

Report of the Director of Placemaking, Decarbonisation and Engagement

Subject: Pre-application advice and Planning Performance Agreements

Purpose of Report

To request that Members endorse the introduction of a new discretionary pre-application service, in addition to the existing statutory pre-application service provided by the Development Management team. To request that Members also endorse the introduction of planning performance agreements to support the planning service in responding to more complex applications such as Developments of National Significance.

Introduction/Background

The *Planning (Wales) Act 2015* (6th July, 2015) introduced new pre-application processes that is key to the effective frontloading of applications. Section 18 of the Act introduced a new statutory requirement for Local Planning Authorities (LPAs) to provide a pre-application advice service.

The regulations set a standard, national fee for the purposes of the statutory pre-application service and this came into force on 16th March 2016. The regulations require LPAs to provide a **written response** to all valid pre-application enquiries within 21 days, unless an extension of time is agreed between the authority and applicant.

Any additional written advice from, or meetings/site visits with, LPAs regarding a pre-application enquiry does **not** form part of the statutory (basic level) service. There are also some types of advice such as confirmation that something is permitted development that are not covered by the statutory charging schedule.

Over and above the statutory pre application advice service, the Welsh Government actively encourages LPAs to provide a more comprehensive pre-application service and recognises that this may be subject to a discretionary charge under section 93 of the *Local Government Act 2003*.

Since 2020 the Authority has only been operating a statutory pre-application service. It has endeavoured to offer meetings and visits where these are deemed necessary, but has not consistently provided this offer. Agents and applicants often prefer a meeting alongside a written response and there is a strong demand for this offer. However, the statutory fee framework set out by Welsh Government, does not cover the costs of meetings.

A number of Authority's in Wales have adopted a system of a statutory pre-application service (which includes a written response) and a discretionary service with a more detailed response and meeting offered at a higher fee.

Following a period of time where the Authority was short-staffed and unable to commit the resources to offering this service, the Authority is now in a position where (following successful recruitment of officers to the Development Management Service) it anticipates being able to offer this service from 1st April 2024, subject to Member approval.

Alongside a discretionary pre-application service, the Authority would also like to adopt a guidance note for Planning Performance Agreements – where on particularly large or complex applications the Developer provides financial support to the Authority to ensure that a timely response can be provided, for example on a Local Impact Report for a Development of National Significance. In many Authorities across Wales this is then used to seek consultancy support to provide a timely response.

Detailed consideration of proposals:

Annex A of this report provides a draft Guidance note which sets out the full details of how a discretionary pre-application service would operate, alongside the basic statutory service for which Welsh Government set the level of fee which can be charged.

The charges for this discretionary pre-application service would apply have been based on Pembrokeshire County Council's service, the advantage of this approach is to provide consistency across Pembrokeshire. It also means that costs of shared services such as the Ecology service are charged at a consistent rate.

Financial considerations

The detailed charges are set out in Annex A.

At present the Authority is offering some meetings at pre-application stage as part of the statutory service of pre-application advice, however this is currently not being covered by the WG fee system. Having a clear discretionary service and framework which sets out charges for additional meetings (for particularly complex cases) will enable the Authority to more effectively manage resources and cover its costs.

As set out in Annex A The HMRC have confirmed through the CIPFA VAT Committee that the statutory pre-application service provided by Welsh LPAs is to be treated as non-business and outside the scope of VAT. The non-statutory/discretionary service will remain VAT-able and the charging schedule set out in Annex A will be charged plus VAT. The Local Government Act 2003 allows Authorities to make charges for additional services which applies in the case of both the discretionary pre-application service and for Planning Performance Agreements.

There will be a need for the Authority to periodically review charges to reflect potential increases in staff and travel costs. Therefore delegation is sought (in

consultation with the Chair of the Authority) for the Chief Executive and Director to have the ability to review and increase costs where necessary.

Risk considerations

There is a risk that the Authority has an upsurge in planning applications and/or has a shortage of staff due to absence/staff moving to other positions which means that it is unable to offer a discretionary pre-application service and/or struggles to offer Planning Performance Agreements. Such risk however can be mitigated by temporarily suspending such a service in those circumstances.

