

 the low tax borough	<b>London Borough of Hammersmith &amp; Fulham</b>  <b>CABINET</b>  <b>11 NOVEMBER 2013</b>
<b>REVIEW OF DEVELOPMENT MANAGEMENT SERVICES FOR PRE-APPLICATION CHARGES, HOUSEHOLDER PLANNING SERVICES AND FIXED PRICE PLANNING PERFORMANCE AGREEMENTS</b>	
<b>Report of the Cabinet Member for Transport and Technical Services – Councillor Victoria Brocklebank-Fowler</b>	
<b>Open Report</b>	
<b>Classification:</b> For Decision  <b>Key Decision:</b> Yes	
<b>Wards Affected:</b> All	
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## 1. EXECUTIVE SUMMARY

1.1. This report seeks authority for the Planning Division, TTS to implement: -

- 1.1.1. A revised charging structure for Pre-Application Advice for residents and developers;
- 1.1.2. A new Householder Planning Package; and
- 1.1.3. Fixed Price Planning Performance Agreements (PPA) for small scale “major” schemes (e.g. more than ten dwellings).

1.2. The Planning Division has provided a non-statutory pre-application advice service for a number of years, a service which has proved popular and effective. The charges for this advice were initially set low to encourage use of the service and help raise the standard of applications submitted to the Council. The charges associated with this service have been increased annually in line with inflation, and not in line with the true cost of delivering this service. The proposed revision addresses this issue.

- 1.3. In addition to the revised pre-application advice service, two new targeted pre-application options are proposed to be offered that will improve and extend the service we offer to both residents and developers: -
  - 1.3.1. An optional packaged service for householders which encompasses pre-application advice on the likely outcome to their proposals, building control advice, and recommendations to comply with local policies and design standards, and a defined fast service for the determination of the resultant planning application. The intention is that applicants using this service will obtain a decision within 6 weeks of their first approach to the Council (plus the time they take between receipt of pre-application advice and formal submission of the planning application), i.e. the combined pre-application and application processes. This would be a premium service with a combined charge pitched at full cost recovery.
  - 1.3.2. Optional fixed fee PPA's for small scale Major Planning applications. PPA's are aimed at larger scale developments that need substantial amounts of officer time and negotiation throughout the life of the application and allow officers time to improve the quality of the planning applications that are eventually submitted and determined. They also allow the Council to charge for the officer time taken up by these larger scale schemes rather than pass the burden of this cost on the local taxpayers. PPA's are also an effective project management tool that will allow LBHF to successfully managed DCLG's 13 week target for the determination of applications of this nature.
- 1.4 It is also proposed that a scheme of charging be introduced to cover the Council's administration costs in refunding fees to applicants where they have chosen not to proceed with the registration of an application or pre-application, and also for providing written confirmation of compliance with enforcement notices. At present these are services which the Council provides without charge.

## **2. RECOMMENDATIONS**

- 2.1. That the Planning Division be authorised to: -
  - 2.1.1. Implement the amended Pre-Application charging structure as set out in Appendix 1 to this report;
  - 2.1.2. Implement the new Householder Planning Package as set out in Appendix 2 to this report; and
  - 2.1.3. Implement the new Fixed Price Planning Performance Agreements as set out in Appendix 3 to this report.
  - 2.1.4. Charge a reasonable administration fee (initially proposed to be £25) for refunds of fees paid where the refund is required for reasons not in the Council's control, and a fee for confirmation of compliance with an enforcement notice (initially proposed to be £100).

### **3. REASONS FOR DECISION**

- 3.1 Providing pre-application advice and other project management services are incidental powers of the Planning authority and as such the Council is entitled to charge for the provision of the services to recover those costs. Increasing the prices to reflect the actual cost of the provision will remove any cost being passed to the taxpayer whilst also enabling the Council to improve on its current performance.
- 3.2 The increases are not considered to be so high as to deter people from using the service, the benefit of which is set out in the report, but in summary ensures better applications are submitted to the Council which will enable decisions to be made in a timely way and ensure that decision making for complex schemes are achievable and do not fall foul of Government targets.

