

REPORT TO EXECUTIVE

Date of Meeting: 9 April 2024

REPORT TO COUNCIL

Date of Meeting: 23 April 2024

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?

Council

1. What is the report about?

1.1 This report sets out the details of a consultation on the proposals for charging for the provision of pre-application advice on major planning applications, and the introduction of the Liveable Exeter Placemaking Charter following a six-week consultation.

2. Recommendations:

2.1 That the Executive notes the Consultation Statement, which documents the responses to the consultation on the proposals for pre-application charges and the introduction of the Liveable Exeter Placemaking Charter, attached at Appendix A.

2.2 That the Executive recommends that Council approves the introduction of pre-application charges as set out in the report and endorses the Liveable Exeter Placemaking Charter attached at Appendix B.

2.3 That the Executive recommends that Council grants delegated authority to the Director of City Development, in consultation with the Portfolio Holder for City Development, to make minor editorial changes to the Liveable Exeter Placemaking Charter, attached at Appendix B, prior to its publication on the City Councils website.

2.4 That the Executive recommends that Council grants delegated authority to the Director of City Development, in consultation with the Portfolio Holder for City Development, to regularly monitor and review the Liveable Exeter Placemaking Charter, and make minor alterations to improve its clarity and detail.

3. Reasons for the recommendation:

3.1 The recommendation arises from the necessity to align Exeter's development with the principles of sustainability, inclusivity, and community engagement outlined in the Liveable Exeter Placemaking Charter. It reflects the feedback received during the consultation process, aiming to ensure the Charter effectively guides future developments. The recommendations are intended to enhance stakeholder collaboration,

improve urban planning practices, and foster environments that meet the needs of all residents, thereby supporting Exeter's vision for a liveable and resilient city

3.2 The recommendation to introduce pre-application charges is made to enhance the effectiveness and efficiency of the planning process within the Liveable Exeter Placemaking Charter framework. This strategic measure aims to allocate resources more effectively, ensuring that developers receive comprehensive guidance and feedback at an early stage, leading to higher quality development proposals. By implementing these charges, the City Council seeks to encourage more meaningful engagement from applicants, fostering developments that are more aligned with Exeter's sustainability and community goals, facilitating smoother project management and contributing to the city's strategic development objectives.

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 charges 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 Members should note the intention to use the additional funds to maintain capacity in the Service however no additional expenditure budget has been requested at this stage for Council to consider.

6. What are the legal aspects?

6.1 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.

6.2 Design Review Panel comments are material considerations and can be considered 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:

6.3 Planning Performance Agreements:

6.3.1 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. Local Planning Authorities can charge for discretionary planning services by virtue of s93 of the Local Government Act 2003. National 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.”

6.3.2 Paragraph 46 of the National Planning Policy Framework (December 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.”

6.3.3 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).”

6.4 Discretionary charges:

6.4.1 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:

7.1 The Monitoring Officer draws members attention to the Legal comments but otherwise, this report raises no issues for the Monitoring Officer.

8. Report details:

8.1 This section addresses the detailed feedback and outcomes from the consultation on the Liveable Exeter Placemaking Charter and the introduction of pre-application charges, held between 15 January 2024 and 25 February 2024. This consultation sought stakeholder perspectives on the proposed fees for pre-application planning advice and the principles embedded within the Exeter Placemaking Charter. The primary aim was to ensure these initiatives align with Exeter’s development principles of sustainability, inclusivity, and community engagement. More detail on the consultation and Officers’ response to it can be found in Appendix A.

