

RIBBLE VALLEY BOROUGH COUNCIL

REPORT TO PLANNING AND DEVELOPMENT COMMITTEE

meeting date: THURSDAY, 8 FEBRUARY 2024
title: ARCHAEOLOGICAL ADVICE
submitted by: DIRECTOR OF ECONOMIC DEVELOPMENT & PLANNING
principal author: HEAD OF DEVELOPMENT MANAGEMENT & BUILDING CONTROL

1. PURPOSE

- 1.1 To seek authority from Committee in respect of a Service Level Agreement with LCC for archaeological advice for the period 2024-25.
- 1.2 Relevance to the Council's ambitions and priorities:
- Community Ambitions-
 - To be a well-managed council providing efficient services based on identified customer needs.
 - To protect and enhance the existing environmental quality of our area.
 - Corporate Objectives –
 - To seek to continually improve, ensuring that council services are fit for purpose and customer focused.

2. BACKGROUND

- 2.1 Committee has previously considered reports on 20th October 2022 and 7th March 2023 seeking approval for the Council to enter into a Service Level Agreement (SLA) with LCC for archaeological advice relating to 2022/23 and 2023/24 and to pay the invoice for those periods. These were agreed.
- 2.2 The cost for 3 years' service to Ribble Valley BC for the last three years has been £32,138, broken down into the following annual fees:
- 2021/22 - **£10,603**; 2022/23 - **£10,837**; 2023/24 - **£10,698**
- 2.3 Thirteen Lancashire authorities received archaeological advice from LCC during that time (this increased to fourteen in 2023/24), and 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, Ribble Valley BC 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 7th March 2023 report explained that the archaeology service offered by LCC beyond 31.3.2024 will be reviewed, and a proposal will be presented to the Lancashire authorities for future discussion, based on an up-to-date assessment of response rates and future needs. That work has been carried out and is presented in Section 3 below.
- 2.5 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 198 of the National Planning Policy Framework (NPPF) which requires each local planning authority to maintain or have access to an Historic Environment Record (HER).

- 2.6 In terms of local plan support to Ribble Valley, the Historic Environment Team responded to the Regulation 18 emerging Local Plan consultation in 2022. 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 Ribble Valley Local Plan consultations including proposed allocation sites should this be required.

3. PROPOSAL

- 3.1 An updated SLA for 2024-2027 has been issued by LCC to all Lancashire authorities. The cost for this three year service to Ribble Valley BC is proposed at £32,979, broken down into the following annual fees:-

2024/25 - £10,470; 2025/26 - £10,993; 2026/27 - £11,516

- 3.2 To inform the SLA fee proposals for 2024-2027, LCC have compiled statistics on service usage, to ensure the fees paid by each authority are still proportionally fair. These comprised figures from 2010-2016 and 2019-2022, which covered the pandemic years. The period 2016-2019 has been disregarded as the service was provided commercially, and the data was not comparable. The period 2019-2022 has been disregarded as the figures from the pandemic years cannot be relied upon as a typical representation of service usage across the county.

- 3.3 Taking these factors into account, LCC consider it would be more equitable to continue using the 2010-2016 statistics to calculate the new charges. The proportional service use for Ribble Valley BC from 2010 - 2016 is 16.3%. When applying an increase to the current charges of 5% (as an average of inflation over the last 3 years) and including a proportional deduction to take account of Pendle Borough Council's return to the SLA, this would mean the cost to Ribble Valley BC for the new 3-year SLA (2024-2027) is £32,979, which equates to £10,470 for 2024/25.

- 3.4 As requested by Ribble Valley BC, LCC did review more recent Ribble Valley trends of usage. In Q1 and Q2 of 2023/24 the proportional service was 10.2%. This 6-month figure clearly represents success in cutting back on district nominated consultations, but it may also reflect other factors such as a reduction in the number of greenfield housing applications. LCC have explained that data post 2022 is too small to be relied upon which is why it has not been included this time in setting the new SLA fee proposals. They advise they would look to review this towards the end of the next SLA cycle when there should be a longer run of more reliable statistics available.

- 3.5 Whilst there is no commitment by LCC to reviewing Ribble Valley BC's fees for 2025/26 and 2026/27 they have agreed to the 2024-27 period being split into three annual SLAs (as it was last time). A copy of the SLA for 2024-25 is attached at Appendix A. Updated statistics on usage will be monitored by officers to inform the decision on entering into future SLAs for 2025/26 and 2026/27, which will be brought before this Committee at a later date.

- 3.6 In the meantime it is considered that entering into a SLA with LCC for 2024/25 would be the most appropriate course of action to allow Ribble Valley BC 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 2024/25 and as such there is no need to find additional resources.
- Technical, Environmental and Legal – The Levelling Up and Regeneration Act contains a clause which seeks to make it a statutory requirement for each 'relevant authority' to 'maintain an historic environment record for its area': In the case of Lancashire, the relevant authority would be LCC. LCC are of the view that there is nothing in the Act to prevent the 'relevant authority' from issuing a charging regime to local planning authorities in the form of a SLA in order to support them in delivering this service.
- Political – N/A
- Reputation – N/A
- Equality and Diversity – N/A

5. RECOMMENDED THAT COMMITTEE

5.1 Approve the Council entering into a Service Level Agreement with Lancashire County Council (LCC) for the provision of Archaeological advice for 2024/25 and pay the invoice of £10.470 for that period when issued by LCC.

LYNDSEY HAYES

HEAD OF DEVELOPMENT
MANAGEMENT AND BUILDING
CONTROL

NICOLA HOPKINS

DIRECTOR OF ECONOMIC
DEVELOPMENT AND PLANNING

Service Level Agreement

**Provision of Specialist Archaeological Advice to
Ribble Valley Council, 2024-25**

Terms of Service Level Agreement for Provision of Specialist Advice to Ribble Valley Council by Lancashire County Council in 2024-25

The County Council's Duties

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.*

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.

Development Management

1.3.1. The County Council will screen the weekly planning lists where supplied by the Local Planning Authority or made available on their web sites 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's 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 **not** include the following:

- 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 comments 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.

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.

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.

The Local Planning Authority's Duties

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.

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 advice, 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.

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 formal consultation. It is the Local Planning Authority's responsibility to ensure that a timely and specific consultation is made where advice is required.

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. 1.3.6 and 2.3.1 above) they shall direct developers and others to the County Council for further information and advice.

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 each 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 2024 to 31st March 2025. 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 or advice.

Period of this Agreement:

1st April 2024 to 31st March 2025

Fee for services as described above:

£10,470 (to be invoiced July 2024)

Signed for Ribble Valley Council:

Name:

Role:

Date:

Signed for Lancashire County Council:

Name:

Role:

Date: