



## PLANNING COMMITTEE – 4<sup>TH</sup> NOVEMBER 2015

**SUBJECT: CHARGING FOR PRE-APPLICATION PLANNING ADVICE: REVIEW**

**REPORT BY: CORPORATE DIRECTOR - COMMUNITIES**

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### 1. PURPOSE OF REPORT

- 1.1 To review charges for advice given by Development Management planners to the public and professional developers prior to the submission of planning applications, and for various other development management related services, and to consider alterations to the current scale of charges

### 2. SUMMARY

- 2.1 The majority of local planning authorities now charge for advice given at pre-application discussions and on other development management related matters. Caerphilly County Borough Council as local planning authority introduced similar charges on 1 April 2014. A scale of charges is contained in appendix 1. A total of £22,510 was collected in the 2014/15 financial year, £2,510 above the expected budget. The budget target for 2015/16 is £25,000.

### 3. LINKS TO STRATEGY

- 3.1 This report is linked to the Council's strategy for the living environment, and sustainable development, in that through the adoption of a charging scheme with the accompanying protocols in respect of the standard of service given, the quality of submissions for planning permission will improve as will the subsequent development if approved. There will be similar links to the visions of a more prosperous, safer and greener Caerphilly found in the Single Integrated Plan.

### 4. THE REPORT

#### 4.1 INTRODUCTION

Charges for planning advice were introduced on 1 April 2014, and after one year of operation it is appropriate to review the procedure and consider whether it should be amended in any manner. There have been very few objections to the scheme, but its operation has identified areas where it needs to be clarified, amended, and extended.

#### 4.2 CLARIFICATION

The following matters require clarification.

- 4.2.1 Charitable groups - At present we don't distinguish between charities and other developers and that should still be the case. If charities are in a position to carry out development, the pre-application charge is going to be relatively small part of the overall cost.

4.2.2 Work for disabled people - Planning applications for such work are exempt from fees on the following basis.

- where it relates solely to–
  - the carrying out of operations for the alteration or extension of an existing dwellinghouse; or
  - the carrying out of operations (other than the erection of a dwellinghouse) in the curtilage of an existing dwellinghouse,

for the purpose, in either case, of providing means of access to or within the dwellinghouse for a disabled person who is resident in, or is proposing to take up residence in, that dwellinghouse, or of providing facilities designed to secure his greater safety, health or comfort.

- where it relates solely to the carrying out of operations for the purpose of providing means of access for disabled persons to or within a building or premises to which members of the public are admitted (whether on payment or otherwise).

A 'disabled person' means a person who is within any of the descriptions of persons to whom section 29 of the National Assistance Act 1948 applies.

That exemption applies to works that improve access or help secure the safety, health and comfort of a disabled person. However, it does not apply solely because the applicant is a disabled person, or where more extensive work that does not fall into the above categories is proposed. The same exemption that applies to planning applications should apply to pre-application charges.

4.2.3 Advice about development in other boroughs - This happens very rarely, but officers should be assured that they would be justified in refusing to give such advice because we charge for the service in this borough, and we would be undermining the charging procedure of other councils.

4.2.4 Renewable energy schemes - It has been suggested that these should be subject to a reduced charge. These are currently amongst the most complex schemes being considered by the local planning authority and so there is no justification in reducing the charge.

4.2.5 Freedom of Information Act - Under FoI the public has the right to information from planning files, but we usually say in such cases that they can come in themselves to view the files. The same could be said of the following categories for which we currently charge £120:

- Providing the planning history of a site
- Advising whether a particular development has had its permitted development rights removed by condition
- Advice on whether conditions have been discharged

Our charging schedule should include the advice that for those categories, those requesting information could come in to our offices to research the planning history and view the files, otherwise they have to pay.

### 4.3 AMENDMENT AND ADDITIONAL CHARGES

The following categories of charges have caused some confusion and may also appear unreasonable in some cases.

