

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S
REPORT TO CABINET**

20 May 2020

Report Title: Pre-Validation Checking Scheme

Submitted by: Head of Planning

Portfolios: Planning & Growth

Ward(s) affected: ALL

Purpose of the Report

To introduce a new pre-validation checking service which can be used by prospective applicants to ensure their applications will be validated with little to no delay, allowing consultation to commence at the earliest opportunity. This new checking service is an optional service for which a fee will be chargeable.

Recommendation

That Cabinet approve the new pre-validation checking arrangements and associated charging scheme.

Reasons

Residents, local businesses and developers will benefit from the new service which is designed to more precisely meet their needs.

1. **Background**

1.1 Before a prospective planning application can be registered, assessed and a decision made on the merits of the scheme, it must be validated as a duly made application. To be classed as valid, an application must consist of a number of items of information set out in forms, reports and plans and also be accompanied by the correct fee. If an application is submitted without the necessary information, it will not be registered and issued for consultation until the missing information has been received.

1.2 Whilst the requirements for a householder application are limited in nature, a complex major application is likely to require far more information. To eliminate the risk of missing information at validation stage, resulting in delay to registration, this service seeks to give an applicant the option to confirm the necessary documents in advance of submission to ensure there are no last minute delays. This is an optional service for which a fee will be charged, but for applicants wishing to submit an application without using the pre-validation checking service, the standard service will remain available,

2. **Issues**

- 2.1 The Council currently does not offer a validation checking service for developers seeking to submit planning applications and it can remove the risk of unexpected delays.
- 2.2 For some applicants, a delay in validation may not be too harmful to the project but for others, e.g. those bound into a contract to deliver development by a set date, even a day's delay can be critical.
- 2.3 At present, the Council does offer some advice to applicants on the documents required especially if pre-application advice is sought, but in most cases this can only be generic, high-level advice. This proposed process seeks to ensure that any response provided is considered and comprehensive in nature, engaging with the detail of the proposed application. This reduces as far as is practicable the risk that any supporting information required with the application is omitted. There is a caveat that if the nature of the proposed development changes or national or local planning policies change prior to the submission of the applicant then further information not previously identified may be required from the applicant.

3. **Options Considered**

3.1 **Do Nothing**

The Council could simply maintain their current ad-hoc service of providing free advice unless it is provided as part of a formal pre-application response. Whilst helpful, this approach is limited in nature and can miss items especially if not immediately apparent from the nature of development being proposed.

3.2 **Provide the New Service**

A new pre-validation checking service should minimise the number of applications received by the service which are then held over due to missing information and marked as invalid. Such applications place a burden on the operation of the planning service as they essentially require double handling, once when they first come in and again when the missing information is submitted. Whilst this does not result in a true doubling of the work involved, additional work is occurred by the Council at no cost to the developer as files have to be stored, retrieved and chasing correspondence sent. Whilst the time savings may be small in comparison to the overall planning processing timescales, week on week, month on month, such delays add up.

- 3.3 The provision of the service also allows applicants and agents to reduce uncertainty and programme manage their applications more effectively.

4. **Proposal**

- 4.1 Taking into account the options above, it is proposed to introduce a service (See Appendix 1). This service will be offered via our website and the pages will provides the customer information on how to apply.
- 4.2 Whilst this will incur some resourcing requirements, it is considered that the service should deliver a number of valuable outcomes. These include minimising the risk of a proposal being unexpectedly delayed. A proposed new fee structure is designed to cover anticipated additional costs.

5. **Reasons for Preferred Solution**

5.1 The preferred solution provides a significantly more customer focused service, allowing an individual to choose the level of service and response they may want to receive as well as allowing the Council to introduce a fee structure to sustain the provision of that service by generating a more reliable and consistent revenue stream.

6. **Outcomes Linked to Corporate Priorities**

6.1 The new pre-apps service will contribute to the Council Plan by providing a local services that work for local people, making a stronger contribution towards operating costs and assisting in delivering the Council's statutory functions as a Local Planning Authority.

7. **Legal and Statutory Implications**

7.2 Local planning authorities may charge for providing discretionary services under section 93 of the Local Government Act 2003. Where charges are made they must not exceed the cost of providing the service. It is important that any charging does not discourage appropriate pre-application discussions. In this context, local planning authorities need to consider whether charging is appropriate in all cases, given the potential for pre-application engagement to save time and improve outcomes later in the process. Where possible, local planning authorities are strongly encouraged to provide at least a basic level of service without charge.

7.3 To ensure transparency, where local planning authorities opt to charge for certain pre-application services, they are strongly encouraged to provide clear information online about:

- the scale of charges for pre-application services applicable to different types of application (e.g. minor or major and other)
- the level of service that will be provided for the charge, including:
- the scope of work and what is included (e.g. duration and number of meetings or site visits)
- the amount of officer time to be provided (recognising that some proposed development requires input from officers across the local authority; or from other statutory and non-statutory bodies)
- the outputs that can be expected (e.g. a letter or report) and firm response times for arranging meetings and providing these outputs
- It is also helpful for local planning authorities to provide links to any charges that statutory consultees may levy for pre-application advice, where this is known.

8. **Equality Impact Assessment**

8.1 No issues arising.

9. **Financial and Resource Implications**

9.1 Increased revenue expected. The revised service will also place an increased focus on planners and consultees to respond to paid enquiries in a timely manner. That additional demand will be supported by the anticipated increase in revenue.

