

# COUNTY COUNCIL

## 18<sup>th</sup> JANUARY 2017

### **Carmarthenshire County Council's Guidance and Service Level Agreement on chargeable pre-application and post consent advice in relation to Developments of National Significance (Planning (Wales) Act 2015) and Nationally Significant Infrastructure Projects (NSIPs) (Planning Act 2008)**

#### **Executive Board recommendations:**

1. That the Council's duties and general procedures when providing the advice service to developers of NSIP and DNS projects be agreed.
2. That the amendments to the existing guidance relating to NSIPs, and the inclusion of provisions to deal with DNS' be agreed.
3. That the details relating to charges, invoicing and payment procedures be agreed.
4. That the details relating to developer confidentiality be agreed.

#### **Reasons:**

- To seek approval for the Local Planning Authority to introduce charges for pre-application advice given to developers preparing DNS applications for submission to the Planning Inspectorate and to update existing guidance/fees relating to NSIPs. Charging will also apply to post-consent advice and discharging of responsibilities in relation to consent planning conditions, and monitoring.
- The Local Government Act 2003 gives Local Planning Authorities powers to recover the costs of pre-application advice in recognition of the time officers have to spend assessing and researching information in order to provide answers to prospective developers or agents. The use of a charging regime for pre-application advice is supported at a national level and is established practice with the majority of local planning authorities.

- The Planning (Wales) Act 2015 requires all local planning authorities (LPAs) in Wales to provide a statutory pre-application service. A set level of fees has been introduced for development categories to ensure consistency across Wales. Notwithstanding this LPAs retain flexibility and control on the type of pre-application service they provide and the fees associated with each development type, so long as they are in accordance with the Local Government Act 2003 (S.93 refers).
- This service will be a discretionary pre-application advice service which will include extra services not detailed or required by the statutory pre-application advice service relating to DNS. It will include meetings, post consent advice on the discharge of conditions, and more detailed assessment of technical documents, such as Landscape and Visual Impact Assessments, Cultural Heritage Assessments and Traffic Impact Assessments.
- The LPA is not the consenting body for NSIP or DNS applications; this is the relevant Secretary of State and Welsh Government respectively who issues a decision following an assessment and recommendation issued by the Planning Inspectorate (Pins). The fee for processing an NSIP and DNS application is given to Pins, although a significant amount of pre-submission work is undertaken by the Local Authority in the form of advice to developers. Furthermore, the Council has a duty to discharge 'Requirements' (NSIPs) and Planning Conditions (DNS) of consented developments whilst also enforcing and monitoring schemes at the post-consent stage. The charging service is necessary to recover some of the costs of providing advice in relation to these projects.
- To approve and implement charges which are both reasonable to the service user and contribute to the resourcing of Council services.
- To approve and implement the general procedures and duties of the advice service which are equitable to users of the service.

**Relevant Scrutiny Committee Consulted:** YES – Community Scrutiny Committee (5th December 2016)

The Community Scrutiny Committee resolved to note the Carmarthenshire County Council Guidance and Service Level Agreement on Chargeable Pre-application and Post-consent Advice in Relation to Nationally Significant Infrastructure Projects (NSIP) (Planning Act 2008) and Developments of National Significance (DNS) (Planning (Wales) Act 2015).

**Executive Board decision required:** YES (22nd December 2016)  
**Council Decision required:** YES

**Executive Board Member Portfolio Holder:**  
Cllr. Mair Stephens (Human Resources, Efficiencies & Collaboration)

|  |                                   |  |
|--|-----------------------------------|--|
| <b>Directorate:</b><br>Environment               | <b>Designations:</b>              | <b>Tel Nos. / E-Mail Addresses:</b>  |
| <b>Name of Head of Service:</b><br>Llinos Quelch | Head of Planning                  | 01267 228918<br><a href="mailto:lquelch@cararthenshire.gov.uk">lquelch@cararthenshire.gov.uk</a> |
| <b>Report Author:</b><br>Richard Jones           | Development Management<br>Officer | 01267 228892<br><a href="mailto:rejones@cararthenshire.gov.uk">rejones@cararthenshire.gov.uk</a> |

## EXECUTIVE SUMMARY

# COUNTY COUNCIL

## 18<sup>th</sup> JANUARY 2017

**Carmarthenshire County Council's Guidance and Service Level Agreement on chargeable pre-application and post consent advice in relation to developments of National Significance (Planning (Wales) Act 2015) and Nationally Significant Infrastructure Projects (NSIPs) (Planning Act 2008)**

The accompanying report sets out general guidance, schedule of fees and the level of service developers of Nationally Significant Infrastructure Projects (NSIP) and Developments of National Significance (DNS) can expect to receive from the Council for non-statutory advice required in relation to their projects.

NSIPs and DNSs are major infrastructure developments in England and Wales such as proposals for power plants, large renewable energy projects, new airports and airport extensions, major road projects etc. NSIPs are defined in the Planning Act 2008, whilst a DNS definition is contained within the Planning (Wales) Act 2015. NSIP and DNS applications are submitted to the Planning Inspectorate (Pins), for assessment and recommendation. Recommendations on NSIP applications are sent to the relevant Secretary of State for decision, whilst the Welsh Ministers determine DNS applications.

The Council has an existing chargeable pre-application advice service for NSIP projects which was approved in 2013. The attached document updates this guidance to include DNS projects and a revised set of procedures and scale of fees. The principle of charging for the advice the LPA gives to developers is considered legally acceptable under the terms The Local Government Act 2003, for Local Authorities to recover the costs for providing discretionary services. The service is also discretionary and is separate to the services the authority provides under the Developments Of National Significance (Wales) Regulations 2016 and Town and Country Planning (Pre-Application Services) (Wales) Regulations 2016.

