

REPORT TO EXECUTIVE

Date of Meeting: 28 November 2023

Report of: Director of City Development

Title: Liveable Exeter Placemaking Charter and pre-application charges

Is this a Key Decision?

No

Is this an Executive or Council Function?

Executive

1. What is the report about?

1.1 The City Council expects all new development to be of the highest quality and sustainability. To raise the standard of design and placemaking through the planning process, Officers have set up the Exeter Design Quality Partnership (EDQP). The aim is to create an open culture and dialogue with key stakeholders for a more collaborative planning system.

1.2 As part of efforts to enhance the pre-application advice service, officers are also proposing to introduce charges for this service. Currently pre-application advice is provided free of charge, but implementing fees would enable investment to sustain a high quality and timely service. In line with best practice, it is proposed that key users of the pre-application service such as developers, planning agents and consultants will be consulted before any final decision is made to introduce charges. This will provide an opportunity to gather feedback and ensure the proposed approach aligns with user needs. More details on the proposed charging approach are set out later in this report.

1.3 To further explain the aims and ambitions of the EDQP, Officers have developed the Liveable Exeter Placemaking Charter. The Charter sets out the City Council's commitment to work collaboratively with all those delivering developments in Exeter as part of the EDQP. The Charter will help to frame the proposal to introduce pre-application charges. Following consultation, the Charter will be uploaded onto the City Council's web site, as a 'living document' which can be updated from time to time. Once uploaded, developers, planning agents and consultants will be asked to 'sign up' to the Charter, and demonstrate their commitment to delivering Exeter's ambitious Vision 2040.

1.4 For information, the Charter is appended to this report (Appendix 1).

1.5 This report seeks Member endorsement of the Charter and, in particular, approval for the introduction of charging for the provision of pre-application advice.

1.6 Before adopting the Liveable Exeter Placemaking Charter, it is proposed that consultation is undertaken with key stakeholders who will be impacted by the Charter. In line with best practice as set out in the Council's Consultation Charter, consultation will be undertaken where a decision directly affects residents or stakeholders. Although the Charter itself does not directly affect residents, since it relates to internal processes, the

Charter aims to foster collaboration between the Council, developers and other parties. Therefore, seeking feedback from these groups could provide valuable insights to help shape the Charter. Furthermore, the introduction of charges is a change to an existing service which merits consultation.

1.7 It is proposed that a 6-week consultation period is undertaken to gather views on the draft Charter and pre-application charges. It will comply with the terms set out in the Exeter Consultation Charter and Statement of Community Involvement. The consultation will target key stakeholders who will be impacted, including:

- Developers
- Planning agents
- Landowners
- Architects
- Urban designers
- Community groups
- Business groups
- Other relevant professional bodies

The consultation aims to gather feedback on:

- The overall aims and content of the Charter
- The proposed commitments and principles
- The new tools and processes, including design review, planning performance agreements and the Developer's Forum
- The introduction of charges for pre-application advice
- Suggestions for improving and strengthening the Charter

The consultation will be promoted through the City Council's website, direct notification emails and communications via professional networks and publications.

1.8 The results of the consultation will be carefully analysed and considered. Any necessary amendments will be made to the Charter to address feedback received. The consultation outcomes and changes made as a result will be summarised in a report to the Executive and Council when approval is sought for the final Charter.

2. Recommendations:

2.1 That the Executive approves the Liveable Exeter Placemaking Charter, including the draft pre-application charges, as the basis for public consultation commencing on 04 December 2023.

2.2 That the Executive gives delegated authority to the Director of City Development, in consultation with the Portfolio Holder for City Development, to agree minor changes to the Liveable Exeter Placemaking Charter and draft pre-application charges before publication for consultation; and

2.3 That the Executive gives delegated authority to the Director of City Development, in consultation with the Portfolio Holder for City Development, to agree a change to the consultation start date if required.

2.4 The Executive gives delegated authority to the Director of City Development in consultation with the Portfolio Holder for City Development to make any necessary minor modifications to the Liveable Exeter Placemaking Charter and draft pre-application charges following public consultation.

2.5 That officers report back the outcome of public consultation and seek authority from the Executive and subsequently Council to approve the Liveable Exeter Placemaking Charter and draft pre-application charges and both documents to be published on the City Council's website.

3. Reasons for the recommendation:

3.1 The Charter will be a vital tool in delivering a placemaking approach to new development in Exeter to create thriving, healthy and socially active communities designed and led by unique characteristics of people and place.

