



REPORT OF: THE DIRECTOR OF GROWTH & DEVELOPMENT
TO: PLANNING AND HIGHWAYS COMMITTEE
ON: 18th January 2018
ORIGINATING SECTION: DEVELOPMENT MANAGEMENT SERVICE
WARDS AFFECTED: ALL
COUNCILLORS: ALL

TITLE OF REPORT:

Increase to existing Discretionary Planning Fees and Introduction of New Enhanced Services and fees to the Development Management Service – Growth Agenda

1. PURPOSE OF THE REPORT

- 1.1 This report outlines proposals to review existing discretionary planning related fees, and the introduction of new enhanced services/fees as part of the changes being introduced in the provision of the Development Management services.

2. BACKGROUND

- 2.1 Development Management is central to delivering sustainable growth and is a significant gateway to promoting wider commercial services. The service fulfils a range of statutory duties on behalf of the Council from the determinations of planning applications, planning enforcement, production of planning policy, local authority building control, development control highway engineers, and a range of specialist development functions, ie, ecology, conservation, etc
- 2.2 The new approach will see the provision of enhanced, discretionary development management services which will increase efficiency, improve planning application determination times, generate additional income, and reduce costs to the service and the applicants. It will also allow the planning service to respond effectively to the Government's proposals to introduce private sector competition into the processing of planning applications.
- 2.3 The ODPM's 2003 Guidance (General Power for Best Value Authorities to Charge for Discretionary Services – Guidance on the Power in the Local Government Act 2003) defines discretionary services as *“those services that an authority has the power, but is not obliged, to provide. The Local Government Act*

2000 gave authorities a general power to promote the economic, social and environmental well-being of local communities. This power gives authorities very broad discretion to provide additional services, but does not provide a clear power to charge. There are, therefore, a variety of services that an authority can provide. Through the new power to recover via a charge the costs to an authority of providing a service, the Government aims to encourage authorities to provide more wide-ranging and new and innovative services for their communities."

- 2.4 Since 2011, Blackburn With Darwen Borough Council ("BwD") has introduced charges for the provision of discretionary services, in the form of pre-application advice charges. Feedback from developers has indicated they are more than willing to pay for the type of enhanced services which the new service can tailor to meet the applicant's requirements in terms of speeding up the delivery of development. The enhanced package of services proposed in this report are discretionary, but offer new avenues of revenue to support the costs of providing an efficient Development Management service.
- 2.5 During 2017, the department was restructured forming the Growth & Development Department with a key focus on delivering the Council's Growth Agenda. As part of this restructure, the Planning Service has been restructured, with the Development Management Team having a more lean focussed approach, that maintains growth whilst at the same maintains the efficient well-performing service. In February, the government's Housing White Paper promised to "*take steps to secure the financial sustainability of planning departments; ensure that the planning system has the skilled professionals it needs to assess and make the tough decisions we expect; and provide targeted support to address areas of specialist weakness*".
- 2.6 As part of this drive, the white paper said that local councils would be able to increase the nationally set planning application fees by 20% from July 2017—as long as they are committed "*to invest the additional fee income in their planning department*". BwD responded to the Government to confirm the intention to increase the fees by 20%. This proposed increase has been delayed in part by the General Election that occurred. Regulations to introduce the 20% increase in planning fees were made on the 20th December 2017, which means that local planning authorities will be able to start applying the fee increase from the 17th January 2018. The reference for the Regulations is SI 2017 No.1314. (A copy of the new scale of fees are attached to this report). Whilst the delay was unfortunate, with the new structure in both the Department and the Development Management Service, it was acknowledged that there is a need to drive efficiency, challenge, and be inventive in delivering the service to support growth whilst at the same time maintain excellent performance.
- 2.5 The new service will provide that, in addition to the proposed increase of the nationally set application fees, the existing Pre-Application Advice fees are also increased, and the new Enhanced Services are introduced with appropriately set fees. This will enable the service to be more commercial in its outlook.
- 2.6 Planning Performance Agreements (PPA) will be developed with the Integrated Growth Team, and are aimed to be introduced in 2018. A Planning Performance

Agreement (PPA) is a framework agreed between a local planning authority and a planning applicant for the management of complex development proposals within the planning process. PPA's are referred to later in the report at paragraphs 3.8 and 3.9. This report focusses on the discretionary fees only.

