

From: Matthew Balfour, Cabinet Member for Planning, Highways Transport and Waste
Barbara Cooper , Corporate Director for Growth Environment and Transport

To: Environment and Transport Cabinet Committee - 30 November 2017

Decision No: 17/00123

Subject: Decision to approve fees and charges for discretionary planning and environmental advice and the principles for establishing fees and charges.

Classification: Unrestricted

Future Pathway of Paper: For Cabinet Member Decision

Electoral Division: Countywide

Summary: This paper proposes revised fees and charges for discretionary planning and environmental advice to developers and for those promoting nationally significant infrastructure projects via the Development Consent Order (DCO) process. The paper also sets out a number of key principles applied when establishing the fees and charges.

Recommendation:

The Environment and Transport Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Planning, Highways, Transport and Waste on

- (i) the decision to publish revised fees and charges for discretionary planning and environmental advice and DCO activity; and
- (ii) to delegate authority to the Director of Environment, Planning and Enforcement to review and publish revised fees and charges subject to the application of a number of key principles as set out in paragraph 3.4 .

1. Introduction

- 1.1 This paper proposes revised fees and charges for discretionary planning and environmental advice and for advice given to those promoting nationally significant infrastructure projects via the Development Consent Order process (DCO). It also proposes charges in respect of heritage and ecological advice to developers to inform planning applications

- 1.2 The Council currently provides professional and technical advice across a range of disciplines that support the planning process.
- 1.3 Over recent years, with the rise of constraints on local authority budgets, councils at both county and district level have had to consider how they recover costs from providing such advice in order to ensure that they can continue to provide such advice on a sustainable basis.
- 1.4 The legal authority to set a charge for discretionary services is provided for in the Local Government Act 2003. The Act allows authorities to set the level of the charge for each discretionary service as they think fit within the restriction, and that the income from charges for each kind of service must not exceed the costs of its provision (i.e. cost recovery). If a profit is to be made, then a separate trading function is required.

2. Scope

- 2.1 The scope of this report covers charging for pre-application advice from KCC's environmental and planning services, including Minerals and Waste Planning, Heritage and Natural Environment , as well as the setting of a charge for Planning Performance Agreements (PPA) for KCC's input to Development Consent Orders (DCOs).
- 2.2 The County Council as Mineral and Waste Planning Authority has had a discretionary charging scheme for planning application advice since 2007. The fees associated with the submission of a planning application are set by legislation and vary depending upon the nature of the development being sought.
- 2.3 Charging for work in relation to DCO applications is more recent. A Development Consent Order (DCO) is the means of obtaining permission for developments categorised as a Nationally Significant Infrastructure Project (NSIP) and is determined by the Secretary of State following a public inquiry. Recent examples include the Richborough Connection project, London Resort (Entertainment Park), Lower Thames Crossing and the Cleve Hill Solar Park. The planning process for these types of development is prescriptive and front loaded to ensure that the relevant information is available to the Secretary of State for the examination part of the DCO process.
- 2.4 Whilst the County Council is not determining these applications, there is an expectation that the services within the Growth, Environment and Transport Directorate will play a key part in influencing the development through specialist advice and engagement in the decision making process. This includes advising on potential environmental, economic and social impacts including strategic planning, heritage, ecology, economic, transport, landscape, flood and water management and mineral and waste management matters. It also has a role to play in preparing a number of documents to support the DCO process including those relating to the adequacy of the consultation process and the Local Impact Report.

2.5 The DCO work undertaken by local authorities is usually undertaken within the terms of an agreed Planning Performance Agreement (PPA). A PPA is a flexible mechanism where the issues to be addressed are identified and a timescale and activities are agreed between the parties. These agreements can be relatively straightforward or complex, involve a number of parties and often are staged over a long period. There is no standard PPA and given the complexities involved, a coordinator role is required, in addition to specialist advice. Charging currently takes place on an *ad hoc* basis for PPA work with various charging mechanisms in place.

3 Principles

3.1 In setting a proposed charge, a number of key principles have been applied. These are designed to ensure that the costs of service provision to the County Council are recovered, that the fees and charges are reasonable and comply with the applicable legislation and regulation.

