potential applicant before a formal planning application is submitted. The service currently provides an indication of whether a proposal is likely to gain planning permission, what the key issues are for consideration and what information is needed to accompany a planning application. Feedback from service users shows that this advice helps to shape development proposals and avoids unnecessary costs and delays. It is also the case that early advice helps to improve the quality of the final development. However, the provision of advice, particularly on major and complex schemes in the Borough is time consuming and costly. Last year approximately 500 requests for pre-application advice were received. In order that we can continue to provide a pre-application service, it is recommended that a range of charges be introduced, with some exemptions (see paragraph 5 of the Appendix). Charges are in addition to the nationally set planning fees. The introduction of charges will ensure that the cost of providing this service is recovered directly by service users rather than being subsidised by council tax payers. There would no charge for "householder" applications or for conservation advice or works to trees covered by a Tree Preservation Order or trees located within a Conservation Area.
2. The Council has the power under the Local Government Act 2003 to charge for discretionary services, such as providing pre-application advice, but this power is limited to recovering the costs of providing the service. Section 93(3) of the Act places a duty on the Council "to secure that, taking one financial year with another, the income from charges ... does not exceed the costs of provision".
3. The Development Management Group has a key role in the Managing Excellence in Planning Services (MEPS) bench marking project led by the Planning Advisory Service. The project enables comparisons to be made of the business processes involved in managing planning applications across more than 200 local planning authorities in the country, and enables the Council to establish the actual cost of providing different parts of the planning process. This work demonstrates that the average cost of providing officer time in Charnwood is £44.00 per hour. The proposed charges reflect the length of time and costs of providing advice for different types of development. The proposed charge will recover the cost to the Council of providing the pre-application advice, apart from those categories specified in the schedule to be exempt from a charge.

Options for Charging

4. The charging regime needs to be easily understood by the customer and straight forward to administer. There can be two approaches, both used by other authorities:
 1. A fixed fee relating to the type of application; or
 2. An hourly charge.

5. Hourly rates have the disadvantage that they cannot be easily be paid in advance of the meeting.
6. An analysis of officer time dealing with pre-application enquiries has been undertaken. The MEPS project identifies the cost which would reflect the hourly costs of those officers at different levels who might be expected to contribute to the pre-application advice.
7. The table of fees is set out in Paragraph 3 of the Appendix. The higher cost for large scale developments reflects the time taken and the specialist staff involved in providing development management advice in respect of such complex proposals. The costs include up to three meetings.
8. The introduction of a fixed charge is considered to be the preferred option. The attraction of setting a fixed charge is that payment can be insisted upon before the advice is given for both meetings and written advice. The charge would recover the cost of providing pre-application advice.
9. In the current economic climate, charging for pre-application advice could be seen as a further burden on the applicant/developer. However feedback from customers and evidence from PAS suggests that pre-application engagement is important and that a charge for that advice is appropriate. What is important to developers is that they are receiving timely, responsive, constructive and reliable advice. In turn this can save developers significant resources by not pursuing schemes that are not acceptable or have to be modified once submitted.
10. The service will need to ensure that high quality and constructive advice is provided, and that we continue to deal with planning applications in a timely manner. It is likely that the introduction of a charge will curb speculative pre-application enquiries and filter out poorly thought out proposals, thereby releasing capacity to deal with legitimate pre-application enquiries. The introduction of a charge to recover the costs for providing pre-application advice will help to establish a more sustainable financial footing for the Development Management Group.
11. The majority of councils in Leicestershire and nationally have now introduced a formal pre-application advice service for which a charge is payable. This approach is supported nationally and will ensure that the Council can begin to recover its costs for this discretionary, albeit important function.

Appendices

Appendix – Schedule of Proposed Charges and Exemptions and Guidance Note

Charging for Pre-application Advice – Guidance Note

1. Background

This guide deals with how Charnwood Borough Council handles pre-application planning advice and is intended for anyone who uses this service.

As part of the Development Management approach to planning practice we are able to provide you with advice and information on planning. To enable us to provide the best possible advice and information within an appropriate timescale it is important that you provide us with as much clear information as possible regarding your proposed development.

