

Transforming Planning Service Proposal

Councillor Alex Farrell, Cabinet Member for Housing & the Local Plan

Date: 5 September 2023
Agenda Item: 6
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Key Decision? YES
Local Ward Members All



CABINET

1. Executive Summary

- 1.1 This paper outlines high level proposals to transform the planning service, with the aim of creating the best planning service in the country. The objectives are to:
- eradicate wasted processes and delays in our current processes and drive-up performance standards.
 - offer non-major and householder applicants a robust standard service. Offer householder and simple applications a fast-track service to meet their project timescales, significantly faster than the service has been able to in recent years.
 - provide a welcoming 'open for business' offer to developers of major sites with effective collaboration to help shape applications for the benefit of our community, attracting new investment, innovation and the right mix of housing and new employment opportunities to the district, as articulated in the local plan.
- 1.2 Following cabinet agreement, a detailed project plan will be developed to implement the proposals, including working with staff, legal and the unions to review structures and proposals.

2. Recommendations

- 2.1 That cabinet approves the high-level proposals set out in section 4 to transform the planning service.
- 2.2 That cabinet delegates implementation of the proposals, including the potential to utilise the council's wholly owned trading company to deliver and enhance elements of the planning service, to the Cabinet Member for Housing & the Local Plan, Assistant Director of Customer, Resident & Business and Assistant Director of Finance & Commissioning (Section 151), in particular where doing so will deliver a more strategic, robust and welcoming approach to major developments and is within existing budgets.

3. Background

- 3.1 Planning is a critical universal service delivered by the council and has a significant impact on our residents, businesses and prosperity of the district. We are an ambitious council, and in its current form and operation, the planning service is not able to deliver the council's ambitious or meet the expectations of our residents and businesses.

3.2 We have a significantly high proportion of both non-major and major planning applications that require time extensions. This is having a detrimental impact on our residents and businesses. An extension of time is negotiated when a planning application is going to take longer than the government target timescales. Currently 43% of non-major planning applications and 86% of major planning applications determined during the year have an 'agreed extension' of time. We currently do not have data on the average extension of time, but anecdotally we know that some extensions can be months, even years.

Comparative extension of time performance on non-major apps	
Best performer (Barking & Dagenham)	6.7%
National average	42.2%
Lichfield District Council	43%
Worst performers (Cheshire authorities)	83% & 87%

3.3 Like many planning authorities, we receive a high number of complaints about planning and the delivery of Section 106 agreements, and we want to see the number of complaints reduce, with a focus on significantly reducing complaints made about process issues and timeliness. In 2021/2022 36% of all complaints received by the council were about planning. Whilst the level of complaints about planning dropped to 14% in 2022/2023, and the level of compliments increased, the number of complex planning complaints the team are handling is still the highest across the council.

3.4 To support us to transform the planning service, we have engaged a Planning Advisory Service (PAS) Peer Reviewer and PAS recognised planning transformation expert. The council also commissioned a PAS review in October 2020 which identified serious failings within the service. Whilst some of these issues have since been addressed, the transformation plan will ensure all issues are addressed and documented.

3.5 Whilst the above highlights some significant issues that we need to address, we have a dedicated and skilled planning workforce who share our ambitions for the service to be the best in the country and will be fully engaged in the transformation process.

4. Proposals

4.1 To enable us to achieve our ambition of being the best planning service in the country we are proposing to:

- Implement several operational changes including a series of new or amended discretionary fees and charges, subject to legal advice, that are projected to generate additional income for reinvestment in the service. In addition, a national increase to statutory fees is set to be approved by Parliament in April 2024 and is projected to generate further income for the planning service.
- Explore structural changes to the service to ensure the right resource is deployed where most required.