### **4. INTRODUCTION AND BACKGROUND**

- 4.1 Local Planning Authorities are able to pass on the cost of operating non-statutory services. As a result pre-application advice is a chargeable service, enabling the costs to be recovered, although at present these are not recovered fully.
- 4.2 A decision is required from Cabinet because of the change in charging structure, for discretionary paid for services. This requires Cabinet approval in accordance with the Council's scheme of delegation and procurements rules.

### **5. PRE-APPLICATION CHARGING**

- 5.1 The formula for pre-application charging was last reviewed in 2008, since then only inflationary increases have been added. During this period the nature of enquiries received has changed, and the complexity and cost of operating the service has increased substantially.
- 5.2 It is proposed that 3 different levels of advice be offered based on experience of the types of service that customers seek. This will enable customers to choose the level of service most suitable to their needs. A full copy of the scheme is attached as Appendix 1 to this report.
- 5.3 The different levels of service proposed are: -

**Level 1 -** High Level 'in principle' advice based on limited information and generic assumptions;

**Level 2 -** Detailed advice in writing based on plans submitted with a letter and other supporting information, providing confirmation as to whether the development complies with planning policy, and what alterations are recommended to achieve compliance; and

**Level 3 -** Detailed advice, as in level 2, in a meeting with one or more Officers, followed up with notes of the meeting.

- 5.4 The charging scheme is based on the type and size of development proposed, and is comparable with a framework used by the Royal Borough of Kensington and Chelsea.
- 5.5 The scheme proposed provides greater clarity for customers to choose the services relevant to their needs, and to understand the costs. It will also be simpler and more cost effective to administer. The levels of fees now proposed reflect full cost recovery at current values.

## **6. HOUSEHOLDER PLANNING PACKAGE**

6.1 The significant majority of planning applications handled by the Planning Division are for householder development. We are keen to improve the options available to residents, by finding ways assist them with the Planning process. The proposed package will make it easier for residents to lodge applications that can be dealt with by us in the most speedy and efficient manner, with minimal cost to the service, whilst still enabling positive decisions to be reached.

6.2 It is proposed that a packaged service be provided to enable residents to achieve a decision on a planning application within 6 weeks of the initial approach (plus the time taken by the applicant between receipt of pre-application advice and their submission of a formal application) . This 6 week target includes any pre -application advice and formal application determination and represents a combined time saving of 4 to 6 weeks for our residents in real terms. The householder package would include: -

- (i) Pre-application Advice/Checking Service – which would confirm that the scheme complies with all current design standards and planning policy;
- (ii) Pre-application advice from Building Control to confirm that there are no predictable objections to the scheme;
- (iii) Determination of the planning application within 5 weeks from the date on which a planning application is made; and
- (iv) Guaranteed contact from the Planning Officer to confirm the status of the planning application at given intervals, and notice of issues that have arisen.

6.3 The benefits to residents using this scheme would be: -

- Greater support from the Planning Service;
- Certainty of timeframe for achieving a decision;
- Updates from Officers at fixed stages;
- Guarantee of notice of issues as they arise – no last minute surprises;

- Greater confidence in making arrangements for builders; and
- Proposals managed by one person, end to end in the planning process.

6.4 The benefits to the Council of operating this scheme are expected to be: -

- More applications coming through the pre-application before being formally submitted;
- As a consequence design issues can be addressed at the outset of the process so fewer applications will be refused, reducing the additional workload of appeals and resubmissions of applications without a fee;
- Developers will have contact with the building control team; and
- The Planning Service will be able to improve its cost recovery.

