

# Scrutiny Committee Report



Listening Learning Leading

Report of the Head of Planning

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AGENDA ITEM NO 4

## Review - the impact of charging for pre-planning application advice

### Purpose of the Report

1. Scrutiny Committee requested a report, which provides information about the income generated from charging for pre-application planning advice and the impact of the charges on the service and its use by customers.

### Background

2. In January 2009, the Scrutiny Committee was advised of the intention by the Planning Service to introduce charges with effect from 1 April 2009. These charges were to be introduced in two phases.

Phase one covered;

- a) pre-application planning advice for developments falling within the 'large and small scale Major' category (as defined by Communities and Local Government) and,
- b) officer consideration of minor amendments to schemes with planning permission

Phase two, with effect from 1 October 2009 covered

- c) charges for pre-application advice in respect of applications falling with the 'minor' category.

4. Subsequently in April 2010, the scope of the charging schedule was widened to include all categories of application (major, minor, other) for pre-application and permitted development advice (including householder proposals and listed building work). In line with the regulations for nationally set planning fees, any requests for pre-application advice from town/ parish councils or sports organisations are charged at half the set fee. No other reductions or exceptions to the charges are currently made. This approach ensures clarity and equality in the provision of the service and is robust to challenge.

## **Justification for introducing charging**

5. The Local Government Act 2003 gave councils a general power to charge for discretionary services, subject to the income not exceeding the cost of providing those services. Since 2003 an increasing number of councils have introduced a range of charges for aspects of their development management service, including the provision of pre-application advice and the consideration of minor amendments. As part of the review of planning services, through Fit for the Future, an assessment was made of time spent on discretionary services in planning. The assessment found a considerable percentage of staff time was spent on providing free informal planning advice at pre-application stage and considering the submission of post decision amendments. Customer feedback from the Planning Agent User Group indicated that they wished this service to continue, even at a cost. The provision of pre-application advice is strongly advocated by Central Government to improve the efficiency of the planning process and increase the certainty of outcome, particularly since the publication of The Barker Report in 2006. The introduction of charges has offered the opportunity to recover the majority of the costs in offering this discretionary but popular service.

## **Pre-application advice service**

6. The current level of service offered and the scale of charges, **attached** as Appendix A, is set out on the council's website. The service sets out timescales for dealing with requests and level of the information expected from the customer. We explain that engaging in pre-application advice is not compulsory although it is strongly encouraged, particularly in connection with major proposals. Many councils have introduced charges although some, such as Oxford City and West Oxfordshire have limited their charges to major and minor application proposals. Cherwell council is one exception and still currently offers a free service to customers. In comparison with other councils that charge for their pre-application service, our scale of charges is comparable and often more competitive.
7. The main reasons for the council to introduce charges for the pre-application advice service were:
  - to help maintain and improve the delivery of an important valued but discretionary service,
  - to improve the quality of planning application submissions,

- to help to reduce speculative and poorly thought out development proposals.
  - to generate income that helps to fund the service, rather than relying solely on revenue from council tax.
8. At the time of introducing the charges it was recognised that we would need to be aware of, and manage, certain risks namely:
- charging could discourage people from seeking pre-application advice and the quality of submitted applications could fall, especially in the current economic climate,
  - customer expectation regarding the quality and detail of advice could, increase on the basis they have paid for it,
  - customer expectation 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.
9. Evidence to date drawn from the Planning Agents User Group, comments on customer feedback cards, and recent interviews with various customer groups in connection with the Customer Service Excellence project, indicates that these risks have been well managed and, overall, feedback on the service has been good.
10. It is not possible to make a direct comparison of the quantity and type of requests for pre-application advice made before April 2009 because, prior to that date the service did not distinguish between general planning enquiries and requests for pre-application advice. The graph **attached** as Appendix B and B1 shows the number and fee income for pre-application advice requested since October 2009. The graph shows the number of requests received and associated fee income has increased.
11. There has been an acceptance from professional agents/developers and the majority of householders of the charges for pre-application advice 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.
12. To date only one formal complaint about the pre-application service has been received. The customer expressed their disappointment that they were not able to obtain a general indication of whether a proposal for a new dwelling was acceptable in principle without paying a charge and they felt the response they received did not justify the fee involved. In this instance, we advised using the service but on occasions, officers will provide free pre-application advice where it is obvious to the officer that the proposal has little chance of securing a planning permission, for example, a new house in the countryside. In a few instances, customers have asked officers to waive fees, particularly in the context of community projects and affordable housing schemes. Although officers assess such requests on a case-by-case basis, to date no exceptions

