

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**FINANCE, INNOVATION AND PROPERTY ADVISORY BOARD**

**04 January 2017**

**Report of the Director of Finance and Transformation and Director of Planning,  
Housing and Environmental Health**

**Part 1- Public**

**Matters for Recommendation to Cabinet - Key Decision**

**1 REVIEW OF PRE-APPLICATION PLANNING CHARGING REGIME**

**Summary**

**This report provides an update on the pre-application procedures for planning and reviews the scale of charges.**

**Introduction**

- 1.1.1 A review was carried out on the way that pre-application planning advice was given in December 2015 and a report was presented to the Planning and Transportation Advisory Board (PTAB), proposing a new Pre-Application Advice Protocol and charging regime on 12 January 2016. This proposal was agreed by PTAB and subsequently approved by Cabinet. The new protocol and fee structure was implemented on 1 April 2016.
- 1.1.2 Since the introduction of the fee schedule, detailed monitoring of the costs incurred in providing the pre-application advice service has been undertaken to inform this year's review.

**1.2 The current pre-application process**

- 1.2.1 The Pre-application Protocol and fee structure, introduced on 1 April 2016, identifies five main categories:
1. Householder Development: - proposals to individual houses and flats for residential purposes where the building affected is not a listed building.
  2. Minor Development :- includes advice on alterations to an existing building (excluding individual flats and houses) where there is no increase in floor space or where any increase in floor space is less than 499 sq.m., new or replacement shop fronts, new or replacement advertisements, alterations to a listed building, demolition of an unlisted building within a conservation area, proposals for telecommunications equipment, proposals for air conditioning / Ventilation Equipment, amendments to previously approved schemes, discharge of conditions attached to permissions

3. Medium development: - includes advice on 1 to 9 new residential units or the creation/change of use of up to 999 sq.m. floor space.
4. Major development: - includes advice on 10 to 99 new residential units or for the creation/change of use of 1,000 to 9,999 sq.m.
5. Large/Strategic development: - includes advice on 100 or more new residential units or the creation/ change of use of 10,000 sq.m. or more floor space. It also includes development briefs and master planning

1.2.2 The Pre-Application Protocol identifies two categories where fees will not apply:

- Advice to third parties affected by the development and/or change of use;
- Disabled access improvements;

1.2.3 It also offers a three option system as follows:

- A pre-application written response
- A pre-application meeting at the Council offices, followed by a letter
- A pre-application meeting on site, followed by a letter.

1.2.4 This system allows the prospective applicant to choose what level best suits their needs and budget. All three options have been used by prospective applicants during the monitoring period. The current Protocol and fees schedule can be viewed on the Council's website via the following link:

<https://www.tmbc.gov.uk/services/planning-and-development/planning/planning-advice-and-guidance/pre-application-advice>

### **1.3 Proposed amendments to the Pre-Application Protocol and charging regime**

1.3.1 Our Pre-Application regime has been effective in delivering technical planning advice in a timely way since it was introduced in April 2016. However, mindful that this is a new process, it is important that monitoring is carried out on an annual basis to ensure ongoing effectiveness.

1.3.2 Some detailed monitoring of the current practice was carried out between 25 April and 19 August 2016. Altogether monitoring was produced for 71 enquiries, which comprised a range of category and option types in order to obtain a measured view of time taken and cost.

1.3.3 Feedback from Officers included comments that some queries were not specifically of a pre-application nature, but required technical work that still took time to investigate and provide a written response. Minor amendments to the Pre-Application Protocol are therefore proposed to make provision for this.