3.2 The introduction of pre-application charging will generate additional funding to enhance the quality of the City Council's pre-application advice service for major planning proposals. It will also create a more precise and consistent approach to providing advice, which developers and other key stakeholders can readily understand.

4. What are the resource implications, including non-financial resources

4.1 City Development's Major Projects team already provides pre-application advice to developers but does not charge. The introduction of a charge will provide funding which will be used to ensure that the advice is timely and of a consistently high quality designed to deliver Liveable Exeter. The funds generated will be used to maintain the necessary capacity and expertise in City Development to provide the offer set out in the Charter.

5. Section 151 Officer comments:

5.1 As the report is seeking permission to consult, there are no financial implications contained in the report.

6. What are the legal aspects?

The Liveable Exeter Placemaking Charter is a non-statutory, informal document. It does not include planning policies or site allocations and will have no weight in making planning decisions.

Design Review Panel comments are material considerations and can be taken into account when making planning decisions. They are normally included in officer reports on planning applications. Proposals relating to a Developers Forum do not raise legal issues. In relation to the use of the proposed Planning Performance Agreements and charging for pre-application advice, members will note the following:

Planning Performance Agreements:

Planning performance agreements ("PPAs") were introduced as part of the then new National Planning Policy Framework (NPPF) in 2012 and are actively encouraged in some instances- see below. LPAs have the ability to charge for discretionary planning services by virtue of s93 of the Local Government Act 2003. The Planning Practice Guidance states that: "Local Planning Authorities may make a charge for the

administrative work involved in agreeing and implementing the planning performance agreement itself, to the extent that this goes beyond an authority's statutory responsibilities. Any charges need to reflect the wider principles for charging for pre-application advice, – where possible forming part of a clear menu of pre-application services – and will be in addition to any subsequent planning application fee for the proposed development.”

Paragraph 46 of the National Planning Policy Framework (updated 05 September 2023) states, “Applicants and local planning authorities should consider the potential for voluntary planning performance agreements, where this might achieve a faster and more effective application process. Planning performance agreements are likely to be needed for applications that are particularly large or complex to determine.”

The Planning Practice Guidance states that: “Planning performance agreements are intended to be agreed in the spirit of a ‘memorandum of understanding’. They are not intended to be a legally binding contract, unless the parties wish to approach it in this way. It is helpful to be clear about its status in the planning performance agreement itself. The parties are encouraged to make the existence and content of a planning performance agreement publicly available, so that the agreed process and timescale are transparent. A planning performance agreement does not differ from other forms of pre-application engagement. It does not commit the local planning authority to a particular outcome. It is instead a commitment to a process and timetable for determining an application. The existence of a planning performance agreement means that the statutory time limits for determining the application no longer apply (to the extent that the agreement specifies a longer period for the decision, in which case the agreement will count in the same way as an agreed extension of time).”

Discretionary charges:

Planning application fees are fixed and set nationally through the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (2012/2920). However, councils can choose to recover the cost of pre-application work by charging under the s93 Local Government Act 2003 for providing a discretionary service. The legislation states that charges can be made provided that "taking one financial year with another, the income from charges does not exceed the costs of provision" (s93(3)). The person who receives the service must also agree to the charge. It is not permitted for a council to generate an overall profit from delivering the pre-application service.

7. Monitoring Officer's comments:

The Monitoring Officer is supportive of the recommendations set out in this report.

8. Report details:

8.1 The Liveable Exeter Placemaking Charter contains five key elements, all designed to provide a high-quality planning service focussed on delivering the City Council's Corporate priorities:

- Design Review Panel
- Planning Performance Agreements

- Pre-application Advice Service
- Developer's Forum
- Measuring Outcomes

Design Review Panel

8.2 A Design Review Panel (DRP) is an independent group of experts who provide advice and recommendations to improve the design quality of new development proposals. The DRP process adds a layer of expertise that builds on the skills of the design team and the pre-application advice provided by the local authority.

Benefits of having a DRP include:

- **Improved design quality:** A DRP can help to improve the design quality of new development proposals. The Panel can provide expert advice on design, layout, and materials, which can help to create better buildings and public spaces.
- **Better outcomes for the community:** By improving the design quality of new development proposals, a DRP can help to create better results for the community. These results can include better public spaces, improved pedestrian and cycling infrastructure, and more sustainable buildings.
- **Increased certainty for developers:** A DRP can provide developers with greater confidence about the design quality of their proposals. This can reduce the risk of delays and costs associated with redesigning submissions that do not meet the required standards.
- **Good value for money:** Local governments with DRP processes in operation report that the investment in design review is considered good value as it offers broad and long-term benefits to the community.

