

8. RIO Planning & Building Control High Level Business Case

Opportunity Title	Planning & Building Control
Subject / Service Area	Planning & Building Control

Opportunity type and description

Cost recovery	Restructured charges	New income stream	Traded service
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Opportunity Description	<p>The Planning & Building Control case contains 7 opportunities for income generation</p> <ol style="list-style-type: none"> 1. Charge for pre-application advice 2. Charge for the Design Review Panel 3. Charge for planning applications 4. Extend the remit of the Design Review Panel 5. Fully recover costs associated with Council Officers responding to reports of dangerous structures using Section 77/78 of the Building Act 1984. <p>These opportunities are largely focused on achieving a greater level of cost recovery against existing services that are heavily subsidised. The result will offer savings to the Council by drawing less on central budgets. Some of the department's work is statutory and non-chargeable (enforcement, applications where permitted development has been removed etc.) and as such the Council we will not be able to achieve 100% cost recovery in Development Management alone.</p> <p>1. Charge for pre-application advice</p> <p>Torbay is one of a few councils in Devon as we understand it, not to charge for pre-application advice. There are significant advantages in not charging for pre-application advice, but it is evident that where possible the costs incurred at this stage in the process need to be recovered. Such charges must include a range of costs, such as those incurred by the Torbay Design Review Panel and by providing advice on EIA screening and scoping for example.</p> <p>There are a number of caveats to be explored:</p> <ol style="list-style-type: none"> a) The pre-application charge is redeemable against application costs, so planning application fees are 'reduced' by the cost of the pre-application charge. Applications would need to be submitted within 3 months of the pre-application advice in order to redeem the pre-application charge. b) Pre-application charges would not be levied for those forms of development (e.g. employment) the Council considers as particularly important to bring forward. This mirrors the current approach to securing S106 contributions, where there is a 'nil' levy for employment generating development. c) The use of 'first hour free' approach – ensuring that every customer gets the benefit of some advice and providing the opportunity to attract investors. d) We must promote the Planning Performance Agreement (PPA) approach for substantial planning applications (this would involve quoting for these applications based on service level provision). e) We will provide a single integrated pre-application response covering both Planning and Building Control and must examine opportunities to tie applicants in to using Torbay's Building Control service. <p>2. Charge for the Design Review Panel</p> <p>The independent Design Review Panel (DRP) is used, during the pre-application stage (in the main), to help ensure development proposals are as high quality as possible. The DRP meets 8 – 10 times per annum and provides advice to the Council and developers. At present scheme promoters get free advice from the DRP.</p>
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<p>On occasion 'special' meetings of the DRP are held, where a scheme promoter wants a design review but the timeframe of regular meetings doesn't fit with the scheme promoter's timeframe. These 'specials' cost £2000 each and scheme promoters cover this cost.</p> <p>The Panel costs are, in essence, £500 per day (plus travel costs) for the secretariat role and £200 to £350 per day (plus travel costs) for each Panel member. Local Architects and the Chair give their time for free (plus travel). South West Energy and Environment Group (SWEEG) are at a special rate of approximately £425 per day (plus travel) due to an existing not for profit agreement. There are often venue costs to meet. These costs equate to approximately £18,000 p.a. See later comments (under 3. Extending the remit of DRP) about administration costs.</p> <p>It is suggested that three options should be modelled further:</p> <ol style="list-style-type: none"> Profit. Explore the potential to make a marginal profit on each Panel meeting (£1,000). Those who currently provide their services for free or at special rates would expect to make a return so the cost per panel increases to £6,926. Each Panel considers four proposals, so the price per scheme would be £1,700. This seems a relatively high one-off cost but could be included within the pre-application charge. Cover costs. Explore the potential to cover the costs of each Panel meeting. Once again those who give their services for free would expect a return but special rates may be preserved if this is not for profit. The expected cost per panel would be £3851. this equates to asking scheme promoters to pay around £962 per scheme (added to pre-application charge) Reduce costs. Look to reduce the costs of running the Panel, by removing venue costs and reducing secretariat / Panel costs to £250 and £150 respectively. This would save around £300 per Panel meeting – around £3000 p.a. The risk with this is that panel members may step down and reduce the level of expertise on the panel. <p>It is recommended that the Panel operate to Cover costs option b) as the model. Post application proposals would be charged at £962 each; any scheme promoter wanting a specially arranged meeting would be charged £3,851 or a proportion equally split between scheme promoters using the special Panel meeting.</p>			
<h3>3. Charge for Planning Applications</h3> <p>Changes to the charging regime provide an opportunity to cover the costs of administering and determining major developments, considering Strategic Planning & Implementation Team (SPIT) as a whole. This is likely to cover adequately the costs associated with the majority of planning applications, including those that are currently free to applicants (e.g. Listed Building applications). However, unless carefully managed, it is less likely to cover the full costs of the substantial planning applications (such as Hollicombe for example) which can be very difficult to predict in terms of time commitment.</p> <p>It is evident that for major developments many Local Authorities are already promoting the Planning Performance Agreement (PPA) approach, which themselves focus on outcomes and process and are, as such, a project management tool. Within the umbrella of PPAs there is an opportunity to develop a flexible charging regime which reflects the quality of each application and the amount of work required by the Council to secure an acceptable level of information to support the application.</p> <p>The following areas of charging need to be explored:</p> <ul style="list-style-type: none"> Core fees: set out the level of fee needed to cover a core / essential service to run a major application. This would cover the core costs (e.g. adverts, site visits, Committee reports, S106 / CIL administration; consultation with statutory and key stakeholders). A working assumption is that this core cost would equate to 100% of existing charges. Additional fees: set out the services (to be provided by the Council), and costs associated with those services, to ensure an acceptable proposal. For example, proposals in need of additional community engagement; viability assessment work; additional transport assessment; noise assessment etc. This area of work is unlikely to deliver substantial income as applicants will want to retain control over cost and content wherever possible, and will want to use their own consultants. In order to secure this type of income, the services on offer would have to be at a very competitive cost and be sold as needing to be independently undertaken. <p>For those applications which attract S106 / Community Infrastructure Levy (CIL) contributions we should</p>			