9.2 The proposed introduction of standard charges for agreeing to offer pre-validation checks at the rate suggested would ensure that the necessary funding to allow for the delivery of this enhanced service is available. It will also ensure a financial return to the Council, at the current time this has not been built into budget assumptions for 2020/21 in light of uncertainty regarding the take up of the enhanced service and the levels of planning applications that may be received during 2020/21.

10. **Major Risks**

- 10.1 As with any advice given, there is the possibility that an application submitted at a later date following receipt of that advice cannot be supported by the Council for example, if national policies change in the intervening period. It is also possible that the response given contains factual errors. In cases where the value of the response has become limited in nature either due to internal or external factors, there is the potential for complaints to be generated.
- 10.2 In these instances, officers will look at the circumstances surrounding the complaint and in discussion with a senior officer, a response will be provided to the complainant explaining the background to the case and the implications arising. If a complainant is unhappy with the Council's response then they will be able to escalate their complaint to the Local Government Ombudsman.
- 10.3 Such instances are, thankfully, exceptionally rare and it is considered that the risk of giving poor quality advice or a view on a proposal that becomes outdated is considerably outweighed by the gains to be achieved in offering the service. Furthermore, where the Local Government Ombudsman has received complaints about advice given by a Council, these have often not been upheld as the LGO recognises that the advice is that only and not a formal decision of the Council concerned. It is for applicants to make their own judgements on the value of any advice given by the Council and not to rely on it unquestioningly.
- 10.4 Nevertheless, as the quality of this Council's advice has been of a high level in the past, it is not envisaged that this risk would be of such a substantive nature to decline to offer the service.

11. **Sustainability and Climate Change Implications**

- 11.1 Whilst it is recognised that planning is one of the mechanisms for the delivery of sustainable development and assisting in addressing climate change issues, it is not envisaged that this service will have an impact on sustainability or climate matters.

12. **Key Decision Information**

- 12.1 This matter is not a Key Decision within the Council's definition and has not been included in the Forward Plan as it is not anticipated to generate savings or expenditure of over £100k (revenue) or have a significant effect on communities living in two or more electoral wards.

13. **Earlier Cabinet/Committee Resolutions**

- 13.1 None

14. **List of Appendices**

- 14.1 Appendix 1: Current pre-app guidance and fees (Web pages)

15. **Background Papers**

- 15.1 None

APPENDIX 1: PRE-APPLICATION VALIDATION - PROPOSED SERVICE WEB PAGES

Pre-validation checks

Validation of applications can be a highly complex and involved process, particularly with the regard to larger or more sensitive types of development. As a result, getting an application to be made valid can often prove to be a slow and laborious process involving a significant amount of 'toing and froing' between the Validation officer and the applicant or their agent. This wastes significant amounts of time for both the Council and the Applicant alike and ultimately slows down the application process which is in no one's interest.

As a consequence, Newcastle-under-Lyme Borough Council offers a fee paying pre-validation checking service which allows you to pre-submit plans and documents before formally submitting your application. The plans and documents will then be checked to ensure the appropriate standards of details and supporting information is provided.

What are the benefits?

By pre-submitting plans and documents the authority will have the chance to review what you are intending to submit to ensure that everything necessary for the application to be made valid is received. Feedback and guidance will be provided ensuring that the submission contains the necessary information to meet:

1. the National application requirements;
2. the Council's local validation list requirements (See Link);
3. the correct fee requirements for the proposed development.

If additional information is required or amendments/changes are needed, the Council will contact you and advise you as to what needs to be done.

By using the pre-validation service the Council will guarantee that the subsequent application is made validated immediately upon receipt, obviously subject to the inclusion of any suggested additions, changes or amendments. This save both time and money and allows the application to be processed through to determination far more quickly.

Fees

Major applications - £100

All other application - £50

There is no charge for Householder application submitted by a member of the public for their own property. If the application is submitted by an Agent then this will attract a £50 charge.

There is no charge for all applications which are exempt from planning fees for whatever reason.

How to submit

To seek a pre-validation check please submit your proposed submission to **email address**. Once the submission has been received a dedicated officer will deal with your submission.

Timeframes

In terms of timeframes, the Council will provide you with a pre-validation response as follows:

Major applications - within 4 working days

All other applications (including householder) – within 2 working days

The response you will receive will state either:

- The submission is acceptable and that the application will be validated upon receipt, or
- Provide you with a response identifying where the submission is deficient and detail what needs to be done to enable any subsequent application to be made valid upon receipt.

What the pre-validation service does not cover

The pre-validation service is purely an administrative function. The advice that it provides simply reviews what has been submitted and whether additional information needs to be submitted to enable the application to be made valid. It does not:

- Convey any acceptance as to the suitability or otherwise of the proposed development from a planning perspective. This is obviously the subject to a separate planning assessment through the planning application process;
- Check the quality or detail of supporting professional reports and assessment being submitted. For example, if a Flood risk assessment has been submitted in support of an application the check would not review the actual detail of the report itself or whether it is fit for purpose.
- Negate the need for additional information which may need to be submitted subsequently as a result of the planning application process. This necessity may come as a result of site visits by the planning officer or additional information being required by consultees to the application process.

What happens if you receive guidance and advice which suggests that additional information is required or changes need to be made to the proposed submission which you disagree with?

The guidance given is advising that if the application were submitted in its current form the Council would be unable to validate it. The Council would obviously be happy to discuss the reasons for suggesting the changes but, if agreement cannot be reached this does not stop you submitting the application. In the event that the pre-validation advice were not followed and the application submitted in its unamended form, it would be made formally invalid and you would be notified of this outcome. In this eventuality you would then have the ability to follow the non-valid application procedure as detailed under Article 12 of the Town and Country Planning (Development Management Procedures) (England) Order 2015.