8.3 In 2022, City Development introduced a new DRP in collaboration with Design West, a design and social value charity. Since its commencement, it has delivered reviews for 15 major development schemes, including housing, student accommodation, co-living accommodation, assisted living and mixed-use schemes.

8.4 A multi-disciplinary panel delivered all the reviews and dispatched reports within ten working days. City Council Officers attended and provided input to the process, and reference was made to Liveable Exeter and sustainability in all reviews when relevant. Some key benefits of the experience of using the DRP to date include consistency of advice and undertaking second reviews.

8.5 The Charter will embed design review in the culture of City Development and the development community, maximising future participation rate.

Planning Performance Agreements

8.6 A planning performance agreement (PPA) is a project management tool which the local planning authorities and applicants can use to agree timescales, actions and resources for handling particular applications. It should cover the pre-application and application stages but may also extend through to the post-application stage. PPAs can be particularly useful in setting out an efficient and transparent process for determining large and/or complex planning applications. They encourage joint working between the

applicant and local planning authority, and can also help to bring together other parties such as statutory consultees. A PPA is agreed voluntarily between the applicant and the local planning authority prior to the application being submitted, and can be a useful focus of pre-application discussions about the issues that will need to be addressed. The key features of a PPA include:

- It is a voluntary agreement between the applicant and local authority to agree on timescales and actions for determining a planning application. The local authority is not obliged to enter into a PPA.
- It aims to provide more certainty for applicants over the determination period for large or complex planning applications.
- It allows applicants and local authorities to agree upfront on what information is required to determine an application, key stages, timescales and resource requirements.
- It enables greater collaboration between the applicant and the local planning authority. There should be joint ownership of the timetable and actions.
- It should result in faster decision-making within an agreed period.
- There are no provisions to sanction local authorities if the determination deadline is missed, but it provides a clear timetable.
- PPAs are often used for major developments like commercial schemes or infrastructure projects where there are significant economic impacts from any delays.

8.7 In summary, a PPA allows applicants and councils to mutually agree on timescales and information requirements to help speed up planning decisions on major developments. It aims to provide more certainty over the process. The Charter encourages the use of PPAs. More details of City Development's PPA Offer are set out below.

Pre-application Advice Service

8.8 Although it is recognised that councils do not need to provide pre-application advice as it is not a statutory requirement, it is strongly encouraged in the National Planning Policy Framework (NPPF): "[Local Planning Authorities] cannot require that a developer engages with them before submitting a planning application, but they should encourage take-up of any pre-application services they offer" (NPPF para.40). Further guidance is also provided in the Planning Practice Guide (PPG) that sets out: the value of pre-application engagement; advice on who should be involved in pre applications; the importance of negotiating design and environmental issues; and further guidance on using Planning Performance Agreements (PPAs). A strong emphasis is put in national advice on the importance of the pre-application stage to improve the efficiency and effectiveness of the planning process by working collaboratively and openly that involves all interested parties.

8.9 Councils are not required to charge for their pre-application services. Nevertheless, most councils choose to charge as this can be justified because it adds value to the planning consent process and assists the applicant in getting a positive outcome. Furthermore, most councils will find it difficult to resource a pre-application service without charging an applicant.

8.10 Planning application fees are fixed and set nationally through fee regulations. However, councils can choose to recover the cost of pre-application work by charging under the s93 Local Government Act 2003 for providing a discretionary service. The legislation states that charges can be made provided that "taking one financial year with another, the income from charges does not exceed the costs of provision" (s93(3)). The person who receives the service must also agree to the charge. Therefore, it is not permitted for a council to generate an overall profit from delivering the pre-application service.

8.11 If a company or individual intends to submit a planning application, then there is a reasonable assumption that they are in the process of investing a considerable amount of money into that development proposal. The planning application fee is a relatively small element of that investment, so if they are getting an additional service via a pre-application process that will add value/deliverability, it is reasonable to charge for that service.

8.12 The City Council does not charge for pre-application planning advice, which is unusual. Developers of major schemes are used to paying for this advice. City Development has been working with Hyas, a planning consultancy, to establish what service our customers want and how much to charge. Hyas has reviewed our current free offer and the services other local planning authorities offer regionally and nationally. It has spoken to some of our frequent developers, agents, Planning Officers, and consultees. The work, for now, has focussed on the advice we provide on major planning proposals. It has made recommendations about the level of service we could offer and a proposed scale of fees. The recommendations have been 'soft-tested' with developers and agents, and the response has been positive.

