

CABINET – 9 FEBRUARY 2018**HIGHWAYS AUTHORITY PLANNING PROCESS
AND CHARGING REVIEW****REPORT OF THE DIRECTOR OF ENVIRONMENT AND TRANSPORT****PART A****Purpose of the Report**

1. The purpose of this report is to advise the Cabinet of the outcome of consultation on policy changes related to the review of the County Council's Highway Development Management function and to seek approval for the introduction of revised highways Standing Advice and the introduction of charges for non-statutory functions.

Recommendations

2. It is recommended that:
 - a) The introduction of revised highways Standing Advice as set out in Appendix A of the report, be approved;
 - b) The Director of Environment and Transport, following consultation with the Cabinet Lead Member be authorised to make minor amendments to the Highways Standing Advice document in line with operational procedures and national policy and guidance changes as required;
 - c) The results of the consultation on the introduction of charging for non-statutory Highway Development Management services be noted;
 - d) The introduction of charging for non-statutory Highway Development Management services as set out in the charging schedule in Appendix C of the report be approved.

Reason for Recommendation

3. The introduction of revised highways standing advice will enable specialist highways resources to deliver a targeted approach to responding to applications where there is a greater risk to the safe and efficient operation of the highways network. The revised advice will also enable local planning authorities to determine more efficiently those applications which do not require a specialist highway response.
4. Authorising the Director of Environment and Transport to make minor amendments to the Highways Standing Advice will ensure that it is kept up-to-date and complies with national policy and guidance.

5. The introduction of charging for non-statutory services will contribute to delivering the Medium Term Financial Strategy Highway Planning Processes and Charging Review (MTFS ET4) saving.

Policy Framework and Previous Decisions (including Scrutiny)

6. On 14 June 2011, the Cabinet approved a revised set of delegated powers for the Director of Environment and Transport which included the provision to respond on behalf of the Highway Authority to any consultations by the Local Planning Authority (LPA).
6. The Town and Country Planning (Development Management Procedure) (England) Order 2015 sets out those planning applications for which Leicestershire County Council, as the local Highway Authority, is a statutory consultee.
7. On 22 February 2017, the County Council approved the 2017/18-2020/21 Medium Term Financial Strategy (MTFS), including MTFS savings line ET4. This allowed for preliminary work on the policy of introducing charging for non-statutory highway development management services, including consultation, to be undertaken in order to achieve the savings.
8. On 22 November 2017, the Environment and Transport Overview and Scrutiny Committee received a report on the review of highway development management services and the consultation on introducing charging for non-statutory services. The Committee supported the proposals.

Resource Implications

9. The County Council is operating in an extremely challenging financial environment. The 2017 MTFS outlined savings of £66m to be made from 2017/18 to 2020/21 with £43m of these set out in detail and proposed reviews that would identify further savings to find the remaining £23m.
10. The savings required for the Environment and Transport department to 2020/21 are £7.1m.
11. The planning processes and charging review (MTFS ET4) aims to deliver savings of £300,000 in 2017/18 rising to £550,000 per annum from 2018/19. The £300,000 of savings will be achieved in 2017/18 through income raised through charges introduced through the Leicester and Leicestershire Integrated Transport Framework and the Environment and Transport Commissioning Framework associated with the costs of delivering this service. The additional savings will be met through the introduction of charging for non-statutory services.
12. The Director of Corporate Resources and the Director of Law and Governance have been consulted on the content of this report.

Circulation under the Local Issues Alert Procedure

None.

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PART B**Background****Population Growth**

13. The Office for National Statistics advised in May 2016 that all regions in England are predicted to see an increase in their population size over the next decade. The population is also ageing, with all regions seeing a faster growth in those aged 65+ than in younger age groups.
14. Leicestershire has an estimated population of 680,000. This population is forecast to increase by 13% between 2015 and 2037, with growth expected to be concentrated in the over-65s. This population growth needs to be accommodated by suitable housing, employment and transport provision.
15. The planning system plays a key part in enabling this growth. In Leicestershire, the district councils are the Local Planning Authority (LPA) for their areas. They have a duty to carry out specific planning functions for their geographical area; including making decisions on planning applications. Leicestershire County Council is the LPA for minerals, waste and the County Council's own applications.

The Role of the Local Highway Authority in the Planning Process

16. The Local Highway Authority (LHA) has a number of statutory responsibilities in the planning system including, where appropriate, providing technical highway comments on applications to the LPA.
17. The County Council is the LHA in Leicestershire (excluding Leicester City); Highways England is the statutory Highway Authority for the motorway and trunk road network.
18. The LHA receives consultations from the LPA on planning proposals at various stages. These stages include outline, outline with access, full, hybrid, reserved matters, prior approval and discharge of condition applications. During 2016/17, the LPAs in Leicestershire consulted the LHA on 5,325 applications; of these only 1,313 required a detailed and specialist highways response.
19. Leicestershire, as the LHA, currently provides some non-statutory services free of charge, including 'pre-application' advice to both the LPAs and applicants. In 2016/17 consultations on 349 pre-application enquiries were received. Pre-application advice can often be beneficial as it provides an opportunity to agree the scope of the transport assessment, the highways impact and potential mitigation through planning conditions and Section 106 (S106) contributions before an application is submitted, therefore streamlining the process for both the applicant and LHA.
20. The LHA has applied standing advice since 2007. This is guidance to the LPAs on those applications where there will be no highway impact, such as a conservatory on the back of a house, or where there will be a limited highway impact and can therefore be considered directly by the LPA. This removes the requirement for a specialist highway response.

Changes Implemented to Date

Process efficiencies

21. On 22 February 2017, as part of its approval of the 2017/18-2020/21 MTF5, the County Council agreed a review of the processes associated with providing highways responses (as the LHA) to planning consultations. There were two distinct aspects to this review:
 - Process efficiencies;
 - Implementation of new systems, including pre-application charging.
22. The review of planning processes has considered both statutory and non-statutory functions along with resource capacity and has considered all aspects of the function.
23. The operational process changes already implemented have enabled
 - A change in focus to provide final substantive responses to the LPA based on the information submitted with the application, rather than providing holding responses where applicant information is missing or inadequate. An improved service to the LPAs has been implemented by keeping response times for a substantive response within 21 days in over 90% of cases during the implementation stage of this new approach.
 - Streamlined the consultation process with the LPAs, e.g. through the improved and consistent application of the existing Standing Advice across all LPAs in the county (see below) to minimise the number of consultations and associated administration on applications which can be determined by the LPAs through applying standing advice.
 - The use of updated standard conditions and informatives which have been rationalised to provide clearer guidance and reduce duplication.
 - A reduction in staffing numbers.

Standing Advice

24. Standing Advice was first introduced in Leicestershire by the LHA in 2007. Its purpose is to give clear guidance to the LPA to help determine those minor applications that have limited or no impact on the highway network, without the need for formal consultation with the LHA.
25. The LHA provided refresher training on the current Standing Advice to the LPAs in January 2017 and was attended by 65 LPA development control and enforcement officers. The aim of the training was to:
 - i. refresh the base level of understanding and interpretation of the advice;
 - ii. ensure greater consistency in how Standing Advice is implemented across the LPAs;
 - iii. maximise the use of the current Standing Advice to reduce the number of consultations on applications which can be determined without a specialist highways response.
26. Feedback received in respect of the training was positive and indicated the potential to increase the use of Standing Advice. In addition to this refresher

training, it was recognised that a full scale review of this Standing Advice was needed to deliver the efficiencies in order to deliver the required savings.

27. Following the Standing Advice training, the overall number of consultations received from LPAs has reduced when compared to the equivalent time period the previous year. This is as a result of a significant reduction in consultations being received from the LPAs on applications with no or limited highway impact and therefore not requiring a specialist highway response. The total number of consultations was 2,124 in the first six months of 2017/18 compared to 3,565 in the same period in 2016/17. These comparison figures will continue to be monitored as further efficiencies are implemented. However, there has been an increase in the number of informal queries received from LPAs in relation to applications now being left to Standing Advice.

Conditions and informatives

28. Planning conditions are legally enforceable requirements that an applicant must meet when delivering their development. They are an essential tool in shaping how a new development is delivered on the ground and usually forms part of any planning consent.
29. Over time the standard conditions in use have been amended, but a comprehensive review had not been undertaken since the National Planning Policy Framework was introduced in 2012.
30. In addition to conditions, highway observations usually include a list of 'informatives', which should be included on the decision notice of a planning application to notify the applicant of specific requirements or contacts, such as applying for a licence to work on the highway. As with the planning conditions, these have been amended over time and have now been reviewed.
31. A complete review of Highway Development Management standard conditions and informatives that the Leicestershire LHA advises has been implemented to:
- reflect current planning practice and guidance;
 - streamline advice;
 - introduce efficiencies at the 'reserved matters' and 'discharge of conditions' stage by reducing the number of individual consultations.
32. The revised operational conditions and informatives were implemented in July 2017 following consultation with the LPAs.

Planned Further Efficiencies

33. The following sections set out the proposed further process efficiencies, new systems and chargeable activities introduced by the Council that will enable the MTF5 ET4 full savings to be achieved.

Revised Standing Advice

34. Following changes in national planning policy it is now considered appropriate to revise the current standing advice offered by the Council as the LHA. This change will improve efficiencies and enable resources to be targeted towards applications

where more specialist highway knowledge is required and where there is a greater risk to the highway network.

35. A consultation exercise with the LPAs on the technical and operational detail of the revised Standing Advice was carried out by the Council for 8 weeks, closing on 29 September 2017. The proposals included an increased number and range of planning applications that can be determined by the LPA could be left to Standing Advice.
36. The most significant changes to the proposed guidance are raising the threshold for applications to be left to standing advice from 1 to 5 dwellings for residential applications and 100 sqm to 250 sqm for non-residential applications. The proposed criteria for the revised Standing Advice is set out in Appendix A.
37. The majority of comments received from the LPAs related to requests for greater clarity and explanations to enable the guidance to be interpreted and the operational details of this are being reviewed. Only 1 of the 6 responses stated that the threshold for residential developments to be considered under Standing Advice should remain at 1 dwelling.
38. Training sessions on this revised advice, similar to those held early in 2017, were completed in October 2017. This enabled a two-way discussion in relation to the proposed new guidance and its application. It is intended that, subject to the Cabinet's approval, implementation of the new Standing Advice thresholds, as set out in Appendix A, will commence in early 2018.

Charging

39. Historically, the LHA has provided some non-statutory services, including providing pre-application advice to the LPAs and developers, attendance at meetings with applicants (as part of the planning application process) and attendance at LPA planning committees.
40. Whilst it is not proposed to charge for householder applications, there is scope to charge for other non-statutory functions. A consultation on charging for non-statutory functions took place from 27 October to 22 December 2017 and resulted in 11 responses. Overall, responses were generally positive regarding the principle of charging with assurances sought over the quality, consistency and time taken for responses to be provided if charges are to be introduced. Appendix B contains a summary of those responses.
41. The proposed charging rates relate to the size of development and complexity of work involved in providing advice. Appendix C sets out the schedule of charges and forecast income.
42. Charging for a quality pre-application service will have several benefits, including:
 1. Contributing to MTFs savings;
 2. Providing clarity to LPAs and developers on the timeframe for responses;
 3. Providing clarity to LPAs and developers on the quality of responses;
 4. Providing the LHA with an opportunity to focus on priority developments.
43. The predicted level of demand for this service suggests that:

- a) 50-60% of the demand is likely to be taken up by strategic or major requests i.e. development proposals with 10 dwellings or more ;
 - b) 40-50% of demand is likely to come from minor developments i.e. development proposals of between 1 and 9 dwellings.
44. In preparing to introduce charging for non-statutory functions, the potential impact on the statutory function has been considered. The process efficiencies already implemented have enabled a better service to be provided to the LPAs despite the reduction in staffing numbers and the implementation of the revised standard advice will help to improve that service. In addition, a new software system for co-ordinating planning consultations, providing responses and document management will help to create the additional capacity required to manage the process of charging and providing the service being charged for. New software has been procured and is being installed.
45. Before implementing charges it will be necessary to complete the process efficiencies to create the capacity to ensure the statutory function is not affected. The efficiencies introduced have created capacity for the support staff within the team to deliver the transition to the new software in addition to the technical support around consultations on applications. Once the software is in place they will then manage the processes involved in charging.
46. Subject to approval by the Cabinet it is intended to introduce these charges in April 2018.

Equality and Human Rights Implications

47. An Equality and Human Rights Impact Assessment (EHRIA) screening has been completed. The screening identified that there were no equality or human rights implications arising from the recommendations in this report..
48. The proposed charges involve non-statutory services in the Council's Highway Development Management function. This includes the introduction of charging for confidential pre-application technical highway advice and changes to Standing Advice, Conditions and Informatives.
49. It is not proposed to charge for 'pre-application' planning advice for householders, which will minimise the impact on individual residents. Residents will continue to be referred to the 6Cs Design Guide, providing equality of information. Charging will be imposed for pre-application advice on 1 or more dwellings, which is likely to affect developers (private businesses) and LPA's (district councils).
50. By charging for a quality pre-application service it will provide surety to LPAs and developers on the timeframe and quality of responses. It will also provide the LHA with an opportunity to focus on priority developments that could have an impact on more people.

Legal Implications

53. The power of the LPA's to impose Planning Conditions is governed by Planning legislation and Government Guidance contained in the National Planning Policy Framework and Planning Practice Guidance.
54. The County Council has a variety of powers to charge for specific statutory services as set out in legislation. The Local Government Act 2003 also provides a power to charge for discretionary services on a costs recovery basis. The power to charge for discretionary services is not available however, if there is a statutory duty to provide that service, there is a specific power to charge or if there is a prohibition on charging.
55. Additionally, the Localism Act 2011 gives the County Council a general power of competence that confers a power to charge for services but subject to the conditions/limitations stated above.

Appendices

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| Appendix A | Proposed revised criteria for Standing Advice |
| Appendix B | Summary of responses to consultation on introducing charging for non-statutory highways development management services |
| Appendix C | Schedule of charges for non-statutory functions |

Background Papers

Report to the Cabinet on 14 June 2011 – Review of Delegated Powers to Heads of Departments

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=3125&Ver=4>

Report to the County Council on 22 February 2017 – Medium Term Financial Strategy 2017/18 - 2020/21

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=134&MId=4433&Ver=4>

Report to the Environment and Transport Overview and Scrutiny Committee on 22 November 2017 – Highways Authority Planning Process and Charging Review

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=1044&MId=5168&Ver=4>

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