If the Authority fails to meet timescales within PPAs it may need to refund all or part of a fee for this. This risk can be mitigated by a robust time focused plan when the agreement is drawn up and by outsourcing elements to consultants where internal staffing resources are not available to support the work.

Compliance

No compliance issues have been identified.

Human Rights/Equality issues

A number of exemptions to the charges for the discretionary pre-application service have been identified, based on the areas which receive exemptions to planning applications,. These include works that are required to improve facilities and access where the proposal meets the description as follows *“Alter or extend an existing dwellinghouse, or to carry out operations within the curtilage of an existing dwellinghouse, are exempt from payment of a fee if the planning authority is satisfied that the proposed development is intended solely to improve access, safety, health or comfort for a disabled person who is living in the house as their principal residence.”*

Other exemptions proposed include City/Town Council and Community Council enquiries, registered charities with a turnover of less than £1m and non-profit making groups.

Biodiversity implications/Sustainability appraisal

No direct impacts on biodiversity are anticipated. Potential impacts will be considered through planning policies in the LDP and national planning policy. LDP and National Planning policy is subject to Integrated Assessment

Welsh Language considerations

The Authority does have Welsh speakers within the planning service and can offer meetings and a written response in Welsh where requested. The guidance note in Annex A makes clear that the service is available bilingually and in compliance with Welsh Language Service Standards.

Conclusion

It is recommended that PCNPA support the introduction of a discretionary pre-application service alongside the existing statutory pre-application service. It is also

recommended that the Authority introduce Planning Performance Agreements in appropriate circumstances, where this is sought by a developer. Annex A Guidance note sets out a document for publication to accompany these changes.

Recommendation:

- 1. That Members support the introduction of a discretionary pre-application service from the 1st April 2024 based on the Guidance Note in Annex A.**
- 2. That Members support the introduction of Planning Performance Agreements from the 1st April 2024 in appropriate circumstances based on the Guidance Note in Annex A.**
- 3. The National Park Authority's Director of Placemaking, Decarbonisation and Engagement be given delegated authority to suspend the discretionary pre-application service and Planning Performance Agreements if resources within the Department are unable to deliver the service – that this decision be undertaken in consultation with the Chair of the Development Management Committee.**
- 4. The National Park Authority's Chief Executive and Director of Placemaking, Decarbonisation and Engagement be given delegated authority to agree a revised set of charges on an annual basis to apply from 1st April each year. This decision to be undertaken in consultation with the Chair of the Authority.**

Background Documents

Annex A: PRE-APPLICATION ADVICE AND PLANNING PERFORMANCE AGREEMENTS – GUIDANCE NOTE

Author: Sara Morris

Consulted/engaged with (internal and/or external stakeholders):

Kate Attrill (Development Management Manager), all DM officers, Sue Davies (DM Admin Team Leader), Catrin Evans (Head of Finance), Michael Kent (Monitoring Officer), Caroline Llewellyn (Democratic Services Manager), Mair Thomas (Performance and Compliance Officer), PCNPA Ecologist, PCC Highways Officers, PCC Public Protection Officers.



Pembrokeshire Coast National Park – DEVELOPMENT MANAGEMENT SECTION

PRE-APPLICATION ADVICE AND PLANNING PERFORMANCE AGREEMENTS – GUIDANCE NOTE

Effective from 1st April 2024

We encourage and welcome the opportunity to provide advice before an application is made.

The *Planning (Wales) Act 2015* (6th July, 2015) introduced new pre-application processes that is key to the effective frontloading of applications. Section 18 of the Act introduced a new statutory requirement for Local Planning Authorities (LPAs) to provide a pre-application advice service.

The regulations set a standard, national fee for the purposes of the statutory pre-application service and this came into force on 16th March 2016. The regulations require LPAs to provide a **written response** to all valid pre-application enquiries within 21 days, unless an extension of time is agreed between the authority and applicant.

Any additional written advice from, or meetings/site visits with, LPAs regarding a pre-application enquiry will **not** form part of the statutory (basic level) service.

Over and above the statutory pre application advice service, the Welsh Government actively encourages LPAs to provide a more comprehensive pre-application service and recognises that this may be subject to a discretionary charge under section 93 of the *Local Government Act 2003*.

