

Crawley Borough Council

**Report to Cabinet
5 September 2018**

Proposed Charging Scheme for Development Management Pre-application Advice

Report of the Head of Economy and Planning – **PES/301**

1. Purpose

- 1.1 To seek Cabinet approval for the introduction of a fee charging scheme for pre-application advice provided by the Development Management Service.

2. Recommendations

- 2.1 To the Cabinet

- 2.2 The Cabinet is recommended to:

- (a) Approve the introduction of a charging scheme for pre-application planning advice in accordance with the proposed Charging Schedule and exemptions as set out at Appendix A, to take effect from the 1st October 2018.
- (b) Delegate authority to the Head of Economy and Planning in consultation with the Head of Corporate Finance and the Cabinet Member for Planning and Economic Development to review or update the Charging Schedule. (*Generic Delegation 4 will be used to enact this recommendation*).
- (c) Delegate authority to the Group Manager (Development Management) in consultation with the Head of Economy and Planning to decide on the scale of the fees for any mixed-use developments on a case by case basis and clarify exemptions. (*Generic Delegation 4 will be used to enact this recommendation*).

3. Reasons for the Recommendations

- 3.1 Pre-application advice is currently provided by planning officers free of charge for all types of planning development enquiries. Under Section 93 of the Local Government Act 2003, the Council has the power to set charging fees as a means of cost-recovery for this discretionary service.

- 3.2 It is considered that the introduction of charging presents an opportunity to improve the quality and consistency of advice provided, which in turn should ensure submission of better quality applications. An enhanced pre-application service would support Crawley's Local Plan; in particular the following objectives:

- “To protect and enhance the valued built environment and character within the borough through high quality new design and the protection of culturally valuable areas and buildings” (Local Plan objective 4).

- “To provide a good choice of well-designed housing in terms of tenure, type, size and location” (Local Plan objective 6).
- “To ensure new development will be of high quality and sustainable design and construction in line with national standards; with new buildings being built to a high energy efficiency standard to ensure warmth continues to be affordable to all residents and meet the challenges to work towards becoming Carbon Neutral” (Local Plan objective 17).

4. Background

- 4.1 Planning Officers currently provide an unrestricted free-of-charge planning advice service for any customer who submits a query at the pre or post application stage, regardless of the type or complexity of query. For larger scale developments, this means developers could engage in several meetings and receive specialist advice taking considerable time and resources at no cost to them while the advice provided gives them considerable value e.g. in terms of time saved.
- 4.2 In 2017, Development Management registered 457 pre-application enquiries, of which 246 were for householder developments, 71 for businesses, 48 for residential, 33 for major pre-applications, 27 for changes of use and 16 for other miscellaneous types such as advertisement queries. Based on the charging schedule, 104 pre-application queries would have been chargeable.
- 4.3 Crawley Borough Council is now one of a few councils that does not charge for pre-application advice. Most councils have introduced charging for this service since 2004 after the legislation was first established. All of Crawley’s neighbouring local authorities have charging schemes in place.

5. Description of Issue to be resolved

- 5.1 Neither the guidelines from Central Government nor the Planning Advisory Service recommend a particular model of charging; therefore, in practice each council has tailored its approach to charging and their service offer. The Development Management Team has undertaken a feasibility analysis to inform the proposals set out below.
- 5.2 The key issues to consider were:
- which types of proposed development to charge for
 - the service offer
 - how to charge for officer time, and
 - the rates to charge.

The aim was to design a simple and clear charging system, easy to use, as structured as possible but with the scope for extension or amendment as required.

6. Information & Analysis Supporting Recommendation

Recommended Pre-Application Charging Scheme

- 6.1 It is proposed that the pre-application charging scheme will be applied to those developers/ applicants seeking either pre or post application advice for minor or major residential or commercial planning applications.

