

Development Management Pre-application Advice Service

Summary

1. To inform and seek Members' views on changes to the Development Management function to formalise the provision of high quality, customer focused pre-application service. To seek Member approval for the introduction of new fees and charges as a contribution towards the cost of the discretionary service.

Background

2. Members will be aware of some of the staffing and related management changes which have taken place earlier in the year associated with the transition from Development Control to Development Management. Development Management is the term that has been coined to include a range of activities and interactions that together transform the "control of development and the use of land" into a more positive and proactive process with a strong customer focus.
3. Development Management uses the familiar apparatus of planning applications and planning enforcement. It uses these not just to control the effects of unrestricted development, but as a proactive tool for managing development opportunities. This is done to optimise the benefits for the community of inward investment in development.
4. A number of projects and actions are presently being undertaken in Development Management to improve the efficiency, the effectiveness and customer focus of the service: -
 - Business process re-engineering of the administrative function.
 - Development of web based information to improve "self-service" for many customers.
 - Proportionate use of resources to ensure that commercial and major schemes are afforded appropriate officer input.
 - Move to more efficient electronic working including document management and roll out of "e-consultation" to consultees, Parish Councils and Planning Panels.
 - Further training and development of customer contact centre staff to be able to deal with an increased number of routine planning enquiries.
 - Changes to the planning enforcement service to improve responsiveness, with move towards greater monitoring of compliance and helping to deliver development.

5. Development Management involves a holistic, customer-focussed approach to dealing with development proposals from first enquiry through to completion of development on site ('end to end' delivery). **The provision of high quality pre-application advice and information at the 'front' end is seen as an essential part of this service for residents and businesses and prospective developers / investors in York.** The benefits of providing early feedback and assurances to developers, together with a process that subsequently minimises delays before development commences, can be seen as directly contributing to the economic well-being of the city. This report sets out proposals to structure, formalise and enhance these essential elements of the Development Management service.

The existing arrangements for the provision of pre-application advice.

6. The provision of pre-application advice has two elements. The first is a response to the question "*do I need permission or consent from the Local Planning Authority for my proposal?*" In those cases where an application is required, potential applicants will then frequently ask "*how will my proposal will be received by the Local Planning Authority and what are the prospects that the appropriate permission or consent will be granted?*"
7. The Development Management team presently provides a service to householders in the city who seek to establish whether planning permission is required for alterations/extensions to their homes and for minor works in the curtilage/garden (using the 'Householder Enquiry Form'). Over the last 12 months we had around 700 such enquiries. There is a small charge of £36 for an assessment and written opinion, which also includes advice as to whether Building Regulations approval is required. The alternative approach – adopted by a number of Local Planning Authorities - is for no service to be provided but for residents to be advised to apply for a "Certificate of Lawful Development" to formally confirm that permission is/or is not required, at a nationally set fee rate of £170.
8. Officers from both Development Management and the Design Conservation and Sustainable Development teams also provide services for residents, businesses and other organisations seeking to establish whether permission or consent is required under planning and related legislation included: Listed Buildings Consent, Conservation Areas Consent, Advertisement control. Whilst consultants in the city can provide a similar service at a cost to the enquirer, there is no at present no charge levied by City of York Council for providing this advice.
9. The second and the mostly time consuming element of the pre-application advice service concerns enquiries from residents, businesses and other organisations on "*how their proposal will be received by the Local Planning Authority and the prospects that the appropriate permission or consent will be granted*". The key characteristics of the service are: -
 - Advice is given at meetings, over the phone and in writing.
 - Initial contact for pre-application advice is mainly to the Development Management team but some enquiries are made directly to City Development team, or to the Design Conservation and Sustainable Development team or to Assistant Directors.
 - In relation to the major proposals, a development team approach has been adopted in accordance with recognised best practice. Successful examples of the development team approach on some of the very large major applications include: Hungate, Terry's (in relation to the second major planning application), Nestle South, Heslington East. This involves input

often from a wide range of specialist officers in city strategy directorate (sustainability, urban design, conservation, archaeology, ecology, landscape, arboriculture, transport planning, highways network management, city development, planning policy). Officers from other Directorates (including Environmental Protection, Legal, Housing, Leisure and Education teams) also provide pre-application advice and guidance on a range of specialist areas within their remit.

- Informal enquiries as to whether a proposal is likely to be acceptable at planning application stage are now logged on the planning system database.
- Many enquiries are of a speculative nature and do not lead to a formal application. However if an application is submitted the application fee is for considering the proposal rather than for the cost of pre-application advice and guidance.