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<p>explore the potential for those contributions to cover:</p> <ul style="list-style-type: none"> • Legal costs – which are low and some costs are already covered. • Monitoring – monitoring / investigation posts, specifically over-seeing compliance with and delivery of planning conditions / S106 / CIL requirements. <p>It is anticipated that the S106 / CIL post would be self-financing, would gain Spatial Planning much more visibility (e.g. “This bus is paid for by Spatial Planning”) and could be a service that is sold to, or shared with, other Councils. It is anticipated that a number of developers will seek to renegotiate completed S106 agreements, with those leading such negotiations taking 10% of the savings. Consequently there may also be market opportunities with private sector clients.</p> <p>4. Extend the remit of the Design Review Panel</p> <p>The reduction in CABE and SWRDA funding is forcing Creating Excellence (Design SW) and the South West Design Review Panel to move to a self-sufficient future. For example, Design SW is offering a package of services for £4,000, which includes enabling and design review of projects (through 6 half day surgeries), Building for Life assessment, access to ‘partner’ local design review panels. Design SW is asking for private, public and voluntary sector organisations to buy into this sort of package. The approach reveals demand for such services.</p> <p>Other Local Authorities in (South) Devon don’t have Design Review Panels and are coming under increasing pressure to reduce staff numbers (including staff with design skills). The Council should explore the market and demand for opening the DRP to other Local Authorities, looking to charge those LPAs / scheme promoters at the same rate as for Torbay proposals, but it is believed there is already strong demand for such services.</p> <p>The Council should also look at expanding the remit and role of the DRP to include enabling, focussed specifically on supporting neighbourhoods develop plans, development briefs, development schemes and as the arbiter of Building for Life Assessments (replacing CABE). This activity would need to be procured and paid for (at least in part) by communities and neighbourhoods, and work in tandem with proposals for an arms length community / social enterprise company (utilising existing CVA capacity). This is partly dependent on the financial resources available to neighbourhoods / communities.</p> <p>The administration set-up for the Design Review Panel is already in place, but such duties are undertaken by senior officers. This does not represent good value for money or sensible use of resources. Consequently, it is suggested that implementation costs for an extended DRP must include additional 0.5 FTE (£15,000 p.a.) and administration staff 0.25 FTE - say £5,000 including on-costs). Such a resource will also ensure the pre-application service provided by DRP can be run more efficiently and it is suggested the pre-application charges should ensure coverage of an additional 0.25 FTE (say £5,000) administration cost. It would be prudent to consider the use of an arms-length administrator, to reduce on-costs.</p> <p>5. Fully recover costs associated with Council Officers responding to reports of dangerous structures using Section 77/78 of the Building Act 1984.</p> <p>In 2010, Building Control Officers received 45 formal notifications of potentially dangerous buildings and structures that required a response. These ranged from major fire damaged hotels to loose rainwater guttering.</p> <p>Where emergency action is required to contain the danger and protect the public, Building Control seek out the owners and ascertain if they are in a position to remove the danger. If they are not, the emergency powers contained in Section 78 of the Building Act can be used.</p> <p>Costs associated with the deployment of safety barriers by Tor2 are normally recovered from the owners but none of the costs associated with the work of officers are recovered and are paid out of departmental budgets.</p> <p>Most major incidents will result in insurance claims for losses incurred by the owners of properties and the Council’s costs in providing the emergency response service could be recovered through this process.</p> <p>Section 78 (3) of the Building Act allows the local authority to ‘recover from the owner the expenses reasonably incurred by them’. Expenses incurred by the authority for fencing off buildings or structures are only recoverable for the period up and until the danger has been removed.</p>			

