

Guidance on the provision of pre application advice.

Introduction

Whilst the Council has a statutory duty to determine planning applications (most of which are subject to a fee paid to the council), a significant amount of officer time is taken up in dealing with general enquiries principally around the issues of, firstly, whether planning permission is required for a particular development proposal, and secondly, whether planning permission is likely to be granted for a particular development proposal. Predominantly, these enquiries have not been subject to a charge and the cost of dealing with them has fallen on the general council tax payer. The council considers, however, that the individual person or company that benefits from such advice should be the one to pay for it so that the burden does not fall on the general council taxpayer. For this reason the council now makes a charge for a range of enquiries. General advice and information will still be provided free of charge.

Is Planning Permission required?

Development is defined in the Town and Country Planning Act 1990 as the carrying out of building, engineering, mining, or other operations (including demolition) in, on, over, or under land, or the making of any material change in the use of any buildings or other land. It includes any works that materially affect the external appearance of a building but does not include works which only affect the interior of a building (except Listed Buildings). Unless development is 'Permitted Development' by virtue of the Provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), it will require planning permission.

For many development proposals, the council's website www.wyre.gov.uk or other Government websites linked to the council's website will provide the enquirer with the necessary information/advice to decide whether Planning Permission or other consents are required. Where, however, the requirement for planning permission cannot be ascertained from this publicly available information, a prospective applicant/developer may wish to seek further independent professional advice. The council cannot provide such advice.

The council can only determine applications where a formal, legally binding response is required as to whether a development or use that has already been carried out/implemented or is proposed to be carried out/implemented requires planning permission or not (i.e. is, or would be lawful), this requires the submission of an application for a Certificate of Lawful Use or Development. Applications may be made in respect of a proposed use, operation or activity, to determine whether the carrying

out of that use, operation, or activity would be lawful, i.e. would not require planning permission. An application may also be made in respect of an existing use, operation or activity. It can be applied for to claim that an existing use or development is lawful (and therefore immune from enforcement action).

An application for a Certificate of Lawful Use or Development is subject to a fee set by central government. The application form may be downloaded from the council's website or from the Planning Portal (www.planningportal.gov.uk). The resulting formal determination will attach to the land and run in perpetuity.

Is Planning Permission likely to be granted?

Wyre Council welcomes and encourages discussions with applicants/agents before a planning application is submitted. Early discussions can help to achieve time savings, and a better standard of application, which improves the chance of a timely and successful outcome.

There are different types of pre-application enquiries that the planning department may receive. The majority will relate to specific development proposals which may fall within a number of categories as follows:-

- Householder developments
- New dwellings
- New buildings and other structures (other than dwellings)
- Changes of use of land or buildings
- Agricultural development
- Other operations/works e.g. telecommunications development/CCTV/demolitions
- Advertisements

The council charges for advice that it provides to applicants and developers prior to submitting a planning application. This is a non statutory service and by charging the prospective applicant/developer, this ensures that the costs of providing the service are recovered from the person using it and that it does not fall to the council taxpayers.

The council can only provide advice on specific development proposals. If you want advice concerning the development potential of any land or buildings but do not have a specific proposal in mind, you should seek other professional planning advice.

The benefits of pre-application advice

There are a number of benefits in seeking advice before making an application, including;

- It provides early guidance on the planning policies relevant to your development and helps you to understand how these policies apply to your proposal.

- It can identify at an early stage if there is a need for specialist information such as a tree survey, flood risk assessment, ecological assessment.
- It enables proposals to be changed and potential problems overcome before an application is submitted, saving time during the application process.
- It will ensure you know what information you need to submit with the application, thereby making sure it can be registered and validated without undue delay.
- It can give a greater degree of certainty of whether your application is likely to be successful.
- An application received following proper and full pre-application engagement is likely to be dealt with quicker through to a decision.

In order to encourage the use of the service and prevent mis-use, it will be necessary for officers to adopt a firm approach to any planning application which is submitted without the benefit of pre-application dialogue. Only very minor negotiations will be allowed once an application has been submitted.

How do I request pre application advice?

Requests should be made by completing the *Request for Pre-Application Advice Form* available on the Council's web site, or otherwise in writing (including email to planning@wyre.gov.uk).

The fee payable will be that as set out in the associated fee schedule. Payment of the requisite fee may be made by cheque or over the phone by credit/debit card.

In all cases as much information as possible should be provided, including:

- a detailed description of the proposal
- a plan identifying the location and extent/size of the site
- any draft plans of the proposed development where applicable
- photographs may also be submitted if these assist in illustrating the proposed development

If insufficient information is submitted we will not consider your enquiry and we will be unable to provide pre application advice.

It is very important that you provide as much information as possible at the pre-application stage as this will ensure that a full and considered response can be made to your enquiry. In some cases additional supporting information or specialist reports will be required to be submitted with a formal application and if these can be provided at pre-application stage it may assist in ensuring a more robust response.

You should be aware however, that in accordance with the Freedom of Information Act 2000, the Data Protection Act 1998 and other legislation, the public has the right to inspect all papers connected with any subsequent planning application. In some circumstances, the Council may be required to release certain information into the public domain by the Information Commissioner.

Important Note:

The details of any pre-application enquiry and responses given are treated in confidence as far as the law will allow. Please be aware that under the provisions of the Freedom of Information Act and the Environmental Information Regulations any information submitted as part of pre-application discussion cannot automatically be deemed to be in confidence as the Council may receive a request for information under these Acts. If such a request is received the Council will ask you to identify any information that you require not to be disclosed under these Regulations together with any supporting reasons. Please note, however, that the Council shall be responsible for deciding at its absolute discretion whether any information requested is exempt from disclosure under the Regulations.

