



Open Report on behalf of Andy Gutherson, Executive Director - Place

Report to:	Environment and Economy Scrutiny Committee
Date:	29 November 2022
Subject:	Update and Review of Planning Service's Pre-application Advice Service

Summary:

This report provides the Committee with an update and overview of Planning Service's pre-application advice service since its introduction in May 2021. Having carried out an audit and review of the service a number of revisions are recommended which include:

- increasing the fees charged across all categories;
- increasing the charge out rate fee for Officer time to £90 per hour;
- introducing a new fee for proposals relating to Listed Buildings; and,
- increasing the timeframe given for responding to requests relating to Listed Buildings.

The proposed revisions aim to ensure the fees charged are reflective of the true cost of time officers spend reviewing, preparing and responding to such requests and that the timescales given for officers to issue their responses are realistic given the nature of the advice provided.

Actions Required:

The Environment and Economy Scrutiny Committee is invited to:

- (1) Note and take into account the information and data presented regarding the uptake and performance of the pre-application advice service since its introduction.
- (2) Support the increase in the hourly charge out rate to £90 per hour and the proposed revisions to the pre-application advice service set out in Appendix A.
- (3) Note that the Head of Planning will annually review or update the Charging Schedule and/or terms of the pre-application planning advice service as is felt necessary following implementation of the revisions proposed.

1. Background

A report was brought to the Environment and Economy Scrutiny Committee in January 2020 seeking the support of the Committee to set an agreed flat rate for charge out rates for Planning Officers time and also for the establishment of a pre-application charging regime for developers to use for advice on making planning applications. The Committee supported the fee rate for Officers time of £55.43 per hour and also the establishment of a pre-application charging regime. The Committee requested that following the establishment of the charging regime a report be brought back to this Committee to provide an update on how the charging policy is working and if there are any other areas that could be included within this pre-planning charging regime.

In February 2021 the Executive considered the charging proposals at their meeting in and agreed the recommended charges and resolved to delegate the Executive Director of Place to review the charging schedule after a minimum period of 12 months from its implementation and make any changes considered necessary. Therefore, whilst the appropriate delegation is in place to make changes to the charging regime as a paper is being brought to the Committee setting out the progress of the charging regime including the addition of charging for advice on Listed Building applications, it is desirable to get the support of the Committee to the proposed hourly fee rate and increases to the charging regime as set out in Appendix A of the report.

Following the Executive's approval in May 2021 the Council introduced a chargeable pre-application advice service. The overall objective of the pre-application advice service is to help influence and facilitate the submission of better-quality applications by offering prospective developers with professional advice on their proposals in advance of them submitting applications for planning permission. Prior to the introduction of the chargeable service such advice was offered for free, however, having reviewed similar services offered by other Local Planning Authorities (LPAs) it was decided to introduce a chargeable service. The chargeable service not only helps to recover the cost of officer time spent when giving such advice but ensures a more consistent and formalized system is in place for receiving and responding to such requests.

The Council's pre-application advice service is based around four main levels/categories which reflect the different type and scale of development typically dealt with by Planning Services (i.e., Significant, Large, Medium, and Small). In addition to these four main categories, advice is however still offered without charge for a limited type/forms of enquiry (e.g., requests simply seeking confirmation on whether planning permission is required, where a proposal relates to the needs of people with disabilities, or which affect a Listed Building).

For each level/category of advice a different fee applies which was based upon the amount of time that it was anticipated an officer would require to review, prepare, and respond (e.g., taking not account time needed to review planning background, site constraints checks, travel time to attend meetings and production of final written advice).

Overview of Current Service

Since the service was launched (and at the time of writing this report), Planning Services had received and responded to 113 requests for pre-application advice and received £23,472 in fees. The majority of requests received (65%) have come from other LCC service areas/functions (e.g., education, property and highways) with the other requests (35%) coming from external parties such as mineral and waste operators (see Figure 1).