Pembrokeshire Coast National Park Authority's aim is to enable and promote high quality development. Consequently, we will be introducing a value added pre-application advice service in order to provide a more responsive and professional service which will reduce uncertainty in the planning process and be highly cost effective for people preparing a planning application.

The advice is intended to help you understand the best way to go about seeking permission and offer the option of the statutory level of service or a more comprehensive, flexible and non-statutory level of service.

The main differences between the statutory service and the comprehensive service are:-

- a tailored and equitable charging system related to the type and scale of development proposed;



- a new charge for householder design advice to cover the time and cost of assessing a domestic extension and to offer advice if there were a more appropriate design etc.;
- a bespoke and value added advice service to include the option of undertaking meetings and site visits; and,
- an initial free “scoping” virtual meeting with developers on large major developments (of up to an hour) to identify the information required to be included with a pre-app submission and the required input from other statutory consultees such as the Highway Authority and Public Protection etc.

There are considerable benefits in seeking our advice, which are listed below:-

- It gives you an opportunity to understand how our policies will be applied to your development.
- It can identify at an early stage where there is a need for specialist input, for example about listed buildings, trees, landscaping, noise, flooding, transport, contaminated land, ecology or archaeology.
- It will assist you in preparing proposals for formal submission which, providing you have taken our advice fully into account, will be handled more quickly.
- It may lead to a reduction in time spent by your professional advisors in working up proposals.

It may indicate that a proposal is completely unacceptable, saving you the cost of pursuing a formal application.

In addition to the more value added pre application charging service, the Authority has introduced a Guidance Note to include the provision for Planning Performance Agreements.

WELSH GOVERNMENT STATUTORY PRE-APPLICATION ADVICE SERVICE

The Welsh Government’s Statutory Pre-Application Advice Service specifies that developers must submit **a completed pre-application advice enquiry form** containing information on their proposal to enable a response from the LPA. As a minimum they will be required to provide:

- Name, address and contact details
- Description of the proposal (including an indication of any increase in floorspace and/or number of new units proposed)
- Site Address



- Location Plan
- Fee

The fees that will be levied for the statutory pre-application service are the same across Wales, although they vary depending on the size and scale of the proposed development as follows:

- Householder - £25
- Minor development - £250
- Major development - £600
- Large major development - £1000

The *Town and Country Planning (Development Management Procedure) (Amendment) Order 2015* provides the following definition:

“householder application” means an application for—

(a) planning permission for the enlargement, improvement or other alteration of a dwellinghouse, or development within the curtilage of such a dwellinghouse, or

(b) change of use to enlarge the curtilage of a dwelling house, for any purpose incidental to the enjoyment of the dwellinghouse but does not include—

(i) any other application for change of use,

(ii) an application for erection of a dwellinghouse, or

(iii) an application to change the number of dwellings in a building;

Large major development is defined as development exceeding 24 dwellings, or 0.99 hectares, or 1,999 square metres.

WHAT WE WILL DO

As a minimum, applicants for householder developments should expect to receive the following information within their written response:

- The relevant planning history of the site
- The relevant development plan policies against which the development proposal will be assessed
- Relevant supplementary planning guidance (i.e. design, conservation etc.)
- Any other material planning considerations



- An initial assessment of the proposed development

For all other development proposals, applicants will receive all the information outlined above, as well as advice as to whether any Section 106 Legal Agreement contributions are likely to be sought and an indication of the scope and amount of these contributions.

Without payment of the appropriate fee, the Authority will be under no obligation to accept and process a pre-application enquiry form.

Advice for listed building consent applications and advertisements can only be provided through the non-statutory service offered by the local planning authority. Article 4 of the *Town and Country Planning (Pre-application Services) (Wales) Regulations 2016* stipulates that qualifying applications are applications for planning permission made to a local planning authority for the development of land.

PCNPA NON-STATUTORY PRE-APPLICATION ADVICE SERVICE

For **all enquiries under the non-statutory service** you will need to send us the following as a minimum:

- Written details of the address and proposal;
- Description of the nature and scale of the development proposed and the uses to which land and buildings are to be put;
- Site location plan with the site clearly marked (to a recognised scale, north point etc);
- Sketch drawings providing details of the proposal (to a recognised scale);
- Photographs of the site and surrounding area, with particular regard to any nearby houses or other development which might be affected by your proposal
- Full contact details including phone number and email address;
- The appropriate fee – **The enquiry will not be registered on the system and no detailed work will be undertaken until the full fee has been paid;**
- An initial draft Design and Access statement and/or Heritage Statement if appropriate;
- Access and parking arrangements if appropriate;
- The submission may also need to be accompanied by ecological, landscape, ground contamination, flood and transport assessments depending upon the location, nature and complexity of the development.



