

RIBBLE VALLEY BOROUGH COUNCIL

REPORT TO PLANNING AND DEVELOPMENT COMMITTEE

Agenda Item No.

meeting date: THURSDAY, 16th MARCH 2023
title: ARCHAEOLOGICAL ADVICE
submitted by: HEAD OF DEVELOPMENT MANAGEMENT & BUILDING CONTROL
principal author: LYNDSEY HAYES, HEAD OF DEVELOPMENT MANAGEMENT & BUILDING CONTROL

1. PURPOSE

- 1.1 To seek authority from Members to in respect of a Service Level Agreement with LCC for archaeological advice relating to planning applications.

2. BACKGROUND

- 2.1 On 20th October 2022, Members of this Committee considered a report (appendix 1) seeking approval for the Council to enter into a Service Level Agreement (SLA) with LCC for archaeological advice relating to 2022/23 and to pay the invoice for that period, which was £10,837. This was agreed.
- 2.2 That report also proposed a full review of the service provided by LCC to be carried out and the level of need of service for the Borough to be undertaken in the new year, with any suggested SLAs with LCC brought back to this Committee for decision. That work has been carried out and is presented below.
- 2.3 As set out in appendix 1, 13 Lancashire authorities receive archaeological advice from LCC, based on an assumption that each would sign up to a SLA for three years. The cost that each authority was charged for this service was proportioned based on anticipated use of service by each authority (calculated by looking at historic trends of responses). Due to the concentration of archaeological interest in the borough, RV was considered by LCC to be the biggest service user (accounting for over 17% of the total number of planning consultations processed), and as such was charged the highest amount for this service, with Lancaster a close second.
- 2.4 The cost for 3 years' service to RV is £32,515, broken down into the following annual fees: 2021/22 - £10,603; 2022/23 - £10,837; 2023/24 - £11,075. The 2021/22 and 2022/23 periods have been paid and the budget for the 2023/24 period includes this provision. A copy of the SLA for the 2023/24 period is attached at appendix 2.

3. PROPOSAL

- 3.1 To inform a review of the service RV receive, LCC Historic Environment Team have provided details of RV applications they have responded to since 1st April 2019. This shows the following annual responses: 94 - 2019/20, 89 - 2020/21, 87 - 2021/22 and 81 - 2022/23 (up to 31st Jan 2023). The Team consider that the number of responses provided to RV has remained consistently high, with no sign of numbers falling.
- 3.2 Whilst it is difficult to do any detailed analysis in the absence of comparable data for other authorities, LCC have confirmed that RV continues to be a significant user. This is a reflection of the large area of the borough, its extensive and high quality historic environment, and the large number of known heritage assets on the Lancashire Historic Environment Record.
- 3.3 As well as assessing all planning applications requiring ground disturbance via the weekly list, the SLA includes provision for the Historic Environment Team to assess historic building applications, development consent order (DCO) projects, provide input to policy (local plans, land allocations, neighbourhood plans etc) and importantly,

maintain, manage and enhance the Lancashire Historic Environment Record (HER). The latter being a requirement of Paragraph 192 of the National Planning Policy Framework (NPPF) which requires RV to maintain or have access to an Historic Environment Record (HER).

- 3.4 In terms of local plan support to RV, the Historic Environment Team responded to the Regulation 18 emerging Local Plan consultation last year. Prior to that they had responded to a consultation on the Strategic Housing and Economics Needs Assessment (SHENA) in 2019. Continuing with the SLA would enable them to respond to future emerging RV Local Plan consultations including proposed allocation sites should this be required.
- 3.5 During the 2023/24 period, the archaeology service offered by LCC beyond 31.3.2024 will be reviewed, and a proposal is expected to be presented to the Lancashire authorities for future discussion. Any such proposal, including fee proposal, will be informed by a more comprehensive assessment of response rates and future needs and officers at RV will be engaged in this process to seek the best outcome for RV.
- 3.6 In the meantime however, it is considered that entering into a SLA with LCC for the 2023/24 period would be the most appropriate course of action to allow RV to continue to benefit from the archaeology advice it receives from LCC and meet the requirements of the NPPF both in terms of sound decision taking and plan making.

4. RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications:
 - Resources – The cost of this service is already included in the budget for 2023/24 and as such there is no need to find additional resources.
 - Technical, Environmental and Legal – There is a requirement to have access to the HER which entering into the SLA will secure.
 - Political – N/A
 - Reputation – N/A
 - Equality and Diversity – N/A

5. RECOMMENDED THAT Committee

- 5.1 Members agree for the Head of Development Management & Building Control to enter into a SLA with LCC for the provision of Archaeological advice for 2023/24 and pay the invoice for that period.
- 5.2 Members agree for the Head of Development Management & Building Control to engage with LCC and other Lancashire authorities in a future review of the archaeology service beyond 31.3.2024, with any future suggested SLAs brought back to this Committee for decision.



LYNDSEY HAYES
HEAD OF DEVELOPMENT MANAGEMENT AND BUILDING CONTROL

**RIBBLE VALLEY BOROUGH COUNCIL
REPORT TO PLANNING AND DEVELOPMENT COMMITTEE**

meeting date: THURSDAY, 20th OCTOBER 2022

title: ARCHAEOLOGICAL ADVICE

submitted by: DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING

principal author: NICOLA HOPKINS – DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING

1. PURPOSE

1.1 To seek authority from Members to in respect of a Service Level Agreement with LCC for Archaeological advice relating to planning applications.

2. BACKGROUND

2.1 As part of budget savings in 2016 LCC removed its funding for the Historic Environment Service. However, in April 2019 the Historic Environment Team was established which is hosted by the County Council and maintains the County Historic Environment Record (HER).

2.2 It is understood that this request was made to LCC to host the service from district authorities. It appears that this request was on the basis of districts funding the service with LCC contributing by funding the post to maintain the Historic Environment Record however it is not clear how this was agreed.

2.3 The team is made up of three posts, comprising 1 full-time and 2 job-share officers dealing with development control matters, and another officer responsible for managing the HER and providing advice to the County Council.

2.4 In 2019 we entered into a Service Level Agreement for the period upto 2021, attached at Appendix 1. This agreement sets out RVBCs contribution to the service and the fact that payment is issued within the first quarter of each financial year as one payment. The Historic Environment Team has confirmed this is for budgetary reasons, as the income is required to fund staff salaries.

3. CURRENT POSITION

3.1 At the start of 2021, each of the district councils were invited to sign up to a new SLA running for 3-years from 1 April 2021 to 31 March 2024. There were no changes to the service offered, with the only difference being a price increase to take account of inflation. The cost for 3 years' service to RV was £32,515, which was to be broken down into the following annual fees: 2021-22 = £10,603; 2022-23 = £10,837 & 2023-24 = £11,075. This fee breakdown was based on the assumption that the 13 local authorities, who were currently signed up, would remain in an SLA (Pendle Borough Council have not been included).

3.2 All the districts signed up to the new 2021-24 SLAs, except for us. John Macholc requested that we sign on an annual basis instead with a yearly review. A revised SLA for the period 1 April 2021 until 31 March 2022 with a fee of £10,603 was therefore sent to John. This SLA was never signed however the invoice for the service was paid.

3.3 At the start of 2022, a new one-year SLA for 2022-23 was e-mailed to John however it was not signed nor is there any correspondence that indicates the SLA is acceptable to the Council.

3.4 LCC invoiced the Council on 12th July 2022 for £10,837 and have confirmed that a level of service has been provided to the Planning team since the beginning of this financial year. Without an SLA in place the invoice has not been paid.

4. SERVICE LEVEL AGREEMENT

4.1 A copy of this year's draft SLA is attached at Appendix 2

4.2 Lancashire County Council Historic Environment Team has confirmed that the amount RVBC has been invoiced:

1. Relates to the proportion of the funding RV agreed to provide.
2. Represents the annual percentage of the overall service that RV uses
3. Is based on the 10 years of service received from 2006-2016 from the former Lancashire County Archaeology Service (LCAS).

4.3 The Team consider that Ribble Valley is a significant user of the service due to the concentrations of archaeological interest in the borough. Whilst it is acknowledged that the Borough accommodates a lot of heritage assets at this stage it is not possible to quantify the proportion of consultations with the Team officers decide to undertake and the proportion of consultation responses the Team provide without a direct request from our planners by considering the weekly list.

4.4 Members should note that the Framework includes the following requirement:

Local planning authorities should maintain or have access to a historic environment record. This should contain up-to-date evidence about the historic environment in their area and be used to:

- a) assess the significance of heritage assets and the contribution they make to their environment; and*
- b) predict the likelihood that currently unidentified heritage assets, particularly sites of historic and archaeological interest, will be discovered in the future.*

4.5 The Lancashire Historic Environment Record (HER) is predominantly computerised and is managed and accessed by Lancashire County Council staff.

5. RECOMMENDATIONS

5.1 As this matter has been unresolved since April and LCC have been providing a level of service relating to archaeological matters during that time it is suggested that the Council enter into the SLA (Appendix 2) for this financial year and pay the invoice for this years' service.

5.2 However going forward it is suggested that the service being provided is reviewed to ensure that any financial assistance provided by RVBC to the Historic Environment Team reflects the level of need for archaeological advice within the Borough.

6. RISK ASSESSMENT

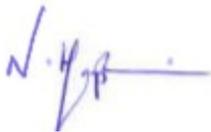
6.1 The approval of this report may have the following implications:

- Resources – The cost of this service is already included within the budget and as such during this financial year there is no need to find additional resources
- Technical, Environmental and Legal – There is a requirement to have access to the HER which entering into the SLA will secure.
- Political - N/A
- Reputation – N/A
- Equality and Diversity - N/A

7. RECOMMENDED THAT COMMITTEE

7.1 Members agree for the Director of Economic Development and Planning enter into an SLA with LCC for the provision of Archaeological advice and pay this year's invoice.

7.2 Members agree that a full review of the service provided and the level of need of service for the Borough is undertaken in the new year with any suggested SLAs with LCC brought back to this Committee for decision.



NICOLA HOPKINS
DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING

Service Level Agreement

**Provision of Specialist Archaeological Advice to
Ribble Valley Council, 2023-24**

Terms of Service Level Agreement for Provision of Specialist Advice to Ribbles Valley Council by Lancashire County Council in 2023-24

1. The County Council's Duties

1.1. The Historic Environment Record

- 1.1.1. The County Council shall maintain and manage the Lancashire Historic Environment Record (HER) as defined in Annex 2 of the NPPF and the associated Practice Guide for the area falling under the control of the Local Planning Authority.
- 1.1.2. No right or licence to the HER or the data within it is acquired by the Local Planning Authority nor granted by the County Council pursuant to this Agreement.
- 1.1.3. The Historic Environment Record shall be made available for consultation and information shall be provided from it subject to any usage restrictions and scale of charges as may be in effect at the time of consultation. *Information provided to the County or Local Planning Authority for the purposes set out in the agreement below or other agreed internal purposes of the Council will however not attract any separate charge for that provision.*

1.2. Local Plans

- 1.2.1. The County Council will provide upon request advice on the formulation of Local Plan policies and guidance relating to the historic environment.
- 1.2.2. The County Council will upon request provide advice and information on the identification of local sites of heritage interest in a district context insofar as resources and existing databases allow.
- 1.2.3. The County Council will upon request identify heritage assets within areas defined in site allocation documents or similar where there may be heritage implications for a change of use or its development insofar as resources and existing databases allow. An outline recommendation for further investigations that may be required will be provided where relevant, but the County Council will not provide a detailed and specific assessment of the heritage value or significance of any heritage asset so identified unless a separate and specific costed agreement is reached for that work.

