

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member – Environment and Transport
Date:	17 January 2012
Title:	Pre-Application Charging
Reference:	3590
Report From:	Director of Economy, Transport and Environment

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1. Executive summary

1.1. The purpose of this report is to put forward the case that the County Planning service sets up a pre-application charging system to external applicants for mineral and waste applications as a 12 month pilot, from 1 April 2012.

1.2. It also introduces the concept of using Planning Performance Agreements (PPAs) at pre-application stage and recommends that this should be explored further as part of the pre-application advice process.

1.3. This report seeks to:

- (i) set out the background to the project;
- (ii) consider income that could be generated by the instigation of a pre-application charging protocol and balance this against any impacts such a protocol would have on the performance of the County Council;
- (iii) summarise the results of the service user and applicant pre-application charging consultation that took place in September 2011 and consider the key issues raised leading to the selection of a preferred option;
- (iv) recommend a flat rate mineral and waste pre-application charging option be adopted and implemented, as a 12 month pilot, on 1 April 2012 and justify the reason for that flat rate selection; and
- (v) briefly consider the future direction of the project including the exploration of PPAs for EIA and more complex mineral and waste proposals.

- 1.4. On 17 August 2011 the Executive Member for Environment and Transport agreed to the County Planning service undertaking a service user and applicant consultation on pre-application charging. This consultation took place in September 2011 and the results of the questionnaire responses are summarised in Section 7 of this report.

2. Contextual information

- 2.1 The Local Government Act 2003 gives local planning authorities discretionary powers to recover the costs of pre-application advice in recognition of the time officers have to spend researching information in order to provide advice to prospective developers or applicants.
- 2.2 The benefits of prospective applicants seeking pre-application advice is widely recognised as good practice. Benefits include raising the quality of applications and the outcomes they achieve, improving relations and enabling engagement with stakeholders and the local community representatives and speeding up decision making.
- 2.3 Some councils, as well as charging for pre-application advice, also support the use of PPAs at pre-application stage for complex major planning proposals. Under general powers conferred by Section 93 of the Local Government Act 2003 local authorities can charge for negotiating a PPA and for the resources committed as part of that process before an application is made.

3. The current service

- 3.1 The current County Planning website offers some guidance on pre-application procedure.
- 3.2 The Council currently provides a free service to:
 - (i) advise on changes to schemes post determination of a planning application;
 - (ii) deliver a legal agreement associated with a resolution to permit development where planning officer costs are not included in the resolution; and
 - (iii) pre application advice on proposals prior to formal submission of a planning application.
- 3.3 The current service works well and from informal feedback from applicants and agents is well regarded and valued. In particular, for the County Matter development (minerals and waste), the ability to meet on site and thereby combine a meeting with a visit is an aspect that is particularly valued and is an effective tool in establishing key planning issues.

4. Proposed changes to the service

- 4.1 In the current economic climate it is not considered reasonable for the wider community to subsidise the developer for the cost of preparing a planning application, revisions to schemes or detailed work associated with legal agreements. It is therefore proposed that certain aspects of the pre and post planning application service attract a fee and that a 12 month pilot be undertaken commencing on 1 April 2012. The proposals are for external applicants, it is not proposed to charge for pre-application advice for the County Council own proposals.
- 4.2 Any new system needs to keep the key benefits of the current system, be easily understood and be fair. It also needs to be simple and cost effective to operate and administer. A key benefit of the pre-application service is to shape applications at an early stage which results in better quality planning applications and developments on the ground and arguably swifter planning decisions. It is a very important part of the planning service and not an area which should be discouraged.
- 4.3 Proper regard has been given to the Local Government Act 2003 which allows for charges to be made but does not allow the authority to make a profit on the service.

