

Consultation on Planning Performance and Fees - 2019

December 2019

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MINISTERIAL FOREWORD

In our work programme “Transforming Planning in Practice” we committed to moving quickly following on from the Planning (Scotland) Act 2019 to bring forward detailed proposals for substantial changes to the planning fees structure, with the aim of having early clarity around costs and resources and the new fee arrangements in place by mid-2020. This will require careful assessment of the impacts on both planning authorities and applicants, to ensure that there are no unforeseen consequences from the combination of changes.



I want Scotland’s planning system to be efficient and effective, facilitated by skilled and experienced planners. This is essential to supporting our ambitions of creating a more successful country with opportunities for all of Scotland to flourish through increased wellbeing and sustainable and inclusive economic growth.

Since my appointment as Minister with responsibility for planning I have seen first-hand the improvement in the performance of the system. This has been demonstrated through the Planning Performance Framework Reports submitted voluntarily by authorities each year and through the Scottish Awards for Quality in Planning.

I want to support and work with local authorities to make sure that the planning system is valued, resilient and capable of providing the service that local people and planning applicants expect, and delivering on the increasing challenges being placed on it.

Fundamental to this is ensuring that the planning system is appropriately resourced to deliver on those ambitions. Increases to planning fees must be matched by continuing improvements to performance, and this requires an effective reporting regime that ensures the priorities of all users are being delivered.

I am determined to get this right and we need your input to ensure that happens. I hope that you will share this consultation as widely as possible and I encourage everybody who has a view on the performance of the system to respond with their views.

A handwritten signature in black ink, appearing to read "Kevin Stewart". The signature is stylized and fluid.

Kevin Stewart MSP

Minister for Local Government and Housing

Introduction

This consultation paper proposes a new approach to how the performance of planning authorities is measured, the role of the planning improvement co-ordinator and a new structure for the planning fee regime along with the introduction of additional services which can be charged for and the ability to waive or reduce planning fees in certain circumstances.

Since the Independent Panel Reported in 2016 we have been gathering information to inform our approach going forward. This has included

- Research – Reasons for delays with planning applications for housing – August 2018¹
- Research – Customer Service and the Planning System – August 2018²
- Research – Monitoring the Outcomes of Planning – August 2018³
- RTPI analysis – Financial Implications of Implementing the Planning (Scotland) Act 2019 – August 2019⁴
- HOPS research – Costing the Planning Service – February 2019⁵
- HOPS research – Increase in Major Fees – February 2019⁶
- RTPI ongoing analysis of the numbers of people employed in the planning service and planning services budgets
- RTPI research – Developing skills, behaviours and knowledge – April 2017⁷
- HOPS and Improvement Service surveys on Skills, Shared Services and Training of Elected Members – August 2018⁸

The resourcing of the planning system has been a recurring issue since the financial downturn and we have worked with authorities and others since then to understand the issues involved and encouraged alternative ways of working such as shared services and sharing and learning from each other.

The Independent Panel appointed to review the planning system in 2015 considered both performance and fees during their review and made the following comments/recommendations:

- Timescales remain critical in providing certainty and should remain part of performance reporting framework;
- Alternative mechanisms to support improvement should be found;
- The penalty clause should be removed;
- A fuller study of combined consents should be undertaken;
- Planning fees for major applications should be increased substantially; and
- Scope for further discretionary charging should be considered further.

¹ <https://www.gov.scot/publications/reasons-delays-planning-applications-housing/>

² <https://www.gov.scot/publications/customer-service-planning-system-research-study/>

³ <https://www.gov.scot/publications/monitoring-outcomes-planing-research-study/>

⁴ [https://www.rtpi.org.uk/media/3447036/RTPI%20Scotland%20-%20Financial%20Implications%20of%20Implementing%20the%20Planning%20\(Scotland\)%20Act%202019.pdf](https://www.rtpi.org.uk/media/3447036/RTPI%20Scotland%20-%20Financial%20Implications%20of%20Implementing%20the%20Planning%20(Scotland)%20Act%202019.pdf)

⁵ <https://hopscotland.files.wordpress.com/2019/03/hops-costing-the-planning-service-action-report-220219.pdf>

⁶ <https://hopscotland.files.wordpress.com/2019/02/finalised-hops-report-on-major-application-fees-040219.pdf>

⁷ <https://www.gov.scot/publications/planning-review-developing-skills-behaviours-knowledge-report/>

⁸ <https://hopscotland.files.wordpress.com/2019/01/final-report-skills-and-shared-services-survey-october-2018.pdf>

As a first step in 2017 the maximum planning fee was increased to £125,000 which provided in its first year over £4m additional income to planning authorities. The Planning (Scotland) Act 2019 includes provisions to extend the range of services which authorities can charge for and also the ability for Scottish Ministers to charge for the services they provide under the Planning Acts.

It is important to note that this paper seeks views on how planning fees cover the cost of determining an application. Although research published by the RTPI has identified that the Planning Act will place additional duties on planning authorities, it is not the role of planning fees to cover those new duties unless they relate specifically to the determination of an application. However, it is noted that currently planning fees only account for on average 63% of the cost of determining an application. Therefore, we expect that closing that gap should free up resources for the remainder of the planning service.

However, we recognise that increasing fees in isolation is not the only solution. We need to look at smarter resourcing and the opportunities which digital services can bring to the planning service such as increasing efficiencies in the preparation and submission of plans and applications.

