

Report to: EXECUTIVE CABINET

Date: 26 June 2019

Executive Member/Reporting Officer: Councillor Gerald Cooney – Executive Member (Housing, Planning and Employment)
Jayne Traverse – Director of Growth

Subject: CHARGING FOR PRE-APPLICATION ADVICE (PLANNING APPLICATIONS)

Report Summary:

The National Planning Policy Framework sets out the importance of pre-application engagement between developers and local planning authorities. This is currently offered free of charge in Tameside and, as a result, the local planning authority receives a high number of requests for service. Since only a finite level of resource can be allocated to providing responses this often means only basic advice can be provided. Furthermore, provided without charge, the system remains open to exploitation by planning agents who can simply pass on the advice to their clients and charge for it.

Councils have the ability to charge for providing pre-application advice and many authorities across the country have already begun doing so. More locally, most of the Greater Manchester council's charge for providing this except for Manchester, Bolton and Oldham.

The introduction of pre-application charges will likely reduce the number of requests being made and enable the service to be more focussed on those that are likely to benefit more by engaging in such discussions. This might be to a homeowner who wishes to extend their home or a developer looking at a major scheme in the borough. It will also allow for the costs of providing the service to be recovered which forms part of the Planning Department's budgetary targets to fund the current staffing structure.

Whilst applicants for planning permission are not required to engage in pre-application discussions they are actively encouraged to. However, those who do choose to engage will receive an improved and dedicated offer with clear service standards.

Recommendations:

- (a) To authorise a period of consultation with active planning agents who have submitted planning applications in the preceding twelve month period on the proposed Charging Schedule for pre-application advice attached at **Appendix 1**.
- (b) To delegate to the Executive Member for Housing, Planning and Employment via a key decision, any subsequent determination on whether to implement pre-application charges and any consequential decision on the most appropriate approach to implementation.

Corporate Plan: To support a modern infrastructure and sustainable environment.

Policy Implications: To consult on the introduction of a new policy to introduce charges for pre-application advice.

Financial Implications: The Development Management Service income budget includes a £25,000 fee income target from pre-application charges, based on a prudent assessment of the likely demand following a consultation process with developers. This will be monitored throughout the year and adjusted accordingly as part of the annual budget process. The charging schedule set out within this report has been developed to ensure that the income generated will recover all costs associated with providing the pre app advice. The service will charge both internal and external customers. Internal customers will be recharged for any advice given.

(Authorised by the statutory Section 151 Officer & Chief Finance Officer)

Legal Implications: Section 93 of the Local Government Act 2003 gave local authorities the power to charge for pre-application planning advice. The income generated from any charges must not exceed the costs of provision in accordance with the duty set out under S93 (3):

(Authorised by the Borough Solicitor)

The power is subject to a duty to secure that, taking one financial year with another, the income from charges under that subsection does not exceed the costs of provision.

It will therefore be a requirement to justify the charges made and be able to demonstrate that they are valid.

Any advice given by Council officers for pre-application enquiries does not indicate any formal decision by the Council as Local Planning Authority. Any views or opinions are given in good faith, and to the best of ability, without prejudice to the formal consideration of any planning application.

The final decision on any application that is then submitted can only be taken after the Council has consulted local people, statutory consultees and any other interested parties. The final decision on an application will then be made by senior officers or by the Council's Speakers Panel and will be based on all of the information available at that time.

Pre application advice cannot guarantee the final formal decision that will be made the application(s).

Any pre-application advice that has been provided will be carefully considered in reaching a decision or recommendation on an application; subject to the proviso that circumstances and information may change or come to light that could alter that position. It should be noted that the weight given to pre-application advice will decline over time.

Any decision of the Council to introduce and the implementation approach will be a key decision.

Risk Management: If rejected the Local Planning Authority must continue to provide free professional advice. However, this is not financially viable since the council cannot continue to meet the costs of providing it, and income from providing this service is included in the department's budget requirements.

In addition, continuing with providing free advice will result in

more limited engagement with applicants, and conflict with the principles set out the National Planning Policy Framework of working proactively with applicants at this early stage. This would fail to maximise opportunities for improving the quality and standard of applications made by agents and developers.

However, once consultation commences, there is a short-term risk of a 'spike' in requests for free pre-application advice. This would potentially hinder ability to maintain and further improve service performance.