8.13 The Hyas work recommends three levels of service as described in the following table:

Level	Service Offer	Output	Timescales
0 – Scoping £300 + extras	<ul style="list-style-type: none"> • 1 hr officer meeting • Principle • Key issues • Appropriate route forward 	<ul style="list-style-type: none"> • Short bullet point list summary • Next steps 	<ul style="list-style-type: none"> • Meeting date offered within 7 days • Meeting within 15 working days • Meeting note issued within 5 working days
1 – Standard £3,550 + extras	<ul style="list-style-type: none"> • Site visit • Site history • Validation advice • PMWG presentation • Accompanied Design Review • Consultee views sought • Key policies identified • Up to 3 meetings with case 	<ul style="list-style-type: none"> • Written report, incorporating design review feedback, consultee feedback and officer comment 	<ul style="list-style-type: none"> • Contact within 7 working days of submitting request to arrange a convenient meeting slot • Typically process will take on average 8-12 weeks • Every effort will be made to expedite the process and the customer will be kept informed throughout

	officer/design team <ul style="list-style-type: none"> • Technical studies scoping 		
2 – PPA £Bespoke	<ul style="list-style-type: none"> • Using level 1 as a base, bespoke offer tailored working with applicant • Extent of engagement designed to match project and its merits / issues • Process as set out in PPA template available on ECC website 	<ul style="list-style-type: none"> • Bespoke 	<ul style="list-style-type: none"> • Bespoke

8.14 Level 0 would offer a one-hour meeting either in Teams or in person between the case officer and the agent. It would be a discussion on the principle of development, identifying key issues that need to be resolved through the pre-application process. It would be followed by advice on an appropriate route for continued pre-application engagement (Level 1 or 2) or that the proposals are unlikely to be acceptable and do not merit further pre-application attention. A short bullet point list summarising the discussion would be shared with the applicant. The fee for this part of the service would be £300.

8.15 Level 1, the standard offer, would include the following:

- An unaccompanied site visit
- Provision of relevant site history
- Advice on validation requirements
- Opportunity to present the scheme to Planning Member Working Group
- Attendance at Design Review Panel meetings
- Consultation with statutory consultees
- Identification of key policies, plans and documents and interpretation of them where relevant
- Up to three sessions with the case officer

8.16 A written report utilising a Council template, and incorporating Design Review Panel feedback, would be shared with the applicant. The fee for this service would be £2275, with extra meetings for a further £300, and £150 for an accompanied site visit. It has been calculated based on the hourly rates of the relevant officers and the number of hours they would dedicate to the proposal.

8.17 Level 2 uses Level 1 as a base to create a bespoke Planning Performance Agreement (PPA) offer tailored by working with the applicant. The number of meetings, workshops and scale of engagement will be designed to match the project and its

merits/issues. The approach to PPA design will be detailed in the Exeter Design Quality Partnership Charter, utilising a PPA template available on the City Council's website. The output will be bespoke to the project but is likely to include, as a minimum, a written report using the City Council template. The fee will be customised, based on the hourly rates of the Officers involved. These rates have been calculated based on salaries, on-costs and relevant overheads.

Developer's Forum

8.18 City Development wants to work collaboratively with the development sector to identify and overcome barriers to good development as soon as possible. The collaboration will help to create well-designed sustainable developments, which deliver homes and jobs, provide infrastructure at the right time, protect our heritage and natural assets, help to boost the economy, tackle climate change and enable nature recovery.

8.19 To facilitate this collaboration, we intend to establish a Developer's Forum to bring together a range of stakeholders to maximise opportunities to create high-quality, sustainable development. We will encourage developers to participate in the Forum and to sign up for news, events and training opportunities. We will hold meetings with Forum members twice a year.

8.20 The benefits of a Forum are numerous. Firstly, it would improve the quality of planning applications submitted to the City Council, as developers could improve their understanding of the Council's expectations. This would reduce the number of rejected applications or significant revisions, saving time and resources for both the Council and the developer.

8.21 Secondly, the Forum would improve communication between the City Council and developers, reducing the likelihood of misunderstandings or miscommunications. This would build trust between the Council and developers, leading to a more collaborative and productive relationship.