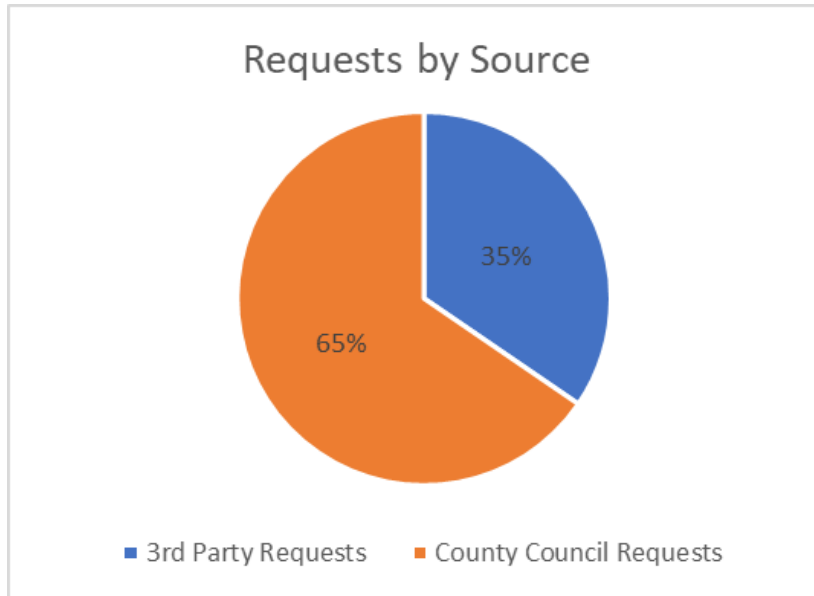


Figure 1: Requests by source

Whilst there was some initial concern that the introduction of a chargeable service could put off prospective applicants seeking advice, the number of requests received each month has remained fairly consistent demonstrating that developers are prepared to pay for advice where the advice given is clear and adds value (see Figure 2).

