

CHARGED DISCRETIONARY SERVICES FOR PLANNING FUNCTIONS

Cabinet Member	Councillor Keith Burrows
Cabinet Portfolio	Planning and Transportation
Officer Contact	Stephen Timms / Jales Tippell
Papers with report	None

HEADLINE INFORMATION

Purpose of report	This report considers the council's power to charge for the provision of discretionary services to Annington Developments Ltd in accordance with the provisions of Section 93 of the Local Government Act 2003 and Section 139 of the Local Government Act 1972. This is to meet the council's reasonable and justifiable costs associated with the discharge of its planning function, in providing a high quality pre-application service in the lead up to submission of a planning application for land to the north-west corner of RAF Uxbridge, and on-going support through the assessment process. This will ensure additional resources are dedicated to the whole planning process consistent with the importance of this project to the local community and the wider area. It is recommended that the payment for discretionary services be accepted.
Contribution to our plans and strategies	The recommendations will assist the planning process to realise the objectives of the Sustainable Community Strategy.
Financial Cost	The costs of £21,280 arising from the discretionary services will be paid for by Annington Developments Ltd. This will cover the costs of providing a part-time dedicated officer and appropriate support for the pre-application process in the lead up to submission of an outline planning application for the site, plus on-going support in assessing the planning application. This will provide additional resources to the Council to enable it to carry out its statutory planning functions.
Relevant Policy Overview Committee	Residents' and Environmental Services
Ward(s) affected	Uxbridge, North Uxbridge

RECOMMENDATION

That Cabinet accepts the payment for charged discretionary services from Annington Developments Ltd in accordance with the provisions of Section 93 of the Local Government Act 2003 and Section 139 of the Local Government Act 1972.

INFORMATION

Reasons for recommendation

The parcel of land owned by Annington Developments Ltd sits within the north-west corner of the RAF Uxbridge site. It has an area of 4.6ha that is proposed for re-development. Annington Developments Ltd. have advised officers that they intend to lodge a planning application for a residential led scheme in the spring of 2010. In order to ensure a plan-led approach, that incorporates the views of local residents and other key stakeholders, it is considered necessary to provide detailed on-going pre-application advice to the applicant in preparing a planning application, and this will incur costs to the Council. The offer from Annington Developments Ltd. will greatly assist the Council in meeting those costs.

There will be the need for on-going meetings, and the provision of consistent and timely advice through the pre-application process, in the lead up to submission of a planning application, and during the assessment of the application(s), along with other associated work. It is considered essential to have a dedicated officer for the project, and additional resources are needed to support that function. It is therefore considered appropriate that the Council should provide a discretionary service to Annington Developments in exchange for payment of the council's reasonable and justifiable costs incurred in the provision of such services.

Alternative options considered / risk management

- I. Refuse to offer the discretionary services. This would not be in the best interests of the local communities or the council.
- II. Request changes to the proposed discretionary services. The gift offer is unlikely to be increased.

Comments of Policy Overview Committee(s)

The Residents and Environmental Services Policy Overview Committee have not commented on the report.

Supporting Information

The development site

1. Annington Developments Ltd. own a parcel of land within the north-west corner of RAF Uxbridge. The site has an area of approximately 4.6ha and is currently occupied by derelict houses that were previously used for housing associated with the RAF Uxbridge base. There appears to be some potential to refurbish the existing 100 houses, although a more appropriate redevelopment of the site to provide between 300-400 houses is being sought by Annington. This would also significantly improve the aesthetic appeal of the site and the immediate area, and contribute to improving services and facilities in the local area. It is also essential that the proposals from Annington Developments Ltd.

reflect and integrate with the proposals for the wider RAF Uxbridge site, and the aspirations and requirements of the RAF Uxbridge Supplementary Planning Document (SPD) and other council priorities. In order to ensure that these objectives are realised, on-going negotiations to guide the pre-application process are necessary.

2. The council adopted the RAF Uxbridge SPD in January 2009. Whilst the RAF Uxbridge SPD, sets out some general requirements for re-development of the site, there needs to be on-going engagement with key stakeholders to help realise the objectives and requirements set out in the SPD. The pre-application process is an essential part of the planning system, as outlined in government guidance, such as Planning Policy Statement 1 - *Delivering Sustainable Development*, and the most recent DCLG Circular 03/09 – *Costs awards in Appeals and other Planning Procedures*. The Department of Communities and Local Government have also prepared guidance on this topic, to assist and encourage local authorities to pursue such initiatives, and this is detailed in *Implementing Planning Performance Agreements*, and there are a number of examples across the country where this approach has been used. The pre-application phase for this development will require the commitment of significant resources exceeding that for most other projects in the borough. This will include project management, co-ordinating meetings, ensuring the provision of consistent and timely advice to key stakeholders, engaging the local community, and resolving complex issues as the masterplan evolves and relevant studies are undertaken. It is essential that such issues are addressed through the pre-application process, rather than after submission.
3. Annington Developments Ltd. have offered pay £21,280 for discretionary services towards pre-application costs and the costs of determining any relevant applications(s) in an effective manner. The details of the discretionary services are set out in a structured Planning Delivery Agreement. In order to meet the reasonable and justifiable costs to council, and to ensure part-time dedicated resources are provided to ensure the best outcomes for the project, it is considered appropriate that the council should accept the payment for discretionary services from Annington Developments Ltd. The sum of money that is received would be strictly ring-fenced to ensure that it is spent in accordance with the terms of the discretionary service, and the planning functions associated with this development site.
4. Whilst the agreement to a structured Planning Delivery Agreement with a discretionary charge of £21,280 cannot in any way influence the outcome of the planning application, it can provide an adequate staffing resource to enable the development proposals to be afforded a higher level of priority than may otherwise be possible, particularly given the complexity and importance of this project.
5. The council has recently agreed funding in relation to various planning delivery agreements, and planning initiatives, including the discharge of its functions in producing the RAF Uxbridge Supplementary Planning Document (SPD), providing detailed planning advice and processing applications for RAF Uxbridge and RAF West Ruislip, preparing an SPD for the former NATS site, dealing with pre-application and post application duties for the NATS site, and dealing with airport related planning applications.
6. The alternative, to refuse the sum of £21,280, would involve meeting the costs through the standard pre-application charges. There are a number of limitations to this approach, primarily that inadequate funding would come forward to fund a dedicated project officer, which is considered essential to this work. This approach would also limit correspondence and negotiations between the applicant and the council, and this is not

likely to achieve the same objectives, given the current constraints on the planning budget and the competing priorities of other workstreams.

7. The Cabinet is recommended to accept the payment for charged discretionary services from Annington Developments Ltd. If funding is not provided externally by Annington Developments Ltd then these on-going costs will need to be met from existing Council resources.

Financial Implications

The offer of £21,280 gift funding from Annington Developments Ltd will cover the part time costs of an officer through the pre-application process, in the lead up to submission of a planning application and during the assessment of the application(s), along with other associated work. This will provide additional resources to the Council to enable it to carry out its statutory planning functions.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

In terms of service user outputs, the payment for charged discretionary services offers the opportunity to provide a higher standard of service than may otherwise be possible. A dedicated project officer would be proactive in engaging with various stakeholders, a central point of contact for enquiries and add value to the overall process. The project officer would facilitate the sharing of information, coordinating responses from council to Annington Developments Ltd and other stakeholders and ensure a consistent approach to deliver the best outcomes for redevelopment of the site. Such an approach is consistent with the latest guidance from government, and is in the best interests of achieving council's objectives, as set out in the Sustainable Community Strategy.

Consultation Carried Out or Required

None

CORPORATE IMPLICATIONS

Corporate Finance

The financial implications above properly reflect the direct resource implications for the planning service. The proposed payment will ensure a part-time dedicated project officer can be involved throughout the pre-application process and during the assessment of the application(s), along with other associated work. There are no wider implications for the Council's resources as a whole.

Corporate Procurement

Not applicable.

Legal

Section 93 of the Local Government Act 2003 provides a general power to local authorities to charge for discretionary services. Discretionary Services are those services that an authority has the power, but is not obliged, to provide. Through the power to recover via a charge the costs to an authority of providing a service, the government aims to encourage authorities to

provide more wide ranging and new and innovative services for their communities. The council may utilise this power if:

- the council already has the power to provide the service, but is not mandated or has a duty to provide;
- the recipient of the discretionary service has agreed to its provision and to pay for it;

Charges may be set differentially, so that different people are charged different amounts. The council is not required to charge for discretionary services. They may provide them for free if they have the resources to do so. However, by virtue of Section 93 (4) there are limitations to the cost of recovery in that for “each kind of service” the income from charges for that service does not exceed the costs of provision. Each council can decide the methodology they wish to adopt for assessing the costs.

In planning terms, the effect of the above legislation is that the council can provide extensions to statutory services including a range of advisory services linked to planning and development control. These are not a statutory requirement, but can make an important contribution to the operation of the statutory services. The council are entitled to receive income for provision of the discretionary services so long as it does not exceed the cost of providing the service. To conform to government guidance the PPA ought to be negotiated by officers and properly formalised. In terms of member involvement, Members and officer should have regard to the helpful guidance on Members pre-application involvement set out in the Department of Communities and Local Government “Member Involvement in Planning Decisions”, published in January 2007.

Corporate Property

The Head of Corporate Property Services advises that there are no direct property implications arising from this report.

Relevant Service Groups

No other service groups are directly impacted by the recommendation.

BACKGROUND PAPERS

Planning Policy Statement 1 – Delivery Sustainable Development

Department of Communities and Local Government Guidance - *Constructive talk - Investing in pre-application discussions*.

Department of Communities and Local Government - Guidance Note on Implementing Planning Performance Agreements 2007.

Department of Communities and Local Government “Member Involvement in Planning Decisions”, published in January 2007.