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In proceedings to recover expenses a court will enquire whether the Council might reasonably have proceeded instead under Section 77 (by serving notice and giving owners time). If this is so, the Council will not be able to recover any expense. Investigation of dangerous structures which do not result in further action due to owners carrying out immediate remedial works will not be chargeable.			

Current financial position

Service	2010/11 income (£)	2010/11 expenditure (£)	Net position (£)	Cost recovery (%)
Development Management (includes support and conservation)	£610,000	£1,038,000	£428,000	59%
Building Control	£320,000	£454,500	£134,500	70%
Strategic Services (with current grants)	£66,400	£675,700	£609,300	10%
<i>Strategic Services (no grant, next year)</i>	<i>£24,500</i>	<i>£675,700</i>	<i>£651,200</i>	<i>4%</i>
Totals (with current grants)	£996,400	£2,168,200	£1,171,800	46%
Totals (no grant, next year)	£954,500	£2,168,200	£1,213,700	44%

Notes on current financial position:

Figures reflect 2010/2011 data (prior to local fee setting for cost recovery in planning)

Excluded budgets: THI/Capital (£6,346,155), Waste (£1,300,000), PDG reserve (drawn on to balance budget in 2011/12), South Devon Link Road (£395,900), and Concessionary Fares (£3,427,900).

Projected additional income

	2010/11 Pre-Implementation	2011/12 Year 1	2012/13 Year 2	2013/14 Year 3	Total
Gross projected income (£)					
1. Pre application advice		£25,625	£51,250	£51,250	£128,125
2. Cover costs of DRP		£23,000	£23,000	£23,000	£69,000
3. Charge for Planning Applications		0	0	0	0
4. Extend Remit of DRP		£10,000	£20,000	£30,000	£60,000

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	2010/11 Pre- Implementation	2011/12 Year 1	2012/13 Year 2	2013/14 Year 3	Total
5. Dangerous structures		£4,800	£4,800	£4,800	£14,400
Total gross income					
Investment costs (£)					
1. Pre application advice	(£5,000)	£0	£0	£0	(£5,000)
2. Charge for DRP		10,000	10,000	10,000	30,000
3. Charge for Planning Applications		0	0	0	0
4. Extend Remit of DRP	(£5,000)	(£8,400)	(£16,800)	(£25,200)	(£45,400)
5. Dangerous structures		£0	£0	£0	£0
Total costs					
Net projected income (£)					
1. Pre application advice	(£5,000)	£25,625	£51,250	£51,250	£123,125
2. Charge for DRP		£13,000	£13,000	£13,000	£13,000
3. Charge for Planning Applications		0	0	0	0
4. Extend Remit of DRP	(£5,000)	£1,600	£3,200	£4,800	£4,600
5. Dangerous structures		£4,800	£4,800	£4,800	£14,400
Total net income					

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Notes to calculation and assumptions

1. Charge for pre-application advice

Following the example set by other Councils, e.g. Sedgemoor, we will explore the cost / benefits of pre-application charging as follows:

	Written advice	Meeting	Further work
Small scale	£50	£50	
Minor development	£100	£150 (max 2 hours)	
Major development		£1000 (for written advice and 1 meeting) £2000 - £250 for DRP	£50 / hour

Small scale applications

Based on the above rates an initial estimate of the annual income from small scale pre-application fees in a typical year could be circa £100,000 (based on approximately 1,000 pre-applications). Approximately 5% of pre-application advice cases do not result in submitted planning applications and no refund would be given. The remaining 95% would receive a percentage of their pre-application fee back as a refund.

$5\% \times £100,000 = £5,000$ net income per annum from non-progressed cases

$95\% \times £100,000 = £95,000$; $£95,000 - (0.75 \times £95,000) = £23,750$ net income per annum at 75% refund

$95\% \times £100,000 = £95,000$; $£95,000 - (0.50 \times £95,000) = £47,500$ net income per annum at 50% refund

Minor / Major development

Based on the above rates fees an initial estimate of the annual income from minor and major development pre-application fees in a typical year could be circa £30,000. In this case we will assume that two thirds of these pre-application cases are not progressed as planning applications. The remaining 33% would receive a percentage of their pre-application fee back as a refund.

$67\% \times £30,000 = £20,000$ net income per annum from non-progressed cases

$33\% \times £30,000 = £10,000$; $£10,000 - (0.75\% \times £10,000) = £2,500$ net income per annum at 75% refund

$33\% \times £30,000 = £10,000$; $£10,000 - (0.50\% \times £10,000) = £5,000$ net income per annum at 50% refund

Total annual net income = 25,500 at 100% refund, £51,250 at 75%, or £77,500 at 50%

For the purpose of this business case we have assumed a 75% refund rate.

It is likely that the changes proposed in this opportunity will be implemented in Oct 2011 hence the income projected for Yr1 is half that projected for Yr 2 and 3.

The cost of administering charges for pre-application advice is estimated at 0.25 Admin post, approximately £5,000 per annum. It is anticipated that this post would also administer the expansion of the Design Review Panel at an extra £5,000 per annum.

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2. Charge for the design review panel

Currently panel meetings are held on average 6 times a year at a current operational cost to the Council of £18,000. The local agents who attend the panel currently do so as volunteers claiming expenses only. Charging for developers to bring schemes to the panel is likely to result in an increase in operating costs as local agents are likely to want to be paid for their time. It is estimated that by covering costs, the cost of operating the panel will increase to £23,000 per annum (£3,850 per panel meeting).

- a) **Profit.** Explore the potential to make a marginal profit on each Panel meeting (£1,000) total panel cost £6,926. Each Panel considers on average four proposals, so the price per scheme would be £1,731.
- b) **Cover costs.** Explore the potential to cover the costs of each Panel meeting. (£3,850) For example, asking scheme promoters to pay approximately £963 per scheme.
- c) **Reduce costs.** Look to reduce the costs of running the Panel, by removing venue costs and reducing secretariat / Panel costs to £250 and £150 each respectively. This would save around £300 per Panel meeting – around £3000 p.a. The risk with this is that panel members may step down and reduce the level of expertise on the panel.