1.3. Development Management

- 1.3.1. The County Council will screen the weekly planning lists where supplied by the Ribbles Valley Council to identify

development or other proposals (such as applications to discharge conditions, prior notifications, etc.) which appear to have the potential to affect heritage assets or their settings. The Local Planning Authority may, if desired, send notifications or details of individual applications or other schemes (such as scoping assessments, Environmental Statements, etc.) received direct to the County Council.

1.3.2. Where details of development proposals identified under 1.3.1 above are available on a Local Planning Authority web site they will be accessed and may be downloaded and stored locally. Where details of the development proposal are not available on a web site, they will be requested from the Local Planning Authority within 7 days of the receipt of the application list. Such details may be captured electronically and stored locally.

1.3.3. Details of development proposals accessed as above will be assessed against the known heritage resource, following the guidance in the NPPF, its associated Practice Guide and best professional practice, as well as international, national, regional and local planning policy. Where insufficient information is available for such an assessment to be undertaken the Local Planning Authority will be informed of this and an appropriate course of action recommended.

1.3.4. Where assessment of a detailed proposal does not indicate a significant impact on the heritage resource this may be noted locally but the details of the proposal will not normally be retained by the County Council. The Local Planning Authority will not normally be notified of such an assessment result if the proposal was identified directly from a web site or weekly list.

1.3.5. Where a potentially significant impact on the heritage resource is identified the County Council will provide some or all of the following:

- A statement of the likely heritage implications;
- Advice on further action or mitigation procedures that will be appropriate to safeguard the heritage interest of the site;
- Recommendations for any further investigation required before any planning decision is made;
- Recommendations that some or all of the heritage resource is preserved in situ at the expense of development
- Recommendations that planning conditions or other measures will be required to ensure the recording or protection of the identified archaeological resource.

These items will be provided within 21 days of any consultation being received or the publication of the relevant weekly list (or other timescale which has been prior agreed with the Authority) and where possible sent to the Local Planning Authority by email.

1.3.6. The advice service provided to the Local Planning Authority will continue to be

- Direct provision of advice, specifications or briefs to developers, contractors or other third parties;
- Site visits, meetings and discussions with developers, contractors or other third parties, except where called by and for the benefit of the Local Planning Authority;
- The provision of comment on specifications, written schemes of investigation, draft reports or other documents supplied direct by developers, contractors or other third parties.

1.3.7. Upon request the County Council will screen Hedgerow Removal Notices against the heritage criteria set out in the Hedgerow Regulations 1997 and any succeeding regulations or advice.

1.4. Planning Appeals, Public Inquiries and Enforcement Actions

1.4.1. Written support for planning appeals, public inquiries and enforcement actions will be provided where resources allow, but this will need to be agreed in each case (see below). Resource implications are likely to mean that attendance by LCC specialists at planning inquiries, hearings, etc. will require additional funding beyond the fee set for this SLA. This service shall not be provided in the event that the Local Planning Authority's planning decision conflicts with County Council archaeology service advice. The County Council will not obtain specialist legal advice on the validity of any information or evidence provided or supply separate legal representation for any County Council staff and this shall be obtained and provided by the Local Planning Authority directly.

1.5. Other Matters

1.5.1. The following matters shall be included in the service provided by the County Council heritage specialists upon request insofar as resources and existing databases allow. Where it appears that it will not be possible to service such a request the County Council will notify the Local Planning Authority as soon as this is apparent and will work with the Local Planning Authority to seek a solution.

- Advice on the formulation of non-statutory policy statements and strategy documents in relation to the historic environment;
- Advice on the management of a Heritage Asset located within the Local Planning Authority's ownership.

1.5.2. Lancashire County Council will provide statistics on the service provided to the Local Planning Authority at six and nine month intervals.

2. The Local Planning Authority's Duties

2.1. Historic Environment Record

2.1.1. Subject to any statutory provisions (including the need to release any information included in a formal planning response) the Local Planning Authority shall not release, publish or otherwise disclose the information provided from or in respect of the Historic Environment Record referred to in section 1 to any person or organisation unless that person or organisation is acting as a servant or agent to the Local Planning Authority and it is a condition of that relationship that that person or organisation is also bound by this condition.

