

**TONBRIDGE & MALLING BOROUGH COUNCIL**  
**PLANNING and TRANSPORTATION ADVISORY BOARD**

**13 November 2018**

**Report of the Director of Central Services and Monitoring Officer**

**Part 1- Public**

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

**1 REVIEW OF THE PLANNING APPLICATION CHARGING REGIME**

**Summary: This report provides a review of the pre-application charging regime and sets out the proposed new charges for 2019-2020.**

**1.1 Introduction**

1.1.1 The current Pre-Application Advice Protocol and Charging regime was introduced on 1 April 2016 and updated again on 1 April 2017 and 1 April 2018, following a detailed monitoring period and review process.

1.1.2 Further detailed monitoring has been carried out from 1 April 2018 to 15 October 2018, 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 and 1 April 2018, 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 and no further changes were introduced in April 2018. A further assessment has been carried out and concluded that the current Pre-Application Protocol is working well. Therefore no changes are proposed at this time, but further monitoring will be carried out during 2019-2020 to ensure it continues to work effectively, is kept up to date and meets the needs of the customers.
- 1.3.2 However, the monitoring carried out from April 2018 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. In addition, the hourly rate which forms the basis of the pre-application fee calculation has remained unchanged since 2016. It is therefore proposed that the

hourly rate be increased by 3% from £50 to £51.50. For clarity the proposed Pre-Application Schedule for 2019-2020 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 2019.

## **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 projected to be £66,845 for 2018/19, based on actual cost recovery of £27,852 for April to August, which breaks down to an average cost recovery of £5,570 per month. This is slightly lower compared with the costs recovered in £2017/18, which was £68,480, however increased pre-application activity over the last 2-3 weeks means that the income for 2018/2019 is likely to be very similar, or possibly even higher, than for 2017/2018. In this respect it is likely to exceed the budget projection for 2018/2019 of £68,000. Therefore, it is considered that the fees for 2019/2020 support a budget projection of £70,000.
- 1.5.2 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.

- 1.5.3 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

## 1.6 Risk Assessment

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

## 1.7 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 to Cabinet to **APPROVE** the following amendments with effect from 1 April 2019:
- 1) Adopt the updated Pre-application Charging Schedule 2019/20 as attached at **[Annex 1]**.

Background papers:

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Nil

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