

FAREHAM

BOROUGH COUNCIL

Report to Planning Committee

Date **16 December 2020**

Report of: **Director of Planning and Regeneration**

Subject: **Introducing charges for heritage advice and design codes, and
the use of Planning Performance Agreements**

SUMMARY

A report by the Director of Planning and Regeneration in respect of introducing charges for heritage advice and design codes, and the use of planning performance agreements, is due to be considered by the Council's Executive on 4th January 2021. The Executive report is attached as a background paper to this summary report.

RECOMMENDATION

That the Committee:-

- (i) note the proposals the Director of Planning and Regeneration is making to the Executive in respect of charges for heritage advice and design codes, and the use of planning performance agreements; and
- (ii) refer any comments on the charges for heritage advice and design codes, and the use of planning performance agreements to the Executive when it considers this item at its meeting on 4th January 2021.

INTRODUCTION

1. At their meeting on the 3rd February 2020, the Executive agreed several changes to the Council's pre-application planning advice service, which included increasing the fees the Council charges to provide informal planning advice. The changes to the service along with the increases in fees came into effect on the 1st April 2020.
2. The Executive were also advised in February, that a further report would be bought back for consideration relating to charging for heritage advice; charging for design coding work; and the use of planning performance agreements. The report which is due to be considered by the Executive in January, and is appended to this report, sets out proposals in respect of each of these three areas.
3. The proposals being considered by the Executive in January are being bought to the attention of Members of the Planning Committee. If Members would like to make any comments on the proposals, they are invited to do so; any comments they wish to make will be draw to the attention of the Executive when it formally considers the proposals in January.

RISK ASSESSMENT

4. There are no significant risk considerations in relation to this report.

CONCLUSION

Appendix A: Draft Executive Report - Introducing charges for heritage advice and design codes, and the use of Planning Performance Agreements.

Background Papers:

Report by the Director of Planning and Regeneration in respect of introducing charges for heritage advice and design codes, and the use of Planning Performance Agreements.

Enquiries:

For further information on this report please contact Lee Smith. (Ext 4427)

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision

04 January 2021

Portfolio:	Planning and Development
Subject:	Introducing charges for heritage advice and design codes, and the use of Planning Performance Agreements
Report of:	Director of Planning and Regeneration
Corporate Priorities:	A dynamic, prudent, progressive and best practice Council

Purpose:
To advise the Executive on introducing charges for heritage advice and design codes, and the use of planning performance agreements.

Executive summary:
In February, 2020, the Executive considered proposals to increase the level of fees that the Council charges for providing pre-application planning advice.

The Executive was advised at that time that a further report would be brought back for consideration relating to charging for heritage advice and for design code work, and the use of planning performance agreements.

This report sets out proposals in respect of each of these three areas.

Recommendation:
It is recommended that the Executive:

- (a) agrees the introduction of pre-application planning advice charges for heritage advice as set out at Paragraph 11, and that the charges will come into effect for all related requests received on or after the 1st February 2021;

- (b) agrees the introduction of charges in respect of work undertaken on design codes as set out at Paragraph 21, and that the charges will come into effect on the 1st February 2021;
- (c) notes the benefits to applicants and this Council of using planning performance agreements along with the potential for the Council to recover some of the abnormal costs it expends in processing related planning applications to agreed timetables;
- (d) agrees that this Council consider the use of planning performance agreements on any appropriate planning applications received on or after 1st February 2021.

Reason:

To ensure that the heritage advice provided, along with the advice provided on design codes, meets the needs of customers. To ensure that a proportion of the cost of delivering the heritage pre-application planning advice service is recovered from users of the service along with the full cost of providing advice on design codes. To manage the progress and cost of dealing with large scale and complex planning proposals.

Cost of proposals:

If the charges proposed in the report are implemented, the Council will receive additional income and recover a greater proportion of the cost of delivering the pre-application planning advice service, and potentially some of the abnormal costs associated with processing large scale and complex proposals.