It is recommended that the Council move to 100% cost recovery for the operation of the panel. Although this means the Council will be paying agents on average £10,000 more per year, there will no longer be a subsidy of £18,000 and hence this will be new income to the Council.

£23,000 gross income - £10,000 new cost = £13,000 new net income per annum.

3. Charge for planning applications

Core fees: 100% cost recovering of core costs (e.g. adverts, site visits, Committee reports, S106 / CIL administration; consultation with statutory and key stakeholders).

The use of planning performance agreements will ensure 100% of the core cost of processing major a planning application is recovered on a **not for profit basis**. The precise guidance on what charges can be levied has not yet been issued by CIPFA but it is clear that some fees may go up and some may go down. Early work completed to date in Torbay would suggest we are not actually very far short of cost recovery where new locally set fees will apply. As a demand led service it is incredibly difficult to predict numbers of applications for future years and it would therefore be unwise to predict any additional income at this stage.

Additional fees: Recover costs associated with additional services needed to ensure an acceptable proposal, i.e. additional community engagement; viability assessment work; additional transport assessment; noise assessment etc.

Whilst there is the potential to recover costs in these areas they will be incorporated in planning performance agreements for Large scale major applications, whilst this will extend the cost recovery principle beyond Development Management and into the wider Spatial Planning business unit, the costs that would be recovered would not be significant.

S106 / Community Infrastructure Levy (CIL)

Legal costs – which are low and some costs are already covered.

Monitoring – monitoring / investigation posts, specifically over-seeing compliance with and delivery of planning conditions / S106 / CIL requirements.

Whilst there is the potential to recover costs in these areas they will be incorporated in planning performance agreements for Large scale major applications, whilst this will extend the cost recovery principle beyond Development Management and into the wider Spatial Planning business unit, the costs that would be recovered would not be significant.

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4. Extend the remit of the Design Review Panel

The panel could expand its area of operation to cover other local authorities in South Devon. It is likely that if this were to happen, the number of schemes considered by the panel would gradually increase over 3 years.

It is estimated that panel activity could increase by 2 meetings per annum. It is prudent for the Council to seek to make a profit on this increased activity and it is recommended that for schemes in other local authority boundaries the charge is £1,250, as opposed to the cost recovery rate of £1,050 for Torbay schemes.

Yr1: 2 more panel meetings x (£5000 charge - £4200 costs) = £1,600 net new income

Yr 2: 4 more panel meetings x (£5000 charge - £4200 costs) = £3,200 net new income

Yr 3: 6 more panel meetings x (£5000 charge - £4200 costs) = £4,800 net new income

5. Fully recover costs associated with Council Officers responding to reports of dangerous structures using Section 77/78 of the Building Act 1984.

Detailed job records of officer time spent responding to reports of dangerous structures will be kept for the period up to the final removal of the danger at which point an account will be submitted to the building owner as part of the cost recovery process.

Time will be charged at the current hourly rate stated in the Building Control Fees and Charges scheme (£60 inc VAT per hour).

All notifications that result in additional works being co-ordinated and instructed by the Council will be recharged at the hourly rate plus additional contractor charges (fencing, signage and road closures etc).

The expected number of actionable notification 20

The average estimated hours dealing with each enquiry 4

Total expected income 20 x 4 x £60 £4,800 per annum

Key evidence including relevant benchmarks

1. Charge for pre-application advice

Type of development.	Southhams	Mid Devon	West Devon	Sedgemoor	Taunton Deane	Torbay
LARGE SCALE MAJOR: Residential greater than 150 houses or site area greater than 4ha; Non residential 10,000sqm floorspace or site area greater than 4ha; All Environmental Impact Development; Renewable Energy – (including Wind turbines etc) site area of greater than 4 ha.	To be negotiated	£750 up to 3 meetings and £300 each additional meeting	To be negotiated			£2000 - £250 for use of DRP
MEDIUM SCALE MAJOR: Residential 31- 149 houses or site area 2 – 4 ha; Non residential 5,000 – 9,999 sq m floor space or site area between 2-4 ha; Renewable Energy – (including Wind turbines etc) site area of between 2-4 ha.	£2,400 up to 4 meetings and £360 each additional meeting	£500 up to 2 meetings and £300 each additional meeting	£2300 up to 4 meetings			£1000 for written advice and 1 meeting, £50 per additional meeting