2.2. Development Management

2.2.1. The Local Planning Authority will make available on its web site or otherwise promptly supply regular planning application lists and appropriate details of development proposals and other schemes for archaeological appraisal. When a planning decision is reached, a copy of the planning decision notice shall be made available to the County Council archaeology service via the Council's website.

2.2.2. The Local Planning Authority will inform the County Council about any amendments to applications as soon as possible, particularly the reasons for and extent of the amendment. They will also inform the County Council about withdrawn applications as soon as possible and indicate the likely date of determination of applications to help the County Council manage workloads.

2.2.3. Where investigation, recording or other heritage works have been required by planning condition or legal agreement, the Local Planning Authority will consult with the County Council specialists on the acceptability of any written scheme of investigation or other project proposal and on applications to discharge the planning condition or legal agreement. The latter may be facilitated by ensuring that any such application makes it clear that the discharge is for a heritage condition or agreement and/or by making a direct consultation on the application.

2.2.4. Where investigation, recording or other heritage works have been required by planning condition or legal agreement, the Local Planning Authority will consult with the County Council specialists on the discharge of that condition or legal agreement or make the application for discharge available on the Weekly Planning List. They will normally only discharge such a condition or legal agreement when advised that this is appropriate by the County Council. This would normally mean that the heritage project required by that condition or agreement has been completed, including the submission of an acceptable final report and archive.

2.2.5. The Local Planning Authority will direct applicants and developers to contact the County Council to obtain advice and further information on the nature and scale of archaeological works required to inform a development proposal or to discharge any conditions that may be applied to consents granted. They will inform the applicant or developer that a charge may be payable for the provision of such works at a scale set by the County Council.

2.2.6. If the Local Planning Authority offers a pre-application advice service, this will not be included within the Service Level Agreement and the Local Planning Authority will direct the prospective developer to approach the County Council for advice. They will inform the applicant or developer that a charge will be payable for the provision of such advice, at a scale set by the County Council.

2.3. Planning Appeals, Public Inquiries and Enforcement Actions

2.3.1. A standard or automatic notification of the submission of a planning appeal or similar from the Local Planning Authority will not be deemed to be a normal consultation. It is the Local Planning Authority's responsibility to ensure that a timely and specific consultation is made where advice is required.

2.4. Other Matters

2.4.1. The Local Planning Authority will ensure that developers and other third parties that contact them are aware of their responsibilities for obtaining and supplying adequate heritage information. Where appropriate (e.g. 1.3.1 and 2.3.1 above) they shall direct developers and others to the County Council for further information and advice.

3. Payment, Duration and Liability

3.1. The fee payable by the Local Planning Authority for the service is set out below. The invoice will normally be issued in the first quarter of the financial year to which the Agreement applies. All such invoices are payable in one lump sum and within 28 days of receipt.

3.2. This Agreement will run from 1st April 2023 to 31st March 2024. When requested, a meeting will be held to review the operation and effectiveness of the Agreement, and to inform any future Agreement. Any proposed variation will not be valid unless subject to a written agreement between both parties.

3.3. Any terms which may have previously been agreed either orally or in writing shall not form part of the Agreement unless recorded in this Agreement and the Local Planning Authority confirms that it has not relied upon any representation not recorded in this Agreement.

3.4. Neither party shall be liable to the other in respect of any claim, action, damages or losses arising directly or indirectly as a result of any service provided under this Agreement save to the extent that such claim, action, damage or loss is directly attributable to the negligence of that party.

3.5. The term development proposal used above shall mean a proposal as defined by the Town and Country Planning Act 1990 and any succeeding regulations and advice

Period of this Agreement:

1st April 2023 to 31st March 2024

Fee for services as described above:

£ 11,075 (to be invoiced July 2023)

Signed for Ribble Valley Council:

Name:

Role:

Date:

Signed for Lancashire County Council:

Name:

Role:

Date: