

Report to: Cabinet Date of Meeting: 18th August 2011

Subject: Introduction of fees for planning pre-applications

Report of: Head of Planning Services Wards Affected: All

Is this a Key Decision? No Is it included in the Forward Plan? No

Exempt/Confidential No

Purpose/Summary

This report was considered by Planning committee on 29th June 2011 when the proposals were approved subject to ratification of proposed pre-application charging by Cabinet.

Recommendation(s)

1 That Cabinet agrees the introduction of charging for Planning pre-applications from 1st September or as soon after as is procedurally possible.

2 That it be noted that the proposal was a Key Decision but, unfortunately, had not been included in the Council's Forward Plan of Key Decisions. Consequently, the Chair of the Overview and Scrutiny Committee (Regeneration and Environmental Services) has been consulted under Rule 15 of the Access to Information Procedure Rules of the Constitution, to the decision being made by Cabinet as a matter of urgency on the basis that it was impracticable to defer the decision until the commencement of the next Forward Plan because the projected income from the charging is included in this year's budget.

How does the decision contribute to the Council's Corporate Objectives?

	Corporate Objective	Positive Impact	Neutral Impact	Negative Impact
1	Creating a Learning Community		✓	
2	Jobs and Prosperity	✓		
3	Environmental Sustainability	✓		
4	Health and Well-Being		✓	
5	Children and Young People		✓	

6	Creating Safe Communities		✓	
7	Creating Inclusive Communities		✓	
8	Improving the Quality of Council Services and Strengthening Local Democracy	√		

Reasons for the Recommendation:

To provide a balance which provides additional income for the Council but also results in an improved service to the customer which could potentially reduce their costs at a later date.

Financial Implications:

What will it cost and how will it be financed?

(A) Revenue Costs - as part of the Council's budget setting process for 2011/12, an assumed income target has been incorporated into Planning budgets of £30,000 from pre-application charging. It is now unlikely that this can be fully realised in 2011/12, due to delays as a result of the need for consultation and to obtain subsequent approval for implementing such charges. Members should note this as a budgetary issue in the current Financial year. As implementation is delayed until at least 1st September the pro-rata income would only be £17, 500 and this is likely to be at a reduced level for the first couple of months as applicants will have anticipated the introduction of fees .An income target of £15,000 would be more realistic

(B) Capital Costs none

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal - .Under the provisions of the Local Government Act 2003, the Council can charge for discretionary services ,such as providing pre-application advice, as long as the recipient of that service is prepared to agree to that arrangement.	
Human Resources – none	
Equality	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

Impact on Service Delivery: Improvement

What consultations have taken place on the proposals and when?
Consultation on introduction of fees. Responses included in report.

FD 876 – The Head of Corporate Finance and ICT has been consulted and any comments have been incorporated into the report, in particular within the Financial implications section above.

LD 243/1 The Legal Director has been consulted. Comments as above.

Are there any other options available for consideration? Included in report

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Background Papers:

The following papers are available for inspection by contacting the above officer(s).

Report to Planning committee 09/03/2011 on introduction of pre-application charging

Background

From time to time it is important to look at the way in which planning applications, particularly those that are considered by Planning Committee are considered and to seek to identify where improvements can be made to the present system to improve the quality of service offered to the public.

This report looks at the different stages in the process to bring together a comprehensive report. Once agreed by Planning Committee this information will be put on the Council's website to try to make the various parts of the system clearer for members of the public.

Pre-application discussions

Issues

These are a really important part of the planning process and seek to add value to proposals; they flag up the need for relevant information and reports; highlight potential issues and try to find solutions to them. They should be seen as a positive and helpful part of the process. A more formal Development Team approach to pre applications has been recently introduced by officers to ensure consideration of major proposals at an early

stage by relevant council officers including planning, highways and environmental health considerations. Taken together this approach amounts to a significant improvement of our pre-application service which is for the benefit of the customer as well as trying to secure the best solutions on the ground.

However, in order to provide this service we feel the need to introduce charging for pre application advice. In response to our consultation on charging only 13 responses have been received (see attached appendix). There will be no charge for pre-application advice where there is no charge for the subsequent application. In addition it has previously been agreed that there will be no charge for pre-applications for householder proposals except where a meeting is requested.

Overall these responses are few in number and do not oppose charging in principle but seek to clarify where charges will be levied and seek to ensure that the service given is a good one.

There may also be cases when there would be an advantage in making Members aware of pre-application discussions on some major proposals. In these circumstances – and subject to approval of the party spokespersons - officers will arrange for the developer to present pre application details to members in a structured setting. This would need to be managed such that members are able to understand proposals but are not expected to give feedback to the developers. Officers will ensure that this process is properly organised and minuted for members so that probity processes are followed.