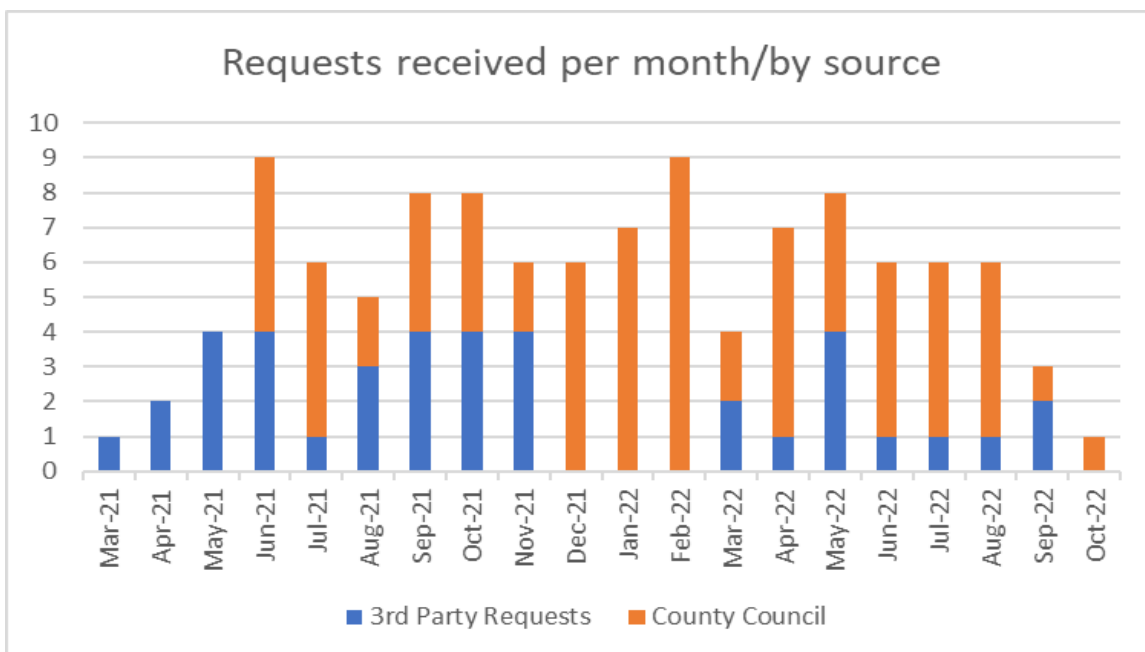
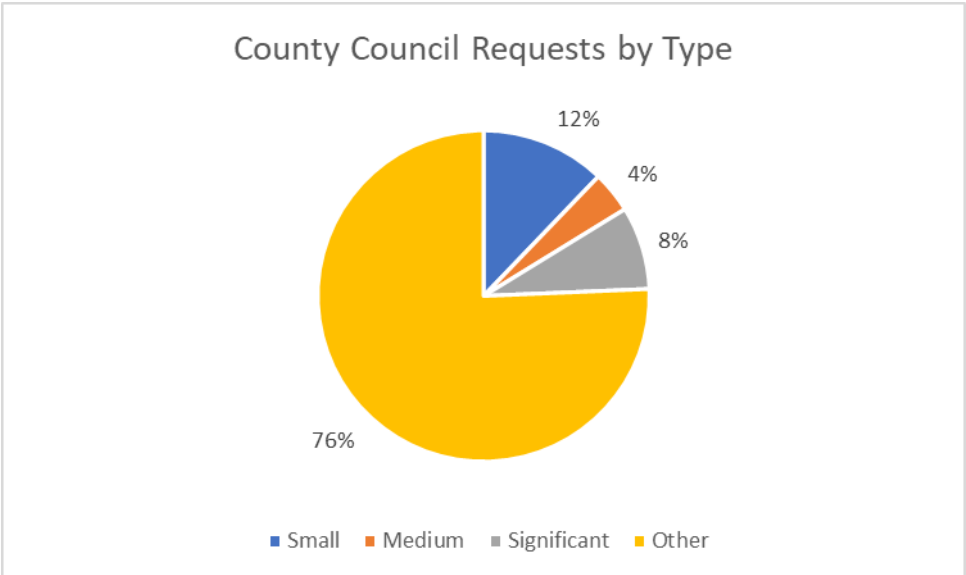
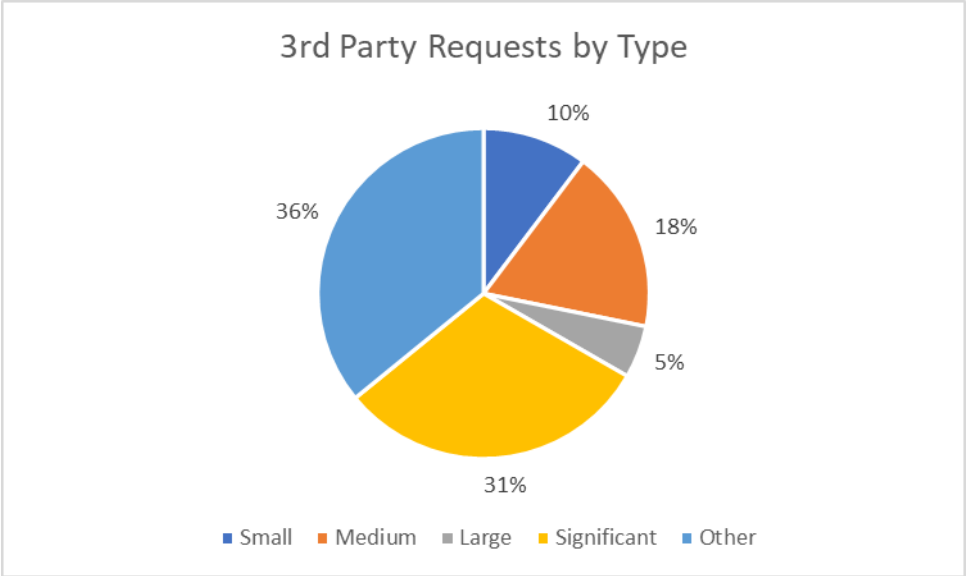