FAREHAM

BOROUGH COUNCIL

Executive Briefing Paper

Date:	04 January 2021
Subject:	Introducing charges for heritage advice and design codes, and the use of Planning Performance Agreements
Briefing by:	Director of Planning and Regeneration
Portfolio:	Planning and Development

INTRODUCTION

1. The provision of pre-application planning advice is a discretionary service provided by Fareham Borough Council and is strongly encouraged through the Government's planning guidance. Section 93 of the Local Government Act 2003 gives local authorities a discretionary power to charge for providing pre-application planning advice, being a service that this authority has the power to provide but is not obliged to.
2. At their meeting on the 3rd February 2020, the Executive agreed several changes to the Council's pre-application planning advice service, which included increasing the fees the Council charges to provide informal planning advice. The changes to the service along with the increases in fees came into effect on the 1st April 2020.
3. The Executive were also advised in February, that a further report would be bought back for consideration relating to charging for heritage advice; charging for design coding work; and the use of planning performance agreements. The following report sets out proposals in respect of each of these three areas.

Introduction of pre-application planning advice charges for listed buildings and heritage advice

4. Fees associated with listed building consent applications are set nationally. The current position is that the Council cannot charge a fee to deal with any formal applications seeking listed building consent. The Council is expected to meet the cost in full for processing these types of applications. In addition to this, at present this Council does not charge for providing pre-application planning advice on works solely relating to listed buildings.
5. The Council has one specialist Conservation Planner post who deals with the large majority of heritage related issues. The Conservation Planner receives large numbers of enquiries seeking advice on matters relating to listed buildings and other heritage assets. The most common enquiries relate to whether listed building consent is required or not and whether listed building consent is likely to be granted or not. It is estimated

that approximately 30% of the Conservation Planner's time is spent dealing with informal planning enquiries such as these.

6. Whilst it is important to maintain an advice service for customers, this needs to be balanced against the other pressures on the Conservation Planner's time. These include deciding listed building consent applications; advising on the heritage aspects of planning applications; undertaking Conservation Area Character Assessments and progressing related Article 4 procedures; and advising on the development of planning policy with respect to listed buildings and heritage assets.
7. Whether listed building consent is required or not is normally a fairly straight forward question to answer. At present the Council does not charge customers when they seek informal advice as to whether planning permission is required or not. In light of this it is not proposed to charge customers seeking informal advice as to whether listed building consent is required or not.
8. Whether listed building consent is likely to be granted or not is however a far more complicated question and one which can involve a fair amount of the Conservation Planner's time. To answer this question often requires research to be undertaken in respect of the specific listed building along with an assessment of the proposals; the assessment will often require a site visit including an inspection of the inside of the property. In many cases if the proposal is not acceptable, the Conservation Planner will provide advice on what changes need to be made to make it acceptable in their view.
9. Officers have reviewed a number of recently 'completed' enquiries where pre-application advice was sought and provided in respect of proposals to carry out works to a listed building. Of those completed cases, it was found that the Conservation Planner spent around 2 1/2 hours on average working on requests.
10. In considering the level at which a fee should be set, Officers have had regard to the approach taken by all the other planning authorities in Hampshire. A table listing all the charges set by the other planning authorities in Hampshire is attached at Appendix A of this report. Whilst a small number of authorities do not charge for this work, many charge a fee within a range of £40-£320.
11. The Council's Finance Officers have confirmed that the hourly rate for this Council's Conservation Planner is £75 per hour, when incorporating all relevant on-costs. Whilst it is acknowledged that some Hampshire authorities have set fees in the region £40-£50, this level of fee would not achieve full cost recovery for anything other than the simplest enquiry based on a desk-top response. It is considered appropriate to set a fee which strikes a balance between introducing one simple easily understood charge, whilst achieving full cost recovery in a large number of cases. It is recommended that this Council sets a fee of £150 (inclusive of VAT) for any requests for informal planning advice to carry out works or alterations to a listed building.
12. It is estimated that around 50 detailed enquiries are currently received each year seeking pre-application advice in respect of heritage assets, particularly listed buildings. If the number of enquiries continues unchanged following the introduction of a charge, approximately £7,500 would be recovered

Introduction of charges in respect of work undertaken on design codes

13. Design codes are a distinct form of detailed design guidance. They are a set of

illustrated design requirements that provide specific, detailed parameters for the physical development of a site or area. They provide clarity over what constitutes high design quality for a particular site or area, providing a level of certainty for developers and the local community alike.