5. Financial and budget Implications

- 5.1 The County Planning service has undertaken three benchmarking exercises over the last year. These exercises demonstrated:
- (i) application fees do not re-cover the cost of the service provided for each individual application – in particular the often time consuming pre-application costs of significant ‘major applications’ such as new quarries, and major waste proposals;
 - (ii) an average of 40 hours per month total was spent in 2010 on giving pre-application advice on mineral and waste developments; and
 - (iii) if the proposed Option had been adopted this could have generated an income of about £20,000.
- 5.2 The charge for pre-application advice provides an opportunity to recover some of the costs of the development management service. The intention is that this will be part of the budget planning strategy through increasing income and making efficiency savings through higher quality applications being submitted, enabling a smoother, more user friendly and quicker decision making process.

6. Pre-application charging consultation

- 6.1 During September 2011 the County Planning service undertook a consultation with applicants and agents on proposed options for pre-application charging to service users and applicants. The consultation period

was over 28 days and terminated on 30 September 2011. The consultation was placed on the County Planning website and sent directly to 60 service users by e-mail on 1 September 2011. It comprised pre-application guidance, charging regime options, pre-application request form and a feedback questionnaire.

- 6.2 Only seven completed questionnaires have been received to the consultation, but those that have responded have done so thoroughly. Responses have been received from two national mineral operators, a local waste operator, a national waste company and three private practice planning consultancies.
- 6.3 It is clear from the responses that there is an acceptance that in these economic times the County Council may have to charge for pre-application advice and this would be accepted if procedures were kept as simple and as flexible as possible and the cost was commensurate with the quality of advice obtained. Some consultees considered that any charges undertaken should be deducted from the final planning fee when the requisite application is submitted.
- 6.4 Three options were put forward, as set out in Appendix 1. Options 1 and 2 were Flat rate fees, and Option 3 an hourly rate fee.
- 6.5 Three of the consultees preferred Option 1 (the lower flat rate fee) and two preferred Option 3 (the hourly charge) because this reflects the way private practice operates. The sixth consultee did not agree with the principle of charging and the seventh did not give a preferred option. They all considered that if procedures were too bureaucratic it may put applicants off seeking pre-application advice.
- 6.6 It is proposed that a 12 month pilot be undertaken based on flat rate Option 1 (Attached as Appendix 2) to be index linked and to commence on 1 April 2012.

7. Selected Charging Option

- 7.1 It is recommended that the index linked Flat Rate charging proposal as outlined below, be taken forward for implementation to commence on 1 April 2012. One half hour free session is allowed, anything subsequent to that will be charged for

Category	Type of enquiry	Charge
All mineral and waste development	Initial 30 minutes verbal advice	FREE
Major EIA or equivalent applications	Site visit, and site meeting or office meeting and written advice	£600 + VAT
	Additional follow up meetings (per meeting)	£300+ VAT

	Option of Planning Performance Agreements to include other specialists	Case by case basis
Minor applications	Site visit, & site or office meeting & written advice	£200 + VAT
	Additional follow up meetings- per meeting	£100 + VAT

8. Planning Performance Agreements

- 8.1 A PPA is an agreement between a developer and a local authority (and potentially other key players, such as statutory consultees) setting out who will do what and by when with relation to significant major applications. PPAs should form part of the pre-application process.
- 8.2 PPAs are designed to address some common problems encountered by local authorities and applicants, such as timescales, resources, and the quality of applications and decisions, by providing a framework and project management approach for delivering good quality outcomes. One of the key benefits of PPAs is their ability to give developers greater certainty and confidence in the planning process.
- 8.3 A PPA should improve the speed and quality of the decision-making process, deliver better outcomes, and facilitate better engagement between local authorities, developers and, where possible, other key players. A PPA should achieve more than merely setting a timetable for a decision. Some key potential benefits include:
- establishing a better understanding of a project's needs, including management and resources, and the scope for collaborative working;
 - setting a realistic timetable relevant for the size and complexity of the application and defining key milestones;
 - minimising the risks and costs of appeal;
 - enabling identification of problems and a method for reviewing these; and
 - providing a formal mechanism for parties, including key stakeholders, to collaborate.
- 8.4 A PPA does not bind the developer or the local authority into the agreed process. If the authority fails to determine the application in accordance with the agreed date then the normal statutory provisions apply and the developer may appeal. Likewise, if a developer does not abide by the PPA, the local authority will not be obliged to follow the agreed process. To avoid any doubt, the PPA should specify the date from which the right to appeal for non-determination runs.
- 8.5 It could be beneficial to the County Planning Service to introduce PPAs as part of its pre-application service for significant major mineral and waste planning applications. PPAs may also be used in other circumstances. For

