# a material world

## charging for pre-application planning advice

## executive summary

Many local planning authorities devote considerable time and effort to offering pre-application advice, seeing it as a key part of delivering a good planning service. Many requests for advice are of a speculative nature and do not lead to the submission of an application. If an application is eventually submitted, the application fee is for considering the application, rather than for the cost of the pre-application discussions.

The Local Government Act 2003 gave planning authorities a discretionary power to charge for giving pre-application advice (as a service that an authority has the power, but is not obliged, to provide) and therefore allowed authorities to recover at least some of these costs incurred before the application is submitted. The income raised must not exceed the cost of providing the service.

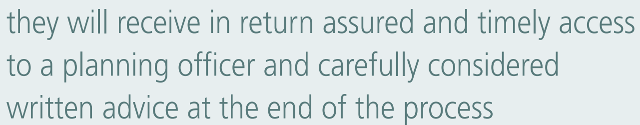
A small but growing number of local authorities now charge for pre-application advice. For the moment this appears to be limited to authorities in London and the south of England. Approximately a third of London boroughs and a smaller proportion of district councils in the south now charge.

This study is based on interviews with six authorities that do charge (listed at the end of this study) and a small number that have considered it, but have decided not to (no authorities in the north or Midlands that charge were identified in the course of the case

study). Three planning consultancies were also interviewed to provide the customer viewpoint.

The main findings to emerge from the experiences of those interviewed are:

- only a minority of authorities presently charge for pre-application advice but more are actively looking at the possibility of doing so
- the main reasons given for charging is to help improve the delivery of what all view as an essential but time consuming service, and to help ensure better quality application submissions
- most authorities that do charge claim that doing so helps filter out speculative and poorly thought out development proposals
- other perceived benefits of charging, such as better quality submissions, better outcomes and better performance against best value targets are more difficult to quantify as these are often the subject of other service initiatives.
- the main reasons given for not charging are that to do so might discourage development or risk harming a good working relationship with local agents
- no authority interviewed charges for householder development and most also exempt development affecting small business premises
- those that do charge say that the principle is now broadly accepted by developers and their agents, albeit often after some initial opposition. Major developers are generally happy to pay if they believe



they will receive in return assured and timely access to a planning officer and carefully considered written advice at the end of the process

- developers and their agents emphasise that the written response should be as constructive as possible. A response that simply lists policy constraints and other obstacles will represent a poor return for the fee. It would defeat the object of the exercise if positions were to become entrenched at the outset
- developers and their agents still desire an iterative process. It is a good idea to try to accommodate one or more follow-up meetings for larger developments
- charges need to be easy to understand and to administer. For this reason a standard fee is generally preferred over an hourly rate, although the latter is sometimes charged for specialist advice or for follow-up meetings.

## to charge or not to charge

All authorities interviewed who do charge, when asked to explain their decision, referred to a combination of factors. Several referred to budgetary pressures in general, a few to moves within their authority for individual services to become as self-financing as possible. Every authority stressed the large amount of officer time spent on dealing with requests for pre-application advice and a wish to recover at least some of the cost of providing this service. Only one authority referred to pressure from Members to raise money in this way; in all other cases the initiative was officer led.

Most authorities interviewed expressed some hope that charging for pre-application advice would help focus the thoughts of potential applicants, making it less likely that planning officers would be presented with poorly thought out or purely speculative proposals. Others shared the objective of improving the quality of actual planning application submissions, thereby reducing the number of invalid applications.

Some recognised that a more structured approach to pre-application enquiries could offer important benefits in terms of service delivery. Both **Ashford** and **Wokingham Councils** spotted an opportunity to better manage enquiries and significantly improve on previous response times through the adoption of explicit service standards. **Mid Sussex District Council** also saw the process as a way of driving internal efficiencies.

In two cases the introduction of charges followed an adverse best value report or poor BVPI performance. In the first case the authority had been criticised for its poor management of informal enquiries, in the second the authority had been a standards authority for 'major' cases. Both saw charging and a more structured approach to pre-application enquiries as part of the solution to these problems.

Martin Vink, Development Control Manager with **Ashford Borough Council** in Kent summarised his authority's experience as follows:

> 'Charges were principally introduced in response to budgetary pressures but they have the significant advantage of allowing us to raise additional income at the point that profits are being made, without impacting on our residents. We find that we're now getting only serious requests for advice, which helps us to provide a better and more responsive service. We now offer a written response within 15 days, which is much better than before'.

**Westminster City Council** were amongst the very first to introduce charges, in June 2004. It saw charging as an opportunity to raise the standing and profile of the planning service. Jonna Wegefelt, Head of City Development at Westminster says:

> 'We provide a service that developers clearly need and value and charging ensures that we have the resources and capacity to provide advice at the level required. Bringing in income in this way has allowed us not only to improve the service but to raise its profile, both with developers and, just as importantly, with Council Members. Our expertise is now more widely recognised.'

Clive Robinson at the **London Borough of Barnet** makes a similar point:

> 'We believe we are offering a purposeful service that delivers what is important to the customer. Our customers are generally content to pay provided they receive a professional and responsive service. A few have expressed concerns about the process but not the principle of charging.'

Still, only a minority of authorities, even in southern England, presently charge. **Swindon Borough Council**, which has experienced major pressure for development in recent years, has so far chosen not to charge, preferring to cultivate a consensual approach with its main customers through its successful quarterly developer forum. Having recently introduced a tariff system for securing planning benefits it decided not to also 'hit' its customers with charges for pre-application advice. **South Hams District Council** in the south-west expressed the view that it did not wish to discourage dialogue with potential applicants, although it may review its decision not to charge for 'major' development proposals.

A number of the authorities interviewed that do not charge expressed a concern that to do so would risk discouraging developer interest and inward investment. This appears to be a particular concern in parts of the country where the economy is not so buoyant. One authority in the north west that was interviewed appears typical of authorities in that region in fearing that to charge when neighbouring authorities do not would put it at a competitive disadvantage. This is less of a concern for authorities in the south east where development pressures are greater.

No evidence was found of an authority having reversed a decision to charge in the face of opposition from its local user group or developer forum. Some acknowledged that charging had been introduced despite the initial misgivings of local agents. Having

made the decision to charge however, all authorities were careful to liaise with local agents, both to explain the more structured approach to pre-application discussions and to discuss how best to operate the new system. A number of authorities have used their regular customer forums to refine the charging regime over time. **Mid Sussex District Council**, for example, decided last year to broaden the number of exclusions after taking soundings from its half-yearly agent's forum and from council members. **Westminster City Council** has also made adjustments over time.

## what to charge for

A clear majority of authorities interviewed that do charge exempt only householder development and certain small scale works. Just how the latter is defined varies from authority to authority but common exemptions are proposals affecting small businesses, works to listed buildings, works to listed buildings and trees. **Wokingham District Council** exempts all works falling within the PS2 'other' category. Only one authority interviewed, **Lewes District Council**, exempts all proposals falling within both the 'other' and 'minor' categories, limiting charges to works within the PS2 'major' category. **Lewes** holds a successful quarterly local agents forum and in deference to that prefers, at least for now, to exempt all 'minor' development. All other district councils interviewed take the view that they deal with too many enquiries for building up to 10 houses not to charge for these also.

The picture is slightly different in London. When **Westminster City Council** first introduced charges in June 2004 it limited them to schemes within the 'major' category plus a small number of non-major schemes that raised similarly complex issues. In the first year it reviewed 75 proposals in this way. **Westminster** reviewed its criteria for charging in May 2006 and now charges for proposals for five or more houses or the creation or change of use of 500 square metres or more of floor space. Still in London, **Barnet Council** also charges for 'major' and most 'minor' schemes.

**Westminster** and **Barnet** also charge for meetings to discuss planning briefs and masterplans. **Westminster** will charge for the estimated officer time plus printing costs etcetera. This is agreed and paid in advance by the developer. **Barnet** levies a standard charge for such meetings but this is likely to be supplemented by the hourly rates of specialist staff.

Not all development enquiries will necessitate a meeting and all the authorities interviewed offer the option of a response based on an exchange of correspondence. All of the district authorities interviewed expect to deal with a majority of enquiries in this way and will charge for this also, but at a lesser rate.

## how the charges are set

A principal concern of most has been to devise a charging regime which is easily understood by customers and straightforward for the authority to administer. There tend to be two approaches, either as a fixed fee related to the type of application or as an hourly charge.