The service is intended to provide an indication of whether your proposal is likely to gain planning permission or not, what the key issues are for consideration and what you would need to submit with any application that you make.

So that we can sustain and improve our level of service, a range of charges have been introduced, with some exemptions (see Section 5). Charges are in addition to the set planning application fees.

In recent years we have seen a significant increase in the demand placed on pre-application advice services. The introduction of charges will ensure that the cost of providing this service is recovered directly from service users rather than being subsidised by council tax payers.

Charges will apply for all pre-application advice requests received on or after 1 April 2012 in accordance with the scale of fees and categories as outlined in the table under Section 3.

2. Benefits of the service

We encourage and welcome the opportunity to provide advice before an application for planning permission is made. There are considerable benefits in seeking advice before making an application:

- It gives you an opportunity to understand how planning policies will be applied to your development.
- It can identify at an early stage where there is a need for specialist technical input, for example on listed buildings, trees, landscape, noise, transport, contaminated land, ecology and archaeology.

- It will assist you in preparing proposals for formal submission which, providing you have taken our advice fully into account, is likely to be handled more efficiently.
- It may lead to a reduction in time spent by your professional advisors in working up proposals.
- It may indicate at an early stage that a proposal is completely unacceptable, saving you the cost of pursuing a formal application.
- It can ensure an application is complete and comprehensive and to a satisfactory standard, avoiding rejection at registration stage or early refusal of permission because of inadequate or insufficient information.

3. Table of fees

Proposed Development Type			Cost (inc VAT)	Cost of additional meetings (each) (inc VAT)
Residential Development*	Development Site Area	Proposed Gross Floor Area**		
1-4 dwellings	<0.5ha	<500m ²	£300	£120
5-9 dwellings	>=0.5ha & <1.0ha	>=500m ² & <1,000m ²	£600	£120
10-49 dwellings	>=1.0ha & <1.25ha	>=1,000m ² & <2,500m ²	£1200	£600
50-199 dwellings	>=1.25ha & <2.0ha	>=2,500m ² & <10,000m ²	£2400	£900
200+ dwellings	>=2ha	>=10,000m ²	£3600	£1200
Advertisements			£60	£30
Change of Use			£180	£90
Telecommunications			£180	£90
Glasshouses Poly Tunnels			£60	£30
Other***			£60	£30
Householder			No Fee	N/A

* includes one for one replacements and conversions subdivisions.

** measured externally.

*** includes all other development proposals not falling within any of the above categories such as variation or removal of conditions, car park & roads, certificates for lawfulness and where no floor space is created.

The initial costs noted in the table above include up to three meetings. The charge for additional meetings will occur after the initial three meetings.

Where a development proposal falls within one or more category, the higher fee will apply.

Payment should be made at the time of the pre-application advice request.

Payment can be easily made over the telephone by calling 01509 634950 or alternatively a cheque payable to Charnwood Borough Council

4. Pre-application advice service

If you wish to take advantage of our pre-application advice service it could not be easier. Simply fill out the pre-application advice request sheet and email it together with your supporting plans, photos, etc. to development.control@charnwood.gov.uk What you need to provide is outlined on the request sheet

What service we will provide:

- A response in writing within 20 working days for smaller schemes.¹
- A response in writing within 30 working days for larger schemes.
- A meeting/s with your representatives and relevant consultees will be convened, up to a maximum of 3 meetings of no more than 2 ½ hours each (additional meetings may be arranged but would incur an additional charge.
- Identification of the relevant site planning history.
- Identification of the relevant constraints affecting the site.
- Consideration of the context of the site and the potential issues/impacts across the site boundaries.
- Consultation with specialist colleagues and invitation for them to attend any meetings where appropriate.

¹In this context, a smaller scheme consists of less than 10 dwellings, a proposed floor area of less than 1000m² or a site area of less than 1 ha. A larger scheme is one which falls above these thresholds.

- Where a planning obligation (Section 106 Agreement) is likely to be required, we would seek to agree the likely content of such an agreement prior to the submission of an application.
- Confirmation of what information/studies/reports etc. are likely to be required submitted with your application.
- Guidance how best to undertake public consultation.
- An informal indication of the likely outcome of your proposed development, with an indication, where possible, of how it could be amended to improve the chances of a successful outcome.