Providing the planning history of a site.	£100 plus VAT (total fee £120)
Advising whether a particular development has had its permitted development rights removed by condition.	
Advice on whether conditions have been discharged	
Query as to whether development requires planning permission	£40 plus VAT (total fee £48)

As stated above, customers should be encouraged to come and view the files and locate the information themselves but that is often not practical for a number of reasons. A charge of £120 seems excessive for some enquiries, e.g. providing a site history or checking to see if PD rights have been removed for a single house.

- 4.4 The second category above is very similar to the fourth category; much depends on how the question is phrased. PD rights to extend a house are sometimes removed because, for instance, there is limited room at the site. A developer asking for confirmation as to whether those rights had been removed (and therefore would need planning permission for development) would pay £120 for that advice, whereas if he had merely asked whether permission was needed for a specific type of development, he would have been charged £48.
- 4.5 Furthermore, a householder asking whether permitted development rights have been removed would be charged £120, but one asking for advice about the acceptability of a particular development would at present be charged nothing.
- 4.6 Queries about the planning merits of householder developments such as extensions do not attract a charge at present. However, each case involves the time of administrative staff in registering the query, and planning officers must make a site visit as well as prepare a written reply. Therefore a charge would be reasonable, and it is suggested that this should, for the time being be at the lowest rate of £48.
- 4.7 The local planning authority is often asked whether existing development is lawful or whether a proposed development would require planning permission. There is already a procedure under sections 191 and 192 respectively of the Town and Country Planning Act 1990 to answer those questions. For clarification, existing development is regarded as lawful if it has been granted planning permission, or is immune from enforcement action because it has existed for a certain period of time. Proposed development is lawful if planning permission is not needed from the Council because, for instance, permission has already been granted by a statutory order. Applications for such certificates attract fees at the following rates:

<b>Lawful Development Certificate</b>	
For a land-use or development that has already been carried out	Same as full application for planning permission for that development
To establish that it was lawful not to comply with a condition	£166
For a proposed use or development	Half the normal planning fee.

Since a statutory procedure exists, it is unnecessary and potentially confusing to duplicate it with an informal procedure.

4.8 It is proposed to amend the charges in the following manner to overcome the issues set out above.

Providing the planning history of a site: Householder (involving no more than one dwelling) Other development	£40 plus VAT (total fee £48) £100 plus VAT (total fee £120)
Advice on whether conditions have been discharged: Householder (involving no more than one dwelling) Other development	£40 plus VAT (total fee £48) £100 plus VAT (total fee £120)
Advising whether a particular development has had its permitted development rights removed by condition.	£40 plus VAT (total fee £48)
Query as to whether development requires planning permission or whether development is lawful	Direct the applicant to the Certificate of Lawfulness procedure
Pre-application discussions about householder development	£40 plus VAT (total fee £48)

(For clarification - 'householder' in the above table is limited to queries that involve a single house. If a query relating to a single house involved checking the planning history or the discharge of conditions of a number of houses or an estate, the higher fee category would apply.)

#### 4.9 **TIMESCALES**

At present our timescales for dealing with pre-application queries is as follows.

- Major development - 20 working days
- Minor development - 15 working days
- Domestic/Miscellaneous Development - 10 working days

Both the officers of the Development Management group and those groups that are consulted as part of the process are finding it difficult to achieve those targets, particularly if the applicants want a meeting as well as written advice. The process often involves as much work as dealing with planning applications, and the statutory period for dealing with those is eight weeks, approximately 40 working days. The work involved in giving pre-application advice includes the following:

- Researching planning history, planning policy, and case law
- Visiting the site
- Consulting with colleagues in other services such as highways and environmental health who understandably have their own workload
- Preparing a written reply.