Access to Information:

The background papers relating to this report can be inspected by contacting Martyn Leigh, Development Manager



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1. INTRODUCTION

- 1.1 Pre-application engagement by prospective applicants provides significant opportunities to improve both the efficiency and effectiveness of the planning application system and improve the quality of planning applications and their likelihood of success. It allows relevant policies to be identified along with other material planning considerations associated with proposed development at an early stage.
- 1.2 Pre-application advice is provided on an informal basis and is not binding on any future decision that might be taken on a subsequent application. However, it facilitates collaborative working at an early stage of advancing development proposals, and engaging with relevant consultees provides opportunities to identify any mitigation requirements (including the possible need for a Section 106 agreement). It also identifies what information should be submitted with the application. This can then facilitate the smoother progression of an application through the formal process once submitted resulting in the likelihood of quicker decisions. Furthermore, pre-application engagement can be used to put in place a Planning Performance Agreement (PPA) where this would facilitate managing the process and agreeing dedicated resources for processing an application.
- 1.3 Across the ten Greater Manchester Authorities only Bolton, Tameside, Manchester and Oldham do not currently have Charging Schedules in place. As a result of not charging, Tameside Council receives a high number of requests that are becoming increasingly difficult to accommodate to a high professional standard.
- 1.4 Many requests are submitted through the formal channels and are recorded with an allocated reference number on a database together with copies of plans, documents, and correspondence from officers providing informal advice. For the period 1 May 2018 to 30 April 2019 there were 59no requests made for advice logged onto this database. However, it must be recognised that there are a large number of informal approaches made directly by developers and planning agents to officers for 'on-the-spot' verbal advice which is a practice we are looking to discourage. This is because it is time consuming, can be disruptive, and does not provide an accurate written record of the advice that has been provided.
- 1.5 Charging for providing the discretionary service of charging for pre-application advice for all types of application is permitted under section 93 of the Local Government Act 2003, providing these charges do not exceed the cost of providing it. As such, it is proposed that the local planning authority begins charging for such advice. This would reduce the number of requests being made thus allowing available resource to be targeted at those who need it. This might be for homeowners who have not engaged in the planning process before or for advising developers on complex or strategically important development proposals. At the same time the income derived from charges for providing this service supports the department's budget requirements.
- 1.6 However, as set out below, it is proposed to undertake a period of consultation with planning agents who regularly submit planning applications to Tameside Council.

2. POLICY CONTEXT

- 2.1 The National Planning Policy Framework (NPPF) provides clear advice on the importance of pre-application advice and frontloading of planning applications. Paragraph 39 states *..."Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community."*
- 2.2 The NPPF explains that although it cannot be made a mandatory requirement local planning authorities should encourage participation in any services offered.

- 2.3 The council recognises the importance of investment and development in the borough and the delivery of a high quality pre-application advice service is integral to this. The council also has significant growth aspirations. The opportunities for development that might arise from the adoption of the Greater Manchester Spatial Framework (GMSF), the Stalybridge Town Centre Challenge initiative, and development opportunities identified in the future revised Local Plan, mean that engagement in detailed pre-application discussions will maximise the potential benefits that such schemes bring. Therefore, the availability of a formal, high quality, well-resourced pre-application advice service is integral to the growth and investment aspirations in Tameside.

3. PROPOSALS

- 3.1 Introducing charges for pre-application advice should not be designed to discourage pre-application discussions. As such, it is important that where charges are applied, there is clear charging structure in place providing certainty about what should be expected by engaging in such a process. Therefore, the proposed charging schedule (attached at Appendix 1) has been developed around a fixed price structure, providing certainty for developers over the costs of entering into pre-application discussions. Charges would be applied to requests made by, or on behalf of, other Tameside Council departments which would be secured via an internal recharge.
- 3.2 The proposed pre-application service and charging schedule has been prepared on the basis of striking a balance between recovering costs without discouraging developers from engaging discussions with the council. It is designed to support rather than discourage inward investment into the borough. It is considered unlikely, however, that the schedule of charges will always recover the full costs of service delivery particularly taking into account the need to involve a range of expert officers and additional external expertise.
- 3.3 It is proposed that the charging schedule would comprise four tiers to reflect the varying degree of resources needed for the different types of development projects. As such, the four categories of service proposed allow the charging structure to be simplified, yet the charges reflect the level of work, engagement and consultation necessary commensurate to the scale and complexity of the proposals.
- 3.4 The schedule provides for flexibility for the most significant and complex development projects by allowing a bespoke pre-application fee to be negotiated; an approach that will suit a longer term, planning performance agreement led approach. This will help to provide greater certainty for developers as to the cost of pre-application charges and assist in securing continued investment into Tameside.
- 3.5 Of the 59no. recorded requests for pre-application advice that are logged for the period between 1 May 2018 and 30 April 2019 this would have generated an income of between £16,100 (if all requests were for Written Advice Only) rising to £28,400 (for requests for a Meeting and Written Advice). Of those requests, only two related to domestic extensions accounting for an income of between £100 and £150 depending on the level of service requested.
- 3.6 For those Greater Manchester authorities who operate charging schedules, and where planning permission is required for domestic extensions, only Salford provides this freely of charge. More locally, Rochdale and Stockport charge £101 and £84 respectively for providing advice on domestic extensions as shown in Table 1 below. The table also provides clarification on what consultation process, if any, was carried out prior to the introduction of charges.