8.2 The key elements of the proposed Liveable Exeter Placemaking Charter can be summarised as follows:

- **Collaborative Placemaking:** The Charter emphasises collaborative efforts among stakeholders (City Council, developers, community groups, etc.) to achieve high standards of design, sustainability, and placemaking.
- **Exeter Design Quality Partnership (EDQP):** A framework established to raise standards in development, fostering a culture of high-quality, sustainable design and placemaking.
- **Continuous Improvement:** A commitment to continuous improvement through leadership, tools, and processes aimed at driving enhancements in the quality of developments.
- **Shared Commitments:** Stakeholders are invited to join in a shared commitment to deliver exceptional quality outcomes by participating fully in pre-application discussions, engaging with communities early in the process, and collaborating openly.
- **High-Quality Planning Service:** The Charter commits to providing a skilled multidisciplinary team to manage development proposals collaboratively, with resources allocated for Planning Performance Agreements and a Pre-Application Advice Service.
- **Pre-Application Advice Service:** Introduction of charges to support the delivery of expert guidance tailored to each project, with three levels of service based on the complexity and scale of the development.
- **Developer's Forum:** Establishment of a Developer's Forum to foster productive relationships between the council, developers, and other stakeholders, encouraging open dialogue and sharing of best practices.
- **Design Review Panel:** Partnership with Design West to provide an independent Design Review Panel, offering impartial guidance on proposals to enhance design quality and sustainability.
- **Planning Performance Agreements (PPAs):** Recommendation for major or complex developments to enter into PPAs, providing a framework for collaborative working and efficient management of the planning process.
- **Measuring Outcomes:** A commitment to evaluating the outcomes of completed developments against key social, economic, and environmental performance indicators, with developers encouraged to share data to support evaluations.
- **Living Document:** The Charter is considered a living document, subject to regular monitoring, review, and refinement based on stakeholder feedback and the evolving needs of Exeter.

8.3 The pre-application charging schedule proposes 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 	<ul style="list-style-type: none"> • Short bullet point list summary 	<ul style="list-style-type: none"> • Meeting date offered within 7 days

	<ul style="list-style-type: none"> • Key issues • Appropriate route forward 	<ul style="list-style-type: none"> • Next steps 	<ul style="list-style-type: none"> • Meeting within 15 working days • Meeting note issued within 5 working days
<p>1 – Standard £3,550 + extras</p>	<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 officer/design team • Technical studies scoping 	<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
<p>2 – PPA £Bespoke</p>	<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 	<ul style="list-style-type: none"> • Bespoke 	<ul style="list-style-type: none"> • Bespoke

	ECC website		
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8.4 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.

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

- An unaccompanied site visits.
- 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.

8.6 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.

8.7 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.

8.8 The consultation process revealed a series of insights and concerns from stakeholders regarding the fee scale, service quality, stakeholder engagement, democratic processes, Charter clarity, and the complexities inherent in urban development. Notably, the proposed fee scales were generally viewed as unfavourable, with a majority considering them somewhat or very unreasonable. There was a mixed response to the potential impact of charges on service quality, with some stakeholders fearing a decrease in service efficiency and quality.

8.9 Concerns were also raised about the process of stakeholder engagement and the clarity of the Charter. Feedback suggested a need for more transparent and inclusive consultation processes and clearer communication regarding the Charter's intentions and guidelines. Additionally, the responses underscored the importance of maintaining democratic principles in the planning process and addressing the urban development complexities specific to Exeter.

8.10 In response to the feedback, for clarification, the pre-application advice fee structure is intended exclusively for major planning applications. This aligns with the practices of many other local planning authorities. The charges will be invested back into the service to enhance quality and efficiency. Moreover, the necessity of robust stakeholder engagement is acknowledged, with a commitment to improving mechanisms for community and developer interaction, inherent within the Charter itself.

8.11 The introduction of the Charter will not alter the Council's commitment to democratic and consultative aspects of planning, ensuring that the enhancements to the pre-application advice service complement the comprehensive public consultation and democratic determination of planning applications. Efforts will continue to refine the Placemaking Charter, as a "living document" addressing clarity and detail to ensure it serves as a comprehensive guide for all stakeholders involved in Exeter's development.

8.12 The consultation on the Liveable Exeter Placemaking Charter and pre-application charges has emphasised the importance of aligning Exeter's development agenda with the principles of sustainability, inclusivity, and community engagement. The feedback received has been valuable in informing the City Council's approach to fostering sustainable urban development in Exeter. Officers are committed to making any necessary adjustments to the Charter as our processes evolve, navigating the intricacies of urban development in a manner that aligns with Exeter's long-term vision, fostering a vibrant, sustainable, and inclusive city for all its residents.

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 provide the service, monitoring performance, and adjusting 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. Ultimately, the City Council could withdraw the offer to provide this discretionary service.
- Inadequate funding is generated through pre-application fees to deliver the expected service improvements. 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 consider 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: -

None

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