WHAT WE WILL DO

On receipt of your initial enquiry, we will decide whether it requires pre-application advice and what type of advice is most suitable. We will then check that the appropriate fee has been paid. If it has not, we will contact you confirming that we will not progress your enquiry until the appropriate fee has been paid.

Once the fee has been paid, your enquiry will be allocated to an appropriate officer.

We will aim to reply to your enquiry within the target response periods as outlined in the charging schedule. However we cannot guarantee a response within this time period as we may be awaiting consultation responses etc. and we will contact you to agree a time extension. In particularly complex cases, more time may be needed and we will advise you when you can expect a reply. If we do not have enough information to answer your enquiry then we will write to you, setting out what information we need. The clock will stop until all of the information is received. Where a site visit or meeting is sought, we will arrange a suitable date depending on the complexity of the scheme and the amount of work that will be needed beforehand. This may include any time necessary to obtain initial views from other interested internal parties such as the Highways Engineer etc. However, no meetings will take place without prior sight of the requested information.

Attendance of other officers at the meeting, including specialist advisors, will be at our recommendation and will require the payment of additional fees (see Charging Schedule below).

Following the site visit/meeting, we will confirm the advice in a formal letter.

Should a further meeting be required, the scope for such a meeting will be established beforehand together with the relevant fee which must be received together with any relevant document before the subsequent meeting.

The Development Management Manager and Director have the right to decline a request for pre- application advice where it is considered that it is either inappropriate or unnecessary



CHARGES Guidance on Pre-Application Charges – Welsh Government Statutory Service from 16th March 2016
 PCNPA Non-Statutory Service from 1st April 2024*(excluding VAT – VAT will be charged)

Category/Scale of Development	WG Statutory Service - Written Advice Only	Non Statutory Service - Written Advice/ Response Only	Written Advice and a Meeting (site or office)	Additional Written Advice and/or Meetings	Target Response Time from Enquiry or Meeting Date (Days)
Permitted Development	N/A	£25	N/A	£25	21
Householder design advice	£25	£85	N/A	£50	21
PD Rights Removal	N/A	£50 per plot	N/A	N/A	21
Compliance with Conditions/Notices	N/A	£85 – 315	£135/£315	N/A	14
Works to Protected Trees	N/A	£55	£110	£55	14
Minor Commercial Development/CoU (up to 500 sq. m. gross floorspace)	£250	£300	£355	£110	28
Minor Works to Listed Buildings/in Con Areas	-	-	-	£55	28
Adverts	-	£55	£110	£55	28



Pre-submission Validation Check	-	£90-£200 depending on the complexity of the proposal	-	-	-
Telecommunications (poles and new masts / increased heights).	-	£250	£355	£110	28

Category/Scale of Development	WG Statutory Service - Written Advice Only	Non Statutory Service - Written Advice/ Response Only	Written Advice and a Meeting (site or office)	Additional Written Advice and/or Meetings	Target Response Time from Enquiry or Meeting Date (Days)
Larger Scale Development					
New dwellings/conversion to residential					
1-2 dwellings	£250	N/A site visit inc. if required	£345	£110	28
3-4 dwellings	£250	N/A site visit inc. if required	£385	£110	28
5-9 dwellings (inc. Planning Obligations)	£250	N/A site visit inc. if required	£550	£110	35
Rural Enterprise Dwelling /OPD	£250	N/A site visit inc. if required	£165-550	£110	35
Barn Conversions	£250	N/A site visit inc. if required	£385	£110	28
Agricultural and Forestry Development (500-1000 sq. m.)	£250	£330	£385	£110	28



Commercial Development/CoU (500 – 1000 sq. m.)	£250	£550	£605	£110	35
Non-PD Domestic Scale Renewable Energy Schemes					
- Small Scale Hydro Schemes	£250	£330	£385	£110	28
- Solar Panels/Photovoltaics	£250	£330	£385	£110	28
- Single Turbines up to 40m to blade tip	£250	£330	£385	£110	35

