

**REPORT TO:** CABINET

**DATE:** 27 FEBRUARY 2020

**TITLE:** CHARGING POLICY FOR PRE-APPLICATION  
ADVICE

**PORTFOLIO HOLDER:** COUNCILLOR DANNY PURTON, PORTFOLIO  
HOLDER FOR ENVIRONMENT

**LEAD OFFICER:** ANDREW BRAMIDGE, HEAD OF ENVIRONMENT  
AND PLANNING (01279) 446410

**CONTRIBUTING OFFICER:** TANUSHA WATERS, PLANNING AND BUILDING  
CONTROL MANAGER (01279) 446595

**This is not a Key Decision**  
**It is on the Forward Plan as Decision Number I0011091**  
**Call-in Procedures may apply**  
**This decision will affect no ward specifically.**

**RECOMMENDED that Cabinet:**

- A** Approves the introduction of a charging scheme for pre-application planning advice in accordance with the proposed Charging Schedule and exemptions as set out at Appendix A, to take effect from the 1st April 2020.
- B** Delegates authority to the Head of Environment and Planning, in consultation with the Head of Finance and the Portfolio Holder for Environment, to review or update the Charging Schedule.
- C** Delegates authority to the Planning and Building Control Manager. in consultation with the Head of Environment and Planning, to decide on the scale of the fees for any mixed-use developments on a case by case basis and clarify exemptions.

#### **REASON FOR DECISION**

- A** Pre-application advice is currently provided by planning officers free of charge for all types of planning development enquiries. Under Section 93 of the Local Government Act 2003, the Council has the power to set charging fees as a means of cost-recovery for this discretionary service.
- B** It is considered that the introduction of charging presents an opportunity to improve the quality and consistency of advice provided, which in turn should ensure submission of better quality applications. An enhanced pre-application service would support the Harlow's emerging Local Plan; in particular the following objectives:

- i) Objective 1 - Create and enhance high quality built environments which are well connected to revitalised green spaces.
- ii) Objective 2 - Deliver high quality design through new development whilst protecting and enhancing the district's historic environment.
- iii) Objective 3 - Adapt to and mitigate the impacts of climate change.

## **BACKGROUND**

1. Planning Officers currently provide an unrestricted free of charge planning advice service for any customer who submits a query at the pre or post application stage, regardless of the type or complexity of query. For larger scale developments, this means developers could engage in several meetings and receive specialist advice taking considerable time and resources at no cost to them while the advice provided gives them considerable value.
2. In 2019, Development Management registered 270 pre-application enquiries, of which 147 were for householder developments, 55 for commercial, 31 for residential, 10 for major pre-applications, 11 for changes of use and 16 for other miscellaneous. Based on the charging schedule, 123 pre-application queries would have been chargeable.
3. The Council is now one of a few Local Authorities that does not charge for pre-application advice. Most have introduced charging for this service since 2004 after the legislation was first established. All of the Council's neighbouring local authorities have charging schemes in place.

## **ISSUES/PROPOSALS**

4. Neither the guidelines from Central Government nor the Planning Advisory Service recommend a particular model of charging. Therefore, in practice, each Local Authority has tailored its approach to charging and their service offer. The Planning Service has undertaken a feasibility analysis to inform the proposals set out below.
5. The key issues to consider are:
  - a) Which types of proposed development to charge for;
  - b) The service offer;
  - c) How to charge for officer time; and
  - d) The rates to charge.
6. The aim is to design a simple and clear charging system, which is easy to use, and is as structured as possible but with the scope for extension or amendment as required.

## Recommended Pre-Application Charging Scheme

7. It is proposed that the pre-application charging scheme, attached as Appendix A to the report, will be applied to those developers/applicants seeking either pre or post application advice for minor or major residential or commercial planning applications.
8. For any mixed-use development site proposals, the scale of the fees is proposed to be at the discretion of the Planning and Building Control Manager, in consultation with the Head of Environment and Planning, on a case by case basis.
9. All “householder” planning enquiries would be exempt from pre-application fee charges.
10. Applicants for major or minor residential or commercial space developments would be able to access three distinct levels of service provision related to pre-application advice with their corresponding fees. These are proposed as follows:
  - a) Written response – A written response providing pre-application advice.
  - b) The meeting service – A meeting followed by a written response with the advice discussed.
  - c) A follow up service – Any additional written response or meeting provided in relation to the same pre-application case following the issue of Officers advice.
11. Applicants will have the option to receive specialist advice from other officers (such as Tree Officers, depending on availability) with the aim to provide a more enhanced tailored service.
12. Site visits would be included by default in any initial service as part of the research process except for the minor commercial, change of use or single dwelling categories, where the planning officer would decide if one is needed. In addition, fees would be requested to recover Officers’ travel time costs when a meeting takes place outside of council premises.
13. Exclusions from the range of the service include:
  - a) Planning performance agreements (too complex until initial charging system established – it could be reviewed);
  - b) Design review service (Falls out of the remit of the Council); and
  - c) Councillors’ involvement in consultation (avoiding unintended bias)
14. A table featuring the pre-application fee charging scheme is presented in Appendix A to the report, setting out the varying proposed fees.

## **Charge Exemptions**

15. Householder pre-application enquiries, despite representing the vast majority of enquiries (147 enquires in 2019), would not be subject to any fees. Whilst it would be cost effective, it is, for the moment, considered that home owners seeking elementary advice of minor extensions should not be charged. Whilst most other Essex Authorities do charge for this service, at this point in time it has been decided to concentrate on providing pre-application services for developments seeking commercial financial gain.

