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<b>REPORT TO:</b>	<b>ENVIRONMENT AND DEVELOPMENT SERVICES COMMITTEE</b>	<b>AGENDA ITEM:8</b>
<b>DATE OF MEETING:</b>	<b>21<sup>st</sup> JANUARY 2021</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>STRATEGIC DIRECTOR (SERVICE DELIVERY)</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>STEFFAN SAUNDERS, 07971604326, <a href="mailto:steffan.saunders@southderbyshire.gov.uk">steffan.saunders@southderbyshire.gov.uk</a></b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>INTRODUCTION OF PRE-PLANNING APPLICATION CHARGING</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE: FM05</b>

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## **1.0 Recommendations**

- 1.1 That the Committee endorses the proposed Model 2 scheme in the appendix for charging for planning pre-application advice to be provided by the Planning Service.
- 1.2 That the Committee grants delegated authority to the Head of Planning and Strategic Housing to produce, finalise and refine supporting guidance, detailed fees schedule, required documentation for submissions and application forms to deliver the scheme.
- 1.3 That proposals for how the potential income generated by the adoption of pre-application charging could be reinvested in the Planning Service, be the subject of separate reports to Environment and Development Services and Finance and Management Committee.

## **2.0 Purpose of Report**

- 2.1 To seek the Committee's approval for the introduction of charging for pre-application advice.

## **3.0 Executive Summary**

- 3.1 Following the Review of the Planning Service in 2018, a report on the possibility of the introduction of charging for pre-application enquiries was promised to explore whether such a service could be viable and in the best interests of the customer. This report sets out the various options available.

3.2 The importance of striking the appropriate balance between recovering the costs of providing a pre application charging service whilst not imposing any disproportionate burden on individuals or businesses is reflected in the recommendations.

#### **4.0 Detail**

4.1 At the meeting of Environment and Development Services Committee on 31 May 2018, officers reported that consultants advising the Council on the review of Planning Services had recommended the Council investigated commercial opportunities to boost income streams to enhance the Service. Pre-application charging was cited as an activity practiced commonly by other Councils which the Council might wish to explore. Work has been undertaken since then to investigate options that provide good value for money whilst not disincentivising investment in the District. This is consistent with the Council's approach to look for additional opportunities for income generation through the commercialisation strategy without negatively impacting of service delivery.

4.2 Charging for planning applications has been required for many decades now. The rates are set nationally. Apart from some limited exceptions (such as listed building consent or a "free go" if a first application is refused), all applicants for which an application needs to be made must pay the relevant fee (which varies depending on the application's type and size).

4.3 The Local Government Act 2003 provides authorities with a power to charge for discretionary services, including the provision of pre-application planning advice and therefore allows authorities to recover at least some of these costs incurred before an application is submitted. The income raised must not exceed the costs of providing the service (i.e. it cannot be a profit-making service). Although engagement/discussions prior to the submission of a planning application is not a statutory requirement, it is good practice for potential applicants to seek such advice. This is particularly pertinent on larger or potentially controversial schemes, which can reveal the main issues the potential scheme could face and a potential steer (in principle) as to how the Local Planning Authority (LPA) might view such an application. This is key to unblocking obstacles to delivery to schemes, which can be acceptable but need refinement to make them so. An effective and targeted pre-application charging service can include the interests of other parties to the planning process to be highlighted, such as the County Highway Authority or the Environment Agency. This allows the applicant to seek further technical advice from those parties before progressing with an application. Pre-application engagement can also improve the quality of development, from its design to ensuring that it is furnished with adequate facilities for any residents or workers which would use it. The Council currently makes no charge for pre-application enquiries of any kind.

4.4 For the same reasons, there can be additional benefits to the LPA for engaging too, as it can contribute to higher quality development (i.e. some unacceptable schemes could not be made acceptable with amendments, and other applicants may have dealt with issues which may have caused delays and taken more officer time later on in the process). Like all other LPAs, the Council still has difficulties with poor-quality applications being made, with key information missing or incorrect, more

often than is ideal, despite regular reminders from officers. A pre-application fee can also help reduce this particularly if it included an element of “application checking”. The Council incurs costs in dealing with invalid applications even if they can be made valid later.