Figure 2: Requests per month/by source

Requests for advice have been received across all the different levels/categories offered however the analysis shows that the vast majority of requests received have come from the Council’s own service areas and fall within the ‘Other’ category for which a fee is currently not charged (see Table 1 and Figures 3 & 4). This, in part, can be accounted for as many of those requests have related to proposals that affect a Listed Building and under the current charging regime such requests are exempt from paying a fee.

Type	Level/Category					Total
	Small	Medium	Large	Significant	Other	
3rd Party Requests	4	7	2	12	14	39
County Council Requests	9	3	0	6	56	74
Totals	13	10	2	18	70	113

Table 1: Requests by level/category



Figures 3 & 4: Breakdown of requests by type for each source

Whilst a fee is not required for requests which relate to Listed Buildings, often responding to such requests requires more than one officers input and, given the sensitivity and issues that need to be considered, can take longer for responses to be issued. As a consequence the data shows that whilst 60% of all requests for advice were provided within the prescribed timescales set out, 40% were issued late. The reasons for this include factors such as the need to obtain further information about what was being proposed; time taken to arrange and attend site visit (where one was part of the service offered) and/or due to the need to obtain comments from other officers within the Council so a more meaningful and detailed response can be provided.

Proposed Revisions to the Service

Having carried out an audit and review of the current pre-application advice service, a number of revisions are recommended to the current charging regime and levels of service. The proposed revisions aim to ensure the fees charged are reflective of the true cost of time officers spend reviewing, preparing, and responding to such requests and that the timescales given for officers to issue their responses are realistic given the nature of the advice provided. The recommended revisions to the service are therefore as follows:

1. Increase the fees charged across all categories;
2. Introduce a new fee for proposals relating to Listed Buildings; and,
3. Increase the timeframe given for responding to requests related to Listed Buildings.

Increase to the fee charged across all categories

Under the current charging scheme, a different fee applies for each level/category. When the pre-application advice service was first developed the fee charged for each level/category was based upon a rate of £55 per hour which reflected that which had previously been agreed and adopted in connection with work associated with Planning Performance Agreements (PPAs). The fee for each level/category of pre-application advice was therefore simply calculated using this same hourly rate by the amount of time that it was anticipated an officer would need to review, prepare, and respond to a request.

Given that it is 3 years since the fee rate of £55 per hour was calculated for Planning Officers time and the minimum period of 12 months before any charges to the charging regime could be made has now passed. It is considered an appropriate time to review the hourly rate that is used in the calculation of the pre-application charging regime and also the rate used to calculate payments to the Council through Planning Performance Agreements (PPAs).

The Council is able to enter into (PPA) with applicants seeking planning permission for developments. A PPA provides a mechanism for a project management tool for an applicant to enter into an agreement with the Council to ensure they receive a timely decision on a planning application and if permission is granted decisions on the discharge of planning conditions are received within a defined period. Whilst the Council has only entered into a very small number of PPAs in connection with planning applications over

the last 12 months it has entered into a higher number of PPAs with developers who are progressing schemes as Development Consent Orders pursuant to the 2008 Planning Act.

These schemes are classed as Nationally Significant Infrastructure Projects and whilst the decision on the application is eventually made by the Secretary of State there is a long lead in time of around 2 years before the decision is made. During this period there is a significant amount of work undertaken by the County Council as a host authority and no fee is payable by the applicant to the Council for the application. In order for the Council to recover the costs of the time spent by Officers on these projects a PPA is entered into the developer to enable the Council to recover its costs. Currently this fee rate is £55 per hour which is not now a realistic figure to recover costs given the increased salary costs and other costs that have risen over the last 3 years.

There is no prescribed methodology for the Council to use in establishing its fee rates, but must take the following factors into consideration.