2.7 The Development Management Team has been through a new restructure during the summer, and the team has gone through a recent recruitment exercise, which has now lead to the team being fully resourced. The Team under the leadership of the Development Manager now comprises of:

- 1 x Principal Planner
- 2 x Senior Planner
- 2 x Planners
- 2 x Assistant Planners
- 2 x Planning Enforcement Officers
- 1 x Senior Planning Technician
- 1 x Planning Technician/System Administrator
- 2 x Planning Technical Support Officers
- 1 x Administrator

2.8 The team has been structured so as to focus on the delivery of the Growth Agenda, with the 3no Senior Planners, including the Principal Planner focussing on the delivery of the major developments together with the Integrated Growth Team.

2.9 Furthermore, the Planning Service has recently implemented the first phase of the new Digitisation Project in December 2017, which will make the service more efficient.

2.10 The levels of fees that are proposed from the Enhanced Services (see paragraph 3.4), have followed a benchmarking exercise with similar placed local planning authorities, notably Salford, Barnet and North Tyneside.

2.11 The new Enhanced Services are aimed at the minor and householder type of planning applications, and are effectively a "Fast Track" Service for the customer from receipt of the planning application through to the decision. In essence, it is a "contract" between the applicant and the Council that their planning application will be determined within the specified period. If, for any reason, the application is not determined within the period requested, a refund would be payable of the enhanced service fee. However, should the application be referred to the Planning & Highways Committee in accordance with the Scheme of Delegation, i.e number of objections received, this will have the effect of delaying the determination of the applications, and no refund would be given. It should be noted this enhanced service fee proposal is in addition to the planning application fee set by the government. Developers will be encouraged to use the pre-application advisory service together with the enhanced service to ensure the application is determined within the requested period.

2.12 Planning application fees are currently set by the Government and have not been increased since 2012. The revenue generated through charging planning

application fees does not normally cover the costs of deciding planning applications. The shortfall has to be subsidised by local authorities.

- 2.13 The fees submitted for planning applications are prescribed by Regulation, and cannot be changed by a local planning authority. This report is focussing on the discretionary services provided by the local planning authority to help deliver the Growth Agenda.

3. RATIONALE

- 3.1 During the summer of 2017 following the restructure of the department, the Integrated Growth Team introduced independent assessments of viability appraisals pursuant to Section 106 Agreements. These relate to new major housing developments in accordance with the adopted Local Plan Part 2 Policy 7(4-6). The developer will pay for this assessment and this is based on the number of units proposed as follows:

Number of Units	Price
1-24	£1,750
25-99	£2,500
100 – 400	£3,500
400+	£4,500

These prices will remain the same and be included in the Fees & Charges Book for 2018/19.

- 3.2 The existing pre-application advice fees were last increased in January 2017 in line with inflation. It is proposed to increase the fees on a par with the average of the benchmarking local planning authorities. It is anticipated there may be a decrease in the volumes submitted, however with the financial climate continuing to improve and the unprecedented growth activity in the borough witnessed during the past 12 months, the number of major developments are likely to increase, and developers are happy to bear the costs of this valuable service provided.

3.3 Pre-application advice charges:

It is proposed to make the following changes :

Significant Majors increase from £1,010 to £2,000 excluding VAT

Major applications increase from £595 to £800 excluding VAT

Minor applications increase from £252 to £400 excl VAT

Householder applications from £63 to £80 excluding VAT.

Enhanced Services:

- 3.4 The new Enhanced Services which are aimed at fast tracking planning applications are based on 2 levels of service – *Platinum and Gold*. The services

are aimed at all Minor Planning Application types and Householder applications only, together with Certificates of Lawfulness applications.