- 4.5 There are currently a number of exemptions from paying planning fees: applications for those with disabilities relating to access and extension to dwellings houses; Listed Buildings consent; and for the resubmission of an application within 12 months of the refusal decision (or, in the case of an appeal, the final date of the appeal being dismissed).
- 4.6 Through reducing risk and uncertainty for developers/applicants, pre-application discussions can, therefore, help promote understanding of the scheme, increase the speed of decision making by cutting down on the number of incomplete applications and therefore potentially increase certainty leading to growth and inward investment. They can also lead to consents which are implementable and implemented. This is key to maintaining the Council’s five-year housing supply.
- 4.7 The practice of pre-application engagement is firmly encouraged in the National Planning Policy Framework (NPPF). Relevant pre-application engagement is considered to be very important for both LPAs and applicants/developers, in order to help secure developments that improve the economic, social and environmental conditions of an area, as well as saving time through adding clarity and reducing uncertainty which can be a financial saving for both parties. Currently, pre-application advice is given as resources allow because ‘paying customers’ must be prioritised. To fund the service through a pre-application charging schedule will allow this issue to be addressed.
- 4.8 Guidance on the value of pre-application engagement, and more specifically charging for the service is also provided by national Planning Practice Guidance (PPG). The PPG recognises the importance of pre-application engagement by prospective applicants in improving the efficiency and effectiveness of the planning application system. It recognises that pre-application engagement needs to be tailored to the nature of the proposed development, the issues to be addressed and that LPAs may charge for planning advice. However, councils are increasingly charging for the provision of this advice, to recover at least some of the cost of providing the service in advance of submission of an application and to help ensure better quality applications are submitted.
- 4.9 Primary legislation, set out in section 303 of the Town and Country Planning Act 1990 (“TCPA 1990”), establishes that pre-application fees must be set at a level which ensures that, taking one financial year with another, the income from fees charged for pre-application advice does not exceed the cost of providing that service. In other words, it does not have to be demonstrated that the income from each and every chargeable pre-application would not make a “profit” but that overall no undue charges are made.

- 4.10 To ensure transparency, the PPG advises that, where local planning authorities opt to charge for pre-application services, they are strongly encouraged to provide clear information online about:
- the scale of charges for pre-application services applicable to different types of application (e.g. “minor” or “major” or “other”);
  - the level of service that will be provided for the charge, including: the scope of work and what is included (e.g. duration and number of meetings or site visits); the amount of officer time to be provided (recognising that some proposed development may usefully have input from officers across the local authority and/or from other statutory and non-statutory bodies); the outputs that can be expected (e.g. a letter or report) and firm response times for arranging meetings and providing these outputs; it is also helpful for LPAs to provide links to any charges that statutory consultees (such as the Highway Authority and Environment Agency) may levy for pre-application advice, where this is known.
- 4.11 The PPG also explains that pre-application engagement should be a two-way process and the level of information required by the LPA should be proportionate to the development proposed.
- 4.12 The advice within the PPG is itself recognition of the acceptance of charging for pre-application advice. This is intended to improve the quality of submissions and a better built environment whilst working proactively at an early stage in the planning process. Today, charging for pre-application advice is therefore common amongst LPAs. In considering the setting of the rules and charging rates, there are, therefore, a number of examples (model schemes) to draw on.
- 4.13 Within Derbyshire, the majority of councils have a system of pre-application charging in place, albeit there are differences and variations in the charging systems. Some employ a very simple scheme where everyone pays the same in any particular category of development. Others ensure that the scheme of charging is more responsive to the complexity of the advice required and therefore the time and effort involved. Some Nottinghamshire Councils have a pre-application charge based on the percentage of the full application fee.
- 4.14 Some of the main benefits of charging have been covered in the preceding paragraphs. However, more specific to the Planning Service in South Derbyshire is the issue of resourcing a free service when in competition with targeting resources towards the service to customers who have paid for a planning application. Currently, planning applicants will always be prioritised which tends to mean that pre-application enquiries take longer to deal with and only provide limited feedback. This service is effectively supplied at the local Council taxpayer’s expense largely to the benefit of the developer. However, if the service incurred a cost to the developer, the funds raised could contribute to further investment in the planning service with sufficient capacity for the Service to deal with the enquiries, also bringing in critical advice from other agencies as available, and not being at the expense of timely decisions on planning applications. There would be a clear response time with more comprehensive feedback to the developer which would take some of the uncertainty out of the process and reduce the risk to the investor.

Thus, the benefit would largely be an enhancement of the service to the customer as well as better quality of applications submitted. Reducing the risk of the unknown, especially in the area of technical compliance, should then encourage greater developer participation and so inward investment.