Recommendation

1. That charging for pre application advice be introduced in accordance with the attached schedule (Appendix 2) subject to ratification by Cabinet, from 1 September 2011 or as soon after as is possible once the appropriate procedural measures have been taken.
2. that on occasion, and in agreement with Party Spokesperson, there may be opportunities for applicants to make a presentation to Members on specific significant applications at pre-application stage. This will be for information and questions only and will be properly minuted. These presentations would precede the Visiting Panel meeting.

Decision making

The vast majority (94% of applications) were dealt with under delegated powers last year. The system works well and increases the speed of decision for most applications. There are no proposals for making significant changes here but there are a number of minor updates which are needed to reflect changes in the planning system. These are set out below.

- 1 there are a few places in the scheme where the wording is not clear and could be read in different ways. A minor adjustment to wording would assist and add clarity.
- 2 there are new procedures and types of application (particularly those dealt with by the IPC and their associated paperwork – the Statement Of Community Consultation (SOCC) not covered by the existing scheme .

Recommendation

That a report outlining these changes and a general update to the scheme of delegation be prepared for the next Committee.

Petitions process

This is set out in the constitution and refers to all committees. The present system would see to work well but there have been some concerns about certain aspects as below.

Recommendations

1. A simple FAQ document will be prepared to set out petitioning procedures and explaining how to follow the progress of planning applications on the web. The earlier a petition is submitted the better.
2. Late information is to be discouraged as it is difficult for councillors to fully assimilate a lot of detail at the last minute. One paper, deadline 12 noon on day before committee will be prepared and anything received after that will now be summarised verbally to committee.
3. **Speaking at committee**
There have been occasions when a petitioner chooses not to speak but the ward councillor speaks instead and there is then no right of response by the applicant. This seems contrary to natural justice and has been subject of complaints. A change to this process is recommended that where an item has been petitioned (and only then) and the applicant has come ready to speak then if anyone speaks (petitioner or ward councillor) there should be a right of reply.

Visiting panel

All sites are visited by Case Officers before any recommendations are made on applications. However, there are some sites where the full impact of a proposal can only be fully appreciated by a site visit and the organised visiting panel would appear to be appreciated by Members.

At present the Visiting Panel meets every other month which can result in a long delay if an application is deferred when there is no visit next month

Recommendations

1. that a Visiting Panel takes place every month on the Monday before every Planning Committee (Tuesday if Bank holiday) starting in July 2011 for a half day. This will start at 9.30am from Bootle or Southport depending on the location of visits. A vehicle with suitable disabled access will be provided. It is hoped that Members will inform officers (via Party Spokespersons) in good time if there are specific sites they wish to visit.

Decisions

The officer report on every application will give a considered and justified recommendation. There are, quite rightly, some occasions where Members place a different balance of weight on planning considerations and wish to make a decision contrary to recommendation. This presents a difficulty as officers have prepared the case to the best of their ability and have not been able to consider the different balance of weight considered appropriate by Members.

Recommendation

Officers may find it very difficult to interpret Members' views into well considered reasons on the spot. Moreover if the new recommendation is for approval there will need to be conditions drafted. Conditions and reasons for refusal form part of the legal decision notice and need to be carefully drafted in order to comply with various legislation and guidance. In order to streamline the system and avoid unnecessary delays it is suggested that where these reasons cannot be clearly made on the night of committee then committee should make the decision but delegate the details of the wording/recommendation to officers in consultation with the 3 party spokespersons.

Appeals

Where an appeal is lodged against a decision which was contrary to officer recommendation and is to be heard at an Inquiry or hearing, the Councillor who moved the recommendation would normally be expected to give evidence. Failing that a Member from the same party who was present at the

Meeting should substitute. Officers will provide support in compiling the evidence and supporting the Member on the day.

Member Training

Starting in July 2011 it is proposed that there will be a training session for Councillors on the Planning Committee day at 4.45-5.45pm. Officers will prepare the training programme to cover topical and relevant planning matters. Members are requested to advise officers of any particular requests for training so that these can be considered and planned into the programme. Some early suggestions are; overview of the planning process and understanding material considerations; localism and neighbourhood plans; Community Infrastructure Levy and S106 changes.