4.2 The proposed operational changes are summarised in the table overleaf:

Proposal	Description (all proposed fees exclude VAT)	Reason
<p>Introduction of guaranteed fast track service for householders, certificates and prior approvals</p>	<p>Enable customers to pay a premium fee, on top of their planning application fee to receive a faster decision*.</p> <ul style="list-style-type: none"> • Prior approvals Guaranteed decision within 5 working days (post 23-day period). • Householders Guaranteed decision within 5 working days (post 23-day period). • Certificates Guaranteed within 10 working days of validation. <p>Proposed charges £85 - prior approvals £165 - householder £85 – certificates</p> <p>* Subject to call in. ** A <i>guaranteed decision</i> is not guaranteed approval and an application could be approved or refused.</p>	<p>Currently customers have no choice but go to the back of the queue with an application. Some customers, either for business, economic or personal reasons will require a faster decision and doing so can have a direct impact on their wellbeing/lining up contractors etc. When you consider the average price of a householder extension is £15,000 - £125,000¹ a fast-track fee is a small additional cost.</p> <p>A refund policy allowing for monies to be refunded if the council doesn't deliver in time will be developed, unless the application is called in (householder only).</p>
<p>New Planning Performance Agreement (PPA) charging regime</p>	<p>To include a more robust and reflective charging approach in line with other leading authorities. To include drafting of S106, ready for signing post committee.</p>	<p>Currently PPAs are not adequately resourced, which has resulted in backlogs in the team on non PPA applications, as PPAs have been prioritised. The proposal to increase the fees is in line with fees charged by other leading authorities and will enable the council to deliver a top-quality service to PPA clients, whilst maintaining service levels across the rest of the service.</p>
<p>Removal of duty planner and promotion of pre-app service</p>	<p>To remove the duty planner service and promote pre-app service.</p> <p>Proposed charges for householders £75 - first enquiry (currently £63) £100 - second enquiry</p> <p>Retention of existing fees for other app types – view fees.</p>	<p>Currently the team spend a significant amount of time managing a daily rota to support customer queries. Often when customers request information this way, they do not provide sufficient information to enable the council to advise correctly, and then later can be unsatisfied when on deeper investigation they get a different response. Under the new proposals, if an applicant wants to query a planning application issue, they will be encouraged to sign up to a pre-app. When you consider the average price of a householder extension is £15,000 - £125,000² a pre-app fee is a small additional cost.</p>

Proposal	Description	Reason
<p>Introduction of invalid application fees</p>	<p>Introduce a sliding scale fee charging system (admin cost) for invalid applications.</p> <p>Charged for each submission, with a cap of three attempts for majors, one for minor & other apps.</p> <p>Proposed charges £50 - householder £150 - minors £200 - small majors £300 - majors (if not in PPA)</p> <p>In addition, if a customer withdraws an application, vs pays the invalid fee, it is proposed that the council mirrors the Planning Portal and retains 10% of the fee to cover the administrative charge to date.</p> <p>Therefore, for a householder application which currently costs £206, the customer can choose to withdraw and lose £41.20 and redo the application again or pay a further £50 to keep the application in process and submit the missing information.</p>	<p>Currently the team spend a significant amount of time supporting customers who haven't adequately prepared applications, which mean that in addition to assessing an application (which is the fee the customer has paid for) they spend hours going back and forth requesting missing information and data. This means customers are receiving support they have not paid for and affecting the service levels provided to other customers. Under the proposals, when an application is deemed not valid, a customer can either withdraw it and try again, or can pay a fee for the team to help them to make it valid.</p> <p>Currently it can take between one week and six months to validate an application because the applicant has not provided adequate information. Often used as a negotiating tactic by some agents to make their scheme acceptable prior to it being fully registered.</p>
<p>Introduction of amendments charges</p>	<p>Introduce limits and charges on amendments to submitted applications.</p> <ul style="list-style-type: none"> • Householders No amendments accepted. • Minors Sliding scale charging system. Maximum one material amendment that triggers a reconsultation, or up to three non-material that do not trigger a reconsultation. • Majors Sliding scale charging system (as above). Does not apply to apps in a PPA. <p>Proposed charges £150 - £200 - minors (by type) £350 - £600 - majors (£350 first, £450 second, £600 third)</p>	<p>Currently the team support applicants to make significant amendments to their plans midway through the application assessment process. This can trigger a second public consultation, significantly extend the officer time spent on the application, and require an extension of time.</p> <p>It is proposed that householders will not be permitted to submit amendments and minors/non-majors will not be able to submit material amendments that require re-consultation.</p>

Proposal	Description	Reason
Review of Section 106 process, CIL and SAC	<p>End-to-end review of S106 process – from design and delivery through to monitoring.</p> <p>Review of monitoring and allocation of CIL and SAC.</p>	<p>Currently signing of Section 106 agreements can occur months if not years after developments are approved. This can cause delays to the delivery of developments and operational issues for developers. This review will seek to ensure S106s are delivered swiftly post planning approval and monitored to ensure the funding allocated through the agreements achieves maximum benefit for the local community.</p>