- 3.5 *Platinum* – From receipt of application through to determination within 4 weeks - £300 excluding VAT
Gold – From receipt of application through to determination within 6 weeks - £200 excluding VAT

For Certificate of Lawfulness applications, the following charges will be introduced:

From receipt of application to determination within 1 week - £300 excl VAT

From receipt of application to determination within 2 weeks £200 excl VAT

- 3.6 Any additional income received from the enhanced services would be utilised by the Development Management team in ensuring the service is fast performing and efficient. It is envisaged that a marketing exercise would be undertaken with the general public and the local planning agents via email and the website promoting this new service. The Department's unique selling point compared to other local planning authorities within the region is the level of service provided between the Development Management and Integrated Growth Teams in providing a tailored service to developers that combines a number of specialist skills and experience to help customers to meet the requirements. Delivery of development will be brought forward more efficiently, reducing the costs to the applicant and the Council.
- 3.7 A new "Fast Track" Charter will be drafted and published on the website once the new enhanced services are implemented. This is currently being worked on.
- 3.8 A Planning Performance Agreement (PPA) is a framework agreed between a local planning authority and a planning applicant for the management of complex development proposals within the planning process. A PPA allows both the developer and the local planning authority to agree a project plan and programme which will include the appropriate resources necessary to determine the planning application to a firm timetable. They are most commonly used on the large scale development proposals.
- 3.9 With regards to the introduction of a PPA Charter, research with other local planning authorities who have introduced such charters, show that collaborative work between the Integrated Growth Team and Development Management will ensure such a Charter be successfully implemented at Blackburn With Darwen. This work is programmed for 2018 with fees set on a pro-rata basis depending on the proposed development.

4. POLICY IMPLICATIONS

- 4.1 None

5. FINANCIAL IMPLICATIONS

- 5.1 The increase of the pre-application enquiry fees and the new fees relating to the enhanced services as suggested could potentially increase income, which will assist to sustain the Development Management in terms of high performing and efficiency.

6. LEGAL IMPLICATIONS

- 6.1 There are powers within legislation that allows the Council to make charges.
- 6.2 Pursuant to section 111(1) Local Government Act 1972 a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.
- 6.3 The Local Government Act 2003 enables councils to charge for, or trade in, activities relating to their functions on a commercial basis. Charging is recovering the costs of discretionary services whilst trading generates surpluses and profits. Section 93 of the 2003 Act allows local authorities to charge for discretionary services on a cost recovery basis.
- 6.4 Discretionary services are defined as those services that a local authority has power to provide but are not obliged to provide by law. Charges can be applied for discretionary services which are enhancements to the mandatory service
- 6.5 The Localism Act 2011 introduced a general power of competence “to do anything that individuals generally may do” (unless expressly prohibited by another statutory provision) thus enabling a local authority to provide discretionary services anywhere in the UK or elsewhere for a commercial purpose.
- 6.6 The ODPM’s 2013 Guidance provides that to be able to make use of the power to charge for a discretionary service, authorities must have an existing power to provide that service. Under ordinary legal principles, an authority has power to do anything reasonably incidental to its express powers. In circumstances where an authority wishes to charge, for example for works or supplies, the authority will need to satisfy itself that the enactment which authorises provision of a particular service would also permit the provision of anything reasonably incidental to that service. Where an authority is relying on subsidiary powers under section 111(1) of the Local Government Act 1972 to authorise the provision of a service to facilitate the discharge of a specific function, then the authority may charge under section 93(1) of the 2003 Act for that function related service by virtue of the dis-application at section 93(7)(a) of the 2003 Act.

7. RESOURCE IMPLICATIONS

7.1 None

8. EQUALITY IMPLICATIONS

8.1 An Equality Impact Assessment is not required. Attached to this report is the completed checklist.

9. CONSULTATIONS

9.1. The proposed new services and increase to the existing discretionary fees have been presented to the Executive Member for the Department at the meetings on the 27th November and 4th December 2017, together with the Cross Party Member's Planning Working Group at their meeting on the 19th December 2017.

10. RECOMMENDATION

- 10.1 (i) That the Committee note the content of the report.
(ii) The Committee endorse the increase to the discretionary fees and the introduction of the new enhanced services.
(iii) The Committee agree for the Charter and marketing of the services to be published on the planning webpages once they have been agreed by the Executive Member and the Cross Party Members Planning Working Group.

Contact Officer: Gavin Prescott, Development Manager
Date: 4th January 2018

Background Papers: none