3.2 Determining the appropriate charging level is critical to delivering high quality development and minimising the use of costly resources later in the planning process. In setting the chargeable rates for environmental advice to support the planning application process, it needs to be recognised that whilst there are considerable benefits to a developer in seeking pre application advice, it is not compulsory. Where a developer chooses not to use the service, then poorer quality development proposals may follow. This leads to greater resource being spent at the formal planning application stages or at costly planning appeals and brings potential delays to development.

3.3 Equally important in the current financial climate is to ensure that income is maximised and that GET services and the public purse are not subsidising development promoted by the private sector.

3.4 The proposed charging scheme accords with the following key principles:

- It is incumbent on the Service to charge for activities that are discretionary, or where permitted by regulation, given the pressures on the County Council finances;
- Charges will be costed, reasonable and comply with all applicable legislation, regulation and guidance;
- Charges will be reviewed annually and on the enactment of any amending legislation, regulation or the issuing of guidance;
- Charges will reflect the direct and indirect cost of service provision. The calculation of indirect costs will include Corporate, Directorate, Divisional and Service overheads;

- Where the County Council is required to source external support, i.e. highway modelling advice to respond to DCO and pre-application

advice, then the costs incurred by the County Council will be recharged;

- Charges will be transparent and provide a consistent rate that represents good value and supports the delivery of high quality development; and
- Charges will be easy to administer and simple to understand.

3.5 The proposed charges for specific activities have been established in line with the principles above and our best assessment of the time required completing tasks and the likely profile of the staff required. A two- tier charging rate is proposed to reflect the varying costs and expertise available to provide the range of planning and environmental advice.

4. Proposed Scheme

Environmental and Minerals and Waste Planning Advice

4.1 In respect of charges for application advice for minerals and waste planning applications that fall to the County Council to determine, it is proposed to revise the scheme that has been in place since 2007. The Service will continue to provide verbal planning advice on site and at a meeting in County Hall, written advice post a meeting, undertake planning histories and respond to solicitor enquiries, in addition to work associated with a legal agreement. The service will be extended to include mineral and waste safeguarding matters and where there is capacity and the Planning Applications Group can provide without compromising its statutory responsibilities, it will also respond on the detail of a draft planning application, and provide a written assessment of proposals based upon a desk top assessment.

4.2 There is also the potential, subject to resource capacity to extend the service to provide heritage and ecological advice to those promoting development either as pre-application advice or in preparing material to discharge planning conditions.

4.3 Based upon the above principles, experience and the charging review work, the charges set out in Table 1 are proposed.

Table 1 - Charges for Environmental and Minerals and Waste Planning Advice

Service	Costs (excl. VAT)	Time to provide service (estimated)
For Mineral and Waste Planning Matters - Meeting at County Hall (Verbal Advice)	£410	0.5 days prep + 0.5 day meeting
For Mineral and Waste Planning Matters - Meeting on site (Verbal Advice)	£410 + mileage	0.5 days prep + 0.5 day meeting + travel
For Mineral and Waste Planning Matters - Written advice following a meeting either on site or at County Hall ¹	£205	0.5 day
For Mineral and Waste Planning Matters - Written Assessment based upon Desk Top Assessment ²	Quote on request Depending upon complexity of proposal Minimum of £820	Quote upon request Minimum 2 day
For Mineral and Waste Planning Matters - Comment on detail of a draft application ³	Quote on request Depending upon complexity of proposal Minimum of £820	Quote upon request Minimum 2 day
Planning histories and response to Solicitor enquiries	First 20 minutes free. Thereafter hourly rate of £25	Quote on request
For Mineral and Waste Planning Matters – Other bespoke planning advice	£55/hr	Quote on request
For Mineral and Waste Planning Matters – Legal agreement	£55/hr	Quote on request
Heritage and ecological pre- application advice	Quote on request Depending upon complexity of proposal Minimum of £355	Quote upon request Minimum 1 day
Heritage and ecological Discharge of condition advice	Quote on request Depending upon complexity of proposal Minimum of £355	Quote upon request Minimum 1 day
<p>1. Experience has shown that this typically takes half a working day. The County Council however reserves the right to increase this figure if the complexity of a case justifies an increase. The developer will be advised in advance of the work being undertaken.</p> <p>2. Subject to capacity and where the Service can provide without compromising its statutory responsibilities</p> <p>3. This proposed charge reflects the varied nature of planning history requests and the complexity of the site records. In terms of cost recovery an hourly rate may not be justified in some instances, whereas on other occasions a detailed history can take in excess of 8 hours.</p>		