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SMALL SCALE MAJOR; Residential 10-30 houses or site area up to 2 ha; Non residential 1,000 – 4,999 sq m or site area between 1 -2 ha; Renewable Energy – (including Wind turbines etc) site area of between 1 – 2 ha	£1,800 up to 3 meetings and £360 each additional meeting	£250 up to 1 meeting and £150 each additional meeting	£2300 up to 4 meetings	£1500 for a meeting and written advice, further meeting £80 per hour	£192 letter £240 meeting	
MINOR: Residential proposals (including holiday lets) involving the erection of or change of use to between 3 – 9 residential units. Non residential 500 – 1000sq m floorspace.	£600 up to 2 meetings and £180 each additional meeting	£100 up to 1 meeting and £50 each additional meeting	£1725 up to 3 meetings	written £80 and meeting £120	£108 letter £156 meeting	£100 written advice and £150 for up to 2 meetings.
SMALL MINOR, All residential schemes for the change of use to or erection of 1 or 2 dwellings (or holiday lets) or conversion of building(s) to 1 or 2 residential units (or holiday lets);All minor non residential schemes for new buildings; Non residential buildings/extensions up to 499 sq m floorspace.	£360 up to 2 meetings and £120 each additional meeting	£75 up to 1 meeting and £50 each additional meeting	350 up to 2 meetings			£50 written and £50 for a meeting
SINGLE REPLACEMENT DWELLING.	£180 up to 1 meeting and £120 each additional meeting					
OTHER: Advertisements, Telecommunications, minor changes of use, renewable energy small site.	£180 up to 1 meeting and £120 each additional meeting	£50 letter or £75 letter and 1 meeting. £50 for each additional meeting		£40 letter and £60 meeting	£60 letter £84 meeting	

Exeter <http://www.exeter.gov.uk/CHttpHandler.ashx?id=11626&p=0>

South Hams http://www.southhams.gov.uk/new_pre-app-enquiry-form-and-guidance-notes-july-2010_20_vat.doc

Mid-Devon <http://www.middevon.gov.uk/CHttpHandler.ashx?id=13411&p=0>

West Devon <http://www.westdevon.gov.uk/doc.asp?doc=15492&CAT=3029>

Sedgemoor <http://www.sedgemoor.gov.uk/CHttpHandler.ashx?id=4469&p=0>

Taunton Deane

<http://www.tauntondeane.gov.uk/irj/go/km/docs/CouncilDocuments/TDBC/Documents/Development%20Management/Pre-Application%20Charges%20Jan%202011.pdf>

Teignbridge do not charge for pre-application advice

Plymouth do charge but do not publish their charges on line

Summary of analysis and consultation

Volume data and prices confirmed by Mark Irving, Pat Steward, Colin Edgecombe & Sally Farley

PwC produced the business case, utilising information provided by the Council.

Issues and Risks

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Issue/ Risk	Impact (H / M / L)	Proposed management actions
TDA Planning & Housing team not wishing to charge for pre-application advice	M	New Service Level Agreement between Spatial Planning and TDA to include pre-application charging.
Community Infrastructure Levy – split of monies received, between Council and Community, is not yet defined	M	Ensure CIL directed towards major infrastructure projects that impact on Bay as a whole.
There is likely to be a need to set up a trading arm and expand professional indemnity cover for Building Control to check the quality of finish of a development.	M	Whilst not high risk this will undermine the profitability of such a scheme.

Implementation plan: Key project activity and milestones

Key activity	Period		
	1 to 3 months	4 to 6 months	7 months onwards
Pre-application charging		✓	
Planning Application fees		✓	
DRP cover costs	✓		
Sharing skills	✓		
Dangerous Structures	✓		
Checking of Finish		✓	