- 4.3 As well as the above operational changes, we are also seeking approval to further explore structural changes to the service. Recruiting and retaining high-quality planners is a national challenge facing all planning authorities, with many planners moving to the private sector due to more competitive salaries. As such we are seeking approval to explore with the council's wholly owned trading company (LWM Traded Services Ltd) the benefits and implications of transferring elements of the planning service to boost recruitment and service levels.
- 4.4 In particular we want to explore, the benefits and implications of transferring elements of major applications to LWM Traded Services Ltd. As well as providing greater flexibility to recruit and retain staff, this would also open the potential to increase income generation via offering services to neighbouring authorities (subject to Teckal considerations), and the better use of PPA funding to deliver a timely and welcoming services to developers. Legal advice will be sought to understand all implications, as well as full engagement with staff, and where appropriate union engagement.
- 4.5. We are also seeking to re-organise how we are structured to process non-major applications. Creating a dedicated 'fast track householder team' as part of a Planning School with academic links to Birmingham and Westminster universities, and a 'non-majors planning team'. This will help to target the correctly skilled resources at the right areas, streamlining and speeding up processing times.
- 4.6 Planning enforcement is a key element to delivering against the council's ambitions. As part of the above structural changes, we would seek to increase the amount of enforcement resource, by creating an additional strategic fixed term post. This additional resource would be focused on clearing the case backlog and transforming processes and procedures.
- 4.7 All structural changes will be delivered within existing budgets and additional projected income generation. Subject to Cabinet approval, we would seek to launch formal consultation with staff on draft structural changes in October 2023

Alternative Options	<p>To do nothing and leave the service as is. This will see the team not adequately resourced to deliver major applications, enforcement and daily work. It will also not see any significant shift in service improvements delivered.</p> <p>Consider alternative structure within reduced funding to deliver as many service improvements as possible within reduced fee scale. This will likely not address all existing known issues.</p>
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Consultation

Initial consultation has begun with the senior management of the team and their feedback and views will be fed into the development of the project plan. Wider consultation with all staff included in the team will be carried out as part of the consultation on the new structure.

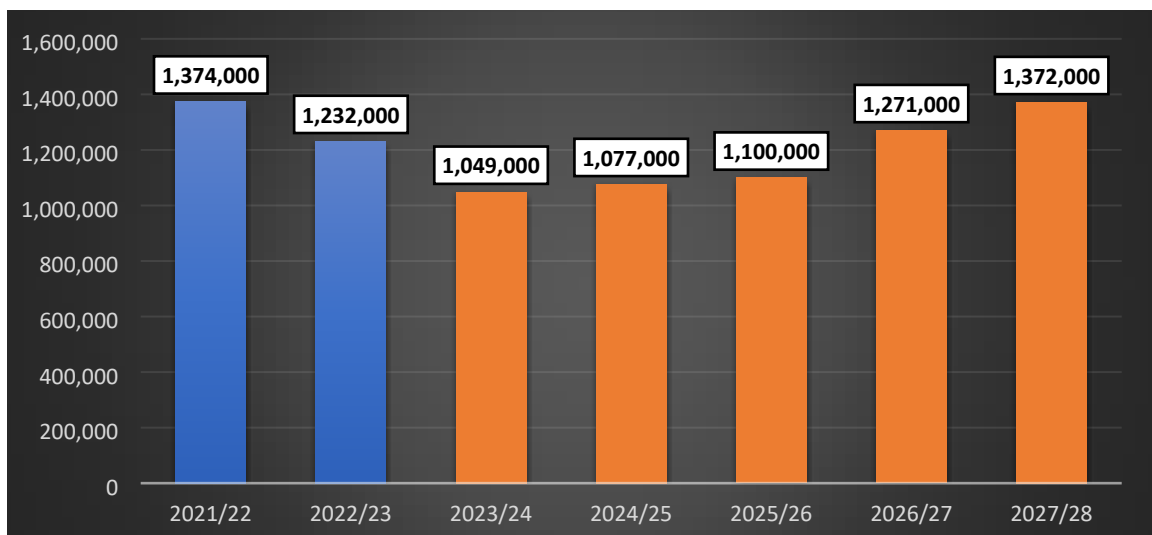
Financial Implications

The current Approved Budget for the Development Management Team and Planning Income Earmarked Reserve:

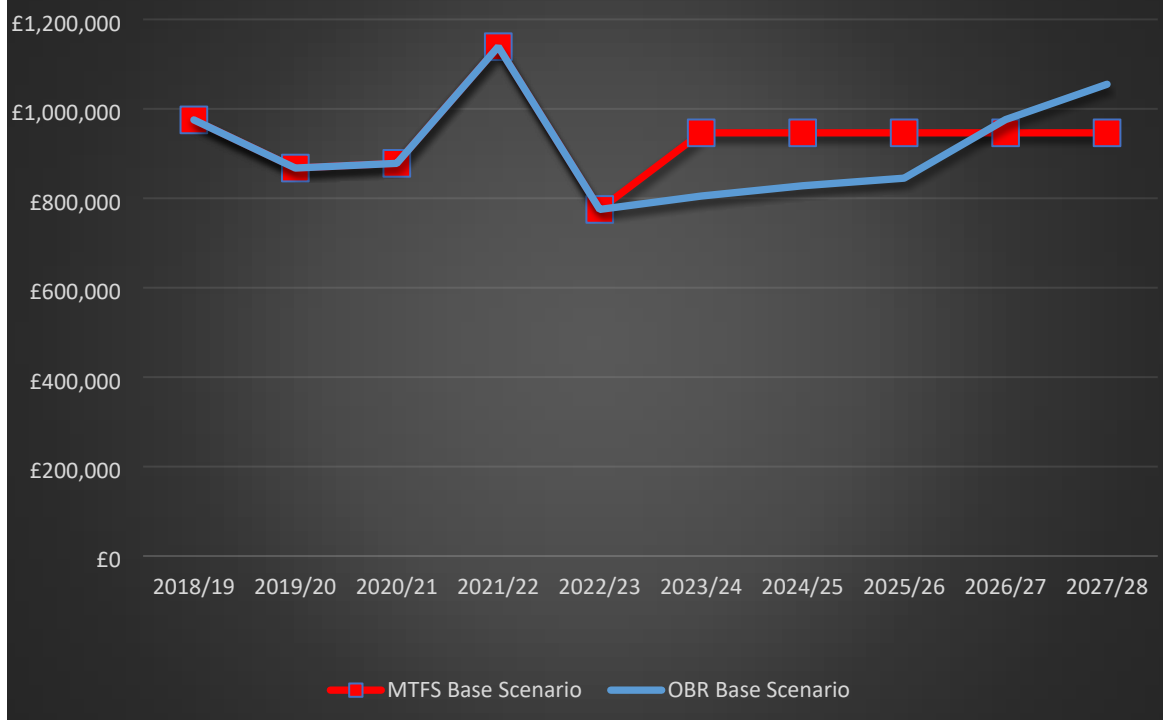
	Budget				
	2023/24	2024/25	2025/26	2026/27	2027/28
Minor	(£328,000)	(£328,000)	(£328,000)	(£328,000)	(£328,000)
Major	(£410,000)	(£410,000)	(£410,000)	(£410,000)	(£410,000)
20%	(£146,000)	(£146,000)	(£146,000)	(£146,000)	(£146,000)
Pre Application Fees	(£40,000)	(£40,000)	(£40,000)	(£40,000)	(£40,000)
Other	(£22,350)	(£22,350)	(£22,350)	(£22,350)	(£22,350)
Budgeted Income	(£946,350)	(£946,350)	(£946,350)	(£946,350)	(£946,350)
Employees	£853,910	£878,300	£903,820	£927,250	£949,590
Other Operating Expenditure	£32,310	£32,110	£31,920	£31,740	£31,560
20% Transfer to Reserves	£146,000	£146,000	£146,000	£146,000	£146,000
Total Expenditure	£1,032,220	£1,056,410	£1,081,740	£1,104,990	£1,127,150
Net Expenditure	£85,870	£110,060	£135,390	£158,640	£180,800

Opening Balance	(£265,688)	(£275,630)	(£282,574)	(£286,433)	(£287,113)
Budgeted expenditure	£136,058	£139,056	£142,141	£145,320	£147,801
Budgeted income	(£146,000)	(£146,000)	(£146,000)	(£146,000)	(£146,000)
Closing Balance	(£275,630)	(£282,574)	(£286,433)	(£287,113)	(£285,312)

These budgets were approved in February 2023 and prudently assumed no increases in planning income over the period of the Medium Term Financial Strategy. However, the economic climate has become increasingly challenging as evidenced by the Office for Budget Responsibility (OBR) Economic and Fiscal forecast for residential property transactions. This forecast assumes a reduction in transaction numbers as shown below:



The chart overleaf illustrates how the budget for planning fees compares to historic levels of income and in the last two years there is a correlation with the OBR based scenario:



Therefore, income projections related to these proposals have been undertaken using the more up to date OBR based scenario with all proposed fees assumed to be exclusive of VAT.