In introducing a charging scheme, the Council must have regard to guidance issued in relation to the use of the charging power. Such guidance has existed from 2006, which is somewhat outdated now, but it has been taken into account as follows: -

- The Council has discretion in the methodology it adopts to determine the charges.
- The Council is under a duty to ensure that taking one year with another the income from charges do not exceed the cost of provision. This allows the Council to assess over a number of years where the balance of income and cost lies, and the Council will not be in breach of the requirement just because in one year income exceeds expenditure.
- Where a surplus is made in any year it should be taken into account in setting the next year's charges.
- There is no obligation to consult, but the guidance suggests the Council may wish to consult businesses on the impact of charges and on overall levels of regulatory compliance. This has been considered but the widespread existence of charging regimes for pre planning advice by the District Councils in Lincolnshire and widely by Councils in other areas of the country gives the Council a strong evidence base on levels of charging and impacts on regulation and there is not therefore considered to be a need for consultation.
- It is a requirement of section 93 of the 2003 Act that in order to charge for a service the person being charged must agree to it. The guidance makes it clear that the power operates on the basis that the service is offered at a charge and anyone who takes up the service does so on those terms.

In terms of the methodology used to determine the revised fee rate this has been done by undertaking a benchmarking exercise reflecting what other Councils charge. Nationally there are significant variations on the hourly rate used by County Planning Authorities and currently Lincolnshire has the lowest rate. It has been decided to use the rates of 2 neighbouring County Councils to determine an appropriate rate for Lincolnshire (Norfolk

£100 per hour and Nottinghamshire £67 per hour). Both Councils are in the process of reviewing these rates so it is expected that these will increase shortly.

On this basis a charge, out rate of £90 per hour is proposed, the review process and delegation that is already in place will enable this to be assessed and adjusted in the future if any of the above criteria are breached.

The £90 hourly rate charged for PPAs is carried through to calculate the revised charging schedule for pre-application advice. This hourly rate is considered to be more reflective of the true costs incurred when taking into account the pay grade/level of the officer carrying out the work and time spent time preparing responses, handling enquires, etc.

There are similarities between the work undertaken by officers in connection with projects that have a PPA and that carried out by officers when preparing and responding to pre-application advice requests. It is therefore recommended that the fees currently charged for pre-application advice also be increased so that the true cost of providing this service is recovered. Like the current charging structure, it is therefore recommended that the fees charged for each level/category of service be increased based on the higher hourly rate of £90 per hour. The overall fee charged therefore reflects the amount of time required for the officer(s) to attend and provide the level of advice offered (e.g., cover any planning background review, constraints checks, travel time to attend meetings and production of final written advice).

A copy of the recommended revised charging scheme, fees chargeable for each category and list of exemptions can be found in Appendix A.

New fee for proposals relating to Listed Buildings

Under the current charging structure, requests for pre-application advice relating to proposals that affect a Listed Building fall within the 'Other' level/category and so are exempt from paying a fee. The decision not to originally charge for such advice was taken as this reflected the approach taken by some other LPAs and also the fact that no planning fee is payable for applications that seek Listed Building Consent. The review and analysis of the current service however has shown that a large proportion of the requests for advice have been from other County Council service areas and that many of those requests relate to proposals that affect a Listed Building. Given the sensitivity and complexity of the issues that arise with such proposals often responding to such requests require a site meeting to take place and the involvement of more than one officer within the Planning Services team. These requests can therefore take up a lot of officer time and take longer to respond and under the current charging regime those costs are not recovered.

Taking the above into consideration, rather than continue with the current approach it is recommended that a fee now be charged for requests where a proposal affects a Listed Building. A fee for responding to such requests is considered justified given the sensitivity and specialist nature of the advice sought and as the cost to the applicant is obtaining this advice would be offset by the fact a fee is not payable for the subsequent application seeking consent. Although proposals affecting a Listed Building can range in their size and nature, rather than propose a graduated fee at this stage it is recommended that a single,

flat fee rate be applied. The fee charged is recommended to be set at the same level as that for requests falling within 'Small' level/category however this will be kept under review and additional where additional advice or subsequent meetings are required outside the normal offer, these can still be charged for at an hourly rate of £90 per hour (+VAT).