4.15 More specifically, the Committee needs to be aware of the potential risks involved in introducing such a scheme:

- Charging could deter inward investment.
- Charging could discourage people from seeking pre-application advice.
- The quality of submitted applications could fall.
- Customer expectations regarding the quality and detail of advice could increase on the basis they have paid for it.
- Customer expectations that the advice provided will have greater weight or will secure an approval.
- Customers expect paid advice to be provided by a senior officer.
- Third parties could perceive that decisions have been made behind closed doors and prior to their input.
- Such a service could be seen as an alternative to using a professional planning agent which could harm good working relationships.

4.16 The response to such risks is given below and follows the same order:

- Charging would not deter inward investment if tailored appropriately. Commercial job creating schemes are recommended to be excluded from the pre-app charge. Not only will there be no pre-application fee but there will be an enhanced service to progress such schemes more rapidly and address any issues earlier. Residential developers expect a pre-application fee to be levied and there is no evidence from anywhere that has a scheme of pre-application charging that this has a negative bearing on inward investment. Anecdotal evidence is that the opposite is true.
- The greatest disincentive to applicants engaging in pre-application advice appears to be the time and quality of the advice given, and not the charging for it. An appropriately targeted pre-application charge is anticipated to lead to greater use of this service. In this regard it is recognised that individual householders should only be charged a small fee for any advice offered and this is reflected in the recommended charging schedule.
- The quality of submitted applications would be very likely to increase for reasons summarised above.
- The quality of advice will be high and expectations in this regard are realistic. To approve schemes is also part of the Council's approach to being 'open for business' and clearly the aim of pre-application advice is to look for ways to address issues at the earliest stage, that may otherwise have led to a refusal. Unacceptable schemes contrary to policy would still be refused.
- The charging schedule enables officers of the necessary seniority to be involved in the provision of advice.
- Part of the pre-application process for major schemes would include advice on pre-application publicity which is always good practice to undertake. An

example of this is with regard to the amended Drakelow proposals which have received extensive pre-application input from officers.

- Such a service would be in addition to any input from a planning agent and would enhance good working relationships given the service improvements.

4.17 Evidence from around the country would tend to suggest that for those who have adopted a charging regime and been through a review are positive and in focus groups, given the option to retain or revert back, a retention would be favoured. There has been a general acceptance from professional agents/developers and the majority of householders of the charges when the level of the service has been explained. The feedback from customers has been that the formalised system has been more consistent and helpful and customers value the advice offered.

4.18 The Derbyshire districts and boroughs that have introduced charging anecdotally report that:

- generally speaking, none report any adverse issue with the service
- some have cited that the key is about timeliness.
- customers feel they will get something and therefore accept the charge.
- charges made the enquirer think first and so there are less spurious enquiries.

4.19 The timeliness of a response is also important to most developers, particularly those wish to secure smaller improvements such as householder extensions. Presently, it is difficult to meet the aspirational target of 21 days for advice but this is due to the lack of resource and lesser priority presently given to the service. The charging of a fee would incentivise the Planning Service to treat pre-application enquiries as a standard application, with a fixed deadline for a response. However, it should be recognised that 21 days is often impractical for larger and more complex schemes where input is required from across the Council. It is also impractical if a meeting with the developer is to be held, counting towards this timeframe. Other authorities within the County generally work to a longer timeframe for residential and commercial schemes but retaining a quicker turnaround for householder and simpler enquiries. It is crucial that the most appropriate timescales are established in due course so that expectations are clear for all at the implementation of a new service.

#### The Proposed Charging Regime

4.20 There are a number of options available. Attached at Appendix 1 are three 'models' of charging with different exemptions. It shows that notwithstanding the scale of charges chosen, all three show sufficient funds for offering a comprehensive and timely service whilst minimising the potential risks set out in paragraph 4.16. The option preferred - model 2, allows an exemption for all commercial applications which would usually attract the greatest inward investments and job creation. Of the applications listed, those linked to disability in particular would logically also not be charged for pre-application advice. Further suggested exemptions are set out below. The householder element is only charged where an opinion is sought where it has been established that planning permission is required. Determining whether

a development would need planning permission or not can be ascertained fairly easily utilising very straightforward online advice.

Notwithstanding this proposal, the free web-based advice service offering an alternative self-service option would remain available and would continue to be enhanced.

4.21 Annexe B shows the effect of the charging scheme if applied to pre-application enquiries over three recent years. As can be seen, more than sufficient funds would be raised to cover the essential cost of providing the service. It is envisaged that enough capacity exists in the team to cover for short-term absences such as leave and any other authorised absence.

