

WEST DUNBARTONSHIRE COUNCIL**Report by Planning, Building Standards and Environmental Health Manager****Planning Committee: 14th December 2022**

Subject: Introduction of fees for pre-application advice and other discretionary fees, exemptions, reductions and surcharges.

1. Purpose

- 1.1** To seek approval for the introduction of fees for the provision of pre-application planning advice to prospective developers and householders and for the introduction of other discretionary charges, exemptions, reductions and surcharges.

2. Recommendations

- 2.1** It is recommended that the Committee agrees, subject to decision at Council on 21 December 2022,:
- the introduction of discretionary charges for providing pre-application advice, non-material variations, written confirmation of compliance/discharge of conditions, and exemptions as set out in Appendix 1 to come into effect on 1st February 2023.
 - a surcharge of 25% be imposed on all retrospective planning applications to come into effect from 1st February 2023.

3. Background

- 3.1** The role of pre-planning application advice is to provide a forum for developers to discuss proposals with Council officers prior to submitting an application and thereby receive advice on the issues which will need to be addressed as well as what information will be required for a submission. The pre-application process is a critical mechanism – early and effective consultation and engagement will assist in avoiding delays and difficult situations during the planning application process. The ability to facilitate these processes is key to supporting applicants in the delivery of high quality projects and developments. The Council welcomes early discussions with all applicants and developers prior to the submission of any application. The submission of detailed and comprehensive applications results in quicker decision making once an application is submitted. The Planning Service in West Dunbartonshire focuses resources on front loading complex and high profile regeneration, housing and economic based applications through the pre application process, which ensures speedy decision making and quality development with an

excellent average determination period of 9.6 weeks for major developments in 2021-22, which is well below the Scottish average of 41.3 weeks and the statutory 4 month determination period target for major applications.

3.2 Recognising that applications range in type, scale and complexity, the Council has recently adapted its pre-application service to offer a more bespoke pre-application process; one which can be adapted to suit the needs of the applicant and Council alike. The options for pre-application have been simplified into two distinct routes – Pre-Application Advice and Pre-Application Framework. The Pre- Application document (Appendix 2) explains how these processes will function and also direct applicants to relevant supporting material. The Pre-Application Advice process is generally for smaller and less complex proposals with the Pre-Application Framework for larger and more complex proposals. Whilst applications will still be defined as either ‘local’ or ‘major’, in accordance with the Hierarchy of Development Regulations, the Council has moved away from using these categories to define the type of pre-application process necessary. This is in recognition that all applications vary in type, scale and complexity, and as such, the pre-application process should reflect these different requirements.

3.3 The Pre-Application Framework provides a structured process for the pre-application stage, where applicant teams are working collaboratively with the Council and where consultation with the Council’s Place and Design Panel and Elected Members can be integrated into the process. A trial of this process was run with a developer of a housing site in Clydebank and the responses from officers and the applicant team was positive. The Pre-Application Framework now is being used for other development proposals. There is no charge for this service at present. In 2022 there were 6 Planning Application Frameworks undertaken for development proposals, 4 Place and Design Panels held and 2 Elected Member Briefing sessions.

3.4 Pre-Application Advice is accessed via an online Pre-Application enquiry form and is mainly used for householder and local development and is not targeted at Major, Environmental Impact Assessment development or those developments which require to be put through the Pre-application Framework. The online pre-application enquiry form was introduced in May 2021 and between May 2021 to December 2021 86 enquiries were received and from January 2022 to end of November 2022 90 enquiries were received.

3.5 For other Councils that have introduced fees for pre-application enquiries, there has been a reduction in speculative planning enquiries being

received and they have been better able to focus resources throughout the planning service.

4. Main Issues

- 4.1** The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022 sets out the level of fees required as part of planning applications and other associated applications. The Regulations replace the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004. They also introduced some additional categories of fees and enable the planning authority to charge discretionary fees for some services, to reduce or waive fees in certain cases and to apply a surcharge for retrospective applications.
- 4.2** The Regulations requires planning authorities to set out what will be charged for these services, when and by how much fees will be reduced and clarify the level of surcharges applied. The increase in planning fees came into effect on 1st April 2022 and are welcomed in supporting a well-resourced and efficient planning service. Amongst the changes, standard “householder” fees increased from £202 to £300, the single house application fee increased from £401 to £600, with the maximum major development fee increased to £150,000. A proposed Schedule of Fees are detailed in Appendix 1.
- Pre- application enquiries
- 4.3** Many Local Planning Authorities across Scotland have already introduced charging for pre application enquiries. Appendix 3 provides an indication of the Councils charging for pre application enquiries and the level of their fees. As indicated above the provision of good pre-application advice is fundamental to identifying the appropriate supporting information required to be submitted with a planning application and to front load a planning application. It is proposed that the following pre application fees are introduced – a flat rate of £3000 for major or national developments and those developments identified as requiring to be dealt with through the Pre–Application Framework, £500 for local development and £100 for householder development. It is envisaged that major or national developments and some local developments will require to be dealt with through the Pre-Application Framework, with the Framework determining the number of meetings, the requirement for the Place and Design Panel and Elected Member briefing. More minor local development and householder development may be addressed by a single meeting/ site visit or an email response which will give the policy background, an overall view on whether the development proposals are likely to be acceptable, consultation/ consultees to be carried out, key mitigation required to make the proposal acceptable and expiration date for the advice. Pre- application

advice will be charged to developers, householders and other Council Services who are undertaking development proposals.