- 1.3.4 In addition, Officers have identified the need to provide clarification with regard to submissions of multiple options, amended drawings showing new proposals and new issues raised by the prospective applicant. Again, some minor amendments to provide clarity have been drafted into the Protocol.
- 1.3.5 Feedback from customers has identified the need for clarification around the length of time of a meeting or site visit, together with the type of information that needs to be submitted. Consequently, the charging schedule be amended to clarify site visit and meeting durations. In addition, it is proposed that the Protocol be amended to provide a more straightforward list of information requirements. For clarity the amended Protocol for Pre-Application and Other Technical Planning Advice is attached as **[Annex 1]**.
- 1.3.6 The monitoring exercise included collecting information on the amount of time spent on preparing and providing planning advice. This identified that the existing charging regime was not recovering the full costs of providing advice by some considerable way. The approach adopted in the review of charges seeks to address this, at least in part, and reflect the evidence provided by the recent monitoring exercise. For clarity the proposed Pre-Application Charging Schedule 2017/18' is attached as **[Annex 2]**. A move towards more cost recovery for this part of the planning service is in the context that mandatory planning application fees, which are set nationally at present, are themselves significantly short of providing sufficient funding to sustain the function overall and have been for many years. Although Government have signalled an intention to change that situation nothing has yet emerged formally.
- 1.3.7 The exception to the general approach to the proposed fee regime is in respect of householder development. Although this category does consume a fair amount of time, there is an issue about the customer resistance to a significant increase, which could be unhelpful to the quality of applications and may even have the perverse effect of reducing income from that source. The fees have therefore been pitched at a level to reflect the need for a balance, with the exception of cases where a site meeting is involved. As ever we will need to monitor that category to see what the pattern of take up becomes over the next year.
- 1.3.8 In terms of the types of development, the only change made is to include the development of a single dwelling in the 'minor' rather than 'medium' category as a more accurate reflection of the time generally needed to deal with that type of case.
- 1.3.9 It is intended that the new regime is introduced on 3 April 2017 and as previously we would endeavour to notify the proposed changes in advance to those that may use the service. The Development Control pages of the Council's website would be updated to reflect the amendments.

## **1.4 Legal Implications**

- 1.4.1 The Local Government Act 2003 provides the power for local authorities to charge for discretionary services (as defined in the Local Government Act 1999). 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 receives the service has agreed to its provision. The power to charge under this provision does not apply where the power to provide the service in question already benefits from a charging power or is subject to an express prohibition from charging.
- 1.4.2 The Local Government Act 2003 places a duty on authorities to ensure that, taken one year with another, the income from charges for each kind of discretionary service does not exceed the costs of provision. An authority may set charges as it thinks fit, and may, in particular, charge only certain people for a service or charge different people different amounts.
- 1.4.3 Local authorities are required to have regard for any guidance that may be issued by the Secretary of State in terms of carrying out their functions under the 2003 Act. Section 93(7) of the Act provides that certain prohibitions in other legislation preventing authorities from raising money are specifically dis-applied in relation to the exercise of the charging power.
- 1.4.4 Local Planning Authorities therefore have powers to recover the costs of pre-application advice in recognition of the time officers have to spend researching information in order to provide answers to prospective developers or applicants.

## **1.5 Financial and Value for Money Considerations**

- 1.5.1 The current level of cost recovery for providing pre-application advice is currently projected to be circa £50,000 for 2016/17 and this is reflected in Revised Estimates. The amendments to the charging schedule would increase the fees charged for on all types of advice, except Major and Large/Strategic proposals. We have included an income estimate of £55,000 in the Estimates for 2017/18, reflecting the charges set out in this report.

## **1.6 Risk Assessment**

Robust monitoring should be carried out every year to ensure the protocol and charging schedule in place is based on up to date evidence and to review how, if at all, the take up of the service alters in response to fee changes. This will also ensure that we are responsive to the needs of our customers in the service we provide.

## **1.7 Equality Impact Assessment**

- 1.7.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

## 1.8 Recommendations

1.8.1 It is recommended that Cabinet be asked to::

- 1) Adopt the updated protocol for providing Pre-Application and Other Technical Planning Advice as attached at **[Annex 1]**;
- 2) Adopt the Pre-application Charging Schedule for 2017/18 as attached at **[Annex 2]**.

Background papers:

Nil

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