Increase the timeframes originally given for responding to such requests

Under the current service officer, we aim to provide a response to requests for pre-application advice for proposals falling within the Significant, Large and Medium level/categories within 28 days of a valid request having been received. For requests falling within the Small and Other level/category, responses aim to be provided within 14 days.

Having reviewed the performance of the current service, the timeframes given for responding to requests are largely being adhered to, however, the analysis has shown that 40% of the requests received have been issued outside of the prescribed timeframes cited. This is, in part, because those requests relate to Listed Buildings and as explained above, those requests currently fall within the "Other" level/category of advice and officers only have 14 days to respond which is not sufficient given the issues raised and detailed responses such requests typically require.

In light of the above, in addition to creating a new specific level/category for requests that relate to Listed Buildings, it is recommended that the timeframe given for responding to such requests be set to the same as that for the other levels/category of advice (i.e. 28 days). Such an extended period is considered justified given the issues such requests typical raise and is considered to be a reasonable balance between the time needed to review and respond to such a request and what an applicant would reasonably expect to wait for a detailed and meaningful response.

2. Conclusion

The Committee is asked to support the recommended revisions to the current pre-application advice service as set out in this report and contained within Appendix A. The revisions include:

- an increase to the fee charged for each of the different levels/category of advice;
- the introduction of a new category and fee for requests relating to Listed Buildings; and,
- increase in the timeframes given to officers to prepare and respond to requests relating to Listed Buildings.

The increased fees are calculated based on the same rate as that which is to be applied for use when preparing PPAs and is also still comparable with that of other mineral and waste planning authorities and local planning authorities that offer a similar service.

It is proposed that the fee charging takes effect from 1st January 2023.

The Committee is therefore asked to:

- (1) Note and take into account the information and data presented regarding the uptake and performance of the pre-application advice service since its introduction;
- (2) Support the increase in the hourly charge out rate for Planning Officers to £90 per hour and proposed revisions to the pre-application advice service;
- (3) Note the delegated authority to the Head of Planning to periodically review or update the Charging Schedule and/or terms of the preapplication planning advice service as is felt necessary following implementation of the revisions to ensure the Local Authority charging guidance is not breached.

3. Consultation

a) Risks and Impact Analysis

There is a risk that the increased fees could put applicants off seeking advice before submitting applications. However, so long as the advice provided to applicants continues to be clear, provided in a timely manner and adds value then based on previous uptake this risk would be minimised.

Good pre-application advice can help improve the quality of applications received as it gives applicants clarity about what information is required. This in turn helps reduce the need to seek further information once an application is submitted and reduces the time taken to process applications or refusals due to insufficient or poor-quality submissions.

The fees charged for the service will help recover the costs for time that is currently spent by Officers in reviewing, visiting sites and responding to requests.

4. Appendices

These are listed below and attached at the back of the report	
Appendix A	Proposed Revised Charging Schedule

5. Background Papers

Document title	Where the document can be viewed
Local Government Act 2003	www.legislation.gov.uk
Planning Practice Guidance 'Before submitting an application' (MHCLG, 2014)	www.gov.uk/government/collections/planning-practice-guidance
Pre-application Suite by the Planning Advisory Service	www.local.gov.uk/pas/pas-topics/planning-applications/pre-application-suite
Environment & Economy Scrutiny	https://lincolnshire.moderngov.co.uk/documen

Document title	Where the document can be viewed
Committee Paper dated 14 January 2020 "Introducing a Charging Policy for Archaeology Advice and Planning Services"	ts/s31067/7.0%20Charging%20Policy%20for%20Archaeology%20Advice%20and%20Planning%20Services.pdf

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