

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2281

Title: Planning Unit Review of External Fees and Charges

Executive Summary:

This MD seeks authority for the Planning Unit, DEE, to implement:

- a revised charging structure for Pre-Application Advice for users of the service; and
- Fixed Price Planning Performance Agreements (PPA) for all applications that have been recovered by the Mayor

The Planning Unit has provided a non-statutory pre-application advice service since 2007, a service which has proved popular and effective. The charges for this advice were initially set low to encourage use of the service and help raise the standard of applications submitted to the GLA. Previous charges were not therefore in line with the actual cost of delivering the service. The proposed revision addresses this issue.

In addition to the revised pre-application advice service, two new targeted pre-application options are proposed to be offered that will improve and extend the service we offer to developers and users of the planning system.

Fixed fee PPAs are also proposed for applications that have been recovered by the Mayor. These applications need substantial amounts of officer resource and negotiation throughout the life of the application and allow officers time to improve the quality of the planning applications that are recovered by the Mayor for his determination. They also allow the GLA to charge for the officer time taken up by these larger scale schemes rather than pass the burden of this cost on to London taxpayers.

Decision:

That the Mayor approves:

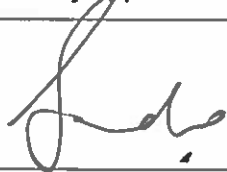
1. The implementation of an amended Pre-Application charging structure to reflect full cost recovery of the advice service under Section 93 of the Local Government Act 2003;
2. The Implementation of the new Fixed Price Planning Performance Agreements; and
3. The new charges coming into effect on 1 May 2018.

Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision, and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

8/5/18

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1. Introduction and background

- 1.1 The GLA can pass on the cost of operating non-statutory services. As a result, pre-application advice is a chargeable service, enabling the costs to be recovered, although at present these are not recovered fully.
- 1.2 The formula for pre-application charging was last reviewed in 2015. Since then no increases have been added. During this period, the nature of enquiries received has changed, and the complexity and cost of operating the service has increased substantially and now regularly covers viability matters.
- 1.3 It is proposed that two distinct levels of advice be offered based on experience of the types of service that customers seek. This will enable customers to choose the level of service most suitable to their needs.
- 1.4 The distinct levels of service proposed are:
 - Level 1 -** High Level 'in principle' advice based on limited information and generic assumptions with members of the senior management team. The fee for this service will be £2,500 + VAT.
 - Level 2 -** Detailed advice in writing based on plans submitted with a letter and other supporting information, providing confirmation as to whether the development complies with planning policy, and what alterations may be required to achieve compliance. The fee for this service will be £7,500 + VAT and £2,000 + VAT for follow up meetings.
- 1.5 The revised charging scheme has been benchmarked against the fees and charges used by London boroughs. The benchmarking confirmed that the proposed rates were below or in line with what other boroughs charge.
- 1.6 The scheme proposed provides greater clarity for customers to choose the services relevant to their needs, and understand the costs. It will also be simpler and more cost effective to administer. The levels of fees now proposed reflect full cost recovery at current values.
- 1.7 Planning Performance Agreements were formally introduced into the planning system on 6 April 2008 and are principally aimed at Major applications that need substantial amounts of officer time and negotiation throughout the life of the application and allow officers time to improve the quality of the planning applications that are eventually submitted and determined. They also allow the GLA to charge for the officer time taken up by these larger scale schemes rather than pass the burden of this cost on to the local taxpayers.
- 1.8 PPAs are extensively used by all London boroughs and have already been used successfully by the GLA for schemes that are recovered by the Mayor.
- 1.9 The benefits to the developer would be:
 - Greater support from the Planning Service;
 - Clarity of what is required from them from the outset;
 - Arrangement of meetings in advance, including milestones to be reached and structure for any discussions;
 - Obligations on the GLA to deliver against specific targets and milestones; and

- Guaranteed project management of their planning application.

1.10 The benefits to the GLA would be:

- Developers and officers would have a clear timetable with achievable milestones throughout the programmed timeframe for determination;
- The timetable would be documented so that the GLA can manage the timing of delivery and resources required; and
- Developers would meet the cost of the officer time involved in the planning process.

1.11 A fixed fee for recovered applications is proposed and will cost £65,000 +VAT. This fee would cover the resources required by the Planning unit which are:

- planning officer time;
- planning Support Team time;
- urban design advice; and
- the administrative costs of facilitating the public hearing.

1.12 Any fees would need to be paid at the start of the recovery process. Any other fees, including the cost of non-planning unit based professional officers or advisers, would need to be paid as they fall due.

1.13 Whilst the GLA would be working with the developer, where appropriate, to achieve a negotiated outcome, it would be clear to all parties from the outset that any agreement is entered into without prejudice to the determination of any application.

2. Objectives and expected outcomes

2.1 The principal objective is to maintain an effective high quality strategic planning service at a time of pressure on resources and growing external and corporate demands, by ensuring that there are sufficient resources to deal with pre-application and applications, including *call ins* by the Mayor. The expected outcomes would be:

- An enhanced ability to deal with increasing workloads particularly the pre-application service.
- Enable the GLA planning function to keep up with high and rising levels of demand for advice whilst delivering an efficient and fit-for-purpose strategic planning function for the Mayor.

3. Equality implications/comments

3.1 The public sector equality duty requires the identification and evaluation of the likely potential impacts, both positive and negative, of the decision on those with protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, gender, religion or belief, sexual orientation). In this instance, the change to the levels of pre-application charging should have no impacts on those with protected characteristics.

4. Other considerations

4.1 The Mayor's comments and decisions on referable planning applications is a key implementation tool of the London Plan. The pre-application advice service helps to ensure that subsequent applications deliver London Plan objectives.

4.2 There is no requirement to consult on the proposed increase in charging.

- 4.3 There is a risk that some developers will be put off requesting pre-application advice because of the increased charge. This could result in poor quality applications and a lower income than predicted. There is no evidence that this occurred when the charging service was originally introduced. Even in the worst part of the recession during 2009-10 the income was sufficient to cover costs. However, regular monitoring of fee income will be necessary to ensure that the costs of providing the service are covered and that income is spent within the scope of the Regulations associated with the Local Government Act.

5 Financial comments

- 5.1 Mayoral Approval is sought to implement an amended Pre-Application charging structure to reflect full cost recovery of the advice service under Section 93 of the Local Government Act 2003. Approval is also sought to implement a new fixed price for Planning Performance Agreements (PPAs). The new charges will be published on the GLA website and come into effect on 1st May 2018.
- 5.2 The new charges to be implemented are the following:
- Level 1, high-level 'in principle' advice – £2,500 + VAT.
 - Level 2, detailed advice – initial meeting at £7,500 + VAT and £2,000 + VAT for follow up meetings. The current charge for initial meeting is £5,500 + VAT and £1,100 for follow up meetings.
 - PPAs - fixed fee for recovered applications is proposed and will cost £65,000 +VAT
- 5.3 Under the Local Government Act 2003 income derived from charging fees cannot exceed the cost of providing the service and a profit cannot be made to cover other services. However, guidance published alongside the Act (General Power for Best Value Authorities to Charge for Discretionary Services - Guidance on the Power in the Local Government Act 2003) recognises that estimating costs and incomes can be difficult and therefore the Act allows for the budget to be balanced over a period of time (Section 93(3) of the Act refers to taking one year with another for this purpose). The Act does not prescribe how long this period of time should be. It is therefore proposed that the reserve established under MD717 is maintained to cover periods when income is less than expenditure.
- 5.4 The pre-application service is optional and dependent on economic climate. Similarly, as the 'in-principle' meetings are a new type of charge to be implemented, it is not possible to forecast or estimate the income that will be received through this charge. The income received from PPAs is to recover costs from Mayoral 'call-ins' and the amount of Mayoral 'call-ins' differ each year. The Planning Unit will review the impact of these fees and charges on the budget during the budget setting process for 2019-20.
- 5.5 As per previous financial years any surplus income received beyond expenditure from Pre-application income charges and PPA income will be placed into the Planning Team's Pre-Application reserve and Smoothing reserve at the end of the financial year in line with section 93 of the Local Government Act, which allows an authority to establish a reserve thus ensuring that all income is spent in relation to the service.
- 5.6 The Planning Unit within the Development Enterprise and Environment Directorate will continue to monitor fee income to ensure the costs of providing the service are covered and the income spent within the Regulations associated with the Local Government Act.

6 Legal comments

- 6.1 The above paragraphs indicate that the decision requested of the Mayor falls within his statutory powers under section 30 of the Greater London Authority Act 1999 (as amended) ("the Act"), acting

on behalf of the Authority, to do anything he considers that will promote the improvement of the environment in Greater London; and in formulating the proposals in respect of which a decision is sought officers have complied with the Authority's related statutory duties to:

- (a) pay due regard to the principle that there should be equality of opportunity for all people;
- (b) consider how the proposals will affect:
 - i. the health of persons in Greater London;
 - ii. the health inequalities between persons living in Greater London;
 - iii. the achievement of sustainable development in the United Kingdom;
 - iv. climate change, and the consequences of climate change; and consult with appropriate bodies.

6.2 The Mayor has a statutory role as strategic planning decision maker as part of the Act and the Town and Country Planning (Mayor of London) Order 2008. Pre-application discussions are critically important and beneficial for both developers and planning authorities in ensuring a better mutual understanding of objectives and constraints that exist and can help to improve the environment in London.

6.3 The Authority also has a subsidiary power pursuant to Section 34 of the Act to do anything which is calculated to facilitate, or is conducive or incidental to the exercise of any of the statutory functions of the Authority. These pre-application meetings are a facilitative way to exercise the section 30 powers defined above, and as such also fall within section 34.

6.4 Section 93 of the Local Government Act 2003 ("the Act") provides the Authority with the power to charge for discretionary services. Discretionary services are those services that the Authority has the power, but is not obliged, to provide. The carrying out of this Service is discretionary.

6.5 The power to charge is subject to a duty to secure that the income from charges throughout the Authority does not exceed the costs of provision of any service it provides, taking one financial year with another. Providing the cost increase is based on actual perceived costs of providing this service i.e. salary costs and reasonable estimated/actual on costs, this is lawful. The ability to take one financial year with another allows for the establishment of a contingency. For the purposes of the power to charge for discretionary services, the prohibition on raising money at section 34(2) of the Act is to be disregarded.

7. Planned delivery approach and next steps

| Activity | Timeline |
|--|--------------------|
| Delivery Start Date [for project proposals] | 01/05/2018 |
| Final evaluation start and finish (self/external): | Ongoing monitoring |

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after approval or on the defer date.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? NO

If YES, for what reason:

Until what date: (a date is required if deferring)

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to
confirm the
following (✓)

Drafting officer:

Juliemma McLoughlin has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Martin Clarke has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser

Jules Pipe has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 23 April 2018.

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature

M. D. Clarke

Date

23.4.18

CHIEF OF STAFF:

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature

D. Bellamy

Date

23 / 4 / 2018