Category/Scale of Development	WG Statutory Service - Written Advice Only	Non Statutory Service - Written Advice/ Response Only	Written Advice and a Meeting (site or office)	Additional Written Advice and/or Meetings	Target Response Time from Enquiry or Meeting Date (Days)
Major Development (N.B. first scoping meeting with Officers is free)			Maximum – fee to be agreed following initial scoping meeting (Minimum Fee of £1000)		
10 or more dwellings (or 32 dph) inc. Planning Obligations	£600 < 25 units £1000 > 24 units	N/A site visit inc. N/A site visit inc.	£1125-2600 £2600- 5250	£225 £525	35 42



Agricultural and Forestry Development (> 1000 sq. m.)	£600 < 2000 sq. m. £1000 > 1999 sq. m.	N/A site visit inc. N/A site visit inc.	£1125 £2600	£225 £525	35 42
Commercial Development/CoU * (> 1000 sq. m.)	£600 < 2000 sq. m. £1000 > 1999 sq. m.	N/A site visit inc. N/A site visit inc.	£1125 -2600 £2600 - 5250	£225 £525	42 42
Commercial Renewable Energy Schemes (inc. EIA)					
Hydro Schemes	-	N/A site visit inc.	£2775- 5550	£525	35
- Waste to Energy Schemes	-	N/A site visit inc.	£2775- 5550	£525	42
- Solar Parks/Farms	-	N/A site visit inc.	£2775- 5550	£525	42
- Wind Farms	-	N/A site visit inc.	£2775- 5550	£525	42
Winning and Working of Minerals	£600	N/A site visit inc.	£2775- 5550	£525	42
Waste Development	£600	N/A site visit inc.	£2775- 5550	£525	4



Exemptions

City/Town Council/Community Council Enquiries (except for Commercial Development)

Registered Charities with a turnover of less than £1million a year (excluding Housing Associations)

PCNPA Service Areas

Non-profit making groups/Community Interest Companies/Churches/Community Land Trusts etc.

Conservation advice - structural repairs to Listed Buildings only

Works that are required to improve facilities and access for the registered disabled

(that would not be subject to a planning application fee)

Specialist Advice

Additional Cost Per Hour (inc. meetings/site visits)

PCNPA Ecologist

£55

PCNPA Building Conservation/Heritage

£55

PCC Highways

£55

PCC Public Protection

£55



PLANNING PERFORMANCE AGREEMENTS (PPAS)

The main purpose of a PPA is to provide a framework, agreed between the Local Planning Authority (LPA) and the applicant or potential applicant, about the process for considering a major development proposal.

There is no standard PPA as each one is likely to be unique to its particular circumstances.

The Local Government Act 2003 allows Authority's to make charges for additional services. In the case of a PPA, the additional services may include the cost of engaging temporary or agency staff to backfill officers engaged full time in working on the project or to procure specialist advice to assist in the determination of the proposal. The use of a PPA would allow a project management approach to major developments, with a dedicated project manager and/or team, whilst not compromising business as usual work streams.

A PPA should be viewed as an efficiency tool, which provides a clear timeframe to progress significant development proposals with associated economic benefits as well as where necessary additional resource is provided to ensure service continuity.

The process that a PPA sets out will vary according to the number and complexity of the issues to be considered and the type of development proposed.

Relatively modest development proposals with straightforward planning issues may not benefit from a PPA approach, although even smaller scale schemes may require specialist input for example ecological, landscape and visual or highways expertise. In this case the determination period will likely be extended and additional resource needed to allow the Authority is make an informed, on balance, decision or recommendation. Most large scale or significant development proposals will require some form of additional or extraordinary input and the PPA will agree the extension to determination periods, which is allowable under current regulations.

A PPA could be agreed by way of a mutual understanding between the parties or by way of formal agreement. In most cases, some form of written agreement will be required in order to agree timescales. This will be more pertinent when there is a financial contribution over and above the normal planning fee, which would be used to provide any additional resources necessary to determine the application.

A PPA should not be considered as a means of 'buying' a planning consent or circumventing the normal planning process.