- 6.2 For clarity:
- A minor commercial application relates to a proposed development of between 100 and 999 square metres of commercial floor space (including changes of use).
 - A major commercial application relates to a proposed development of 1,000 square metres of commercial floor space and above.
 - A minor residential application relates to a proposed development of 1 to 9 dwellings.
 - A major residential application relates to a proposed development of 10 dwellings and above or over 1,000 square metres of floor space.
- 6.3 For any mixed-use development site proposals, the scale of the fees is proposed to be at the discretion of Group Manager (Development Management) in consultation with the Head of Economy and Planning on a case by case basis.
- 6.4 All “householder” planning enquiries (typically from current CBC residents) would be exempt from pre-application fee charges.
- 6.5 Applicants for major or minor residential or commercial space developments would be able to access three distinct levels of service provision related to pre-application advice with their corresponding fees. These are proposed as follows:
- The letter service – A written letter providing pre-application advice.
 - The meeting service – A meeting followed by a letter with the advice discussed.
 - A follow up/post application service – Any additional letter or meeting provided in relation to the same pre-application case following the determination of an approved, refused or withdrawn application when detailed comments are sought prior to the resubmission of a further application.
- 6.6 Applicants will have the option to receive specialist advice from other officers within the council (depending on availability) with the aim to provide a more enhanced tailored service, where considered relevant to the project.
- 6.7 Site visits would be included by default in any initial service as part of the research process except for the minor commercial, change of use or single dwelling categories, where the planning officer would decide if one is needed. In addition, fees would be requested to recover officers’ travel time costs when a meeting takes place outside of council premises.
- 6.8 Exclusions from the range of the service include:
- planning performance agreements (too complex until initial charging system established – it could be reviewed)
 - design review service (lack of resources and few cases to benefit)
 - councillors’ involvement in consultation (avoiding unintended bias)
- 6.9 A table featuring the pre-application fee charging scheme is presented in Appendix A, setting out the varying proposed fees and exemptions.

Feasibility Analysis/Research undertaken to support proposals

- 6.10 The pre-application fee charging proposals have been compiled by the Development Management Team, co-ordinated by the Council's NGDP Trainee, who led a programme of research over a period of 4 months which included:
- Developing a recording spreadsheet to monitor the duration of tasks performed by officers during the pre-application service, in order to determine the amount of officer time/ cost.
 - Interviewing officers to understand the current service demand, their views and their past experience, if applicable, from other councils which have an existing charging pre-application service.
 - Looking at pre-application best practice guidelines (including charging).
 - Reviewing the pre-application offer and fee charging arrangements at other councils, including the five neighbouring authorities (Horsham DC, Mid Sussex DC, Mole Valley DC, Reigate and Banstead BC and Tandridge DC).
 - Receiving information and advice from other councils on their experience in setting a pre-application charging scheme.
- 6.11 The fees proposed on the charging scheme have been calculated by the type of development and associated work and time required as well as by who would be involved in the process.
- 6.12 Due to the wide range of pre-application enquiries received which vary considerably in terms of their complexity and the required time for the officer to process them; flowcharts were created to investigate the potential new steps and overall flow of work for each pre-application type.
- 6.13 After some detailed analysis on charging schemes elsewhere, the preferred charging option is a flat rate per service. This is to aid calculation of the required fees, transparency and make it easier for applicants to understand.
- 6.14 The hourly rate for senior planning officers has been used to calculate the fees for major development proposals while a regular planning officer's hourly rate has been used to calculate the other categories (minor commercial or minor residential developments). The only exceptions are for the single dwelling and change of use categories which have been calculated as a reduction of 50% from the proposed minor letter pre-application fee and 50% of the associated planning fee, respectively.
- 6.15 National benchmark on costs (135%) were added for the costs of support to the planning service in accordance with a guidance report provided by the Planning Advisory Service (The Pre-application Suite).
- 6.16 Other models of charging have been considered and ruled out as not viable:
- a "per hour" basis for an in arrears payment (excluded for the lack of transparent and clear upfront charges and risk of non-payment)
 - charging based on a percentage of planning fees (potential of disproportionate charges, hard to calculate)
 - a model of packages of service e.g. bronze, silver, gold (inflexible as the needs of pre-apps vary case by case)
 - fully bespoke charging system (complex to use and not transparent)
- 6.17 There is no statutory requirement to provide a public consultation period prior to the introduction of any charges, nevertheless, a notice will be placed on the website on the three weeks prior to the start date. It is proposed that the fee charging takes effect from 1st October 2018.

Charge Exemptions

- 6.18 Householder pre-application enquiries, despite representing the vast majority of enquiries, would not be subject to any fees. This would not be cost effective as it would take a disproportionate time to administer for relatively straightforward and simple queries. This, in addition, would deter Crawley residents from seeking advice to make a good quality application.
- 6.19 The full list of proposed exemptions can be found in Appendix A.

7. Implications

Financial implications

- 7.1 Government guidance states that the charges for pre-application advice should not exceed the cost of providing it. In arriving at the scale of charges (Appendix A), due consideration has been taken to ensure this.
- 7.2 Income estimation has been projected to be circa £20,000 - £30,000 on an annual basis. This estimation was based on 2017 data and assumes that the same number of pre-application advice requests that would have qualified under the proposed charging scheme within that year, would pay for the service.
- 7.3 It is anticipated that payment will be required before detailed officer work is commenced.
- 7.4 Requests for refunds after the advice is provided, will only be considered in exceptional cases where they are made in writing and will be assessed on a case by case basis by the Group Manager (Development Management).
- 7.5 It is intended that the success of the charging scheme will be reviewed after 12 months, potentially tying into other Council departments that may further investigate the introduction of charging for their own specialist advice.