10. Whilst pre-application enquires are now logged, there is no set format or timescale for responding to such enquiries. The priority for Development Management remains dealing with planning and associated applications, and other specialist officers have a number of competing demands on their time. The discretionary and 'free' nature of the service means that it is inevitably secondary to the statutory functions carried out by the teams. Therefore there is no impetus for Development Management officers and colleagues to afford pre-application advice the same level of priority as applications.

The proposed new pre-application service

11. Over recent years a substantial amount of information and guidance relating to planning and related functions has been formulated and published on the Council Website. This includes wealth guidance on topics such as contaminated land and tree preservation orders, and how to submit an application. The Public Access site includes full details of planning applications and key stages in their progress. Other websites such as those of the Communities and Local Government department and Planning Advisory Service also provide useful planning information. However, the public and developers still place a significant and rising demand upon the services, as the benefits of seeking to understand and resolve relevant planning issues prior to submission of applications are increasingly understood.

12. In order to be better placed and adequately resourced to meet this demand going forward, it is proposed that a more structured, time-bound and customer focused service be provided. The service would be provided in accordance with a clear and published guidelines and protocol. An outline of the service to be provided is set out below.

In summary, the Pre-application advice service aims to offer prospective applicants with: -

- An understanding of how national, regional and local guidance and policies will be applied to the proposal.
- Potential for reducing the time that professional advisors may spend in working up the proposals for submission.
- An indication of those proposals that are completely unacceptable, so saving the cost of pursuing a formal application.
- Written confirmation of the advice given at the pre-application stage, that can then be submitted in support of any subsequent application.

- A primary point of contact from City of York Council to manage the process, particularly for larger scale developments, from pre application enquiry to implementation on site.

13. For minor or small scale Developments the service would provide: -

- Named officer contact and consideration by Development Management case officer with input from other specialist officer(s) as required.
- Detail of relevant planning history of the site.
- Identification of planning constraints and the relevant planning policies that apply and other material planning considerations are likely to be taken into account, including constraints.
- An indication in relation to any anticipated S106 obligation requirements
- A site visit if appropriate.
- Details of responses from City of York Council consultees, and where possible, identification of external organisations who may be consulted at the application stage.
- A meeting if deemed to be necessary by the case officer.
- Informal and “without prejudice” written comments and guidance on the content, construction and presentation of an application likely to satisfy the Council’s planning policies.
- Guidance on how to best undertake community consultation.
- Advice on the documents and information to be submitted with an application to as far as possible ensure it is valid on submission.
- We will set out timescales for this service.

14. For Major Developments the service would in addition to the above provide:-

- Follow the *(to be)* Published protocol for handling Major Developments
- Advise on any Environmental Impact Assessment requirements
- Aim to determine any subsequent application which has received an indication of likely acceptability to officers in less than 13 weeks.

15. For large scale Major Developments the service would in addition to the above provide:-

- Provide a key single contact from LPA identified (a senior officer to take overall project management role.
- Propose Planning Performance Agreement (PPA) in accordance with the Council’s PPA charter, where appropriate
- Provide input from a full range of professional areas (city strategy and other Directorates)
- Provide multiple written responses / meetings over weeks/ months to an agreed level
- Agree wherever possible appropriate timetable for the submission of an application and timescale for determination, in accordance with the PPA if applicable.

16. The service would not include:-

- A plan drawing or design service
- Feedback from external organisations that we may consult at the application stage, although these will be identified as part of the pre application process

so that they can be contacted directly. However in the case of large-scale Major development, contact with and involvement of external consultees may form part of the pre application formulation of the scheme.

- A guarantee of officer support at the application stage when issues not apparent at the pre application advice stage are subsequently presented.
- Any assurance that a subsequent application submitted with officer support will be approved at the Planning Committee stage. The relevant Committee is entitled to form its own judgement based on planning considerations.

17. If we are to provide the high quality, customer focused pre-application service it is considered that users of the service should at least make a financial contribution towards the costs rather than being subsidised by council taxpayers, the vast majority who will have with no direct interest in the particular development proposal. Independent advice is of course available from Planning and other specialist consultants (at market rate) although they may not have the local knowledge that City of York Council officers have.
18. The Local Government Act 2003 gave planning authorities a discretionary power to charge for giving pre-application advice (as a discretionary service that the authority has the power, but not obliged, to provide). The income raised however must not exceed the cost of providing the service.
19. A significant and increasing number of Local Planning Authorities now make a charge for the provision for pre-application advice (**see Annex 1 attached**). It appears that the approach generally adopted is that the fees are not set at a level to recover all costs, but they will make a significant contribution to the cost of providing this discretionary service. Locally, authorities that charge include: Ryedale, Harrogate, Hambleton, Scarborough, Leeds, Bradford and Calderdale. Experience from charging authorities, both anecdotally and in the form of research by the Planning Advisory Service, confirms that developers and prospective applicants are generally accepting of charges where a responsive and informative pre application service is provided. The savings, in for example not having to produce revised plans or documents to address an Authority's concerns after submission, and the consequential delays, can far outweigh the costs of obtaining the Council's advice.
20. The principles adopted in the proposed new arrangements for the provision of pre-application advice and the introduction of new charges are:-
 - The provision of a structured and customer focused service.
 - That the charges represent a contribution towards the provision of the service rather than full cost recovery.
 - That the charging regime is easy to understand and efficient to administer.
 - The proposed fee regime recognises that larger and more complex schemes will take more time to deal with requiring a greater amount of officer input and often involving a range of specialist officers.

