

TONBRIDGE & MALLING BOROUGH COUNCIL
PLANNING and TRANSPORTATION ADVISORY BOARD

05 December 2017

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Key Decision

1 PRE-APPLICATION PLANNING APPLICATION CHARGING REGIME AND BUILDING CONTROL APPLICATION FEES

This report recommends some changes to the Pre-application Planning advice Charging Regime and an overall approach to Building Control Fees.

1.1 Introduction

- 1.1.1 The current Pre-Application Planning Advice Protocol and Charging regime was introduced on 1 April 2016 and updated again on 1 April 2017, following a detailed monitoring period and review process.
- 1.1.2 Further detailed monitoring has been carried out from 1 April 2017 to 1 November 2017, which includes a breakdown of time spent on all tasks associated with giving pre-application advice.

1.2 The current pre-application process

- 1.2.1 The Pre-application Protocol and fee structure, introduced on 1 April 2016 and updated on 1 April 2017, identifies five main categories:
 - 1. Householders: - includes proposals relating to individual houses and flats for residential purposes where the building affected is not a listed building.
 - 2. Minor development:- includes alterations to an existing building (not householder) where there is no increase in floor space, increase in floor space 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 and 1 new residential unit.
 - 3. Medium development: - includes advice on 2 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 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.
- 1.2.2 The charges for advice relate to the submission of one query only. Submissions that include multiple options, amended drawings submitted following a meeting/site visit and any additional matters not included with the original submission are viewed as new enquiries and are subject to a separate fee.
- 1.2.3 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
- 1.2.4 The current Pre-Application Protocol 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.
- 1.2.5 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.
- 1.3 Proposed amendments**
- 1.3.1 The Pre-Application Protocol has been effective in delivering technical planning advice in a timely way since it was introduced in April 2016. Monitoring carried out this year has illustrated that the amendments implemented to the Protocol in April 2017 have been effective in addressing some of the minor issues experienced during the first year. Therefore no changes are proposed to the current Pre-Application Protocol at this time, but further monitoring will be carried out during 2017-2018 to ensure it works effectively, is kept up to date and meets the needs of the customers.
- 1.3.2 However, the monitoring carried out from April 2017 indicates that the fees should be adjusted in order to recover the full costs of providing advice, and it is therefore proposed that the Pre-Application Charging Schedule be amended to reflect this. For clarity the proposed Pre-Application Schedule for 2018-2019 is attached as Annex 1 and the existing Pre-Application Schedule is attached as **[Annex 2]**.
- 1.3.3 Should the proposed changes to charging schedule be considered acceptable, then they could be introduced on 1 April 2018.

1.4 Building Control Application Fees

- 1.4.1 Fees for building control applications should generally be set to cover the cost of fee earning elements of the service. The applications fees were last reviewed earlier this year and there is an ongoing review taking place to make an assessment of the most appropriate range of detailed fee charges moving forward. In setting fees we also need to be mindful that building control services are in direct competition with Approved Inspectors in the private sector and issues around maintaining market share are important considerations.
- 1.4.2 Members will also be aware that our building control services are provided through a partnership arrangement with Sevenoaks District Council, overseen by a Management Board. At present it is considered that the most prudent approach might be to aim at a fee increase amounting to approximately a 3% increase across the range of application types, but at this stage further detailed work is needed to set the precise fee scales. Consequently it is suggested that the Director of Planning, Housing and Environmental Health is given delegated authority to agree the detailed fee scales within this overall context in liaison with Sevenoaks through the Management Board.

1.5 Legal Implications

- 1.5.1 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, such as pre-application planning advice. 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.
- 1.5.2 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.
- 1.5.3 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.
- 1.5.4 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

- 1.5.5 As far as Building Control is concerned the Council should set fees at a level to cover reasonable costs in providing the fee earning elements of providing the service.

1.6 Financial and Value for Money Considerations

- 1.6.1 The current level of cost recovery for providing pre-application planning advice is projected to be £62,490 for 2017/18, based on actual cost recovery of £31,245 for April to September, which breaks down to an average cost recovery of £5,207 per month. This is a notable increase on the costs recovered in £2016/17, which was £52,100, equivalent to an average of £4,342 per month.
- 1.6.2 The projected cost recovery on pre-application fees is still considerably below the £100,000 estimated cost for delivering this service. However, the cost of providing advice to third parties makes up a notable proportion of the shortfall and, mindful of their position, it is considered inappropriate to introduce a charging regime for them.
- 1.6.3 It is appropriate to review the protocol and charging schedule every year, to ensure the evidence base is up to date. This will ensure that we are responsive to the needs of the customer and that the charging schedule is fairly applied

1.7 Risk Assessment

- 1.7.1 Robust monitoring should be carried out every year to ensure the protocol and charging schedule in place is based on up to date evidence

1.8 Equality Impact Assessment

- 1.8.1 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.

1.9 Recommendations

- 1.9.1 It is recommended to Cabinet to **APPROVE** the updated Pre-application charging regime for planning at **[Annex 1]**
- 1.9.2 The Director of Planning, Housing and Environmental Health be given authority to set the detailed building control application fee scales, within a general guide of a 3 % increase.

Background papers:

contact: Louise Reid

Nil

Steve Humphrey

Director of Planning, Housing and Environmental Health