## **Financial Considerations**

16. Government guidance requires charges for pre-application advice to not exceed the cost of providing the service. In arriving at the scale of charges, due consideration has been paid to Government Guidance.
17. Income estimation has been projected to be approximately £20,000 - £30,000 on an annual basis. This estimate was based on 2019 data and assumes that the same number of pre-application advice requests that would have qualified under the proposed charging scheme within that year, would pay for the service.
18. It is required that payment will be required before detailed Officer work is commenced.
19. Requests for refunds after advice is provided will only be considered in exceptional cases where requests are made in writing and will be assessed on a case by case basis by the Planning and Building Control Manager or Head of Environment and Planning.
20. It is intended that the success of the charging scheme will be reviewed after 12 months to ensure the rates are market competitive and tied into any potentially new Local Authority or County charging structures.

## **Legal Powers**

21. Section 93 of the Local Government Act 2003 enables local authorities to charge for discretionary services such as pre-application advice, provided that it is on a not for profit basis. In accordance with Government guidance, charges will be set at a scale that avoids discouraging relevant pre-application discussions with a level of free basic advice for small-scale proposals (to be determined by the Planning and Building Control Manager or Head of Environment and Planning) and householder requests.
22. All pre-application advice is to be issued with the disclaimer that the advice relates to views provided by planning officers only and does not prejudice any decision that the Local Planning Authority could subsequently make on any application submitted either under delegated authority or at Development Management Committee. The charging of a fee does not alter this position.

23. Legal disclaimers would also be placed on the website (text and/or online request form), PDF guide and letter templates. The provision of this service will also be subject to accepting the terms and conditions proposed.

### **Staffing**

24. Staffing is anticipated to remain within the same levels for the moment but will need to be reviewed on an annual basis.

### **Customer**

25. A guide of terms and conditions including schedule of charges, scope of work, outputs expected, timetables and links to pre-application services of other statutory consultees will be provided to customers of the service being developed as recommended by Government.

### **Equalities**

26. An Equalities Impact Assessment (EIA) carried out has identified that the implementation of this legislation will not have an adverse equalities impact. A copy of the assessment is as Appendix B to the report.

### **Environmental**

27. There are no anticipated environmental impacts.

### **Risks**

28. It is expected that there will be an increase in customers' expectations for those paying for the service and therefore a potential increase in the risk of customer dissatisfaction. Nonetheless, this will be monitored and anticipated to be mitigated by the introduction of improved back-office processes (such as Project: Paperless improved used Uniform and Enterprise systems) and a formal delegated Officer sign off that will improve the consistency of the advice provided.
29. A potential minor risk is an increase on the number of applications without pre-application consultation, where the schemes presented are of poor quality. Nevertheless, affordability has been considered when setting the scale of the fees.

### **Feasibility Analysis/Research Undertaken to Support Proposals**

30. The pre-application charging proposals have been compiled by the Planning Service, coordinated by the Planning and Building Control Manager in consultation with the Head of Environment and Planning who led a programme of research over a period of three months which included:

- a) Developing spreadsheet to record and monitor the duration of tasks performed by officers during the pre-application service, in order to determine the amount of Officer time/cost.
  - b) Interviewing Officers to understand the current service demand, their views and their past experience, if applicable, from other councils which have an existing charging pre-application service.
  - c) Viewing pre-application best practice guidelines (including charging).
  - d) Reviewing the pre-application offer and fee charging arrangements at other Essex Local Authorities.
  - e) Receiving information and advice from other Local Authorities on their experience in setting a pre-application charging scheme.
31. The fees proposed on the charging scheme have been calculated by the type of development and associated work and time required as well as by who would be involved in the process.
32. After an analysis on charging schemes elsewhere, the preferred charging option is a flat rate per service. This is to aid calculation of the required fees, transparency and make it easier for applicants/customers to understand.
33. The hourly rate for senior planning Officers has been used to calculate the fees for major development proposals while a regular planning officer's hourly rate has been used to calculate the other categories (minor commercial or minor residential developments).
34. Other models of charging have been explored and ruled out as not viable:
- a) A model of packages of service such as bronze, silver, gold (inflexible as the needs of pre-apps vary case by case)
  - b) Comprehensive bespoke charging scheme (complex to use and not transparent)
  - c) Charging based on a percentage of planning fees (potential of disproportionate charges, difficult to calculate and monitor)
35. There is no statutory requirement to provide a public consultation period prior to the introduction of any charges. Nevertheless, a notice will be placed on the Council's website immediately following Cabinet approval and it is proposed that the fee charging takes effect from 1 April 2020.

## **IMPLICATIONS**

### **Environment and Planning (Includes Sustainability)**

As set out in the report.

**Author: Andrew Bramidge, Head of Environment and Planning**

### **Finance (Includes ICT, and Property and Facilities)**

The income generated will be monitored and reported as part of the 2020/21 budget monitoring process through the JFPR reports to Cabinet. Any impact on the income budgets for the service will then be reflected in the process of setting the 2021/22 budget.

**Author: Simon Freeman, Head of Finance and Deputy to the Chief Executive**

### **Housing**

As outlined in the report.

**Author: Andrew Murray, Head of Housing**

### **Community Wellbeing (Includes Equalities and Social Inclusion)**

None specific.

**Author: Jane Greer, Head of Community Wellbeing**

### **Governance (Includes HR)**

The legal basis for the introduction of charging is set out within paragraphs 23-26 of the report.

**Author: Simon Hill, Head of Governance**

### **Appendices**

Appendix A – Proposed Schedule of Charges

Appendix B – Equality Impact Assessment

### **Glossary of terms/abbreviations used**

EIA – Equality Impact Assessment