Advice to Support the Development Consent Order Process

- 4.4 As nationally significant infrastructure projects (NSIP), proposals that are determined via the DCO process raise a variety of environmental, social and economic issues. In responding to developer request for engagement, the County Council requires the input of a wide range of its professional expertise. This includes strategic planning, heritage, ecology and biodiversity, economic development, highway and transportation, landscape, flood and water management and mineral and waste management. This expertise runs across the Growth Environment and Transport (GET) Directorate and unlike the pre-application advice referred to above for mineral and waste planning application matters, is undertaken by officers at varying pay grades.
- 4.5 It is therefore proposed that DCO work shall be undertaken in accordance with an agreed Planning Performance Agreement (PPA). In setting the rate, a two-tier day rate is proposed based upon the officers providing the advice. The rate proposed factors in the costs of all parts of GET engaged in DCO work. The following charges are proposed:

Costs (excl. VAT)		
Tier 1 Day Rate*	£410	Principal Officer
Tier 2 Day Rate*	£300	Senior Officer and coordinator role
Disbursements Including any highway modelling costs or other third party costs necessary to respond to the DCO process; mileage	Recharged at cost to the County Council	

* Note that the County Council will determine which day rate to charge based upon the nature of the proposal and the specialist advisors required to undertake the work.

Future Review

- 4.6 In order to limit the need to seek further Executive-side decisions in respect of the charges proposed in section 4.3 and 4.5 above, authority is sought to enable adjustments to be made to the published fees and charges accounting for changes to staff salaries and indirect costs and legislative/regulatory change. Adjustments will be made following a calculation of costs based on the principles set out in paragraph 3.4 above and any other information required in order that the Board / Committee / Cabinet Member / Cabinet is well-informed and has all the information necessary to consider / take the decision.

5. Financial Implications

- 5.1 The fees and charges set out in paragraphs 4.3 and 4.5 above ensure that the County Council continues to recover its reasonable costs where these are incurred in providing services for which the Council may charge. By charging for these services, where permitted, the GET Directorate is better able to meet the demand for some of its services while not impacting on otherwise pressured revenue budgets. Whilst it is difficult to predict income from this workstream given the uncertainty of projects that may come forward, the PPA work has the potential to realise a new income stream. The recovery of discretionary services costs will enable the Council to maintain budgets for providing services in a more sustainable way.

6 Policy Framework

- 6.1 The proposal ensures, as far as is possible, that the recovery costs of service provision are reflected in fees and charges for discretionary planning work. This enables the existing revenue budget to be used in ways that support “Increasing opportunities and Improving Outcomes” rather than in subsidising discretionary services.

7 Equalities Impact Assessment

- 7.1 An Equalities Impact Assessment (EqIA) initial screening has been completed. No equalities implications have been identified. Further details are attached as Appendix 1

8. Conclusion

- 8.1 The County Council may charge for the provision of discretionary pre-application planning advice and for the provision of professional and advisory services to support the Development Consent Order process. It is, given the financial climate, essential that where the Service may recover its costs it does so. The true costs of service provision will be reflected in establishing fees and charges and the Service has set out a number of principles that are applied in calculating its costs.

9. Recommendation

Recommendation:

The Environment and Transport Cabinet Committee is asked to **consider and endorse, or make recommendations** to the Cabinet Member for Planning, Highways, Transport and Waste on

- (i) the decision to publish revised fees and charges for discretionary planning and environmental advice and DCO activity; and
- (ii) to delegate authority to the Director of Environment, Planning and Enforcement to review and publish revised fees and charges subject to the application of a number of key principles as set out in paragraph 3.4

10. Contact details

Report Author:

Sharon Thompson - Head of Planning Applications

03000 413468

Sharon.thompson@kent.gov.uk

Relevant Director:

Katie Stewart - Director, Environment, Planning and Enforcement

03000 418827

katie.stewart@kent.gov.uk