

North York Moors National Park Authority

15 December 2014

Extending Planning Charges for Pre-Application and Enforcement Advice

1. Purpose of the Report

- 1.1 To agree the extension of the Authority's current schedule of non-statutory planning charges in line with previously agreed targets for increasing income to the Authority to contribute towards meeting funding gaps resulting from existing and potential future cuts in core grant.

2. Background

- 2.1 Charges for providing pre-application advice and some planning admin services were introduced on a limited basis in January 2012 for a provisional period of one year. The fee schedule was carefully considered to strike the right balance between offsetting some of the costs of providing a proactive advisory service and not deterring applicants from seeking such advice. Consequently, fees were introduced for higher value schemes rather than householder planning applications which make up the bulk of applications received. Charges were therefore applicable to proposals for larger scale developments such as 2 or more dwellings, farm buildings over 465msq, mineral extraction and major development proposals (the latter attracted the highest charge of a flat fee of £250 plus £50 per hour).
- 2.2 An assessment of the impact of this charging was undertaken after a year and it was considered that although the scheme had raised relatively little income (£1100), neither had it appeared to have had any significant deterrent effect on applicants wishing to seek such advice. It was therefore decided to adopt charging for these services on a permanent basis, increase the fees in line with other local authorities and to extend their scope slightly. This was introduced in January 2013 and has now become an accepted part of the planning service of the Authority. In the first half of this year this has brought in over £4000 in income.

3. Proposals for Further Extending the Scope of Pre-application Charging

- 3.1 There has been much discussion over the last two years at Committee meetings and informal seminars about the need for the Authority to increase income and Members will be very aware of the scale of the funding cuts to the Authority's core grant from Defra. It has been generally accepted by Members that this requires a significant change, indeed a cultural change to the way in which we operate our services and this would mean a more commercially minded, service ethos, whilst retaining the highly accessible, responsive and customer focused approach which has characterised the Authority for many years.
- 3.2 To achieve the income target set for this area of our work (£25,000 pa) requires a charge for virtually all of the pre-application services we offer, including extending fees to cover advice for householder proposals. Elsewhere there is a mixed approach for charging for this category of development and if included it would essentially mean that the Authority's pre-application planning service would be chargeable for all users. Residents of Ryedale, Scarborough and Hambleton Councils already pay for such

advice, though currently all pre-application advice is free in Redcar and Cleveland. The situation in other National Parks is set out below:

- *Broads Authority : do not charge*
- *Dartmoor: intends to introduce charging in 2015*
- *Exmoor: do not charge*
- *Lake District: No charging at present but being considered*
- *New Forest: Charge for all pre-application advice (£84)*
- *Northumberland: charge for all pre-application advice (£40+)*
- *Peak District : charge for pre-application advice (except for householder development)*
- *South Downs: charge for pre-application advice (except for householder development).*
- *Yorkshire Dales: recently introduced charging but not for householder development.*

3.3 It should be noted that this change is significant and is likely to have some adverse impacts, potentially to the level of customer satisfaction (although being charged for what was once a free service is not likely to be popular, it is considered that the high quality of service and professionalism offered should offset this), but more importantly in the willingness of applicants to seek advice prior to applying. There is some recent evidence that larger schemes which have not been subject to pre-application advice have failed to meet the high quality of design required in the National Park and Members will recall that a recent tourism development fell into this category which resulted in two Committee meetings, a Member Site Visit and an eventual refusal, even though the principle of the development was supported. This protracted process involves greater cost to the Authority, and extends our determination timescales, though the potential aggregate cost of such proposals is difficult to quantify.

3.4 Nevertheless, the principle of seeking greater cost recovery has already been accepted and the Authority is implementing such changes across the range of its activities. These will need to be kept under review so that changes can be made if, in the long term, charging creates more work than the income it generates. It is therefore recommended that a scale of fees for non-statutory planning services is adopted as set out below:

Service Provided	Fee/Charge	Potential income generation
Written replies to "Do I Need Planning Permission?"	Increase from £10 to £25	£3000
Verbal replies to "Do I Need Planning Permission?"	It would be unreasonable not to continue with this service as officers would have to decline to speak, though applicants will also be encouraged to seek written confirmation	
Pre-application advice for major developments ¹	Retain at £250 plus hourly rate of £50	£1000
Pre-application advice for 2-9 dwellings and all other development (not included in major or householder) ¹	£50/£75 ²	£3000
Pre-application advice for householder development. Plus	£30/£55 ²	£2500

single dwellings		
Answering written private search/planning queries	Increase from £15 to £25	£300
Emailing copies of historic decision notices	Introduce charge of £10	£300
Checking of planning applications in reception	Introduce charge of £15 ³	£400
Minerals/Waste Site monitoring visits	Start charging national fee - £288/96 fee	£2000
Drafting of s106 Notices ³	Retain £500 flat fee + £50 hourly rate	£3000
Application map provision service	Introduce charge of £25	£2000
Home buyers/vendors planning assurance letter (currently under consideration) ⁴	Possible new service providing all planning /enforcement/listed building/policy advice about a property - £125 ⁵	£2500
District Searches	Increase fee from £15-£25	£3000
Potential total annual income		£23000

The above table does not include negotiated s106 contributions/affordable housing commuted sums or the recovery from applicants of consultant fees (eg housing viability studies), or income received from any shared service or consultancy provided by planning staff. These activities should generate the remainder of the £25k income budgeted for. Charges for discharge of conditions are subject to a nationally set fee, though the way this is levied should change to ensure repeat requests on the same application are subsequently charged.