The details of the proposed fees are outlined in **Annex 2**.

21. It is not intended that the charging regime would include high-level, strategic and often non site-specific discussions and liaison between senior officers and major developers within the city. This informal level of contact should not be constrained by what will through necessity be a structured and consistent pre-application process.

Consultation

22. The move to Development Management approach has been raised with developers and agent in a questionnaire over the summer 2010. The majority of responses welcome the initiatives proposed to improve the efficiency of the service and to engage with developers and prospective applicants in a more proactive way. Discretionary fees and charges themselves are set by the Council and are not normally subject to external consultation.

Options

- A. Do not introduce charging for pre application and other discretionary advice currently provided.
- B. Introduce charging for discretionary advice as a contribution to the costs of the service as set out in Annex 2.
- C. Introduce charging for discretionary advice as a contribution to the costs of the service but with a generally lower fee rate.
- D. Introduce charging for discretionary advice as a contribution to the costs of the service but with a generally lower fee rate.

Analysis

Option A - As pressures to find cost savings increase it will become increasingly difficult to provide a pre application service. Without some cost recovery the provision of the service would be under threat as core statutory functions are prioritised.

Option B - the model as set out is considered to provide the optimum balance between recovering a reasonable proportion of the costs without discouraging pre application engagement.

Option C - Charging of significantly lower fees would negate the benefits of charging for the advice since the cost of processing fees would account for a larger proportion of the income received and the level of resource available to provide the service would be harder to sustain.

Option D - Charging significantly more from the introduction of the fees may discourage enquiries from being made, resulting potentially in more time spent in negotiations at the applications stage and an increase in refusals and the appeals caseload.

Corporate Priorities

23. The introduction of a Development Management approach accords most directly to the Council priorities for fostering a thriving City, with a successful economy, and a sustainable city, but also with making the Council an effective organisation which delivers what customers want.

Implications

- (a) **Financial** The proposals would generate additional income to offset the cost of continued provision of pre application advice, and to relieve pressure on the service budgets.

- (b) **Human Resources (HR)** (Contact – Head of HR). There are no significant Human resource implications arising from the proposal. Existing staff would administer and provide the DM and pre application service.
- (c) **Equalities** There are no known equalities, property, crime and disorder or other implications associated with the report, although equalities will be fully accounted for in the implementation of the proposals at the implementation stage.
- (d) **Legal** The provision of and charging for discretionary services accords with the provisions of the Local Government Act 2003.
- (e) **Crime and Disorder** There are no known, crime and disorder implications associated with the report.
- (f) **Information Technology (IT)** There are no known IT implications associated with the report.
- (g) **Property** There are no known property implications associated with the report.
- (h) **Other** None

Risk Management

- 24. The main risks identified related to the protraction of implementation of the proposals, which would reduce the time available to achieve the saving requirement and add to the budget pressures for 2010/11.

Recommendations

i. That the Executive endorses option B the proposals to introduce the Development Management approach with charging for the provision of pre-application advice in relation to planning and associated applications.

Reason: In order that officer can prepare for the implementation of an improved customer orientated approach to the provision of discretionary planning advice

ii. That the Executive approves the fees and charges as outlined in Appendix 2, with implementation from 1 January 2011.

Reason: In order that the continued provision of an enhanced pre application service can be assured.

iii. That officers prepare and publish details of guidelines / protocols explaining the nature and operation of the service and that this is publicised in advance of the new arrangements being implemented

Reason: In order that developers and agents are aware of the reasons for the introduction of the new service arrangements and understand how it will operate well in advance of implementation.

iv that a review of the service and arrangements for this be undertaken with a report to the Executive in January 2012.

Reason: In order that the Executive may be advised of the impact of the proposals and consider any revisions to them as deemed necessary.

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Specialist Implications Officer(s) N/A

Wards Affected: List wards or tick box to indicate all

All

For further information please contact the author of the report

Annex 1 Local Authorities currently charging for pre-application advice.

Annex 2 Fees and Charges.