4.22 It is also proposed to monitor the implications of this proposal to ensure that this does not impose any impediments to inward investment in the District. The money raised is intended to be directly re-invested into the Planning Service. It is necessary to firstly approve the principle of pre-application charging and then the details of how this money will be used will be reported to future Environmental and Development Services and Finance and Management Committee meetings.

## **5.0 Financial Implications**

5.1 There are positive financial implications from the new charging regime (see Appendix 2). The potential income generated from the introduction of a pre-application charging regime could support future investment in the Planning Service which will be the subject of a future report to both Environmental and Development Services and Finance and Management Committee in due course.

## **6.0 Employee Implications**

6.1 Being able to charge for pre-application enquiries would free up time for case officers to dedicate towards application case work but also contributing their expertise to pre-application work to secure a better outcome.

## **7.0 Corporate Implications**

7.1 The change in arrangement could help to ensure that developments can be delivered more efficiently in alignment with the priority actions within the Council's Corporate Plan. The process will, therefore, have a direct positive impact on the Council's ability to deliver actions against the key objectives of:

- Working to attract inward investment
- Enhancing understanding of the planning process
- Maintaining customer focus

It is recognised that great care needs to be taken with the economic recovery from the Covid-19 pandemic, and that unaffordable measures are not imposed on individuals or business at time when investment in the District is to be encouraged. The recommended steps are consistent with these aims and will be kept under review to check that they are working as intended.

## **8.0 Community Impact**

8.1 **Consultation:** None

8.2 **Equality and Diversity Impact:** The more efficient and economic delivery developments will assist in meeting the diverse needs of all established and future residents and non-residents across the District.

8.3 **Social Value Impact:** Enhancement of the process will assist in securing high quality developments going forward; the provision and enhancement of sustainable developments will enhance public health and well-being.

8.4 **Environmental Sustainability:** Better performance management will contribute toward the achievement of economic, social and environmental objectives.

## **9.0 Conclusions**

9.1 Following the Review of the Planning Service in 2018, a report on the possibility of the introduction of charging for pre-application enquiries was promised to explore whether such a service could be viable and in the best interests of the customer. This report sets out the advantages of the proposal in that it would offer a more timely thorough service to developers whilst adding greater certainty to both sides.

## Appendix 1

### **Pre application charging**

All rates charged per proposal per property unless otherwise stated.

Multiple proposals submitted at the same time will attract highest applicable fee plus 50%. Revised proposals from same applicant pursuant to previous pre-application advice attract 50% of the fee.

Meetings only possible for major proposals (more than 10 dwellings, 1,000sqm floorspace or more, or 1 hectare or greater) and those affecting listed buildings (£100 unless otherwise stated).

If proposal involves works to a listed building, written response increases by £50 for domestic proposals, £100 for non-domestic proposals (except for employment floorspace).

Employment = B1, B2 and B8 uses and those which, at the Council's discretion, are broadly similar in nature although not within a use class.

Shopping uses = A1, A2, A3, A4 and A5 uses and those which, at the Council's discretion, are broadly similar in nature although not within a use class.

Dwellings include creation of flats, apartments, maisonettes as well as dwellings falling within class C3. This includes tourism accommodation by way of lodges, cabins or park/holiday homes/caravans.

Fees for changes of use are determined on the basis of the proposed use and the floorspace/site area/number of dwellings created.

Parish Councils receive 50% discount on written response.

Disabled adaptations for householders exempt on written response fee. Proof of disability required and whole proposal must be to facilitate easier access/bespoke living or sleeping accommodation.

**Model 1: Minimal charge for employment proposals with one free meeting**

Additional meetings charged at normal rate. First meeting for employment proposals free before flat rate of £100 applies for subsequent meetings.

Cat.		Written response	Meeting (optional)
Q1	Do I need to make an application	£50	Not available
H1	Householder	£50	Not available
H2	Householder (listed building)	£100	£100
A	Advertisements	£75	Not available
D1	Dwellings (1-3)	£150	Not available
D2	Dwellings (4-9)	£400	Not available
D3	Dwellings (10-99)	£650	£250
D4	Dwellings (100-199)	£850	£250
D5	Dwellings (200+)	£1,000	£250
E1	Employment (Less than 500sqm)	£100	Not available
E2	Employment (500 to 999sqm)	£100	Not available
E3	Employment (1,000 to 4,999sqm)	£100	£100
E4	Employment (More than 5,000sqm)	£100	£100
S1	Shopping (Less than 500sqm)	£100	Not available
S2	Shopping (500 to 999sqm)	£100	Not available
S3	Shopping (1,000 to 4,999sqm)	£100	£100
S4	Shopping (More than 5,000sqm)	£100	£100
O1	Other proposals (Less than 1,000sqm)	£125	Not available
O2	Other proposals (More than 1,000sqm)	£400	£250
T	Telecommunications	£150	Not available
V	Vehicular access (to non-domestic properties)	£50	Not available
C1	Variation of conditions	£150	Not available
M2	Material and non-material amendments (householder)	£25	Not available
M2	Material and non-material amendments (all other)	£150	Not available