8.22 Finally, the Forum would increase transparency in the planning application process, as developers would better understand the City Council's decision-making process and the factors considered when assessing applications. This would help build trust in the planning system and ensure that decisions are made in the community's best interests.

8.23 The Developer's Forum membership will be established by publishing the Charter on the Council's website, together with an invitation for landowners, developers, applicants and their agents to sign up to it electronically. Signing up to the Charter will signify a commitment to its principles of collaboration, sustainable development and design quality. Anyone from the development industry who signs up will be invited to an inaugural Forum meeting. This will be an opportunity to connect, share insights and start shaping the Forum's future activities collaboratively. We hope this inclusive approach will drive wide participation, foster relationships and alignment on priorities.

Measuring Outcomes

8.24 The Charter introduces a new commitment to measure the outcomes of completed developments against key social, economic and environmental performance indicators. This framework will evaluate factors such as carbon emissions, public space quality,

housing affordability, resident satisfaction, and more. Robust monitoring and evaluation will enable the Council to understand the true impact of new developments. It will identify successes to be replicated as well as areas where closer alignment to the Exeter 2040 Vision is required. The findings will feed into regular reviews of planning policies, guidance and training to drive continuous improvement. Developers are also encouraged to share data to support evaluations of their schemes. Overall, this focus on measuring outcomes will be crucial to ensure Exeter grows sustainably in line with its ambitious goals.

9. How does the decision contribute to the Council's Corporate Plan?

9.1 The introduction of the Charter will help deliver the City Council's priorities: a thriving local economy, a healthy and active city, housing and building great neighbourhoods and communities, a Net Zero Carbon city and letting culture thrive.

10. What risks are there, and how can they be reduced?

10.1 Risks associated with this proposal are as follows:

- Failure to deliver the enhanced pre-application advice service as described. This can be mitigated by ensuring sufficient resources and expertise are dedicated to providing the service, monitoring performance, and making adjustments as needed.
- Developers unwilling to pay for pre-application advice due to the previous free service. This could be addressed through effective communication of the value and benefits of the new service.
- Inadequate funding is generated through pre-application fees to deliver the expected service. Regular reviews of costs/income and adjustments of fees would help address this if required.
- Insufficient developer/stakeholder engagement in the Developer Forum. Targeted promotion and demonstrating tangible benefits of involvement can improve engagement.
- Lack of commitment from stakeholders to principles in the Charter. Clear communication on aims, extensive collaboration and demonstrating benefits can reduce this risk.
- Failure of Design Review Panel and pre-application advice to deliver expected improvements in design quality. Regularly reviewing and monitoring outcomes will be vital, refining processes as required.
- Reputational risks if Charter principles are not adequately implemented. Expectations must be managed clearly, and progress and performance must be transparently reviewed.

10.2 Overall, risks can be reduced through extensive collaboration, clear communication, transparency, regular monitoring and review, and refinement of processes as required. Embedding the principles fully into ways of working will also mitigate risks.

11. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equality Duty, decision-makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;

- advance equality by encouraging participation, removing disadvantages, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 To comply with the general duty, authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals considering the impacts on all community members.

11.3 In making decisions, the authority must take into account the potential impact of that decision concerning age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal, the potential impact on people with protected characteristics as determined by the Act has been considered. Approving the introduction of pre-application charging and adopting the Charter are not expected to negatively impact any groups with protected characteristics. The Charter aims to achieve high-quality and sustainable development which should benefit all groups. Pre-application charges will be applied equally and fund improvements to benefit all planning applicants. If any equality impacts emerge from implementing the Charter they will be reviewed and mitigated as appropriate.

12. Carbon Footprint (Environmental) Implications:

12.1 The recommendations made in this report have the potential to help deliver our carbon reduction target (carbon neutral by 2030) by:

- Encouraging more sustainable building design, materials and technologies, like renewable energy, electric vehicle charging, sustainable drainage systems, etc.
- Promoting developments that reduce car dependency and enable walking, cycling and public transport use.
- Creating greener public spaces and retaining existing trees/habitats where possible.
- Considering whole life carbon impacts during design and construction.

13. Are there any other options?

13.1 There are options around the scale, scope and timing of the introduction of pre-application charges and alternatives to charges that could be considered. However, the proposals in this report will provide the best means of delivering a high-quality service focussed on the City Council's corporate priorities.

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Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

Report by Hyas Associates Ltd.: A Review of Pre-Application Processes for Major Proposals including PPAS) Phase 2 – Final Report & Action Plan (September 2023)

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