APPENDIX : SUMMARY OF CONSULTATION RESPONSES

Respondent	Comments	Our response
National Trust	<p>Query timescale for contact to be made and suggest this should be 14 days</p> <p>Request that registered charities should not be charged for pre-application advice (they are to be exempt from CIL)</p>	<p>Scheme clarified and reduced time included.</p> <p>It is important for the scheme to be simple. Pre-application fees should be payable where a fee is required for the eventual application.</p>
Natural England	Does not fall within the scope of proposals which NE would normally comment on	
The Council for British Archaeology	<p>Charging for householders or small businesses would be an unfair burden.</p> <p>Would not support charging for Listed Buildings and developments within Conservation</p>	<p>There are no pre-application fees proposed for householders, trees or Listed building proposals.</p> <p>Developments in Conservation areas will be charged for as they can involve a lot of officer time and effort and development will normally result in increased value to the site.</p>
<p>United Utilities</p> <p>Merseytravel</p>	<p>Welcome pre-application advice at a very early stage. Work by statutory undertakers should be exception to charging</p> <p>Since Merseytravel provide consultation advice on applications free of charge, no charge should be levied for Merseytravel's own pre-applications.</p>	<p>Whilst there is work involved in response to Statutory Undertakers/consultees, they also provide consultation response to other schemes and this balances out</p>
HSE	HSE provides tentative pre-application advice using PADHI+but does not have the resources to provide more detailed pre-application advice. HSE is considering charging for consultation advice	Consultations with HSE are unusual and would not be part of the pre-application response except in terms of need for specialist input.

Police Architectural Liaison Officer	Support the value of and charging for pre-application advice; would encourage inclusion of designing out crime in validation checklist for pre-applications Ask that crime reduction advice be included in pre-application responses.	Reference to crime reduction will be included in checklist The views of the Police Architectural Liaison Officer will be included in the development team response where appropriate.
Ron Baker	Suggests double charge for retrospective applications; penalty charge for failing to comply with conditions.	These comments can't be addressed through pre-application charging but will be taken into account in the local setting of application fees.
Joe Barnes	Supports the principle of charging but should not be applied to householders or for advice on works to trees.	There will be no charge for householders except where a specific request is made to meet on site. There will be no charge fro pre-application discussions where there is no charge for the application , including trees.
Steve Chapman	There should be a consistency throughout Merseyside,indeed nationally and standard form of application, checklist and charging. Pre-application should be deducted from the planning application fee in due course.	A charging regime across Merseyside would be helpful and was discussed.However other boroughs have now decided not to go down this route –some because of lack of staff resources. The possibility that future application fees should be discounted is not possible at present but will be considered when application fees are set locally.
Andrew Irving	Generally supports principle. Suggests that application fee should be discounted by the cost of , or at least a sizeable proportion of , the pre-application fee	As above

<p>RAL</p>	<p>Welcome measures to improve the quality of pre-application response and provide more constructive ways forward than received in the past. Will accept fees if result in a more positive and proactive response to development.</p> <p>Specific comments</p> <ul style="list-style-type: none"> - checklist too prescriptive-would prefer more generic requirement - needs to be consideration of the big picture and not just detail - response time of 10days should be an absolute maximum - doesn't understand why valuation work should be discouraged - charging regime not fully clear; concern that payment up front is an issue when private sector tends to invoice afterwards; don't like hourly rates as they reward inefficiency. - major concern about overturns at Committee which render pre-application work and negotiations useless 	<p>Checklist will be amended to be more flexible</p> <p>Agree</p> <p>This depends on how much work is involved and the pressure of statutory work. 10 days is considered to be a very tight timescale for response</p> <p>Such work is not discouraged. However it can result in a lot of abortive work for planning officers It is routine to pay for valuation advice and planning should be part of that..</p> <p>Some further clarification introduced. Payment up front is usual for planning application fees. Longer pre-applications , on hourly rates will be invoiced; hourly rates are hard to avoid as it is not clear how long something will take. The number of hours will be clearly explained in terms of what has been done.</p> <p>A democratic process can't avoid this entirely. There are proposals elsewhere on the agenda to include Members in significant pre-application discussions</p>
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PRE-APPLICATION ADVICE

PROPOSED FEE SCHEDULE

	FEE
Site history requests	£30 per hour or part thereof
Householders	No fee
Minor development Less than 3 dwellings <ul style="list-style-type: none"> • All non-residential schemes with a floorspace less than 500 sq m or sites less than 0.5 ha • Adverts • Change of use of building(s) with a floorspace less than 500 sq m or sites less than 0.5 ha • Single wind turbines/telecoms mast under 17m high 	£50 if meeting requested £100 to cover one unaccompanied site visit and one letter or £150 if meeting requested; Hourly rate thereafter
Intermediate development 3 to 25 dwellings <ul style="list-style-type: none"> • All non-residential schemes with a floorspace between 500 sq m and 2,000 sq m or on sites between 0.5 ha and 2 ha • Change of use of building(s) with a floorspace between 500 sq m and 2,000 sq m or sites between 0.5 ha and 2 ha 	£200 to cover one site visit and one letter or £250 if meeting requested; Hourly rate thereafter
Significant development 26 or more dwellings <ul style="list-style-type: none"> • All non-residential schemes with a floorspace over 2,000 sq m or on sites over 2 ha • Change of use of building(s) with a floorspace over 2,000 sq m or sites over 2 ha • Any scheme requiring an Environmental Impact Assessment 	£750 to cover up to one site visit and two meetings; Hourly rate thereafter

No charge will be made for pre-applications which relate to applications for which there is no fee payable (eg trees, listed buildings)