example, the County Council has been offered a reimbursement of the costs if it signs a PPA for the Navitus Bay windfarm project. In this instance the County Council is not the determining authority but has the option of engaging in both pre-application consultation and the subsequent Inquiry once the application has been submitted to the Infrastructure Planning Commission. Officers are currently considering the proposal to see if it would be appropriate in this circumstance.

9. Conclusion

- 9.1 It is considered appropriate for the County Planning service to introduce a charge to external applicants from 1 April 2012 for pre-application mineral and waste planning advice to assist in recovering the current cost of this service as part of the Department's budget strategy and that the charging option should be based upon Option 1 as attached in Appendix 1. It is recommended this should run as a 12 month pilot. Regulatory Committee Members will be consulted on the details of how the new system will operate.
- 9.2 It is also considered appropriate for the County Planning service to introduce PPAs as part of its pre-application service for significant major mineral and waste planning applications.

10. Recommendations

- 10.1 That the County Planning service introduces, as a pilot for 12 months, from 1 April 2012, a pre-application charge to developers seeking planning advice on the more significant and complex mineral and waste proposals.
- 10.2. That the pre-application charging regime referred to in (a) above be based on an adaptation of Option 1 of the public consultation, as outlined below:

Category	Type of enquiry	Charge
All mineral and waste development	Initial 30 minutes verbal advice	FREE
Major EIA or equivalent applications	Site visit, and site meeting or office meeting and written advice	£600 + VAT
	Additional follow up meetings- per meeting	£300+ VAT
	Option of Planning Performance Agreements to include other specialists	Case by case basis*
Minor applications	Site visit, & site or office meeting & written advice	£200 +. VAT
	Additional follow up meetings- per meeting	£100 + VAT

*'Case by case basis' – each application assessed on an individual basis.

- 10.3. That a progress report be presented to the Executive Member for Environment and Transport halfway through the pilot scheme and a final evaluation report at the end of the 12 month pilot.
- 10.4. That approval be given to further explore the use of Planning Performance Agreements to set out the framework for processing significant major mineral and waste applications and that a report be presented to an Executive Member meeting in the Spring of 2012 on the findings of this research.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	yes
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	yes
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	yes
Corporate Improvement plan link number (if appropriate):	

Other Significant Links

Links to previous Member decisions:		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
Direct links to specific legislation or Government Directives		
<u>Title</u> The Town and Country Planning (Development Management Procedure) (England) Order 2010		<u>Date</u>
		1.10.11

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

DocumentLocation

County Planning,
Economy, Transport and Environment
County Planning
Elizabeth II Court West 1
Winchester, SO23 8UD

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

1.1 Not applicable.

2. Impact on Crime and Disorder:

2.1. Pre-application advice includes advice on 'designing out crime' where appropriate and on specific types of application, legislation requires that Design and Access Statements are included with the planning application addressing this as well as other design and access issues.

3. Climate Change:

a) How does what is being proposed impact on our carbon footprint / energy consumption?

Pre-application advice includes the need to address reducing carbon footprint through the proposal e.g. use of mineral conveyors; energy from waste technology; photovoltaic panels

b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

Pre-application advice includes the need to address adaptation to climate change in the proposed development and planning application e.g. orientation of buildings for current/future use with photovoltaic panels; topography and creation of micro climates/slope orientation; soil management; after uses (such as water storage post mineral extraction; landforms that could be used for viticulture; increased woodland planting; shaded/sheltered grazing areas etc).