Notwithstanding any agreement on the use of a PPA for any particular planning application, it is a requirement under planning law for each planning application to be considered on its merits, taking into account all material considerations including national and



local land use policy. It will be highly unlikely that a LPA will enter a PPA related to a development that has little or no chance of receiving a favourable recommendation.

Common elements of a PPA:

- The agreement is usually drawn up prior to the submission of a planning application.
 - The Authority and the prospective applicant will be signatories to the agreement.
 - As a general principle, the agreement should be as simple as possible, consistent with a proportionate approach to the scale of the proposal and complexity of the issues raised.
 - The agreement should include one or more agreed milestones to define the process of considering the development proposed, including an agreed date by which an application will be determined by the Authority
 - The agreed determination date will supersede the normal statutory time limits.
 - The simplest PPAs will be an agreement between the Authority and the applicant, setting an appropriate determination date for a planning application.
 - More often than not, the PPA will be agreed during pre-application discussions to set out the scope and timetable for pre-application engagement and subsequent submission and determination of the planning application.
 - An additional financial contribution to cover any extraordinary costs, over and above the planning fee, will be agreed.
- Principally PPAs would be used for larger development schemes (major and above) but could also be used for any type of development that requires an extraordinary response from the Authority. This could include renewable energy schemes or essential development on sensitive sites.

PPAs could also be used as part of a response to consultations on Developments of National Significance (DNS) applications. These applications are submitted to and determined by the Welsh Ministers via the Planning Inspectorate, which takes most of the planning fee. In this case, the local authority will be a statutory consultee and will be responsible for discharging the conditions and any subsequent enforcement. It is essential therefore that any costs incurred by securing critical advice can be recovered from the developer.

WHAT THE COSTS COVER

These fees cover administration costs and the time spent in research, assessment, a meeting as necessary, and in making a written response.



The HMRC have confirmed through the CIPFA VAT Committee that the statutory pre-application service provided by Welsh LPAs is to be treated as non-business and outside the scope of VAT. The non-statutory/discretionary service will remain VAT-able and the charging schedule above includes VAT.

For major developments, a 'free' scoping meeting of up to 1 hour will be offered. The purpose of the scoping meeting is to allow the potential developer to explain and outline their scheme and for the Authority to identify the main issues. Some very basic guidance will be provided but there will not be any qualitative advice at this stage. Following the meeting, the case officer will provide a written schedule outlining the scope of the pre-application advice, which statutory consultees will be involved, a breakdown of the cost of providing the formal pre-application advice and a draft timetable for meetings/responses. It is then up to the applicant whether to engage our more value added pre-application advice service or use the more limited statutory system.

Each project or separate site referred to in an enquiry will be charged at the appropriate rate. Sites may not be artificially divided in an attempt to attract a different tariff. Multiple requests will attract the appropriate multiple fees.

PLEASE NOTE

Our pre application advice service is offered to both developers and individual applicants including householders. In either case there are some general points which you should take into account before you contact us:

- Try to contact us at the earliest reasonable opportunity in your project;
- Undertake some initial research yourself including looking at our notes on how to submit a valid application;
- Sound out the views of those who may be affected by your proposals;
- Remember the more information you can give us, the more accurate and helpful our response can be - vague proposals can receive only vague advice. The key to the success of this service will be you providing us with adequate information in advance - this is set out in more detail in the documents mentioned above; and
- On complex issues be prepared to seek private professional help - our service is not intended to be an alternative to employing professional consultants.

We will always do our best to give you the best advice we can on the information which is to hand. However, you need to be aware that any advice given by Authority Officers for pre application enquiries does not constitute a formal decision by the Authority as



Local Planning Authority. Any views or opinions are given in good faith, and to the best of our ability but without prejudice to the formal consideration of any planning application.

The final decision on any application that you may then make can only be taken after we have consulted local people, statutory consultees and any other interested parties. It will be made by the Development Management Committee or by planning officers and be based on all of the information available at that time.

You should therefore be aware that officers cannot guarantee the final formal decision that will be made on your application(s). However, any pre application advice that has been provided will be carefully considered in reaching a decision or recommendation on an application; subject to the proviso that circumstances and information may change or come to light that could alter that position.

Please note that the weight given to pre application advice will decline over time, and can be superseded by new government advice or new planning policies.

This service is available in Welsh on request.

Fees are non refundable.