Table 1 – Greater Manchester Authority position on pre-application advice charges:

	Adopted Charging Schedule in place?	Charge for advice on domestic extensions	Consultation prior to introducing charges?
Oldham	No	n/a	n/a
Rochdale	Yes	£101	With Members only
Salford	Yes	No	No
Manchester	No	n/a	n/a
Stockport	Yes	£84	(Unknown)
Bury	Yes	£91	None
Bolton	No	n/a	n/a
Wigan	Yes	£25	None
Trafford	Yes	£250	Informed Agents

- 3.7 Homeowners can, and often do, make use of the recently launched (free) Duty Planning Officer service, which would remain unchanged. This can be used to obtain advice as to whether planning permission is actually required for their proposals (since many can be undertaken under ‘permitted development’ rights).
- 3.8 Although most Greater Manchester authorities who charge for pre-application advice apply these charges to domestic extension proposals, it is recommended in the first instance that Tameside Council does not charge, but that this is kept under review.
- 3.9 In summary, it is proposed that Tameside Council identifies any active planning agents (which we will define as those who have submitted a planning application within the preceding twelve month period) and to consult with them on the proposals for a period of 21 days. They would be invited to submit any representations which will be considered prior to a decision being taken on whether to apply charges for providing pre-application advice.

4. PROPOSALS TO LAUNCH AND MANAGE THE PRE-APPLICATION ADVICE SERVICE

- 4.1 Without prejudice, and if adopted, details of the charging schedule setting out what customers should expect by engaging in the services offered will be provided on the Council’s website.
- 4.2 In engaging in chargeable pre-application discussions customers would be asked to complete a pre-application advice form. This would necessary to standardise the information submitted with any request for service and clarify the level of service being sought. Customers would be provided with the following:
- Customers would receive acknowledgement of their request within 5 working days and whether their submission is valid. Once valid, a case officer with the relevant level of expertise would be assigned to it, and the customer would be advised of their contact details.
 - All requests for service would be logged on the Uniform database and allocated a unique reference number.
 - Where a meeting has been requested this will be arranged within 10 working days from the receipt of the valid submission. These would be accommodated at Tameside One, Dukinfield Town Hall, and when required on the proposed site.

- The target is for all requests for advice to be processed within 42 days of the receipt of a valid submission. However, providing advice on some schemes may require further time, and discussions will be held with customers at an early stage where this is deemed necessary. This might occur, for example, where external consultee engagement is required.
- Responses to such requests will always be caveated to ensure that customers understand the advice provided is informal and does not pre-determine the outcome of an application for planning permission.

4.3 Any advice provided will be logged and recorded since it may be the subject of a future Freedom of Information request.

5. CONCLUSIONS

- 5.1 That charges are not applicable for providing advice on domestic extensions although this will be kept under review.
- 5.2 That recharges will apply to other Council services making requests for formal pre-application advice.
- 5.3 That the Council authorises a period of consultation with active planning agents on the proposal to adopt the proposed Charging Schedule set out in **Appendix 1** (all prices are inclusive of VAT at 20%).
- 5.4 The proposed consultation would involve emailing all planning agents (i.e. architects and planning consultants) who have submitted a planning application to Tameside Council over the preceding twelve month period seeking their views on the proposals to introduce charges. This would ensure that there is a broad engagement with agents submitting all types of application from small scale householder proposals to strategically important major developments.

6. RECOMMENDATIONS

- 6.1 As set out on the front of the report.