**Model 2: Zero charge for employment proposals with one free meeting**

Additional meetings charged at normal rate. First meeting for employment proposals free before flat rate of £100 applies for subsequent meetings.

Cat.		Written response	Meeting (optional)
Q1	Do I need to make an application	£50	Not available
H1	Householder	£50	Not available
H2	Householder (listed building)	£100	£100
A	Advertisements	£75	Not available
D1	Dwellings (1-3)	£150	Not available
D2	Dwellings (4-9)	£400	Not available
D3	Dwellings (10-99)	£650	£250
D4	Dwellings (100-199)	£850	£250
D5	Dwellings (200+)	£1,000	£250
E1	Employment (Less than 500sqm)	Free of charge	Not available
E2	Employment (500 to 999sqm)	Free of charge	Not available
E3	Employment (1,000 to 4,999sqm)	Free of charge	£100
E4	Employment (More than 5,000sqm)	Free of charge	£100
S1	Shopping (Less than 500sqm)	Free of charge	Not available
S2	Shopping (500 to 999sqm)	Free of charge	Not available
S3	Shopping (1,000 to 4,999sqm)	Free of charge	£100
S4	Shopping (More than 5,000sqm)	Free of charge	£100
O1	Other proposals (Less than 1,000sqm)	£125	Not available
O2	Other proposals (More than 1,000sqm)	£400	£250
T	Telecommunications	£150	Not available
V	Vehicular access (to non-domestic properties)	£50	Not available
C1	Variation of conditions	£150	Not available
M2	Material and non-material amendments (householder)	£25	Not available
M2	Material and non-material amendments (all other)	£150	Not available

**Model 3: Only residential and selected other proposals chargeable**

Additional meetings charged at normal rate. First meeting for employment proposals free before flat rate of £100 applies for subsequent meetings.

Cat.		Written response	Meeting (optional)
Q1	Do I need to make an application	£50	Not available
H1	Householder	£50	Not available
H2	Householder (listed building)	£100	£100
A	Advertisements	£75	Not available
D1	Dwellings (1-3)	£150	Not available
D2	Dwellings (4-9)	£400	Not available
D3	Dwellings (10-99)	£650	£250
D4	Dwellings (100-199)	£850	£250
D5	Dwellings (200+)	£1,000	£250
E1	Employment (Less than 500sqm)	Free of charge	Not available
E2	Employment (500 to 999sqm)	Free of charge	Not available
E3	Employment (1,000 to 4,999sqm)	Free of charge	£100
E4	Employment (More than 5,000sqm)	Free of charge	£100
S1	Shopping (Less than 500sqm)	Free of charge	Not available
S2	Shopping (500 to 999sqm)	Free of charge	Not available
S3	Shopping (1,000 to 4,999sqm)	Free of charge	£100
S4	Shopping (More than 5,000sqm)	Free of charge	£100
O1	Other proposals (Less than 1,000sqm)	Free of charge	Not available
O2	Other proposals (More than 1,000sqm)	Free of charge	£100
T	Telecommunications	£150	Not available
V	Vehicular access (to non-domestic properties)	£50	Not available
C1	Variation of conditions	£150	Not available
M2	Material and non-material amendments (householder)	£25	Not available
M2	Material and non-material amendments (all other)	£150	Not available

Appendix 2

	Model 1	Model 1 Meetings	Model 2	Model 2 Meetings	Model 3	Model 3 Meetings	Average response
<b>2017</b>	£62,750.00	£8,900.00	<b>£61,750.00</b>	<b>£8,250.00</b>	£51,775.00	£6,500.00	44 days
<b>2018</b>	£50,850.00	£5,650.00	<b>£49,950.00</b>	<b>£5,250.00</b>	£42,500.00	£4,750.00	40 days
<b>2019</b>	£56,150.00	£10,000.00	<b>£55,050.00</b>	<b>£9,000.00</b>	£46,475.00	£8,000.00	44 days