Legal implications/ powers

- 7.6 Section 93 of the Local Government Act 2003 enables local authorities to charge for discretionary services such as pre-application advice, provided that it is on a not-for-profit basis. In accordance with Government guidance, charges will be set at a scale that avoids discouraging relevant pre-app discussions with a level of free basic advice for small-scale proposals and householder requests.
- 7.7 All pre-application advice is given with the disclaimer that the advice relates to views provided by planning officers only and does not prejudice any decision that the Local Planning Authority could subsequently make on any application submitted either under delegated authority or at Planning Committee. The charging of a fee does not alter this position.
- 7.8 Legal disclaimers would also be placed on the website (text and/ or online request form), PDF guide and letter templates. The provision of this service will also be subject to accepting the terms and conditions proposed.

Staffing

- 7.9 Staffing is anticipated to remain within the same levels.

Customer

- 7.10 A detailed guide with terms and conditions of the service is being developed with the aim of transparency as recommended by Government, with clear information on scale of charges, scope of work (duration and number), who will be involved, outputs expected, guiding timelines and links to pre-application services of other statutory consultees.

Equalities

- 7.11 An Equalities Impact Assessment (EIA) carried out has identified that the implementation of this legislation will not have an adverse equalities impact. A copy of the assessment is at Appendix B.

Environmental

- 7.12 There are no anticipated environmental impacts.

Risks

- 7.13 It is expected that there will be an increase in customers' expectations for those paying for the service and therefore a potential increase in the risk of customer dissatisfaction. Nevertheless, this will be monitored and anticipated to be mitigated by the introduction of improved back-office processes and the addition of a formal manager sign off that will improve the consistency of the advice provided.
- 7.14 A potential minor risk is an increase on the number of applications without pre-application consultation, where the schemes presented are of poor quality. Nevertheless, affordability has been considered when setting the scale of the fees and pre-application advice in general should not be higher than the cost of making a planning application.

8. Background Papers

- I. [Local Government Act 2003](#)
- II. ["Before submitting an application": Ministry of Housing, Communities & Local Government 2014 Guidance, updated on March 2018](#)
- III. [Pre-application Suite from the Planning Advisory Service](#)
- IV. ["Guidance on Pre-Application Charging": Implementation Planning Advisory Group, Planning Officers Society; 2012](#)

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APPENDIX A – Proposed charging scheme with fees and exemptions (VAT included at 20%)

Type of development	Initial fee		Follow up charge	
	Letter	Meeting	Letter	Meeting
Dwellings				
Single new dwelling (including replacements and conversions/ subdivisions)	£173	£410	£150	£201
Houses for Multiple Occupation, for seven or more occupants	£231	n/a	n/a	
2 – 9 new dwellings	£346	£436	£150	£201
10 or more new dwellings	£495	£644	£196	£329
Non-residential				
Change of use (100 sq m or more of floor space or over 0.1 ha, if not within the categories below)	£231	n/a	n/a	
Minor commercial (creation of 100 – 999 sq m of floor space or over 0.1 ha)	£240	£304	£150	£201
Major commercial (creation of 1000 sq m or more of floor space or over 1.0 ha)	£495	£644	£196	£329

Additional specialist advice (optional)

(per any extra CBC officer and to be discussed after submission of enquiry request)

Advice from another officer included in the written response (per hour if it requires more intensive research)	£59 for any type of development			
Another officer attending the meeting	Minor commercial		£88	
	Minor residential		£118	
	Major developments		£147	

Exemptions (advice FREE of charge)

- Householder enquiries (alterations, extensions and creation of incidental residential annexes)
- Advertisements and minor commercial alterations and improvements such as shopfronts or telecommunications
- Development proposals for commercial properties with less than 99 sq m of floor space
- Local voluntary organisations except for major developments
- Variation of conditions except when they require detailed research
- Houses for Multiple Occupation, for six or less occupants
- Works to protected trees

*Any decisions on the scale of fees for development categories not included in the fees or exemptions tables will be subject to a decision from the Group Manager (Development Management) in consultation with the Head of Economy and Planning on a case by case basis (e.g. complex mixed-use change of use).

APPENDIX B - EQUALITY IMPACT ASSESSMENT

Name of activity:	Adopting a charging scheme for pre-application advice	Date Completed:	7th June 2018
Division responsible for activity:	Development Management	Lead Officer:	Jean McPherson
Existing Activity	<input type="checkbox"/>	New/ Proposed Activity	<input checked="" type="checkbox"/>
		Changing/ Updated Activity	<input type="checkbox"/>

What are the aims/ main purposes of the activity?