About half of the authorities interviewed apply a fixed charge for different categories of development such as, 'major'. The categories most commonly adopted are the familiar PS2 'major', 'minor' and 'other', although some exempt 'other' altogether. **Westminster City Council**, which deals with an unusually high number of very large proposals, operates a further category, 'large/strategic developments', defined as 100 or more houses or the creation/change of use of 1000 square metres or more floor space. **Barnet Council** which like **Westminster** exempts all 'other' development', adopts a similar three tier approach: 'large scale/complex development', 'other major' and 'minor'.

Another common formula, particularly outside of London, is to charge a proportion of the fee for submitting a planning application. One authority interviewed (**Hart**) presently charges 25 per cent of the application fee that would be due. Another (**Wokingham**), which presently charges a set fee according to the

development category, is considering changing soon to a standard rate of 50 per cent of the application fee, which it believes will be fairer.

Only one authority interviewed (**Mid Sussex**) levies a fixed charge regardless of the type of development proposal to be discussed. It makes additional charges if a design advisor or tree officer is required to attend.

Hourly rates are not generally favoured except when dealing with unusually complex proposals when additional, specialist staff will be required to attend or a follow-up meeting is requested. **Barnet**, for example, will levy additional charges for any staff other than the appointed planning case officer who is required to attend a meeting. This might be to provide conservation, urban design, highways, housing or other specialist advice. The hourly rates charged will be dependant on the seniority of the officers concerned. The same charges apply to any follow-up meetings. **Westminster City Council** and **Wokingham** and **Lewes District Councils** also apply an hourly rate in the case of major proposals that require additional meetings. Otherwise, hourly rates are generally seen to be more difficult to administer with the added disadvantage that they can not be easily estimated and paid in advance of the meeting.

Only one authority interviewed (**Ashford**) charges a set hourly rate as a matter of course. However, **Ashford** makes it clear that a meeting will normally be appropriate only to discuss 'major' development proposals. Other matters will more normally be dealt with by exchange of correspondence for which a lesser fixed charge is made. If a meeting is held to discuss a non-major scheme, then the 'major' hourly rate will apply. In **Ashford's** case, the hourly charge does not vary according to the number of officers who might attend the meeting.

When deciding what to charge, only one authority interviewed, **Westminster City Council**, could claim to have undertaken a detailed analysis of officer time spent in dealing with pre-application enquiries. **Westminster's** charges reflect the hourly costs of those officers at different levels who might be expected

to contribute to the final response and include accommodation and back office costs.

Most other authorities have undertaken some analysis of staff time spent on enquiries. But most also looked at the charges levied by neighbouring or comparable councils and adopted a similar regime themselves.

There is considerable variation in the fees charged between the authorities interviewed, with the larger urban authorities invariably charging more. The smallest set charge for a meeting is £100, although in this case additional charges will apply if specialist staff need to be involved. Charges of between £250 and £500 plus VAT are more typical. One district authority interviewed, located within a major growth area, charges £1,000 for a meeting to discuss a 'major' development proposal. The two London boroughs interviewed each charge substantially more for meetings to discuss 'major' or 'large/strategic' development proposals: up to £2,500 plus VAT, sometimes with the possibility of additional charges should specialist staff be required.

Follow-up meetings are rare as one of the perceived advantages of a structured approach is that it should be possible to deal with all the issues in one go. If a further meeting is agreed to, then most authorities interviewed will simply charge at the same rate. Others, as already noted, will apply an hourly rate. **Westminster** is the only authority interviewed that has a published set rate for a second meeting (half that for the first meeting), with third or subsequent meetings charged at an hourly rate.

**Hart** is the only authority interviewed that presently makes no charge for a follow-up meeting, should one be agreed to. **Hart** will also make no charge following a refusal of a planning permission, on the basis that the second application would not attract a fee.

## charging for written advice

Most authorities interviewed offer the option of written advice only, without recourse to a meeting. This will be charged at a reduced rate, typically one half or three-quarters of the charge for a meeting. Some authorities structure their charges on the assumption that most if not all ‘minor’ and ‘other’ schemes will be dealt with in writing, with meetings to discuss these being the exception rather than the rule.

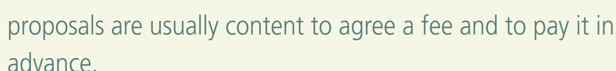
In contrast, neither of the two London boroughs interviewed charge for written advice. This is because all but the smallest scale development which would be exempt from charging in any event, will invariably demand a meeting.

