

<b>Subject:</b>	<b>Introduction of charges to cover costs for pre-application planning advice, planning performance agreements and design review.</b>		
<b>Date of Meeting:</b>	<b>15 October 2015</b>		
<b>Report of:</b>	<b>Executive Director Environment, Development &amp; Housing</b>		
<b>Contact Officer:</b>	<b>Planning and Building</b>		
	<b>Name:</b>	<b>Control Applications Manager</b>	<b>Tel: 01273 - 292195</b>
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

1.1 The purpose of this report is to provide information setting out the case for the introduction of charging for pre-application advice. . The report details the two phased approach which will enable the Local Planning Authority (LPA) to commence immediately with one- off bespoke negotiations for Planning Performance Agreements (PPAs) to cover the costs of pre-application advice and enhanced performance when dealing with major schemes . The report also seeks authority to proceed with the procurement and subsequent award of a contract to our selected bidder for the provision of multidisciplinary design advice for LPA.

**2. RECOMMENDATIONS:**

That the Committee:

- 2.1 Agree to the two stage phased approach to the introduction of charges for pre-application advice as set out in paragraphs 3.11 and 3.12.
- 2.2 Grants delegated authority to the Executive Director Environment, Development & Housing to negotiate the terms of bespoke, cost neutral PPAs on major development schemes as part of a pre-application advice service.
- 2.3 Grants delegated authority to the Executive Director Environment, Development & Housing to proceed with the procurement and subsequent award of a contract to provide cost neutral, multidisciplinary expert design review advice to the LPA.

**3. CONTEXT/ BACKGROUND INFORMATION**

3.1 Charging for pre-application planning advice is now best practice for English

planning authorities. The debate is not new. Since The Killian Pretty Review

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(November 2008) noted the need to improve this "critically important" stage in the planning process most English authorities have introduced charges to cover costs to support and ensure a good quality service. As part of this many authorities have also introduced a bespoke approach for major schemes called Planning Performance Agreements (PPA)'s.

- 3.2 A PPA is essentially a project management tool which sets timescales for actions between the local planning authority and an applicant. It should cover pre-application and application stages but may also extend through to the post-application stage.
- 3.3 The widely acknowledged benefits of charging for a pre-application service include a reduction in the number of refused applications, less speculative applications and an improvement in the quality of schemes coming forward. The National Planning Policy Framework (NPPF) places particular emphasis on the need for good quality Design Review advice.
- 3.4 The Local Government Act 2003 (s93 Part 8, Chapter 1 - Power to Charge for Discretionary Services) gives Local Planning Authorities the discretionary authority to charge for pre-application advice as a service.. The income raised must not exceed the cost of providing the service.
- 3.5 B&HCC currently has a free pre-application advice service for all types of planning applications. This service has been free since its introduction. Costs have been absorbed by the service as a subsidy to the development industry and our residents. There was an aspiration to introduce charges as best practice in 2009, however, with the advent of the economic downturn, the Local Planning Authority introduced a package of measures to support economic recovery in 2010.
- 3.6 One of the measures was an agreement not to introduce charges for pre-application advice.
- 3.7 Those measures which had unanimous cross party support remained in place between late 2010 and early 2015 (i.e a four and a half year period). See EDC report 15/01/2015.
- 3.8 During that time the service has delivered savings and continued to offer advice free of charge. Recently (22 July 2015) the service stopped offering pre-application advice for everything other than major schemes. That decision was made by the LPA due to the increase in the numbers of applications per case officer, the need to focus on achieving statutory performance targets and the need to continue to achieve the Planning Guarantee (See Appendix 1).
- 3.9 Major Schemes continue to receive advice in acknowledgement of the significant positive economic and qualitative benefits of continued engagement with the LPA. Schemes where we have a partnership approach, with the involvement of Councillors and full public engagement result in better development on the ground.
- 3.10 As part of pre-application advice Design Review currently takes place on an ad hoc basis. Applicants can choose the Design Review supplier and pay the

supplier directly. In Brighton & Hove applicants have tended to use two established suppliers: CABE at the Design Council and Design South East. Nationally, there are a number of suppliers available. Advice provided is not always tailored to the requirements of the LPA, focused on the strategic development objectives in our City Plan or set up in a way that allows the LPA to cover its costs. This is not a satisfactory, efficient or a consistent way to receive design feedback. Therefore we need to put in place the mechanism that will enable the LPA to access multidisciplinary design experts to provide advice that meets the requirements of the LPA. .

#### Proposed Approach

- 3.11 In the immediate future it is our intention to follow the two phased approach. Phase 1 is to negotiate immediately bespoke one-off Planning Performance Agreements for all major schemes to cover the costs being incurred now. In parallel, we also intend to procure a contract with one supplier who will be able to support the needs of the LPA with quality design advice whilst enabling the LPA to cover costs. The intended contract duration is two years with an option to extend for one year. The expected contract start date is currently 31.03.2016. Some background information is contained at Appendix 2
- 3.12 Phase 2 is to identify a timeframe for the introduction of pre-application charges for all types of development. It is our intention to develop the framework in accordance with best practice as set out in the report jointly prepared by the Local Government Association (LGA) and the British Property Federation (BPF), entitled "10 commitments for effective pre-application engagement". A full set of charges together with a timeframe for implementation will be reported initially to the ED&H Modernisation Board with a view to seeking agreement from Policy & Resources Committee at the earliest in January 2016.
- 3.13 It should be noted that in addition to the formal feedback through the workshops there is anecdotal feedback from the Development Industry that the introduction of charges will be supported. In terms of the negotiation of bespoke PPA's there are already developers waiting to sign and agree PPA's

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 The current option which is recommended is a two phase approach which introduces an element of cost recovery for the service we can offer today and allows for a second phase of introduction once the service has developed a sound timetable for introduction based on achieving improvements to the statutory part of the service, identifying resources to offer a full pre-application service and further streamlining.
- 4.2 Alternative Option 1: is for the service to consider the do nothing option and continue to offer pre-application advice on major schemes free of charge. That option results in direct costs to the LPA for these discretionary services. The finance subsidy is not available to support this approach.
- 4.2 Alternative Option 2: Withdraw completely from offering pre-application advice for major schemes and focus solely on determining all on hand applications. This option has a cost neutral impact but would result in major schemes coming

forward without the support of the LPA and potentially without feedback from Councillors and it may result in significant numbers of refusal of major applications and a failure to meet the Planning Guarantee for major applications.

- 4.3 Alternative Option 3: Launch a full set of charges immediately for all types of applications. This option is unrealistic today and would result in the removal of significant resources currently dedicated to determining live planning applications.

## **5. COMMUNITY ENGAGEMENT & CONSULTATION**

### External - Workshops

- 5.1 Two workshops jointly organised by B&HCC in conjunction with our Professional Planning Forum took place in December 2014. The cross party Planning Committee Member Working Group, Officers and the Chair of the Forum jointly agreed the need for the consultation.
- 5.2 The Chair of the Forum, Liam Russell, jointly managed the workshops with us. Participants included: Architects, Planning Professionals and Surveyors. Officers of the council from within the Local Planning Authority and those who comment on planning applications and council lawyers also attended. There was strong attendance from Councillors including the Chair of Planning Committee also attended.
- 5.3 The workshops were topic based and part of our customer engagement programme to improve the quality of our service
- Workshop 1 - Planning process (including pre-application advice)
  - Workshop 2 - Design
- 5.4 Feedback from the workshops demonstrated strong and positive support for the introduction of charges for our pre-application advice service and for the introduction of a design review to support improvements to the quality of submissions.
- 5.5 There was an overall consensus that the introduction of charges would act to support a more professional and business like approach to advice and that it will be important to set the limits of the service and a framework for the advice through either a PPA or a flat charge.

### Internal - Workshops

- 5.6 Internal discussions have taken place with those services areas which support the Development Management Team through expert advice as part of the determination of planning applications and who have experience of submission of applications for design review.
- 5.7 There is unanimous internal support for the recovery of costs as part of charging for pre-application advice and for the introduction of a more managed approach

to Design Review. Internal service areas consulted include: Planning Policy, Transport, Heritage, Legal, Environmental Protection.