What Service can I expect?

Once your request for advice has been received and the relevant fee paid, we will contact you if we need further information, and will let you know what we need.

Where a meeting is held, any follow up meetings (if required) will be subject to a further charge of half the fee for the first meeting provided that the follow up meeting is requested within six months following receipt of the council's response after the initial meeting, otherwise the full fee will be charged as if it were an initial meeting.

The case officer will be an appropriately experienced officer and will be your point of contact throughout the pre-application stage. You will be informed if changes to this arrangement have to be made, for example if the officer is away from the office unexpectedly.

Where a **meeting** is required, it will normally be held within **28 days** of the receipt of the application form or initial request in writing, subject to the receipt of any further information that has been requested and providing the required fee has been paid in full. Before the meeting, the case officer will undertake a preliminary assessment of the proposal against current national and local planning policy, check the site history and identify any likely constraints.

In order to provide a meaningful response to your request, it may sometimes be necessary for us to involve internal and external consultees. In such cases, pre application advice may take longer so that we can provide a comprehensive response. The case officer will keep you informed of likely timescales.

Important note:

Some external organisations, including the local highway authority (Lancashire County Council) offer their own, independent, pre application advice service for which a fee may be charged, and the council will not be able to obtain advice from such organisations.

The case officer will aim to provide you with a written response within **28 days** of receipt of the request, or in cases where there is a meeting required, within **14 days** following the date of the meeting.

The provision of pre-application advice is subject to staff availability. Fluctuations in workload and the availability of staff will impact on the timeframes for the delivery of advice. When exceptional delays appear likely you will be advised as soon as possible.

What response can I expect?

For all enquiries a written response will be provided. The written response will cover the following matters:

- Recent relevant planning history of the site.
- Relevant planning policies.
- Relevant site constraints e.g. Tree Preservation Orders, Conservation Areas, Listed Buildings or other heritage assets, nature conservation sites.
- An analysis and response to the key planning issues e.g. flood risk, scale of development, design, highway implications, amenity, and environmental issues
- Any likely developer contributions required.
- Additional supporting information or technical reports that may be required to form part of a formal planning application. NB: we strongly recommend the submission of this information at the pre-application stage to enable it to be fully assessed prior to submission of a formal application in order to ensure a speedy decision.

The response will make it clear that subsequent changes to local or national policies might affect the advice given, and may affect the subsequent consideration of any application that may be submitted some length of time after the pre application discussions took place.

Important Note:

Any advice given by Council officers for pre-application enquiries represents their professional opinion but should not be taken as indicating any formal decision by the council as local planning authority, due to the democratic requirements of the application process. Any views or opinions expressed are given in good faith, and to the best of the officer's ability, without prejudice to the formal consideration of any planning application following statutory public consultation. Any subsequent alterations to local and national planning policies might affect the advice given and the subsequent formal consideration of the application, especially if some time elapses between the pre-application advice and the submission of an application. The weight that can be given to pre application advice will therefore diminish over time.

Other advice available

Drafting, negotiating and monitoring of Legal Agreements

The principle of providing good quality consistent advice also applies to the negotiating, drafting and monitoring of legal agreements under section 106 of the Town and Country Planning Act, which take a significant amount of officer time. Such legal agreements often involve complex negotiations with both Planning and Legal Officers and with several interested parties over a number of weeks. The council charges a fee for the legal costs involved in the preparation and production of section 106 agreements. The fee varies depending on complexity and duration and is generally paid at completion of the agreement. An estimate of the fees will be given by the council's legal officer. In cases where the the county council is to be a party to the agreement, the county council will also require a contribution to be paid towards its fees. Additionally, a monitoring fee may be payable at completion. The monitoring fee enables the council's officers to regulate ongoing compliance with the terms of the agreement.

Specialist Advice

Wyre has a rich history which has contributed to creating the distinctive and varied landscape we see today. This history is expressed not only in the wealth of historic buildings, towns and villages within the Borough but is also in the diverse landscapes, trees and areas of woodland.

The Council can provide free general advice on a range of specialist services regarding trees, (whether or not protected by Tree Preservation Orders), the Borough's historical assets (e.g. Listed Buildings, Schedule Ancient Monuments, Conservation Areas, historic landscapes and identified undesignated heritage assets), landscaping, and advice about climate change, sustainability and the use of renewable energy. This will help ensure that you are well informed about these important matters and how they may affect your development, property or site.

We encourage members of the public to seek advice on the above because it is a criminal offence to carry out certain works to listed buildings or to protected trees without formal consent from the Council.

What if I just need general advice or information?

The Planning Service will continue to provide without charge a general level of advice and information to members of the public. This advice could include questions about how to submit an application, how the planning process works, what issues are taken into account when considering an application, the planning application fee, advice relating to trees, whether a building is listed or in a conservation area, and questions of fact relating to planning policy. There is no charge to discuss current planning

applications although we cannot, at any time, discuss the planning merits of an application other than with the applicant or agent. The majority of this advice can be found on the council's web site www.wyre.gov.uk and also from the Planning Portal web site www.planningportal.gov.uk .

Information requested under the provisions of the Freedom of Information Act or Environmental Information Regulations will be responded to separately in accordance with the requirements of that legislation.