## ensuring payment

The attraction of setting a fixed charge is that payment can be insisted upon before the advice is given. Every authority interviewed requires payment in advance of offering written advice and, with the exception of **Ashford**, in advance of a meeting. When meeting with a potential applicant, Ashford will agree the total charge with the customer at the end of a meeting and invoice them at that stage. **Ashford** allows local agents to open accounts with the council and reports no difficulties with non-payment.

**Barnet**, which supplements its fixed charge for a meeting with additional hourly rates for any specialist officers who attend, will expect advance payment of these additional charges also. The customer will be asked to confirm the specialists they would like to attend so that the additional hourly costs may be estimated and agreed in advance. If the customer overpays, the excess with be refunded after the meeting.

**Westminster** has found that developers who seek a series of meetings (sometimes up to five) to discuss major development



proposals are usually content to agree a fee and to pay it in advance.

## explaining the service to the customer – what are they paying for?

Just how charges are presented to the public is seen as very important. Most authorities have been careful to present charging as an integral part of a more structured approach to pre-application advice that will offer the customer timely, comprehensive and better quality advice.

All of the authorities interviewed post comprehensive notes about their charging regime on their website. This advice will include the rationale for charging, the levels of charges, what the customer will be required to submit by way of drawings and background information when requesting a meeting (or written advice if appropriate) and what they can expect from the council in return. All make it very clear that full drawings and background information, often including photographs of the site, must be submitted with the request for a meeting.

All authorities offer target timescales within which they will process the request and offer an appointment if a meeting is appropriate. Typical service standards are to get back to the customer (with the name of the case officer and confirmation that sufficient information has been received to proceed to a meeting) within 14 days and to have organised a meeting (or offered a written response if a meeting is not necessary) within a further 7 days. All promise to follow-up any meeting with a written response setting out the authorities considered opinions on the development, typically within 14 days of the meeting.

Most have a standard meeting request form that may be downloaded from the website and which lists the information that the customer will need to include with their request. This makes it clear that a meeting will not be agreed to unless sufficient information is returned with the form. In the case of

those authorities that levy a fixed charge according to the type of development, the form makes it clear that the appropriate fee must be returned with the request.

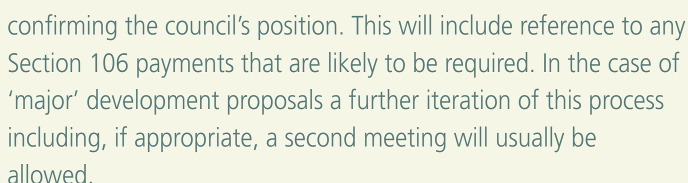
In nearly every case the published information on the website emphasises that the final advice will represent the views of officers and will be offered without prejudice to the formal decision of the Council.

## quality control – ensuring the right advice is given

Most authorities interviewed have not changed their procedures for checking the written advice for which they charge. All letters sent out are checked by a team leader or other senior officer to ensure accurate advice is given.

**Westminster City Council** has for many years operated an internal review process to consider all major or sensitive applications and this has been broadened in recent years to include schemes at the pre-application stage. Most schemes for which advice is sought will be reviewed by senior staff in this way, usually after the case officer has met with the developer, when the broad direction of the final written response will be agreed. In the case of smaller scale development proposals not subject to the internal review process, the final written advice will be signed-off by a team leader.

**Wokingham** offers a more exhaustive service with timescales not unlike those associated with a planning application. Upon receipt of a request for advice it will consult with any other groups within the council who may need to comment and, in the case of 'major' schemes contact local ward members. A development team will be instigated if appropriate. At the same time, the customer will be advised of any external organisations that they may wish to contact for advice. A meeting may not be arranged until five weeks after the initial approach. This will be followed approximately a week later by a letter (checked by a senior officer)





confirming the council's position. This will include reference to any Section 106 payments that are likely to be required. In the case of 'major' development proposals a further iteration of this process including, if appropriate, a second meeting will usually be allowed.

**Wokingham** tackles the issue of Section 106 payments at this stage. In addition to identifying any payments that are likely to be required, it seeks an undertaking that the developer will meet all the council's legal costs, which will be detailed in the letter. Standard section 106 paragraphs will also be provided. The developer will then be expected to submit a draft agreement as part of their application submission.

