

**ITEM**

**ITEM**

**EXECUTIVE – 6 March 2008**

**CHARGING FOR PRE-APPLICATION PLANNING ADVICE.**

**Report of Head of Planning and Building Control.**

**Statutory Powers: Local Government Act 2003.**

**Financial Implications: The planning service seeks to impose planning charges for pre-application advice. This will increase income for the service to offset increase costs associated with the appointment of two additional planning officers. This has an impact on the overall budget for the service.**

**Purpose**

The purpose of this report is to seek endorsement of the proposed fee charges and service standards, so that these may be adopted formally by the Council.

This links to Council priority CP6 - Value for Money.

**RECOMMENDATION**

**That the Executive RESOLVES that the pre-application charges set out in the report are adopted.**

**Background/The Issues**

1. The Executive has agreed that Planning Delivery Grant shall be used to add two more planning assistants on a temporary basis to increase capacity within the Development Control Service. It has also supported a parallel bid through the current budget process for these two posts to be made permanent. A condition of this was that one of these posts should be funded by the introduction of charges for pre-application advice.
2. It is now necessary to agree the scale of these charges, and to outline the sort of standards of service that ought to be delivered. Officers have examined the service charges and standards of other Local Planning Authorities before preparing these recommendations.
3. Charging for advice, which is a discretionary service when connected with the planning function, is permissible under s.93 of the Local Government Act 2003 for “best value” authorities, a term which includes “excellent” rated councils like South Hams.

## The Scope

4. Officers consider that charging for advice on householder and very small-scale schemes, where planning application fees are low, may discourage advice being sought and the low charges which could realistically be levied may be too costly to administer. Consequently, it is recommended that the scope of charging should be limited to: -
  - **(Class A)** All large-scale major development including residential schemes of more than 200 houses, or non-residential floorspace of 10,000sq.m, or site area of more than 4hectares;
  - **(Class B)** All other applications described as “major”, i.e. residential schemes of 1-9 units, or residential sites of 0.5-4ha, or non-residential floorspace of 1,000-9,999sq.m or non residential sites of 1-2ha;
  - **(Class C)** “minor “ residential proposals( including self contained holiday units), that involve the erection of, or change of use to, 1-9 dwellings;
  - **(Class D)** All “minor” non-residential proposals for new buildings, and changes of use.

## The Service to be Offered

5. First and foremost, the service to be offered is for the provision of advice, it is not an approval service. Officers will aim to give applicants and developers very clear advice about whether the Council will recommend approval for a scheme, and how it may need to change to be supported by a recommendation. It would be known as the Development Advisory Service (**DAS**).
6. The process would commence with a preliminary meeting or other discussion when officers would explain the charges, process and timescale. The Government funded Advisory Team for Large Applications (ATLAS) recommend that a Charter be produced, which would formalise the reapplication process, and which might form part of an overall “ Planning Performance Agreement (**PPA**)“, which would cover the whole of the decision making process as well. Such Agreements are encouraged by Government for large developments, and, indeed, the speed of decision targets which are set by Government are due to be changed in April to permit longer timescales to resolve large-scale schemes where there is a PPA.

7. Proposed users of the DAS would be told that the advice would:-
- Be based on a “development team” approach, where a range of disciplines from all relevant Council Departments would be involved, so that a comprehensive and corporate response would be provided. Officers would endeavour to include representatives from other bodies, such as GOSW, the Highway Authority , Environment Agency, Natural England, English Heritage etc. subject to their availability;
  - Be provided in writing, and be reviewed by senior officers;
  - Include references to all relevant planning policies and planning history;
  - Be provided on a without prejudice basis because it cannot constrain the Development Control Committee which is entitled to not accept the officer recommendation if there are good and justifiable planning reasons not to do so;
  - Set out clearly the issues which would be raised by the development, and either what sort of changes would be needed to make it supportable, or, in the event of insufficient changes being likely, what the grounds for refusal would be;
  - Identify what level of community consultation would be expected in order to comply with the Council’s Statement on Community Involvement;
  - include an input from the Design and Conservation Panel where this was warranted;
  - set out the nature and quality of information which would need to accompany any subsequent application in order for it to be validated;
  - establish the sort of Heads of Terms that are needed to be included in any Section 106 Agreement;
  - be based on site visit information made by officers of the Council;
  - provide the guidance of the case officer who would deal with any subsequent application and any other useful contact details.
8. The Charter would establish a mutually agreeable timetable to conclude the pre-application process and provide the written response and this is likely to take between 2-6 months depending upon the complexity of the issues raised. The users of the service may seek to impose a refund of some of the charges if the Council is unable to meet the agreed timescales. The contract would also need to establish the obligations of the user on the quality of information that would be needed to enable an informed opinion on the issues to be reached.

## Charges

9. The charging regimes operated by other Authorities include a wide variation. The charges suggested here would be at the upper end of this range, but would not be the most expensive. The Council is not allowed, taking one year with another, to make a profit on charging for this service. Charges have been set to ensure the revenue from the number of major applications we receive, and assuming there is pre-application advice on all of them, would provide the funding needed for one of the new planning officers. The work involved in providing this advice would not be given to this officer, but would fall to other existing experienced officers in the team.
10. For schemes which involve the level of officer involvement envisaged, the flat-rate charges would be:-
- Class A – To be negotiated, based on the level of input likely to be required;
  - Class B – £2,000 + VAT (assuming up to 4 roundtable discussions);
  - Class C – £1,500 + VAT (assuming up to 3 roundtable discussions);
  - Class D – £1,000 + VAT. (assuming up to 2 roundtable discussions).
11. Where the work involved would be in excess of that normally envisaged, particularly on very large schemes, a supplementary rate per meeting would need to be set within the Delivery Contract. This is likely to be in the order of £500, depending on the number of officers that need to be involved. It may also be necessary to apply an additional levy on behalf of the Highway Authority to ensure it is adequately represented. No advice would be given unless payment has been made. These charges and processes would need to be reviewed after 6 months, depending on the experiences gained. There would also have to be annual comparative reviews to ensure there was no profit being made.

## Risk Assessment

Risk	Mitigation
The Service provides and encourages pre-application advice in order to promote good schemes, which are in accordance with Council planning policy. There has never been a charge levied for such a service, but there is no statutory requirement for such a service to be given. Whilst such advice is deemed to be best practice	The provision of additional resources to the service allows complaints about slow responses to requests for pre-application advice to be addressed.,
Provision of advice is an inevitable part of planning officer's jobs and it is time consuming; there is inconsistency in how it is provided.	Setting standards for the information provided in such advice promotes good practice.

Charging for such advice will inevitably increase expectations about the timing and quality of this advice	Setting out clear guidelines will mitigate this
There is a risk of liability should advice not prove sustainable or be negligent	This risk can be mitigated by setting standards and guidelines for officers to follow, and by purchasing appropriate liability cover from the Council's insurers
Providing such a service may also open the Council to increased risk of claims of maladministration	The standards and guidelines and a more formalised approach to the provision of advice may also reduce the scope for such claims being made or sustained

## Conclusion

12. Members have accepted the principle of charging for pre-application advice as a consequence of decisions already taken about funding for additional planning officers. However, no guidance has been given on the level of charges or standard of service that should be operated. The charges and processes set out follow an examination of the services being provided by other Authorities and so are based on what seem to be reasonable and constitute good practice.

Stephen Munday  
Head of Planning and Building Control.

Executive  
6 March 2008

## Background Documents:

None