If you are unsure of the correct fee or category your proposal falls within please contact the planning department (see Section 9) for further advice.

Any informal advice given is not binding on the Council and is given in the spirit of helpfulness and is based upon the information available at the time.

5. Exemptions

Advice sought in the following categories is free:

- Where the enquiry is made by a Local Authority or County Council
- Where the enquiry is made by a Parish or Town Council
- Where the enquiry is made by a Housing Association, Registered Social Landlord, or an equivalent Affordable Housing Provider or by an architect/agent acting directly on their behalf.
- Where the development is for the direct benefit of a disabled person (and as such there would be no fee incurred to make the planning application)

- Where the enquiry relates to the alteration or extension of a dwellinghouse or other 'householder' applications.
- Conservation advice e.g. works to listed buildings and Conservation Area consents.
- Works to trees covered by a Tree Preservation Order or trees located within a Conservation Area.
- Advice on how to submit a planning application or a fee enquiry.
- Planning discussions in relation to enforcement investigations.
- Advice as to whether planning permission is required. (Please note we operate a self assessment system for householder enquiries of this type and require the submission of an application for a Certificate of Lawful Development if written confirmation is sought.)

6. Planning Performance Agreements (PPA's)

Where you propose a major application and wish to enter into a formal Planning Performance Agreement (PPA) you are advised to write to the Group Leader Development Management and seek specific advice and guidance. A fee and a timetable will need to be agreed at the first meeting, and the payment made before the Council takes the matter further.

For further information on (PPAs) see the guidance on the ATLAS website at <http://www.atlasplanning.com/page/ppa.cfm>

7. Freedom of information

Under the Freedom of Information Act 2000, we may receive a request to provide information regarding enquiries for pre-application advice. Sections 41 & 43 of the Act exempts from disclosure information whose disclosure could prejudice the commercial interests of a person. You are therefore asked, if you believe the enquiry to be confidential, to supply a covering letter setting out the reasons why and for what period. The decision as to whether to release the information however lies with the Local Planning Authority.

8. Contact details

Please email your completed pre application request sheet to:
development.control@charnwood.gov.uk

Address: Development Management
Planning and Regeneration
Charnwood Borough Council
Southfields
Loughborough
Leicestershire
LE11 2TN

Tel: 01509634950 8.30am - 5pm Mon-Thurs & 8.30am - 4.30pm Fri

Website: www.charnwood.gov.uk

9. General information

- No chargeable advice will be provided, or your request considered, without receipt of the relevant fee.
- Meetings are not a compulsory element of the pre-application advice process and will only be conducted where agreed by both parties.
- Unfortunately no refund or reduction in the fee will be available should a meeting not be taken up.
- There will be a presumption for meetings to take place at the Council's Southfield's Offices, Loughborough unless justification or necessity requires a site meeting
- The attendance of consultees at meetings cannot be guaranteed, however wherever possible and necessary, invitations will be issued.
- Where a meeting is held in the first instance prior to initial written advice, a timescale for the follow up written response will be agreed at the meeting. Wherever possible the first meeting will be held within the response times noted above. Subsequent meetings will be dependent on the progress with the proposals and subject to availability of the Planning Officer and relevant consultees.
- All advice is provided without prejudice to the outcome of any future planning application, or change to the statutory or policy planning framework, however where changes are perceived to be imminent, we will advise you accordingly.
- Where significant new information comes to light during the course of a planning application that was not considered at pre-application stage, the Planning Officer will alert the applicant to this and seek additional information if appropriate.
- Development carried out on site without the benefit of planning permission (where it is required) is at risk of enforcement action and applicants and their representatives should be fully aware of this and be mindful of it when considering their position and future options.
- Only under very exceptional circumstances will a refund or part refund be provided.
- Free and independent professional advice on the planning process and assistance with planning matters, may be available to you, depending on your circumstances. For further information, contact the local branch of Planning Aid through www.planningaid.rtpi.org.uk