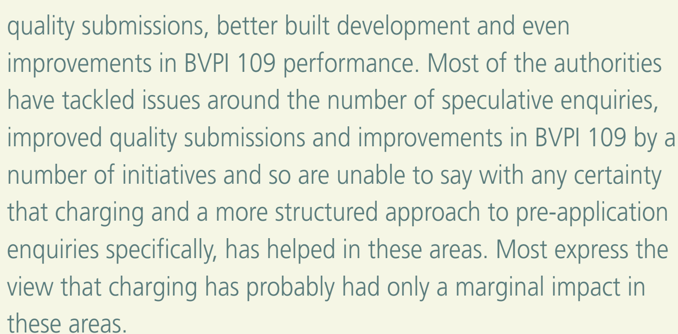
## managing the process

The adoption of explicit service standards requires the process to be carefully managed. Each request for advice is booked in and the submission checked for completeness. In one authority interviewed this check is made by a technical assistant, in others by the planning officer allocated to the case or by their team leader. It is generally the decision of the team leader whether the scheme warrants a meeting.

Most authorities record each pre-application enquiry electronically in much the same way as they would a formal application. This allows response times to be monitored and over-due responses to be chased. It also allows pre-application advice to be retrieved and placed on the case file should a formal application be received.

## outcomes for the local authority

Most authorities interviewed have had only one or two years experience of charging and agree that it is still too early to point with any certainty to specific outcomes. Outcomes perceived by charging authorities include fewer speculative enquiries, improved





quality submissions, better built development and even improvements in BVPI 109 performance. Most of the authorities have tackled issues around the number of speculative enquiries, improved quality submissions and improvements in BVPI 109 by a number of initiatives and so are unable to say with any certainty that charging and a more structured approach to pre-application enquiries specifically, has helped in these areas. Most express the view that charging has probably had only a marginal impact in these areas.

However, some authorities do report a fall in the number of entirely speculative or poorly thought out proposals, with **Ashford**, **Mid Sussex** and **Wokingham** also detecting some improvement in the quality of submissions. Martin Vink at **Ashford** neatly summed up his authority's experience as follows:

> 'Charging has deterred the frivolous and improved the marginal'.

**Barnet** reports a drop in the number of refusals of planning permission, as unsatisfactory schemes are 'filtered out' at an early stage. **Westminster** has seen a drop in the number of refusals and in the number of large cases taken to appeal.

The impact of charging on 8 or 13 week performance is particularly difficult to assess. However, **Wokingham**, **Barnet** and **Westminster** all report that tackling Section 106 payments at an early stage has been helpful in ensuring more 'major' cases are determined within the target 13 weeks. All three will, where appropriate, involve legal officers at the pre-application stage and require applicants to submit heads of agreement or even a draft agreement with their application.

Authorities report different experiences when asked if the money raised translates directly into additional resources. This would seem to depend on how the service's budget is structured and the relative autonomy the service enjoys as a result of buoyant fee income or other factors. It also depends on the amount of income raised, which in the case of smaller district councils can be

relatively modest. In London, both **Barnet** and **Westminster** report that income from charging has helped fund extra posts or fill posts that would otherwise have been left vacant. They report a direct enhancement of the service as a result. In contrast, one district council interviewed said that none of its income is ring-fenced and always returns to central funds. Another, whose income from charging has exceeded its budget predictions, has been able to use the 'surplus' to cover unexpected costs elsewhere, in its case appeal costs, but would otherwise have lost the income to central funds. A third is able to retain the money it raises but the amounts are insufficient to pay for an additional post in any event; the money is used instead to cover gaps that might arise anywhere in the planning service. For some authorities at least, improvements in service delivery appear not to be the result of additional income per se, but rather of having a better organised and formalised advisory service as a consequence of charging.

## the customer's perspective

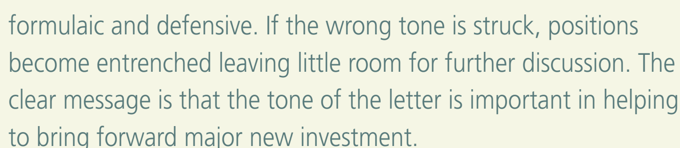
Most authorities interviewed experienced some initial resistance from local agents and developers when charges were first introduced. On the whole, however, this appears to have been relatively muted. A number of authorities hold regular customer forums and have used these to outline the concept of charging and to refine the charging regime over time. **Hart District Council** reports some continuing grumbles at its customer forums but a general acceptance of charges nevertheless.