However, extending the reply period for the pre-application process by a significant amount may put applicants off using it. The following proposed timescales may help strike a balance in that respect:

- Major development (written advice only) - 20 working days  
(with meeting) - 30 working days
- Minor development - 20 working days

- Domestic/Miscellaneous Development - 15 working days

**4.10** Welsh Government has consulted about the introduction of a statutory charge for pre-application advice. A report was presented to Planning Committee about that in September. Any statutory provisions will in due course supplant the fees and timescales suggested above, but it is not clear when they will be introduced, and so it is reasonable for the local planning authority to adopt its own arrangements in the meantime.

## **5. EQUALITIES IMPLICATIONS**

5.1 The equalities implications of the new policy have been considered and have identified the need to exempt from charges certain development required to enable access by people with a disability. Also, the setting out of clear protocols and standards of service will assist in providing planning advice to all groups, particularly if that information is provided in a variety of formats and languages.

## **6. FINANCIAL IMPLICATIONS**

6.1 As set out in report.

## **7. PERSONNEL IMPLICATIONS**

7.1 None

## **8. CONSULTATIONS**

8.1 Pauline Elliott - Planning  
Mike Eedy – Finance  
Tim Stephens - Planning

## **9. RECOMMENDATIONS**

9.1 That the amendments to the scale of fees set out in the report above and shown in the attached appendix are adopted from 1 December 2015.

## **10. REASONS FOR THE RECOMMENDATIONS**

10.1 As set out in the report.

## **11. STATUTORY POWER**

11.1 Section 93 of the Local Government Act 2003 which was enacted in Wales in 2006 provides power for authorities, as defined in the Local Government Act 1999, to charge for discretionary services. Discretionary services are those services that an authority has the power but not a duty to provide. An authority may charge where the person who received the service has agreed to its provision.

Author: Pauline Elliott – Head of Regeneration and Planning

Consultees: Pauline Elliott - Head of Regeneration and Planning  
Mike Eedy – Finance Manager  
Richard Crane – Principal Solicitor  
Gail Williams – Monitoring Officer/Principal Solicitor

## Appendix 1

### Proposed scale of charges

#### Major development A

50 or more dwellings 2000m <sup>2</sup> or more floorspace Site area of 1 hectare or more	£250 plus VAT (total fee £300) or 1% of the appropriate fee under the Fees Regulations, whichever is the greater, for written advice only. Additional advice may be required and will be charged at the same rate;  £500 plus VAT (total fee £600) or 1.5% of the appropriate fee under the Fees Regulations, whichever is the greater for a meeting plus written confirmation, additional meetings may be required and these will be charged at the same rate.
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#### Major development B

10 - 49 dwellings 1000m <sup>2</sup> - less than 2000m <sup>2</sup> floorspace Site area of between 0.5 hectare and less than 1 hectare	£150 plus VAT (total fee £180) for written advice only. Additional advice may be required and will be charged at the same rate;  £250 plus VAT (total fee £300) for a meeting plus written confirmation, additional meetings may be required and these will be charged at the same rate.
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#### Minor development

Fewer than 10 dwellings Less than 1000m <sup>2</sup> floorspace Site area of less than 0.5 hectare	£50 plus VAT (total fee £60) for written advice only. Additional advice may be required and will be charged at the same rate;  £150 plus VAT (total fee £180) for a meeting plus written confirmation, additional meetings may be required and these will be charged at the same rate.
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#### Other advice

Providing the planning history of a site: Householder (involving no more than one dwelling) Other development	£40 plus VAT (total fee £48) £100 plus VAT (total fee £120)
Advice on whether conditions have been discharged: Householder (involving no more than one dwelling) Other development	£40 plus VAT (total fee £48) £100 plus VAT (total fee £120)

Advising whether a particular development has had its permitted development rights removed by condition.	£40 plus VAT (total fee £48)
Query as to whether development requires planning permission or whether development is lawful	Direct the applicant to the Certificate of Lawfulness procedure
Pre-application discussions about householder development	£40 plus VAT (total fee £48)