

# Planning Committee

2.00pm, Wednesday, 3 February 2021

## Development management – discretionary charges

Executive/routine Wards Council Commitments	Executive All <a href="#">13</a> , <a href="#">14</a> , <a href="#">50</a>
---	--

### 1. Recommendations

---

- 1.1 It is recommended that the Committee agrees:
  - 1.1.1 the proposed changes to the Council's pre-application advice service and the proposed additional charges for providing pre-application advice be implemented from 1 April 2021;
  - 1.1.2 the proposed changes to the non-material variation service and the introduction of the proposed charges for providing this service from 1 April 2021; and
  - 1.1.3 that a follow-up report be brought to Planning Committee date within six months of the implementation date to continue to monitor performance.

#### Paul Lawrence

Executive Director of Place

Contact: David Leslie, Chief Planning Officer

E-mail: [david.leslie@edinburgh.gov.uk](mailto:david.leslie@edinburgh.gov.uk) | Tel: 0131 529 3948

## Development management – discretionary charges

### 2. Executive Summary

---

- 2.1 This report provides an update on the delivery of the pre-application advice service (PAAS) introduced by the Council on 1 July 2019 and proposes some changes.
- 2.2 The introduction of new discretionary charges to cover applications for non-material variations is proposed.

### 3. Background

---

- 3.1 Discretionary charging for planning tasks refers to a range of services that are currently undertaken by planning officials as part of the development management process but are not covered by statutory fees for planning applications.
- 3.2 Pre-application advice refers to advice given to a prospective applicant before a planning application has been submitted. While providing pre-application advice is not a statutory planning function, in line with Scottish Government guidance the Council provides this service to support the efficient operation of the planning process.
- 3.3 A non-material variation application refers to changes to an existing planning permission that is deemed by the authority to be non-material in nature. A non-material variation is one which will not significantly change the scheme that was originally granted planning permission and are therefore by definition minor changes. This may be required for any number of practical or design reasons. Section 64 of the Town and Country Planning (Scotland) Act allows a Planning Authority to vary any planning permissions granted by them if it appears to them that the variation sought is not material.
- 3.4 Revenue budget preparation for the Planning Service seeks to maximise cost recovery for development management activities. Pre-application advice charging was introduced on 1 July 2019. However, there are a number of other work streams for which charges are not currently levied. There is an opportunity to consider where further charges might be implemented on a cost recovery basis in order to enable the Planning Service to continue to function effectively in the context of significant budget pressures.

- 3.5 The Planning Service has undertaken a review of the existing PAAS, and proposes to refine the process to ensure that it accurately reflects the requirements of service users and that charges reflect the resource required.
- 3.6 An initial scoping exercise has also been undertaken within the Planning Service to assess potential other sources of charging for work. As a result of this exploratory work, it is proposed that a charging strategy be taken forward for non-material variation applications. This is discussed in further detail in the report. These proposals have been informed by work previously undertaken in relation to the implemented PAAS charging procedures as well as in consultation with planning staff, customers, and other internal and external stakeholders.

## 4. Main report

---

- 4.1 The Council implemented a chargeable pre-application advice service (PAAS) on 1 July 2019. Between 1st July 2019 and 31 October 2020, the PAAS has recovered £373,720 of costs via fees. As of the end of October 2020, the Council had received 239 valid requests for the PAAS. The delivery of the refreshed PAAS has gone relatively smoothly to date, with only modest procedural difficulties. Both the provision of the PAAS itself and the supporting activities (such as taking payment) are working well, and staff resources are generally being managed effectively.
- 4.2 The opportunity has been taken at this stage to review current working practices. The existing service provides a range of options for applicants to choose from, dependent on the scale of development being considered (small local, medium local, and major developments) and the detail of pre-application advice sought. As of 31 October 2020, the Council had received the following split of pre-application enquiries:
- 4.2.1 Householder developments – three enquiries (note – there is no standard householder pre-application service offered, therefore these enquiries are out with the scope of the service);
  - 4.2.2 Small local developments – 20 enquiries;
  - 4.2.3 Medium local developments - 121 enquiries; and
  - 4.2.4 Major developments (including pre-position discussions) – 95 enquiries.
- 4.3 This has identified that whilst the system is generally working well, there are some areas where the offer could be adapted to improve the service. In particular, the above analysis and officer experience has indicated that there is a particular demand for the provision of pre-application advice for medium scale local developments. The existing breakdown of fee options for development of this scale are noted as follows;
- 4.3.1 Standard service (desktop review and one hour meeting): £850 + VAT (£1020);
  - 4.3.2 Additional one hour meeting: £500 +VAT (£600); and

4.3.3 Additional meeting on site with applicant: £200 + VAT (£240).

4.4 The standard service does not currently include a fee for a site visit, however officers' experience has found that in many cases, it has been necessary for the allocated officer to carry out an unaccompanied site visit in order to provide comprehensive and accurate advice to the applicant. There have been 29 cases since July 2019 where an unaccompanied site visit has been provided as part of this service. It is proposed that a new tier of payment be introduced to the scale of fees for medium local developments in order to recover the cost to the Council of these site visits. This would be costed at £100 + VAT per unaccompanied site visit. Further detail of this assessment is included in Appendix 1.

4.5 The inclusion of this additional charge will more accurately represent the time spent on the PAAS by planning officers and will allow the costs of this resource to be recouped by the Council.

#### **The Council budget for 2021/22**

4.6 Further to the addition of the additional site visit service as noted above, it is proposed that pre-application charging is increased in line with budget projections for 2021/22. A 5% increase in PAAS fees will be considered in the Council's revenue budget proposals. A summary of the proposed revised pre-application charging schedule is provided in Appendix 2.

#### **Further Discretionary Charging Opportunity**

4.7 A scoping exercise has been undertaken by planning officers to consider potential further opportunities to implement a charging regime for service which are currently provided free of charge. The following areas have been considered through initial discussions with officers:

- Non-material variations;
- Discharge of conditions;
- Site history enquiries;
- Window enquiries;
- Tree enquiries; and
- Post advice implementation advice .

4.8 At this stage, it proposed to implement a charging programme for non-material variation applications. There is an existing precedent in other Scottish local authorities for this form of cost recovery.

4.9 There are a number of other areas noted in the above list which may provide future opportunities to explore the potential for cost recovery. However, these would require further detailed work to establish a robust framework through which costs could be reasonably covered.

#### **Non-material variation application service**

4.10 The non-material variation application (NMVA) process is currently delivered by the planning service free of charge. It is proposed to change the NMVA service to

include a scale of fees to protect and improve the current level of customer service and standardise the offer to customers.

- 4.11 It is proposed that the NMVA service will cover householder, local and major applications. The scale of fees proposed for each of these categories has been informed by priorities and resourcing experience identified during the scoping exercise undertaken with officers. The introduction of the revised service will help to standardise the service offered across different teams within the Planning Service in terms of timescales and outputs.
- 4.12 The level of service that will be provided to eligible customers in response to requests for NMVAs is set out in Appendix 3.
- 4.13 To enable the Council to deliver a high quality charging NMVA service in the context of significant revenue budget pressures, it is proposed to introduce charges set at a level that will generate enough income overall to wholly offset the costs of providing the service.
- 4.14 In terms of existing planning legislation, the Planning (Scotland) Act 2019 contains provisions which can enable extension of the scope of services planning authorities can charge for in carrying out their functions. However, the current planning fee regulations – the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004 (as amended) – neither make provision for charging for NMVAs, nor expressly prohibit it.
- 4.15 The Scottish Government states that it is at the discretion of the local authority as to which services they intend to charge for. It remains uncertain whether new planning regulations will be enacted to expressly allow local authorities to charge for NMVAs as part of the Scottish Government’s current reform of planning law.
- 4.16 In terms of Section 20 of the Local Government in Scotland Act 2003 (the “2003 Act”), the Council has a general “Power to Advance Wellbeing”. Section 20 of the 2003 Act provides the Council with the power to do anything which it considers likely to promote or improve the wellbeing on its area and/or people within its area, including the provision of services.
- 4.17 The statutory framework for Best Value provided by the Local Government in Scotland Act 2003 covers the Best Value Guidance published in 2004. This guidance allows local authorities to make arrangements to secure continuous improvement in performance (while maintaining an appropriate balance between quality and cost); and in making those arrangements and securing that balance, to have regard to economy, efficiency, effectiveness, the equal opportunity requirements and to contribute to the achievement of sustainable development.
- 4.18 Having had due regard to the 2004 guidance on the Power to Advance Wellbeing, it is considered that the Council has the necessary statutory power to introduce charges and recover the costs for the NMVA service in terms of Section 20 of the 2003 Act, on the basis that the provision of this service will promote sustainable development and thus advance wellbeing.

### **Justification for charging**

- 4.19 It is estimated that for the period 1 November 2019 to 1 November 2020, the cost to the Council of providing the existing NMVA service amounted to a total of £71,712, based on a workload over this period of 228 applications. Of the 228 NMVAs received between 1 November 2019 and 1 November 2020, 96 were for householder developments, 63 were for local developments, and 69 were for major developments.
- 4.20 The charges set out for NMVAs are split across these three levels of cases; householder, local and major applications, with the charges weighted to reflect the greater level of staff time required for more complex applications. The proposed charging regime is based on a cost recovery basis of the total cost as noted above, and it is anticipated that the charges will achieve full cost recovery basis on an aggregate basis (bespoke charges based upon the costs of delivering individual non-material variation applications are not considered to be practical due to the complexity of calculating individual costs and the lack of upfront clarity for customers.) It is noted that the base figure of £71,712 is an estimate and we would look to refine the charges as and when we have a fuller understanding of the costs of providing the service.
- 4.21 Generally, NMVAs for householder and local developments are a relatively straightforward process, and an estimation of officer hours required to resource this work has been used to calculate an average cost for these applications. Using this approach, it is proposed that a fee of £80+VAT be implemented for householder development . A fee of £150+VAT is proposed for local development NMVAs.
- 4.22 For major developments, there is a considerable variation in the level of complexity that an NMVA can generate. At present, an NMVA for a major development can entail anything from a single change to a development to a suite of changes that will significantly increase the resource demand on officers in their assessment of the case and preparation of the report of handling. This will impact on the resource requirement and cost of the application to the Council.
- 4.23 In order to address the disparity across this type of application, it is proposed that a scale of charges be introduced for major NMVAs that allows the variation in workload to be accounted for. A standard charge of £250+VAT is proposed to cover a single NMVA. An additional surcharge of £150+VAT per additional matter will allow for further details to be included in the same applications.
- 4.24 It will be at the applicant's discretion how many matters they wish to apply for under a single NMVA, and the fee will be calculated accordingly. The applicant will be required to provide a list of matters to be considered in the NMVA to clarify to officers the precise changes being sought through the application. The planning service will provide guidance on the definition of matter types to assist applicants in the application process. This approach will allow for more complex NMVAs to recover an appropriate amount of the resourcing cost to the Council, whilst allowing single matters to be dealt with at a proportionate cost.

4.25 It is also proposed that where an applicant has a particularly complex non-material variation enquiry, it will be recommended that the PAAS is utilised. Applicants will be able to choose the level of pre-application advice from the existing schedule of charges, depending on the complexity of their enquiry.

4.26 The proposed schedule of charges is summarised below:

<b>Application type</b>	<b>Charge</b>
Householder non-material variation	£80 + VAT
Local development non-material variation	£150 + VAT
Major/national development - non-material variation – initial matter - additional matter	£250 + VAT £150 + VAT
Any development relating primarily to improving accessibility for people with disabilities	Free (*)

(\*) As per current structure for planning applications for development that is intended solely to improve access, safety, health or comfort for a disabled person and works to provide means of access for disabled persons to a building to which members of the public are admitted. NMVS fee will be waived for cases which relate to a previous planning consent that was deemed to be free of charge under these provisions or for new issues that fit the criteria as noted above.

4.27 It is anticipated that these charges will be reviewed at appropriate intervals to ensure they accurately reflect the costs of delivering the non-material variation service. Implementing charging would generate data which would enable the Council to refine charges.

### **Feedback and monitoring**

4.28 The key driver of the introduction of these discretionary charges is improving customer service and consistency across the planning service. It is proposed that the discretionary charges system outlined above would be monitored using the same process as is currently in place to monitor the PAAS system. These are identified as follows;

- Customer feedback – capturing the views of customers via surveys and other mechanisms such as the annual Customer Forum;
- Live review – peer review of ongoing customers;
- Retrospective review – peer review of completed cases; and
- Key performance indicators – statistical data on the service provided.

## 5. Next Steps

---

- 5.1 The Council will continue to deliver the refreshed PAAS.
- 5.2 Should the Committee agree to the recommendations, the Planning Service will implement the additional pre-application charge for an unaccompanied site visit and begin charging from date 1 April 2021.
- 5.3 Should the Committee agree to the recommendations, the Planning Service will implement the new NMVA service and begin charging from 1 April 2021.

## 6. Financial impact

---

### **Pre-application advice service**

- 6.1 Between 1 July 2019 and 31 October 2020 PAAS has achieved cost recovery for the service of £373,720. The addition of new site visit charges for small local development as noted in section 4.4 above would be charged at £100+VAT per visit. Based on officer experience over this period, it is estimated that there is an opportunity to recover an additional £2,200 + VAT of costs per annum through the introduction of this charge.

### **Non-material variation service**

- 6.2 The proposed charges set out for the introduction of the NMVS have been calculated on the basis that these will substantially cover the costs to the Planning Service for this work. It is reasonable to anticipate that the introduction of charging may deter some applicants from seeking a non-material variation who would otherwise have done so. This would result in reduced revenue costs to the Council of delivering a non-material variation service. Based on a 25% reduction, full cost recovery would be expected to generate approximately £54,000. In the longer-term, if charges from a non-material variation service are to form part of budget planning for the Planning Service, consideration may require to be given as to how the Planning service cost base can be made more variable.
- 6.3 As set out in Table 4.1, it is proposed to waive charges for the non-material variation service for any development primarily concerning works relating to accessibility for people with disabilities. The financial impact to the Council of waiving charges in these instances is not expected to be significant as the number of planning applications received in this category each year is relatively small.
- 6.4 It is noted that a non-material variation can only be applied to a grant of planning permission. It does not apply to any other consents such as Listed Building Consents, Conservation Area Consents or Advert Applications.

## 7. Stakeholder/Community Impact

---

- 7.1 A project board has been established to drive this project. This includes representatives from planning, legal and financial services. Additional members of

the planning service were also consulted in order to explore potential areas for further charging and to develop the proposed charging scheme for non-material variation applications.

- 7.2 The Council has a customer feedback survey for the PAAS which all customers are asked to complete. The number of responses to date has been modest and work is underway to encourage more customers to provide feedback.

## **8. Background reading/external references**

---

- 8.1 Changes to the pre-application advice service and Edinburgh Planning Concordat report, Planning Committee on [15 May 2019](#).
- 8.2 Changes to the pre-application advice service report, Planning Committee on [29 January 2020](#).

## **9. Appendices**

---

- 9.1 Appendix 1 - Proposed additional site visit fee within PAAS.
- 9.2 Appendix 2 - Pre-application charging schedule.
- 9.3 Appendix 3 - Proposed scale of fees for non-material variation applications.

## **Appendix 1**

### **Proposed additional site visit fee within PAAS**

A fee of £100 is proposed as an optional additional cost for customers using the pre-application advice service for an unaccompanied site visit. This is based on a two hour time requirement from officers, using an average officer cost (including overheads) of £52 per hour. This fee amount has been rounded down to £100 for simplicity.

## Appendix 2

<b>Pre-application charging schedule</b>		<b>2020/21</b>	<b>2021/22</b>
Householder Developments / advertising and signage / simple change of use / alterations		£200.00	£210.00
Local Development (small) - up to 11 residential units / up to 999m2 commercial / other space	per review	n/a	n/a
Local Development (small) - up to 11 residential units / up to 999m2 commercial / other space	per hour	£100.00	£105.00
Local Development (medium) - 12 to 49 residential units / 1,000m2 to 10,000m2 commercial / other space	per review	£850.00	£900.00
Local Development (medium) - 12 to 49 residential units / 1,000m2 to 10,000m2 commercial / other space	per visit	£200.00	£210.00
Local Development (medium) - 12 to 49 residential units / 1,000m2 to 10,000m2 commercial / other space	per hour	£500.00	£525.00
Local Development (medium) - 12 to 49 residential units / 1,000m2 to 10,000m2 commercial / other space	per application	£500.00	£525.00
Major/National Development - 50+ residential units / 10,000m2 + commercial / other space / 2 hectares + site size / other criteria per Hierarchy of Development Regulations 2009	per meeting	£1,000.00	£1,050.00
Major/National Development - 50+ residential units / 10,000m2 + commercial / other space / 2 hectares + site size / other criteria per Hierarchy of Development Regulations 2009	per review	£4,900.00	£5,150.00
Major/National Development - 50+ residential units / 10,000m2 + commercial / other space / 2 hectares + site size / other criteria per Hierarchy of Development Regulations 2009	per application	£500.00	£525.00
Major/National Development - 50+ residential units / 10,000m2 + commercial / other space / 2 hectares + site size / other criteria per Hierarchy of Development Regulations 2009	per application	£500.00	£525.00
Major/National Development - 50+ residential units / 10,000m2 + commercial / other space / 2 hectares + site size / other criteria per Hierarchy of Development Regulations 2009	per application	n/a	n/a

(all figures Net of VAT)

## Appendix 3

### Proposed scale of fees for non-material variation applications

Scale of Development	Proposed charge	Service provided (increasing scale of fees relates to increased complexity of enquiry for each type of development)
NMV Householder applications	£80 (+VAT)	<ul style="list-style-type: none"><li>• Registration of NMV application</li><li>• Desktop review of proposed variation to proposal.</li><li>• Assessment and preparation of NMV report.</li></ul>
NMV Local applications	£150 (+VAT)	
Major - standard application	£250 (+VAT)	
Major - additional matters **	£150 (+VAT)	<ul style="list-style-type: none"><li>• Assessment of each further matter and incorporation of this matter into NMV report</li></ul>

\*\* Guidance on the definition of additional matters will be set out in guidance notes which will accompany the proposed scheme of non-material variation charges. The applicant can decide number of matters to be assessed, dependent on complexity of NMV case. These should be clearly listed in a covering letter to allow officers to assess if the applicant proposal can be reasonably covered as one matter.