Approved by Section 151 Officer	Yes
Legal Implications	The council is seeking legal support to ensure that structural changes are legally sound and not open to challenge and the division of delegable and non-delegable functions between the council and LATCO are appropriately considered and robustly structured.
Approved by Monitoring Officer	Yes
Contribution to the Delivery of the Strategic Plan	<p>The strategic plan contains the following ambitions, which will be supported by this proposal:</p> <p>Shape place to:</p> <ul style="list-style-type: none"> • preserve the characteristics • make sure sustainability and infrastructure needs are balanced <p>Develop prosperity to:</p> <ul style="list-style-type: none"> • encourage economic growth • enhance the district for all • invest in the future
Equality, Diversity and Human Rights Implications	The proposed restructure will be conducted in consultation with the Employee Liaison Group, the Union and HR representatives, and will be supported by legal advice, to ensure that staff wellbeing and needs are considered and supported.
EIA logged by Equalities Officer	EIA officer notified.

Crime & Safety Issues	None
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Data assessment	The relevant data has been addressed in the body of the report in section 3 and the financial implications section. The data demonstrates that the service needs the enhancements set out in this report to deliver target performance.
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Environmental Impact (including Climate Change and Biodiversity).	None
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GDPR / Privacy Impact Assessment	None
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	Risk Description & Risk Owner	Original Score	How We Manage It	Current Score
A	That staff will feel uncomfortable because of the changes and will choose to leave due to uncertainty.	Likelihood: Yellow Impact: Yellow Score: Yellow	Move swiftly to undertake consultation with the staff, so they understand the changes, have chance to feed in and the staff have adequate information to inform their decisions. Provide confidence that this is about bolstering the team, not streamlining or reducing the team.	Likelihood: Green Impact: Yellow Score: Green
B	Cabinet does not support the increased fees, and therefore the new proposed structure and service enhancements cannot be delivered.	Likelihood: Yellow Impact: Yellow Score: Yellow	Consider alternative structure within reduced funding to deliver as many service improvements as possible within reduced fee scale. This will likely not address all existing known issues.	Likelihood: Yellow Impact: Yellow Score: Yellow
C	New structure within LATCO will give rise to legal challenge over decisions.	Likelihood: Red Impact: Orange Score: Red	Seek legal support to ensure the proposed structure is legally sound and not open to challenge and the division of delegable and non-delegable functions between the council and LATCO are appropriately considered and robustly structured. Full details of the legal advice provided will be included in the paper to Cabinet in December.	Likelihood: Green Impact: Yellow Score: Green
D	Negative customer feedback at additional fees	Likelihood: Yellow Impact: Yellow Score: Yellow	Currently the council is handling significant negative feedback in terms of complex complaints derived from planning. The new fees will ensure that the service is more robust and efficient and delivers a better ultimate service to customers. Need to promote the fact the fees, in comparison to the cost of a new extension, that does not include redecoration fees are very small in comparison. Council could consider a way to waive fees if someone can demonstrate financial hardship. An agent and developer forum will be held to discuss the roll out of the proposed changes, timings and any enhancements.	Likelihood: Green Impact: Yellow Score: Green

E	Projected income levels are not achieved	Likelihood: Yellow Impact: Yellow Score: Yellow	OBR based scenario has been used for central projections. No additional income from national planning fee increases has been assumed at this stage. Earmarked reserve can be used to manage an element of volatility. Elements of expenditure are short term or are matched to income streams and therefore can be reduced to reflect income levels.	Likelihood: Green Impact: Yellow Score: Yellow
F	Actual or perceived conflict of interest if major planning applications submitted by LWMTS	Likelihood: Yellow Impact: Yellow Score: Yellow	Seek legal guidance to ensure that the structure and non-delegable functions are managed/delivered within an appropriate legal framework.	Likelihood: Yellow Impact: Yellow Score: Yellow
G	Commercial/inward investment objectives are perceived to comprise planning balance in determining the Planning Application	Likelihood: Yellow Impact: Yellow Score: Yellow	Seek legal guidance to ensure that the structure and non-delegable functions are managed/delivered within an appropriate legal framework.	Likelihood: Yellow Impact: Yellow Score: Yellow

	Background documents None
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	Relevant web links None
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