**Westminster City Council** discussed its charging proposals with an established forum of developers, local landowners and their agents before their actual introduction. **Westminster** experienced little real opposition to the concept of charging as its main customers all welcomed and valued the promise of assured and structured access to planning officers followed by a written response that has been checked by a senior officer. The charging regime was reviewed after the first year in conjunction with the forum and refined as a result. Further refinements were agreed after the second year, included a set charge for a second meeting.

It was a specific request of the forum that there should be an option to agree a programme of meetings over a period of time to discuss major development proposals. This might comprise, for example, six meetings over a three month period. This allows for an iterative process that better suits the developers own programme. **Westminster** report that this option has been taken up in respect of a number of major development proposals.

Forum members were clear at the outset that they wanted the final written advice to be as positive and constructive as possible. It would be unhelpful and a poor return on the fee, they said, if the council's response was to consist of little more than a list of policy constraints and other obstacles. If a proposal is contrary to policy, then the letter ought to suggest ways of making it comply.

Interviews with planning consultancies, mostly based on their experience in London, show similar concerns. One consultant expressed the view that the written response received is too often





formulaic and defensive. If the wrong tone is struck, positions become entrenched leaving little room for further discussion. The clear message is that the tone of the letter is important in helping to bring forward major new investment.

Most of the consultancies interviewed are neutral on the question of whether charging is a good thing. Most feel they already have a good grasp of the relevant issues and reasonable access to key officers in an authority. And pre-application discussions can provide no guarantee that new issues will not emerge when an application is eventually submitted and third parties and local councillors are contacted. In these circumstances the benefits for the consultant are generally viewed as negligible. However, it is acknowledged that structured pre-application dialogue that culminates in a positive written response can provide the client with important additional certainty and assist with the funding decisions of investors.

It is generally agreed, by those that operate a charging system, that if handled well by both parties, a structured approach can speed up the development process by highlighting or discounting issues at an early stage. One consultant added that this is more likely to be the case if senior officers from all relevant disciplines are involved in the first meeting. There is a strong desire for officers to ‘positively engage’ in what should be an on-going dialogue.

One consultant acknowledged that the process requires the developer’s team to pay more attention to the extent and quality of their submission at an early stage. In terms of outcomes, the process is seen as occasionally helpful in persuading ‘less sophisticated’ clients to ‘do the right thing’.

Significantly, consultants report that clients are rarely if ever bothered by the charges, seeing these as a marginal addition to their development costs and a worthwhile investment if they help build up a working relationship with the local authority. The charges levied by most authorities are generally viewed as proportional to the size of the scheme.

## what does a charging regime look like? some hints and tips

As this case study has demonstrated, several local authorities already operate systems of charging for pre-application advice. Although local circumstances will invariably vary there are some key points to bear in mind:

- make sure the charging regime is easy to understand and administer. A system that is unclear to the customer and burdensome to run will be self-defeating
- clear the process with local agents and major local 'players' in advance and continue to liaise with your key customers in subsequent years. Their views will help refine the process in the light of experience. And their continued support will help ensure there is ongoing constructive dialogue in respect of desired projects
- make sure the advice you offer is as constructive as possible. This does not mean agreeing to unsatisfactory development but rather advising what changes are required to make it acceptable. Adopt a process that will facilitate additional meeting where appropriate
- charging is best justified, and is much more likely to be accepted, if presented as an integral part of a more structured approach to pre-application advice designed to help the customer
- make sure that the process is explained fully on the council's website. Place downloadable advice request forms on the website and make clear what information will need to accompany the request

- be sensible in what you charge for. Charges are more appropriately made in the case of significant commercial development, not householder proposals or development affecting a small business.

## councils interviewed for this case study

Thank you to all councils that participated.

## those who charge

- Ashford Borough Council
- Hart District Council
- Lewes District Council
- Mid Sussex District Council
- London Borough of Barnet
- Westminster City Council
- Wokingham District Council

## those who do not presently charge

- Swindon Borough Council
- South Hams District Council

Thank you also to the three planning consultancies, including Robert Turley Associates and Rolfe Judd, who willingly shared their experience.

This case study has been written for the Planning Advisory Service by Andrew Cook, an independent planning consultant.

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