6.5 Given the nature of this service, being a package of elements of the service combined, it is proposed that the fee be set just very slightly higher than those separate elements to reflect the additional case management. As such it is proposed initially to set the fee at £500, reflecting the proposed £300 pre-application fee and £172 nationally set planning application fee. There is no charge related to the faster process of determining applications within 5 weeks as envisaged by the householder PPA (rather than the 8 week national target set). However, the 5 week target is capable of being achieved through officer's involvement in pre-application advice, which is intended to negate the need for further time consuming post-submission discussion and negotiations, which may lead to revisions to the design of the scheme and may require reconsultation. With the benefit of pre-application advice which is taken on board by the developer, officers should be able to consult on the application sooner rather than it is normally possible, and thus, following receipt of any relevant recommendations, make a decision within a shorter period and in accordance with the statutory framework.

6.6 The difference between the total fee and the application fee (£328) would be payable on first submission, with the remainder being due on the submission of the planning application. This leaves the control on timings in the hands of the applicant.

6.7 A copy of the proposed Householder Planning Package documentation is attached as Appendix 2 to this report.

## **7. FIXED PRICE PLANNING PERFORMANCE AGREEMENTS FOR SMALL SCALE MAJOR APPLICATIONS**

7.1 Planning Performance Agreements were formally introduced into the planning system on 6 April 2008 and are principally aimed at major applications that need substantial amounts of officer time and negotiation throughout the life of the application and allow officers time to improve the quality of the planning applications that are eventually submitted and determined. They also allow the council to charge for the officer time taken up by these larger scale schemes rather than pass the burden of this cost on the local taxpayers.

7.2 PPA's are extensively used by all London Boroughs and have already been used successfully by LBHF within the Planning Regeneration section of the Planning Division for very large and complex proposals within the Opportunity Areas.

7.3 In order to ensure the most effective pre-application process that includes appropriate levels of local engagement, it is proposed to implement a structured PPA attractive to smaller and medium scale developers. This will allow the Planning Division to effectively manage all Major Planning applications as well as extending the service we offer to developers that are investing in LBHF. The PPA document would be open to review throughout the pre-application and planning process by both parties.

7.4 The benefits to the developer would be: -

- Greater support from the Planning Service
- Clarity of what is required of all parties from the outset of pre-application discussions;
- Frontloading of work in the pre-application process, to achieve better design and acceptable schemes;
- Arrangement of meetings in advance, including milestones to be reached and structure for any discussions;
- Obligations on the Council to deliver against specific targets and milestones;
- Guaranteed project management of their planning application.

7.5 The benefits to the Council would be: -

- Developers would be obliged to engage with residents and professionals, including Resident Consultation, Planning Forums and Design Review Panels.
- Developers and Officers would have a clear timetable with achievable milestones throughout the programmed timeframe for determination;
- The timetable would be documented so that the Council can manage the timing of delivery and resources required; and
- Developers would meet the cost of the officer time involved in the pre-application planning process.

7.6 It is proposed that the fixed fee for PPA's for the handling of smaller and medium scale major schemes would be £25,000+VAT which would include: -

- 2 x Pre Application Meetings;
- 1 x Design Review Panel

## 1 x Planning Forum

This would exclude the planning application fee which would be charged separately.

- 7.7 The proposals represent a package of services which could otherwise each be chosen and paid for separately. With the increases in pre-application charges, and the costs of operating these different services, the package collectively represents a modest additional cost to applicants. However, this is to cover the additional benefits of clear project management and parameters for officer engagement, which makes this attractive and value for money to developers.
- 7.8 Any fees would need to be paid at the start of the pre-application planning process. Any other fees, including the cost of non-planning based professional officers or advisers would need to be paid as they fall due.
- 7.9 Whilst the Council would be working with the developer, where appropriate, to achieve a negotiated outcome, it would be clear to all parties from the outset that any agreement is entered into without prejudice to the determination of any application and without fettering the Council's powers and duties as an LPA.

## **8. MISCELLANEOUS CHARGES**

- 8.1 It is also proposed as part of the review of charges that the Council makes to introduce an administration fee for undertaking refunds to applicants where applicants choose not to proceed with the registration of applications. This is proposed to reflect the cost of the Council undertaking the work necessary for the refund. This will initially be set at £25 and reviewed annually. No fee would be waived where the refund is required by statute or as a result of an applicant acting on the advice of the Council.