## **6. CONCLUSION**

- 6.1 The proposed two phased approach is considered to be the most appropriate way for bringing forward mechanisms for the introduction of charges for pre-application advice given the current service context.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 7.1 The proposed charges will be subject to the council's Corporate Fees and Charges Policy. The Corporate Fees and Charges Policy addresses the requirement for a more corporate approach to the issue of fees and charges and provides a clear policy framework within which to conduct annual or other reviews of fees and charges. Fundamentally, the policy aims to increase the proportion of income contributed by users of services where appropriate, rather than the cost being met from the general Council Tax payer. As a minimum, charges will be reviewed annually as part of the budget and service planning process
- 7.2 A Local Planning Authority has the power to charge for the proposed services under Section 93 of the Local Government Act 2003. Under this legislation, taking one financial year with another, the income and charges should not exceed the cost of provision. The level of fees will therefore be set based on this requirement and regularly reviewed to ensure compliance.
- 7.3 The introduction of the proposed charges was approved as a budget saving proposal for the 2015-16 financial year onwards. The achievement of these savings proposals is therefore dependant on the successful introduction of the proposed charges. Any variation between the estimated budget saving and the actual financial implications will be monitored and reported as part of the monthly budget monitoring process.
- 7.4 The recommended procurement process will be subject to compliance with the council's Contract Standing Orders and Financial Regulations to ensure the achievement of value of money. The cost of the quality design advice contract is estimated to be £0.100m per year and will be charged on a case by case basis. It is anticipated that the costs will be recovered by the charges to service users though the Planning Performance Agreement and therefore be cost neutral to the council.

*Finance Officer Consulted: Sue Chapman*

*Date: 23/09/2015*

### Legal Implications:

- 7.5 As referred to in the body of the report, the legislative power to charge for pre-application advice, a discretionary service, is contained in s93 of the Local

Government Act 2003. In exercising the power an authority has a duty to ensure, taking one financial year with another, that income does not exceed the costs of providing the service.

No adverse human rights implications arise from the report.

*Lawyer Consulted:*

*Hilary Woodward*

*Date: 15/9/15*

Equalities Implications:

- 7.6 No specific equalities implications. Pre-application advice is offered on a without prejudice basis and operates within the constraints of the Development Plan. Equalities matters can be material consideration and are taken into consideration as part of the assessment of pre-application advice and the determination of planning applications in accordance with adopted policies and the Council's statutory duties and in response to matters raised through public consultation. .

Sustainability Implications:

- 7.7 The opportunity to influence built development through achieving quality design advice and pre-application advice will ensure the sustainability can be considered as early as the design concept stage.

Crime & Disorder Implications:

- 7.8 Good quality pre-application advice on major schemes and design advice supports the overall objective of designing out crime and creating safe, healthy urban environments.

Risk and Opportunity Management Implications:

- 7.9 There are positive benefits and opportunities related to the delivery of good quality built environments. This supports economic activity in the City, health and wellbeing and can have positive impacts through designing out crime. The ability to participate in pre-application discussions on major schemes and offer advice at no cost to the Local Planning Authority would represent a lost opportunity if it were not to happen.

Public Health Implications:

- 7.10 Good quality pre-application advice on major schemes and design advice supports the overall objective of designing our crime and creating safe, healthy urban environments

Corporate/ Citywide Implications:

- 7.11 A comprehensive approach to pre-application advice and design review before planning applications are submitted ensures that the development strategy set out in the City Plan (part 1) is delivered. The City Plan supports corporate plan priorities on delivery of economy jobs & homes. Creating environmentally

sustainable built development and support the creating of sustainable communities.

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## **SUPPORTING DOCUMENTATION**

### **Appendices**

1. Planning Guarantee
2. Background information about the Invitation To Tender for Design Advice

### **Documents in Members' Rooms**

None

### **Background Documents**

1. 10 commitments for effective pre-application engagement  
Local Government Association and British Property Federation
2. Planning Performance and Improvement - the changing landscape  
Planning Advisory service
3. Design Review - What is it for and what does it achieve.  
Planning Advisory Service, April 2015
4. Farrell Review of Architecture and the Built Environment