Introduction and adoption of a charging scheme for pre-application advice in Development Management.

What are the main actions and processes involved?

Publication of the charging schedule and terms and conditions, charging system for the payment of fees, clarification advice provided by planning officers and final service outputs.

Who is intended to benefit and who are the main stakeholders?

The charging scheme will be relevant to minor and major commercial development pre-application proposals from 100 sq m or more and minor and major residential development pre-application proposals, including change of use on both. Nevertheless, pre-application advice will continue to be available for any other type of non-chargeable pre-application planning queries.

Service standards for pre-application advice will improve with a consistent output for those paying for the service. In addition, the introduction of a charging scheme will provide additional fee income to the Local Planning Authority.

Have you already consulted on/ researched the activity?

Research has been carried out within the Development Management Team as well as analysis of the percentages of pre-application queries regarding types of proposal (householder, commercial, residential, etc.) in addition to consultation with the Cabinet Member for Planning and Economic Development.

Impact on people with a protected characteristic

Protected characteristics/ groups	Is there an impact (Yes/ No)	If Yes, what is it and identify whether it is positive or negative
Age (older/ younger people, children)	No	A person's age has no bearing on the adoption or use of this charging scheme.
Disability (people with physical/ sensory impairment or mental disability)	Yes	The proposed charging scheme includes an exemption for proposals that contribute to disability adaptations in householder pre-application enquiries.
Gender reassignment (the process of	No	Whether or not a person is undergoing gender reassignment has no bearing on the adoption or use of this charging scheme.

transitioning from one gender to another)		
Marriage & civil partnership	No	Whether or not a person is married or in a civil partnership has no bearing on the use of this charging scheme.
Pregnancy & maternity (Pregnancy is the condition of being pregnant & maternity refers to the period after the birth)	No	Whether or not a person is pregnant or on maternity has no bearing on the adoption or use of this charging scheme.
Race (ethnicity, colour, nationality or national origins & including gypsies, travellers, refugees & asylum seekers)	No	A person's race has no bearing on the adoption or use of this charging scheme.
Religion & belief (religious faith or other group with a recognised belief system)	No	A person's religion or religious beliefs have no bearing on the adoption or use of this charging scheme.
Sex (male/ female)	No	A person's gender has no bearing on the adoption or use of this scheme.
Sexual orientation (lesbian, gay, bisexual, heterosexual)	No	A person's sexual orientation has no bearing on the adoption or use of this scheme.
Whilst Socio economic disadvantage that people may face is not a protected characteristic; the potential impact on this group should be also considered	Yes	The proposed charging scheme includes exemption for householders as well as minor commercial properties of 99 sq m or less and reduced fee for single new dwelling proposals in addition to local small voluntary organisations (depending on scale of project).

What evidence has been used to assess the likely impacts?
Discussion with the Development Management Team and review of exemptions in the charging scheme of other councils.
What resource implications are there to deliver actions from this EIA?
The exemption groups highlighted in this EIA will be published in the council's website and pre-application service guide in a transparent manner to invite pre-application discussion.
The legal implications of the charging scheme is for the council to disclaim that the advice relates to planning officers' views in good faith and does not subject the council to accept any proposed developments (regardless if these are exempted or not).

Outcome following initial assessment		
Does the activity have a positive impact on any of the protected groups or contribute to promoting equality, equal opportunities and improving relations within target groups?	No	Neutral, because the level of service and cost will remain unchanged for the groups suggested to apply exemptions such as householders, disability adaptations, very minor commercial developments and development projects from voluntary organisations (depending on the scale), in regards to affordability.
Does the activity have a negative impact on any of the protected groups, i.e. disadvantage them in any way.	No	

Decision following initial assessment			
Continue with existing or introduce new/ planned activity	Yes	Amend activity based on identified actions	No

Action Plan (Has the EIA identified any positive or negative impact on any of the protected groups which requires action? E.g. adjustments to the approach or documents, changes to terminology, broadening parameters of policy, etc. If so record any actions to be undertaken and monitored)			
Impact identified	Action required	Lead Officer	Deadline
None identified			
Monitoring & Review			
Date of last review or Impact Assessment:		Not applicable	
Date of next 12 month review:			
Date of next 3 year Impact Assessment (from the date of this EIA):			

Date EIA completed:	7 th June 2018
Signed by Person Completing:	Maryurin Santander
Date Sent to HR and Equalities Team:	
Approved by Head of Service:	