Non-Material Variations

- 4.4** Once planning permission has been granted, changes to proposals are often submitted. A non-material variation (NMV) application is essentially a proposal to change an approved development that will not significantly alter what was granted planning permission. The new fee regulations set out that a planning authority may introduce a charge of £200 for each non-material variation request, and it is proposed to include this charge for all development types in line with the level set out in the Regulations.

Written confirmation of compliance with condition(s) and discharge of a condition(s).

- 4.5** Often a developer will seek written confirmation that a condition attached to a planning permission has been complied with or the condition discharged and this does not attract a fee. The Fee Regulations states that "Where a request is made to a planning authority for written confirmation of compliance with a condition imposed on the grant of planning permission the fee payable to that planning authority is £100 for each request". It is therefore recommended that this fee is applied to each separate request as there is significant work involved in discharging and confirming compliance with conditions. The fee would apply to each request made with each separate request attracting a new fee. The current planning fee regulations waive fees in full as an exemption for works or alterations to improve access, safety, health or comfort for a disabled person at their home, and community councils benefit from a 50% fee reduction on planning applications. It is proposed to apply the same reductions to fees relating to discharge and compliance with condition fees.

Waiving or reducing of fees

- 4.6** Regulation 5 of the New Fee Regulations provides that an authority may waive or reduce any planning fees that would otherwise be payable under the Regulations. An authority may waive or reduce a fee if it has published a charter setting out the circumstances in which they will waive or reduce fees. This could be for example where an authority wishes to seek to encourage certain types of development in order to meet a policy objective/outcome where the viability of development would otherwise be significantly and demonstrably affected or where the type of development was not envisaged or provided by the Regulations.
- 4.7** If such a Charter is published it must include, but is not limited to, where the application relates to development in the opinion of the authority, has the primary purpose of contributing to a not for profit enterprise or a social enterprise or where the application relates to development which in the opinion of the planning authority, is likely to contribute to improving the

health of residents of the area to which it relates. It is up to the authority to determine what types of development shall fall into these categories. If a planning authority waives or reduces any planning fee, it must include its reasons for doing so in the decision notice. It is proposed to extend this to cover developments that support the Council's Food Growing Strategy such as allotments, and food banks and no application fee would be payable for such development proposals or alterations.

Surcharges

- 4.8** The new fee regulations also allow surcharges to be applied to retrospective applications to a maximum of 25% of original planning application fee. Many retrospective applications are made once all development is complete or when the development has started but not completed. In these circumstances these planning applications should attract a surcharge of 25%. It is hoped that the introduction of a surcharge will reduce the number of unauthorised developments that are carried out without the necessary planning permission.

Future Review

- 4.9** It is intended that the charges will be reviewed within one year to ensure that the costs are reflective of the service provided and after assessment of the number of enquiries received.

5. People Implications

- 5.1** There are people implications associated with this report. The charging for pre application advice will require a well-resourced planning service.

6. Financial and Procurement Implications

- 6.1** The proposed charges are set out in Appendix 1 and represent estimation of cost in relation to processing these requests.

7. Risk Analysis

- 7.1** If the Development Management service is not adequately resourced there could be reputational damage to the Council if it is charging for a service that it cannot provide it to an acceptable level within an agreed timescale.

8. Equalities Impact Assessment (EIA)

- 8.1** The Equalities Impact Assessment details some small differential impacts of charging impacts, that can be mitigated. The Council will follow its Communicating Effectively to ensure accessibility of advice and guidance. The fees have been introduced in line with The Town and Country Planning (Fees for Applications)(Scotland) Regulations 2022, which

enables and sets out discretionary fees that the Council can introduce for planning-related services. The fees have been set in line with the Regulations where these are set out, or following benchmarking where the Council has latitude to set its own fees. Exemptions have been introduced where allowed to account for potentially disadvantaged groups, and have been set at an affordable* rate for development types likely to be undertaken by individuals (*when compared with the overall costs of a development project). Many of the fees are also optional.

9. Consultation

9.1 The input of legal and financial colleagues has been sought during the preparation of this report.

10. Strategic Assessment

10.1 The report is considered to align with the Council's Strategic Priorities, particularly:
Our Council – Inclusive and Adaptable
Our Communities – Resilient and Thriving

Pamela Clifford

Planning, Building Standards and Environmental Health Manager

Date: 14th December 2022

Person to Contact: Pamela Clifford, Planning & Building Standards Manager
pamela.clifford@west-dunbarton.gov.uk

Appendices: **Appendix 1:** Discretionary fees, exemptions and surcharges applicable from 1 February 2023
Appendix 2: Pre-Application Guidance and Services
Appendix 3: Pre-Application fees charged by other Scottish planning authorities
Appendix 4: Equalities Impact Assessment

Background Papers: The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022

Wards Affected: All