have been made as there has been no evidence of financial hardship provided.

13. Officers reviewed the scale of charges after the first six and twelve months of their introduction to check that the fees reflected the amount of time officers were spending on the provision of advice. The results of those checks show that the fees accurately reflect the time officers spend researching and providing the relevant advice. Recent feedback through the council's Customer Service Excellence project indicates professional planning agents find the current charging regime acceptable and competitive with other councils.

## **Minor Amendments and Permitted Development Enquires**

14. For the sake of completeness, the graphs **attached** as Appendix C, C1 include the number of, and income generated by, requests for non-material minor amendments (small changes to an approved plan post decision). Similarly, the graphs **attached** at Appendix D, D1 show the number, and income received for permitted development enquires.
15. Prior to the introduction of charges (April 2009) the Planning Service received in the region of 100 requests per annum for relatively small changes to approved plans. The graph **attached** as Appendix C1 confirms that the number of requests for post decision amendments has remained fairly static. The slight change is likely to be associated with the lower interest in implementing schemes.
16. Since 1 April 2010, customers have been offered three options in connection with permitted development enquiries. They can either:
  - a) research permitted development rights on the Planning Portal (the Government's planning website) where free advice is available
  - b) obtain an informal written opinion from a planning officer for a fee of £45, or,
  - c) apply for a formal determination by submitting a Certificate of Lawful Development for a fee of currently £75.
17. Appendix D, D1 shows the income (net) generated and number of requests for written informal opinion from a planning officer (option b). The workload and income has increased, although the income is a small increase. This is partly due to the increase in VAT (Jan 2011), which we absorbed, rather than raising the cost of the service.
18. The main risk for the service of introducing both these charges was that more customers could decide to proceed with their building work without seeking formal agreement. However, the respective charges were set below the fee for a full application or a certificate of lawful development and the numbers of requests for both post decision amendments and an informal officer's opinion about permitted development indicate the popularity of these options.
19. The fee for non-material amendments is now set nationally due to a change in the regulations, April 2010.

## Financial and Legal Implications

20. Charging for discretionary services is permissible under S93 of the Local Government Act 2003 subject to the income not exceeding the cost of providing those services. The evidence collected in the first year of charging indicated that the charges generally either equated or were less than the time officers spent on the provision of the advice.
21. Prior the introduction of the charges officers provided an indication of the income that they anticipated would be generated. Officer estimates were in the region of £30,000 for pre-application proposals and £8,000 for non-material amendments (post decision amendments). As the graph **attached** as Appendix E shows, the fees received for major and minor pre-application advice and non-material amendments have now (2011) exceeded officer estimates.

## Conclusion

22. The introduction of charges and formalisation of the pre-application advice has been well received as evidenced by feedback from customers. Only one formal complaint has been received by the Head of Service in almost three years of providing the service. Following its introduction the charging schedule has been revised and officers are confident it fairly reflects the work involved in the provision of the advice. The charges have allowed for the recovery of some of the costs involved in maintaining this important but discretionary element of the development management service. Formalising the provision of pre-application advice has also helped to provide a more efficient and transparent service for the customer.

Appendix A – current scale of charges and requirements

Appendix B – no. and type of pre-application advice sought since April 2009

Appendix C – no. and income generated by non-material amendments

Appendix D – no. and income generated by permitted development enquiries

Appendix E – overall planning income 2011/12