The accompanying documents provide further details of the terms and conditions of the advice service as they relates to NSIP / DNS projects in addition to a schedule of fees.

Approval of this guidance and charging regime will introduce an efficient, structured and professional service that will reduce uncertainty and be highly cost effective for developers wishing to formally submit NSIPs and DNS. It will also enable the discharging of post consent matters to be done more efficiently, whilst ensuring that the costs on the Council's resources are reasonably met.

|                                  |            |
|----------------------------------|------------|
| <b>DETAILED REPORT ATTACHED?</b> | <b>YES</b> |
|----------------------------------|------------|

# IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report.

Signed: **Llinos Quelch**                      **Head of Planning**

|   |            |            |             |                        |                       |                 |
|---|------------|------------|-------------|------------------------|-----------------------|-----------------|
| Policy, Crime & Disorder and Equalities | Legal      | Finance    | ICT         | Risk Management Issues | Staffing Implications | Physical Assets |
| <b>NONE</b>                             | <b>YES</b> | <b>YES</b> | <b>NONE</b> | <b>NONE</b>            | <b>NONE</b>           | <b>NONE</b>     |

## 2. Legal

- Under the terms of the Local Government Act 2003, Local Authorities have the power to charge for discretionary services. The terms set out in the attached report are considered to comply with this legislation.
- The decision to approve the details of the pre-application charging service will also require Executive Board approval.

## 3. Finance

- There is a potential to increase income from the charges associated with the advice service. In addition to professional advice, charges will also be incurred upon developers, for Council's legal input, travel and administrative and management handling of advice requests.
- The Council's Legal Department will be requested to provide advice where relevant and necessary.
- Depending on the type of advice required by the developer, other Council Departments may be requested to input where relevant / necessary.

# CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below:

Signed: Llinos Quelch                      Head of Planning

**1. Scrutiny Committee** – Community Scrutiny Committee agreement was given without modifications on 5th December 2016.

**2. Local Member(s)** – No local members consulted.

**3. Community / Town Council** – No Community or Town Councils consulted.

**4. Relevant Partners** – N/A

**5. Staff Side Representatives and other Organisations** – The Council's Legal Services Division have raised no objection to the guidance.

**Section 100D Local Government Act, 1972 – Access to Information  
List of Background Papers used in the preparation of this report:**

**THESE ARE DETAILED BELOW:**

| Title of Document  | File Ref No. / Locations that the papers are available for public inspection  |
|--|---|
| The Local Government Act 2003                                      | <a href="http://www.legislation.gov.uk/ukpga/2003/26/contents">http://www.legislation.gov.uk/ukpga/2003/26/contents</a>       |
| The Planning Act 2008  | <a href="http://www.legislation.gov.uk/ukpga/2008/29/contents">http://www.legislation.gov.uk/ukpga/2008/29/contents</a>       |
| The Planning (Wales) Act 2015                                      | <a href="http://www.legislation.gov.uk/anaw/2015/4/contents">http://www.legislation.gov.uk/anaw/2015/4/contents</a>           |
| The Developments of National Significance (Wales) Regulations 2016 | <a href="http://www.legislation.gov.uk/wsi/2016/56/contents/made">http://www.legislation.gov.uk/wsi/2016/56/contents/made</a> |

| Title of Document  | File Ref No. / Locations that the papers are available for public inspection  |
|--|---|
| <p>CCC's Guidance and Service Level Agreement on chargeable pre-application and post consent advice in relation to developments of National Significance (Planning (Wales) Act 2015) and Nationally Significant Infrastructure Projects (NSIPs) (Planning Act 2008) – Executive Board (22nd December 2016)</p>             | <p><b>Cymraeg</b><br/> <a href="http://democratiaeth.sirgar.llyw.cymru/ieListDocuments.aspx?CId=131&amp;MId=557&amp;Ver=4">http://democratiaeth.sirgar.llyw.cymru/ieListDocuments.aspx?CId=131&amp;MId=557&amp;Ver=4</a></p> <p><b>English</b><br/> <a href="http://democracy.carmarthenshire.gov.wales/ieListDocuments.aspx?CId=131&amp;MId=557&amp;Ver=4">http://democracy.carmarthenshire.gov.wales/ieListDocuments.aspx?CId=131&amp;MId=557&amp;Ver=4</a></p> |
| <p>CCC's Guidance and Service Level Agreement on chargeable pre-application and post consent advice in relation to developments of National Significance (Planning (Wales) Act 2015) and Nationally Significant Infrastructure Projects (NSIPs) (Planning Act 2008) – Community Scrutiny Committee (5th December 2016)</p> | <p><b>Cymraeg</b><br/> <a href="http://democratiaeth.sirgar.llyw.cymru/ieListDocuments.aspx?CId=186&amp;MId=653&amp;Ver=4">http://democratiaeth.sirgar.llyw.cymru/ieListDocuments.aspx?CId=186&amp;MId=653&amp;Ver=4</a></p> <p><b>English</b><br/> <a href="http://democracy.carmarthenshire.gov.wales/ieListDocuments.aspx?CId=186&amp;MId=653&amp;Ver=4">http://democracy.carmarthenshire.gov.wales/ieListDocuments.aspx?CId=186&amp;MId=653&amp;Ver=4</a></p> |