## **9. EQUALITY IMPLICATIONS**

- 9.1 The new services proposed do not change the ways customers from this group can access the services, without the additional project management service that is proposed.
- 9.2 The review of the pre-application service will make it more straightforward for all users of the service to access the service they specifically require, however on the whole the charges for the service are increasing. That being said, the nature of developments/alterations required for reasons to do with any protected characteristic(s) are unlikely to require planning permission, however where they do, the impact on users by reason of their protected characteristic(s) won't be any greater than any other resident

- 9.3 The implementation of the two new services will not inhibit access by all groups to existing services which will still be available.
- 9.4 The current paid for preapplication advice service is a discretionary service, where users are able to access advice from officers on the likely outcome of any planning application. This service is open to all potential applicants. The review of the service is aimed at ensuring customers are able to access the levels of service they are seeking, whilst also enabling the service to recover the cost of delivering pre-application advice.
- 9.5 Having reviewed all of the impacts on protected groups, it is clear that whilst the increased fees would have an impact insofar as accessing services would cost them more, the impact of those increases is no greater on any protected group than on any other sector of society.

## **10. LEGAL IMPLICATIONS**

- 10.1 Pre-application advice is a discretionary service which is incidental to the Council's powers as local planning authority. As such, it is able to charge for the service pursuant to section 93 of the Local Government Act 2003 and recover the cost of the provision of the service (without making a profit year on year). The three proposals seek to recover the costs incurred by the Council in pre-application advice. The PPA is a mechanism to formally record the agreed objectives of both developer and council throughout the pre-application and post-submission process.
- 10.2 Implications verified/completed for the Director of Law by: Alex Russell, Senior Solicitor, 0208 753 2771.

## **11. FINANCIAL AND RESOURCES IMPLICATIONS**

- 11.1 Development Management is the part of the Planning service that deals with all planning applications except the very large regeneration schemes. In the current financial year 2013/14 Development Management is forecast to receive £1,289k in income compared with expenditure of £1,822k. Expenditure includes staffing costs, non-pay costs and overheads.
- 11.2 This means that Development Management is forecast to make a deficit of £532k in 2013/14. This is without including £831k of costs relating to the overall management and policy function in planning.
- 11.3 We do not know what the demand will be for the new services set out in this paper, and therefore what the income will be. However, as a result of the proposals in this paper we can expect the current forecast deficit of £532k to be reduced in future years. This means that we expect the proposals in this paper to cover the costs of planning, but no more. Councils are not permitted to make profits on non-statutory services.



- 11.4 The financial consequences of the implementation of the proposals in this paper will be monitored. If these additional services become popular and have a high degree of take up there may be extra expenditure required for staff to deliver the higher level of services. In those circumstances the additional revenue will be used to pay for any additional resource.
- 11.5 If forecasts were to suggest that, taking one year with another, Development Management was making a profit, the Council would need to consider adjusting prices so that costs were covered but no more.
- 11.6 Implications verified/completed by: Mark Jones, Director of Finance, Transport and Technical Services, 0208 753 6700

## **12. RISK MANAGEMENT**

- 12.1. In order to minimise the risks the Council of any suggestion of inappropriate advantage being given to businesses or individuals choosing to use the services proposed, all agreements entered into will specify clearly the obligations on each party, and the actions that the council will undertake. The format and standard wording of these agreements will be first agreed with the head of Legal Services.
- 12.2. All fees and charges for the services described in this report will be reviewed regularly, with the relevant Finance Officer, to ensure that appropriate cost recovery is achieved.
- 12.3. Implications verified/completed by: Juliemma McLoughlin, Director for Planning, 0208 753 3563

### **LOCAL GOVERNMENT ACT 2000** **LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1.	None		

#### **LIST OF APPENDICES:**

Appendix 1 : Pre-Application charging structure

Appendix 2 : Householder Planning Package to this report; and

Appendix 3 : Fixed Price Planning Performance Agreements