

**Proposed Decision to be taken by the
Portfolio Holder for Transport & Environment
on or after 16 February 2018**

**Approval to establish a chargeable service for advice on surface
water drainage**

Recommendation

- 1 That the Portfolio Holder for Transport & Environment approves the establishment of a chargeable service for pre-application advice on surface water drainage, and other non-statutory functions.
- 2 That approval of the final documentation and charging structure, and changes to the level and structure of charges following monitoring and review of the service, is delegated to the Joint Managing Director (Communities).

1.0 Background

- 1.1 The Flood and Water Management Act 2010 (FWMA) created the role of Lead Local Flood Authority (LLFA) for county councils and unitary authorities.
- 1.2 A Statutory Instrument was laid before Parliament in March 2015 which gave LLFAs the role of statutory consultee on major development with surface water drainage.
- 1.3 Additional funding was not allocated to LLFAs to carry out this new duty, and to date the cost to fulfil this role has been met by the County Council.
- 1.4 As part of the One Organisational Plan 2020, proposal CG-TE-18 recommended the introduction of pre-application charges in Flood Risk, with an income target of £20,000 from 2018/19.
- 1.5 In addition to this income target, we have recognised that the earlier we are able to be involved in the planning process for a new development, the more likely we are to be able to influence the scheme design, and there is a greatly improved opportunity for us to secure betterment.
- 1.6 As a result of this new duty, there has been an increased demand for other non-statutory work streams such as: model reviews; design checks; compliance checking; and other advice.
- 1.7 Completing such tasks will give additional Flood Risk benefits and increased confidence that works that fall outside of our statutory planning remit are of an adequate standard.

- 1.8 To ensure that we are able to provide these services when the requests come in, we propose to charge for our services.

2.0 Options and Proposal

- 2.1 Appendix A sets out the options considered with the recommended option being the introduction of a chargeable service.
- 2.2 Appendix B sets out the proposed charges for the different levels of service we will initially offer. These will vary dependant on the size of the proposed development.
- 2.3 Additional work or requests for services falling outside the initial proposals will be costed using the hourly rates calculated and approved by members for WCC work related to HS2.
- 2.4 A free, non-chargeable level of service will continue to be available for those who do not wish to take-up the chargeable advice. This non-chargeable service will generally be via information made available on the WCC website that will offer generic information that is not tailored to a specific site.

3.0 Financial and Legal Implications

- 3.1 The introduction of pre-application charges in Flood Risk is directly referred to in one of the proposals of the OOP2020. Without approval to commence charging, the income target for the Flood Risk team starting in 2018/19 will not be met.
- 3.2 No additional resources or budgets are sought to provide these services, with the service being provided by the officers carrying out the statutory consultee planning function.
- 3.3 With the exception of the time spent setting up the system and producing the documentation; it is envisaged that all of the cost of undertaking this work will be met through the charges.
- 3.4 The charges were developed using: officer rates calculated using the approved HS2 methodology; an admin allowance; and typical timeframes to complete the tasks. There is no element of profit in the calculation.
- 3.5 Although the County Council has a statutory role as a consultee when a planning application has been submitted, there is no statutory duty to provide a pre-application advice service. There is, however, a discretionary power to provide a pre-application advice service (this is section 111 of the Local Government Act 1972 which allows councils to do things incidental to the performance of their main functions). In such circumstances, section 93 of the Local Government Act 2003 allows the County Council to charge for a

pre-application advice service provided that "...taking one financial year with another, the income from charges ... does not exceed the costs of provision".

- 3.6 The County Council could not charge for providing any data which it already holds which it is required to provide without charge under the Freedom of Information Act or the Environmental Information Regulations. However, tailored advice prepared on request in relation to development proposals is in a different category and can be the subject of a charge. Safeguards will be in place to ensure that the provision of pre-application advice does not compromise the visible integrity of the advice offered as a statutory consultee.
- 3.7 In undertaking a review of other LLFAs pre-app service, there was a wide range of approaches taken. A number of LLFAs have based their hourly rates on that of the Environment Agency (£84), whilst others provide a cheaper service that does not cover all of the aspects that we are proposing to deliver.
- 3.8 To assist in setting the costs, we have carried out several pilot meetings to test the market in terms of uptake and willingness to pay. To date, three pre-app trials have been undertaken successfully, as have two model reviews.
- 3.9 The proposed costs and levels of service are comparable to other WCC teams offering pre-app advice and to other LLFAs offering the same level of service.
- 3.10 The actual cost of providing the service will be monitored during an introductory period of up to 2 years and will be scaled appropriately when sufficient information is available to identify trends and actual costs.

4.0 Timescales associated with the decision and next steps

- 4.1 Following approval, further documentation for the day-to-day operation of this function will be developed. This will include: a guidance note for applicants; requests forms; and a new page on the WCC website.
- 4.2 Whilst developing these documents, advice will be sought from colleagues in Legal Services, and other relevant parties such as the Corporate Insurance Manager, to ensure that we are suitably covered for our proposals.
- 4.3 Some initial test meetings have been held with developers to investigate how the system will operate in practice. These meetings will continue to assist in the development of template documents and validation of processes.
- 4.4 It is proposed that the service will be live and operational by April 2018.

5.0 Background papers

None

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The report was circulated to the following members prior to publication:

Local members:

Other members:

Appendix A: Options considered

Option 1 - No pre-application advice service

Strengths - <i>characteristics of this option that give the service an advantage over others</i>
1. Resources are focused on Statutory duties.
Opportunities - <i>external chances of this option to provide greater financial (or non-financial) benefits</i>
1. Reduced mitigation costs for developers due to lower probability of providing betterment or off-site works.
Weaknesses - <i>characteristics of this option that place the service at a disadvantage</i>
1. Reduced likelihood of being able to influence scheme design and layout.
2. Reduced opportunity to secure betterment and/or improvements to off-site flooding.
3. No early knowledge or advanced warning of possible developments.
4. Poor quality of formal submission documents.
5. Increased consultation response times.
6. Income target proposed in OOP 2020 will not be met.
Threats - <i>external aspects that could cause trouble for the service if this option is chosen</i>
1. Poor quality of submission documents to the LPA.
2. Increased consultation response times back to the LPA.
3. Increased likelihood of LPA refusals & Appeals.

Option 2 - No change (offer free, ad-hoc advice when resources allow)

Strengths - <i>characteristics of this option that give the service an advantage over others</i>
<ol style="list-style-type: none"> 1. Ability to choose whether or not to provide advice dependant on current workload and priorities. 2. Simpler and quicker to offer ad-hoc advice without formal process. 3. Able to input on the layout of sites commented on and seek betterment if possible.
Opportunities - <i>external chances of this option to provide greater financial (or non-financial) benefits</i>
<ol style="list-style-type: none"> 1. Free advice and access to officer local knowledge for developers. 2. Highlight possible viability issues or site constraints. 3. Identify any specialist input required.
Weaknesses - <i>characteristics of this option that place the service at a disadvantage</i>
<ol style="list-style-type: none"> 1. Takes resources away from statutory duties. 2. No budget. 3. Number of requests considered is likely to be very low in practice.
Threats - <i>external aspects that could cause trouble for the service if this option is chosen</i>
<ol style="list-style-type: none"> 1. An inconsistent message to developers that could cause issues when objections are challenged. 2. Conflict of advice given between pre-app and formal consultation response 3. Inaccurate / ad-hoc information can lead to inaccurate advice

Option 3 - Introduce charging for surface water drainage advice

Strengths - <i>characteristics of this option that give the service an advantage over others</i>
<ol style="list-style-type: none"> 1. Increased likelihood of being able to influence scheme design and layout before it is fixed. 2. Greatly increased opportunity to secure betterment and/or improvements to off-site flooding. 3. Early knowledge of possible developments allows LLFA to better plan FRM in the area. 4. Better quality of formal submission documents and past knowledge of development aids formal response times. 5. Introduce a budget income stream to contribute to OOP2020 target. 6. Able to highlight issues to elected members earlier.
Opportunities - <i>external chances of this option to provide greater financial (or non-financial) benefits</i>
<ol style="list-style-type: none"> 1. Confidence in response. 2. Understanding of how national and local guidance will be applied to the development. 3. Clear guidance on what is required for submission to the LPA. 4. Highlight site constraints. 5. Identify any specialist input that is required.
Weaknesses - <i>characteristics of this option that place the service at a disadvantage</i>
<ol style="list-style-type: none"> 1. Take up is optional so new charge may deter developers from undertaking pre-app. 2. If take up is greater than expected, resources will become stretched undertaking statutory duties and chargeable work. 3. Resource requirements for set-up and creation of documentation.
Threats - <i>external aspects that could cause trouble for the service if this option is chosen</i>
<ol style="list-style-type: none"> 1. Developers may try to over-utilise LLFA service in place of key partners due to our hourly rate being significantly lower. 2. Increased costs to developers

Appendix B: Proposed Charges and Levels of Service

Type of Request	Development Type		
	Minor <i>residential proposals of 1-9 dwellings</i>	Major <i>residential proposals of 10-199 dwellings</i>	Significant Major <i>residential proposals of 200 or more dwellings</i>
A. General guidance (available on WCC website)	Free	Free	Free
B. Search of our records and short report	£60	£120	£240
C. Meeting and informal written advice	£420	£900	£1,800
D. Site visit (in addition to C)	£120	£240	£480

All fees are inclusive of VAT at 20%

Additional work, or work not included above will be carried out at an Hourly Charge of £50.