¹ Definition of major development in CLG statistical returns. Includes advice relating to all proposals under the planning acts, eg adverts/listed buildings and also enforcement.

² Charges based on amount for office based review and advice with extra £25 if site visit is required

³ Extra hourly rate applicable for complex s106 Agreements on top of base £500 – or for checking Unilateral Undertakings from applicants.

⁴ The purpose of this service is to allow prospective purchasers of land or buildings to enquire of the Authority whether the current state of the land is likely to be in breach of planning/listed building control, with advice as to how to rectify any anomalies.

⁵ Extra £25 if site visit required.

4 Proposals for Enforcement Charges

4.1 Whilst there is no specific statutory duty or power for the Authority to recover investigation costs the Authority is legally entitled, under the Local Government Act 2003, to charge for discretionary services. Enforcement investigation costs can be charged under this heading. The above schedule does not include specific income generation arising from the Authority's planning enforcement function which potentially could include the recovery of staff costs involved in preparing cases for legal action which do not reach the courts. Such costs accrue from staff time involved in site visits, discussions and preparation of enforcement notices. Clearly, where investigations reveal that no breach has occurred or possibly when it is not expedient to take further action because of a lack of harm, no fees can be levied. If however a harmful breach has occurred, owners would be informed of the potential costs that the Authority is incurring at regular points during the enforcement process. If an owner wishes to

regularise the breach, charges will apply in relation to paragraph 4.3 of this report and will vary depending on the development concerned. The Authority would bill the owner accordingly.

- 4.2 There are already mechanisms involved in recovery of costs arising from enforcement appeals (in the event of unreasonable behaviour) and prosecutions. The principle is that the Authority wishes to ensure that as far as is possible investigation costs are recovered from those whose acts or omissions have resulted in the costs being incurred. If owners do not pay the bill, the Authority would seek payment via the County Court. This approach is consistent with that of a number of government agencies (e.g. the Health & Safety Executive & HMRC who have a statutory duty to recover all enforcement costs).
- 4.3 In addition to the above, there are cases where the costs awarded following a successful prosecution cover only a small fraction of the costs incurred by the Authority. The Authority will also consider taking action to recover these investigation costs (ie those not recovered through the primary proceedings) by way of secondary proceedings in the County Court. Each case should be considered on its financial merits including the amount of any additional court fees and costs, the prospects of securing an order for payment and the party's ability to meet any costs order.
- 4.4 It is proposed that the costs sought should in both cases be based on 90% of the total staff hourly rate current at the relevant time. A schedule of costs should be completed and reviewed to ensure that the costs are reasonable and accurately reflect the costs incurred by the Authority in undertaking a particular investigation.
- 4.5 Additional, though irregular, income will also be sought through selective use of legislation such as the Proceeds of Crime Act (POCA) where money is gained by the owner as a direct result of unauthorised development.

5. **Potential Exemptions and Concessions**

- 5.1 Certain types of planning applications and specific applicants are subject to exemption or concessions from planning application fees in recognition of their important community benefit or charitable status. It is considered that this approach should also be reflected in the fees levied for pre-application advice and the following is suggested:
 - Advice to parish councils and charities– 50% of fee
 - Advice to Registered Housing providers – no fee
 - Advice to Strategic partners (e.g. Forestry Commission or Environment Agency) – no fee provided there is no fee charged by the agency to the NPA for its services
 - Applications required to meet disability legislation – no fee

6. **Other Corporate Charges**

- 6.1 The Authority also charges proportionate fees for a range of its administration/corporate services and these are varied in line with real costs and accepted practice under existing delegated responsibilities by the Director of Corporate Services.
- 6.2 Officers also intend to investigate whether there are any other activities carried out by the Conservation Department for which charging would be appropriate and not undermine the achievements of National Park purposes.

6.3 Officers are not however suggesting as increase in car parking charges for 2015/16, through expect to recommend one for 2016/17.

7. **Financial and Staffing Implications**

7.1 Flexible payment options for users of the planning service are needed to implement these changes and these systems have now already been made available. There will be a need for changes in staff approach in dealing with applicants which need to be reflected in appraisals/training needs. The changes will result in a net increase in income to the Authority.

8. **Contribution to National Park Management Plan**

8.1 Though not directly related to specific policies in the Management Plan, additional income to the Authority will increase its ability to implement policies within it.

9. **Legal Implications**

9.1 Section 93 of the Local Government Act 2003 gives local planning authorities a power to charge for providing services that they are not statutorily required to provide. Charges can be set at whatever level the Authority sees fit, provided the charge does not exceed the cost of providing the service.

10. **Recommendation**

10.1 That Members agree to adopt the schedule of charges for pre-application advice and other non-statutory parts of the Authority's planning service as set out in the table in section 3.4 of the report with effect from 1 April 2015, together with the exemptions included in section 5.1, on a permanent basis.

10.2 That Members agree to adopt the approach proposed in paragraph 4.1 of this report which seeks recovery of staff costs involved in enforcement investigation where possible.

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Background papers to this Report

File ref

1) NYMNPA Committee Report 17 December 2012