14. Design codes set out design principles aimed at delivering better quality places, by setting out the requirements for street widths, building heights and setbacks, treatment of footways, type and scale of planting and so forth. However, unlike many generic urban design guidelines or local development standards, design codes do not simply repeat policy or guidance found in other national or local policy or guidance documents. Instead, design codes provide a positive statement about the particular qualities of a place.
15. Design codes are focussed around those design characteristics that are important to achieve, and they establish and firmly fix the 'must have' design elements. In so doing codes help to provide continuity in quality and consistency over time. To achieve this aim, design codes often build upon a design vision in a development plan or masterplan.
16. Design codes can be commissioned or prepared by either the local planning authority or developer but are best prepared in partnership to secure agreed design outcomes and maintain viability, particularly across complex sites and phased and multi-developer schemes. They can also be prepared for smaller sites, including self-build or custom build projects, where codes can be used to maintain a degree of certainty whilst allowing for design freedom. Design codes can be applied to all development types including residential, commercial, mixed use, open space, landscape or public realm requirements.
17. Members will be aware from the recent consultation on the White Paper: Planning for the Future, that the Government wants to see design codes play a far greater role in the decision-making process on planning applications. The thrust of the White Paper is that the Government expects design codes to be prepared locally with community involvement, and that codes will be more binding on decisions made on planning applications.
18. As part of the planning permission the Planning Committee resolved to grant for Welborne, there is a requirement for the developer to submit both strategic and neighbourhood design codes to the Council for approval.
19. Strategic design codes will provide details of the nature of the character of the whole Welborne site, within which the neighbourhood areas will sit. The strategic design codes will provide details of the different character areas within Welborne, where they are located and how they will vary to reflect the site conditions, the different uses and spaces proposed. The neighbourhood design codes will supplement the strategic design codes and provide a greater level of detail in relation to different parcels of land within Welborne.
20. Officers consider that it is highly important that both strategic and neighbourhood design codes are prepared in partnership with the master developer. The neighbourhood design codes will continue to be produced and refined throughout the lifetime of the Welborne development. Developing the design codes in partnership with the master developer is likely to involve considerable Planning Officer and Urban Designer time and may require additional input from external consultants on occasions.

21. In recognition of the amount of officer time which is likely to be spent working on design codes, it is considered appropriate to recover this cost from master- developers or applicants. The differing scale of proposals which may use design codes, mean that it is not possible to set a 'fixed fee' at this stage for the work likely to be undertaken. It is therefore recommended that the charge for any work undertaken by this Council in respect of design codes, will be on a 'price on application' basis. The fee will be calculated on a case by case basis, based on a schedule of officer rates published annually on the Council's website, plus the costs of external consultant input when required.
22. With respect specifically to Welborne, there is a need to develop and agree a strategic design code with the master developer. It is anticipated that the work in association with the strategic design code will require in the region of 100 hours of Fareham Borough Council's Officers' time which will equate to approximately £9,000 of the Council's costs being recovered.
23. Work on subsequent neighbourhood design codes will be dependent on the manner in which Welborne is which brought forward, and the size of the neighbourhood areas. At this stage it is estimated that the initial neighbourhood design code is likely to require the same level of Officer time and in turn could secure the same level of cost recovery as the strategic design code. The Welborne program produced by Buckland Development Limited sets out that the strategic design code and first neighbourhood design code will be developed during 2021. Charging for design code work will assist in recovering the costs to this Council for delivering the Welborne Garden Village.
24. Whilst Welborne is one particular site where design codes will play an important role, there is potential that other development sites will come forward where the use of design codes will be appropriate.

The use of planning performance agreements

25. The statutory time limits for making decision on planning applications is usually 13 weeks for applications for major development and 8 weeks for all other types of development. In the case of an application subject to an Environmental Impact Assessment, there is a period of 16 weeks in which to make a decision. Where it is clear at the outset that an extended period will be necessary to process an application, the Government recommends that the local planning authority and the applicant should consider entering into a planning performance agreement before the application is submitted.
26. A planning performance agreement is a project management tool which local planning authorities and applicants can use to agree timescales, actions and resources for handling particular applications. They are intended to cover the pre-application and application stages but may also extend through to the post-application stage. Planning performance agreements can be particularly useful in setting out an efficient and transparent process for determining large and/or complex planning applications. They encourage joint working between the applicant and local planning authority and can also help to bring together other parties such as statutory consultees. Whilst they can be used for differing scales of applications, they are more likely to be used on the larger more complex schemes.
27. There are no prescribed national format for planning performance agreements, and it is for the local planning authority and the applicant to discuss and agree a suitable

process, format and content which is proportionate to the scale of the project and the complexity of the issues to be addressed. As a minimum, these agreements should be built around an agreed timetable, setting out development objectives and the responsibilities for various tasks. There will always need to be a clear and agreed timescale for reaching a decision on the application once it is submitted.

28. A planning performance agreement can extend to matters beyond the formal application process – such as programming the negotiation of any section 106 agreement. For very large or complex schemes the agreement may also provide a basis for any voluntary contributions which the applicant has offered to pay to assist with abnormal costs of processing the application. The parties will want to ensure that such payments do not exceed the cost of the additional work involved, are not seen to have any implications for the decision on the application, and do not deflect resources from processing other cases; any additional resource provided in this way needs to be used for additional capacity that is genuinely required to ensure a timely and effective service.
29. The use of planning performance agreements would be a helpful project management tool, particularly in respect of larger scale and more complex development proposals. An opportunity would exist for this Council to seek agreement from applicants to cover some of the abnormal costs which might be incurred by the Council in determining such planning applications. As there is no nationally specified format to planning performance agreements and each one will be bespoke, the drafting of individual agreements will be undertaken by planning officers in consultation with either the Head of Development Management or the Director of Planning and Regeneration.

RISK ASSESSMENT

30. If the charges are not introduced for providing pre-application advice on listed buildings, heritage assets and design codes, the Council will need to continue funding this part of the service from other revenue budgets.

CONCLUSION

31. The Executive is invited to approve the proposed charge for providing advice on proposals affecting listed building and heritage assets as set out at Paragraph 11; the charge in connection with work on design codes as set out at Paragraph 21; and to agree to the Council using planning performance agreements on appropriate planning proposals.

Enquiries:

For further information on this report please contact Lee Smith (Ext 4427)

Pre-application planning charge for heritage advice

Local Planning Authority	Charges	Explanation for differing fees
Basingstoke	£0	
East Hampshire	£67-£133	The first fee is for a desk based assessment with written advice only; the second fee includes a site visit
Eastleigh	£0	
Gosport	£50 upwards	£50 is for householder proposals. For all other types of development, a fee of at least £80 is levied on top of the Council's quoted pre-application charges
Hart	£70-£320	£70 is for householder proposals and for either written advice or a meeting. £320 relates to non- householder heritage advice
Havant	£67-133	The first fee is for written advice only, with the second including a site visit
Isle of Wight	£150 - £200	The first fee is for householder proposals with the second being for non-householder proposals
New Forest DC	£66-£130- £198	The first fee relates to advice where only listed building consent is involved. The second fee is for householder development relating to listed buildings which requires planning permission. The last fee is for extensive works proposed to listed buildings.
New Forest NP	£50	
Portsmouth	£40	
Rushmoor	£40	
Southampton	£50 -100	The first fee is for a desk based assessment with written advice only; the second fee includes a site visit
South Downs NP	£0 - £48	The first fee is for written advice only. Meetings are charged at £48 per hour
Test Valley	£0	
Winchester	£123.60	