

The background of the slide features a large, faint, light blue outline of the City of Vancouver coat of arms. The crest includes a crown at the top with four maple leaves, a shield divided into four quadrants (top-left: a ship, top-right: a stag, bottom-left: a ship, bottom-right: a grizzly bear), and a banner at the bottom with the motto 'A NE FOR A'.

Agenda Item 10

Planning Fees - Introduction of Discretionary Charging

Falkirk Council

Title: Planning Fees - Introduction of Discretionary Charging
Meeting: Executive
Date: 6 December 2022
Submitted By: Director of Place Services

1. Purpose of Report

- 1.1 The purpose of this report is to propose the introduction of pre-application planning charges to help resource and sustain an efficient, consistent, and responsive Planning Service.
- 1.2 The recommendation would help reduce the Council's budget gap and contribute to the 2022-27 Council Plan's strategic enabler of Financial Sustainability.

2. Recommendations

- 2.1 It is recommended that Committee approve the introduction of pre-application planning charges as proposed in Appendix 1

3. Impact on Climate Change Targets

- 3.1 The recommendations of this report will have a positive impact on the Council's Climate Change targets. This is because the fees will help support a local Planning Service that fulfils its statutory obligations under Planning Acts. That Planning Service is a key driver to ensure new development and land use changes assist in delivering net zero outcomes and promoting a place making agenda that is climate resilient.

4. Background

- 4.1 The Planning (Scotland) Act 2019 is introducing a number of changes to the Planning System, including additional duties and requirements for Falkirk Council in its capacity as Planning Authority. This will have implications for the planning service and its delivery of these changes as they are introduced.
- 4.2 It also must be recognised that Council is currently seeking ways to address the current challenging financial position through the introduction of savings measures to resolve the £69 million budget gap facing the organisation between 2023/24 to 2026/27.
- 4.3 The Council's Development Management service, responsible for the processing of planning applications, has operated a pre-application advice service for a number of years. This provides applicants with greater certainty on the likely outcome of planning applications and identifies key issues that should be addressed within any future applications before costly commitments are made. This early engagement with the local planning authority can help

the planning process ensure it runs more smoothly and can save time for the applicant in the long run as issues may be identified, and remedied, prior to the submission of a planning application.

- 4.4 The Scottish Government has also been working over the last few years on updating the Scottish planning fee system with a view to achieving full cost recovery associated with determining applications. This is to assist and enable planning authorities to provide additional resources to help deliver changes being made by Government in its programme to reform the planning system. This provision allows the opportunity for the Council to introduce a planning fees regime for those services currently provided in addition to the anticipated additional duties.

5. Considerations

- 5.1 The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022 came into force on 1 April 2022. They replace the previous 2004 Regulations and include new provisions that enable planning authorities to charge discretionary fees for services subject to Council approval. Scottish Government guidance on this matter is provided in Circular 2/2022, 'The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022' and this recommends that a scheme of charging for pre-application advice is introduced. Many planning authorities already charge for pre-application advice so it seems unlikely that the introduction of a scheme of charging would significantly impact on the level of development activity in the Council area.
- 5.2 By retaining a pre-application advice service the Council would continue to be seen as open for business and would generate income to assist the Planning and the financial challenges facing the Council.
- 5.3 Applicants who currently use this service receive feedback from a Planning Officer on the likely acceptability of the proposal in the form of emails, letters, phone calls and meetings. This advice can be given by the planning authority for any type and scale of development within the Falkirk area – from householder to major development. It is widely recognised that pre-application planning advice can be a valuable step within the development process.
- 5.4 Charging for pre-application advice is not uncommon. Many other local planning authorities across Scotland have introduced pre-application charges, including City of Edinburgh Council, Fife Council, Moray Council, West Lothian Council, and the Highland Council. Fees charged vary by authority. These each set varying fees – some as a percentage of the proposed planning application fee and some as a flat rate.
- 5.5 The time involved in providing this service can vary depending on the type, scale, and complexity of the proposed development. Larger proposals may require greater time and resources from multiple officers and teams (including planning policy advice from our Development Plans team) within the Council. This may involve a succession of weekly or monthly meetings, for example.

Whilst this early engagement is valuable for both the applicant and planning authority, the time and resources involved require to be accounted for.

5.6 The charging proposals are targeted at those areas where professional advice is required in a formal response. There is no charge for non-specific or general pre-application advice that can be given over the phone or in person via an appointment. To be productive, pre-application advice needs commitment from all parties with the understanding that all our resources are finite.

5.7 In addition to giving pre planning application advice there has been identified a number of other areas currently undertaken by planning staff within Development Management that under the new Scottish Government planning fee regulation can be charged for. This also requires a considerable staff resource and as a consequence of the new provision that now enables discretionary charging provisions the following work areas are being considered as appropriate to ensure that the planning service is adequately resourced and to reflect the workload undertaken by planning staff. Appendix 1 – Development Management Pre-application Charging considerations provides a detailed overview of identified discretionary charge options – a summary is provided below: -

- A fee surcharge of 25% be imposed on all retrospective planning applications to come into effect from 31 March 2023
- Non-material variations

Conditions (excludes Approval of Matters Specified in Conditions AMSC), applications relating to planning permission in principle.

6. Consultation

6.1 Informal benchmarking was undertaken with other planning authorities who have introduced discretionary planning fees. This report has also been consulted on with Finance and Legal services.

7. Implications

Financial

7.1 The introduction of discretionary charging will assist the Council to meet the financial challenge it faces. It is estimated that the income from additional charges would contribute circa £200,000 annually. A summary breakdown is provided in Appendix 1. However, it has to be acknowledged that the challenging national economic situation may have an impact initially in respect of customer demands on the Planning – Development Management service such as a reduction in the number of planning applications and pre-application enquiries being received.

Resources

- 7.2 The activity outlined in this report will be undertaken within existing staff resources.

Legal

- 7.3 The proposals from a Development Management perspective (Appendix 1) are to enact the provisions of The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022. No other legal implications have been identified.

Risk

- 7.4 There is a risk that the introduction of fees could deter development activity in the Falkirk area. This is mitigated by the fact that more and more Councils are adopting charging for this advice and the Planning Service will continue to provide a quality service that assists local developers to foster economic growth.
- 7.5 There is a risk that the additional tasks that flow from this approach could put pressure on the resources within the Planning Service. This will be mitigated by management continuing to review activity levels and prioritising capacity to where it is needed most to ensure the Council continues to deliver the statutory provisions emerging from the Planning (Scotland) Act 2019.

Equalities

- 7.6 The proposal is to introduce a charging scheme in accordance with the provisions of The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022. An equality, poverty and business impact assessment was carried out by Scottish Government before the Regulations were enacted. This assessment highlighted that there were no equalities issues arising from the proposed fee regulations.
- 7.7 Development Management - The fee regulations waive fees in full as an exemption under Regulation 7 (means of access, etc for disabled persons) and under Schedule 1, article 7 community councils benefit from a 50% fee reduction on planning applications.

8. Conclusions

- 8.1 The recommendations of this report would see the Council introduce pre-planning fees that are allowable under the Planning (Scotland) Act 2019 and The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022. These will assist the Council in closing its budget gap in the coming four financial years.

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Director of Place Services
24 November 2022

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Appendices: -

Appendix 1 – Development Management Pre application Charging Considerations

List of Background Papers:

1. Falkirk Council Executive 15 March 2022 - Future Development Planning Arrangements in the Falkirk Council area

Appendix 1

Development Management Pre application Charging considerations

1) Pre-application discussions

Planning authorities may only charge fees for pre-application discussions if it has first published information which sets out:

- the services for which a fee is to be charged (this may, for example, specify who is to be involved in discussions, how feedback is to be provided to prospective applicants and relevant timescales);
- how the fees for each level of service have been calculated; and under what circumstances the authority may waive or reduce the fee.

This information must be published on the authority's website.

Proposals

Planning enquiries

In 2021 the Development Management Unit received 1,822 planning enquiries. At the time of writing 1,284 have been received in 2022. Enquiries deal with a vast range of issues. They can be complex and time consuming. The majority relate to permitted development enquiries and pre-application discussions.

Permitted Development Enquiries

The Development Management Unit issues informal written advice in response to permitted development enquiries but there are legislative provisions for a formal decision to be obtained. An application for a Certificate of Lawfulness (CLUD) can be submitted. This procedure provides a mechanism for obtaining a statutory document from the Council certifying the lawfulness for planning purposes of existing and proposed development. It has become more common for Councils to decline to deal with permitted development enquiries informally and instead direct people to the Certificate of Lawfulness process.

Each application must be lodged with the fee prescribed by Scottish Government. The majority of permitted development enquiries received relate to proposals for householder development and require a fee of £150 to be paid. Based on the number of permitted development enquiries received in 2017 this would potentially generate an annual income of £45,000.

Pre-application Enquiries

The provision of pre-application enquiry advice is fundamental to identify the appropriate supporting information to front load a planning application and assist in reducing determination timescales.

The Development Management Unit currently operate a free pre-application advice service. There is no legal requirement for Councils to provide a pre-application advice service. It is becoming more common for Councils to charge for such a service. A survey earlier this year showed that 9 planning authorities were already charging, each doing so in a slightly different way. The rough average for fees was as follows;

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|---|---|-------|
| • | Householder | £55 |
| • | Local Development 35% of planning fee to a maximum of | £570 |
| • | Major Development | £1345 |

Analysis of a small sample of typical pre-application advice requests (PAR) indicated the following estimated average cost to the Council of dealing with the different types of request:

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|---|-------------------|------|
| • | Householder | £32 |
| • | Local Development | £82 |
| • | Major Development | £261 |

An analysis of a one month sample of planning enquiries indicated that 60 were received in that month. The table below extrapolates this one month sample to a full year and applies the average costs above to estimate the current cost to the Council of operating a free pre-application advice service. The table also gives an estimate of potential future income should a decision be made to cease the provision of a free pre-application advice service and introduce a sliding scale of charges at £50 for a householder enquiry; £150 for a local development enquiry and £500 for a major development enquiry:

Table 2: Estimated annual Pre-Application Advice Requests

Type	Projected number per year	Current estimated processing cost per year	Estimated potential future income per year
Householder	120	£3,840	£6,000
Local Development	564	£46,248	£84,600
Major Development	36	£9,396	£18,000
Total	720	£59,484	£108,600

There are potentially 3 options for pre-application charging each with different benefits and drawbacks. These are presented in table 3 below:

Table 3: Pre-application charging options

Option	Benefits	Drawbacks
1. Cease the provision of a free pre-application advice service	Officer time spent dealing with PAR will be freed-up allowing more time to be spent on dealing with planning applications and developing other service improvements.	<p>The average quality of submitted planning applications is likely to reduce meaning that either:</p> <ul style="list-style-type: none"> • more officer time will need to be spent negotiating changes to the development; or • More applications will need to be recommended for refusal <p>The Council area may be perceived as slightly less open for business which may reduce development rates.</p>

Option	Benefits	Drawbacks
2. Continue to operate a free pre-application advice service	The Council area will continue to be seen as open for business	Development Management officers will continue to spend a significant proportion of their time on work which does not attract a fee.
3. Introduce a scheme of charging for pre-application advice	<p>Significant revenue generating opportunity which can help to: meet the savings which require to be made as part of the Reform of Planning project; and</p> <p>Fund the recruitment of new planning staff to further improve quality of service.</p> <p>The Council area will continue to be seen as open for business.</p>	<p>Some developers may be put off seeking pre-application advice resulting in a lowering in the quality of planning applications.</p> <p>Some developers may be put off developing in the Council area leading to a reduction in fee income from planning applications</p>

2) Non-material variations (NMVs)

The Regulations provide that an authority may introduce a charge of £200 for each request for a non-material variation to a planning permission under Section 64 of the Town and Country Planning (Scotland) Act 1997. The number of NMVs dealt with annually varies. Between 2017 and 2021 the number of requests varied from a maximum of 56 requests to a minimum of 31 requests in 2021. Based on the 2021 figure the estimated annual income from NMV charges would be £6,200.

3) Conditions (excludes Approval of Matters Specified in Conditions AMSC), applications relating to planning permission in principle)

An authority may introduce a fee of £100 to provide written confirmation that a condition has been complied with. Similarly an applicant may wish seek written confirmation of compliance with more than one condition within each request which will result in a single fee of £100 being payable. In 2017 prior to the pandemic 495 planning applications for detailed planning permission were granted. Assuming this 2017 figure is a representative sample and that each permission resulted in at least one request to confirm compliance with a condition the annual income generated would be £49,500.

4) Retrospective applications

Authorities may introduce a 25% surcharge for applications for planning permission where the application relates to development carried out without permission (section 33 of the 1997 act). The fee is that which would be charged if the application were for planning permission for that development plus a surcharge of up to 25%. Planning authorities are required to set out the circumstances whereby the surcharge shall be applied or not applied.

In 2017 34 retrospective planning applications were received. Most related to householder development. The income generated by applying the 25% surcharge would be approximately £2,550 per annum.

Summary of estimated income

	Estimated annual income
Pre-application enquiries	£108,600
Certificates of Lawfulness	£45,000
Discharge of planning conditions	£49,500
Retrospective application surcharge	£2,550
Non material variations	£6,200
Total	£211,850