Responding to this Consultation

Responding to this Consultation

We are inviting responses to this consultation by 14 February 2020.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/planning-architecture/planning-performance-and-fees/>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 14 February 2020.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form and send to:

chief.planner@gov.scot

or

Planning and Architecture Division
Scottish Government
2F South
Victoria Quay
Edinburgh
EH6 6QQ

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy:

<https://beta.gov.scot/privacy/>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at chief.planner@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



Consultation on Planning Performance and Fees – 2019

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

Individual Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes No

Planning Performance

The Planning (Scotland) Act 2019 places annual performance reporting by planning authorities on a statutory basis. The Act sets out that Ministers may make further provision about the form and content of performance reports in regulations.

The Planning Performance Framework⁹ established by Heads of Planning Scotland in 2011-12 has been a valuable tool in demonstrating planning authorities' commitment to continuous improvement and all the work which they do in delivering the planning service from determining planning applications, producing development plans and policies to working with other corporate services and sharing and learning from each other.

We have seen a significant improvement in the markings awarded to authorities for the 15 Key markers, demonstrating a commitment to continuous improvement. Year on year there has been an overall increase in the number of green ratings awarded to authorities. However, performance against some of the markers remains variable, in particular, with regards to decision making. This has required developing an alternative approach to assessment particularly where an authority is determining applications on average within the statutory timescales.

The PPF has also evolved since its inception to provide a balance of both statistical and qualitative information with the introduction of the key markers, to authorities undertaking peer review of each other's reports and the enhanced role of case studies to evidence how they are delivering a better service to customers and also adding value to the process when considering planning applications.

Our experience of the PPF provides us with a valuable place in which to start to look again at how the performance of the planning system is measured going forward.

Set out below is our initial proposition for the structure and content of performance reports going forward.

Planning Performance Reporting

Purpose of Planning

The Planning (Scotland) Act 2019 states that the purpose of planning is "to manage the development and use of land in the long term public interest".

The Scottish Government considers that there is merit in developing an accompanying statement about the performance of the system, a vision of a system we all want to see. There is clear consensus around the key components which all users of the system believe contribute to good performance. Taking these into account the vision could be:

The Planning System must provide certainty, consistency and clarity to all those who participate in it, through effective engagement, policy, decision making and communication.

⁹ <https://hopscotland.org.uk/publications/planning-performance-framework-reports/>

Should we set out a vision for the Planning Service in Scotland?

- Yes
- No

Do you agree with the vision proposed in this consultation paper?

- Yes
- No

Do you have any comments about the proposed vision?

We have learned a lot from the Planning Performance framework (PPF) and the Key Markers over the years and this has helped inform the direction we are proposing to move in. What is proposed below is not a dramatic step change but rather a refocussing of the PPF to take account of the outcomes in the National Performance Framework, better integrate key performance indicators and take account of customer and stakeholder views.

Throughout the parliamentary process of the Act we have been clear that we would like performance reporting to include the outcomes and impacts which planning delivers rather than just the volume of applications and time taken to determine them.

There are a number of possible approaches to measuring these. National Planning Framework 3 and Scottish Planning Policy are currently structured around 4 outcomes: a Successful Sustainable Place; a Low Carbon Place, a Natural Resilient Place; and a Connected Place. With preparation of National Planning Framework 4 underway this presents an opportunity to ensure that the outcomes we are looking to measure filter through the NPF and LDPs into decisions and ultimately development on the ground.

The 2019 Act sets out that the NPF should include a statement about how Scottish Ministers' consider that development will contribute to each of the outcomes listed below:

- (a) meeting the housing needs of people living in Scotland including, in particular, the housing needs for older people and disabled people,
- (b) improving the health and wellbeing of people living in Scotland,
- (c) increasing the population of rural areas of Scotland,
- (d) improving equality and eliminating discrimination,
- (e) meeting any targets relating to the reduction of emissions of greenhouse gases, within the meaning of the Climate Change (Scotland) Act 2009, contained in or set by virtue of that Act, and
- (f) securing positive effects for biodiversity.

However, our preferred approach is to use the outcomes in the National Performance Framework¹⁰ as it provides the necessary scope with which to ultimately measure the impacts of planning. We consider it to be an excellent way to demonstrate how planning plays an integral part in people's lives. We also believe that reporting in this way can play a key role in expressing the contribution of the planning system to wider outcomes within local authorities and with stakeholders and communities.

¹⁰ https://nationalperformance.gov.scot/sites/default/files/documents/NPF%20-%20%20A4%20Booklet%20-%2025_07_2018%20%28002%29.pdf

A recent project commissioned by the RTPI in Wales¹¹ provides a useful example of how planning's contribution to our national outcomes could be presented.

Preparation and Content of reports

As previously mentioned the PPF has evolved over the 8 years since its introduction and over that time we have learned a lot about what works, what doesn't work and how. This provides valuable insight for taking forward development of a refocused performance framework. For instance, a common criticism of PPF reports from some stakeholders has been that they are prepared by the authority in isolation with little opportunity for customer input and that they only highlight the good stories the authority wants to tell. They don't always reflect on when things have gone wrong or not as intended and what has been learned from that to prevent the same issue arising again in the future. Some authorities have indicated that they have undertaken some targeted engagement in the preparation of their report, and we would like to see this rolled out across all authorities. This could be through customer/stakeholder forums or liaising with representative bodies/associations.

Our current expectation is that reports should cover the following areas:

Statistics – range of published statistics and other quantitative information which Planning Authorities collect, including the annual statistics published by the Scottish Government.

Customer Service – customer service should extend beyond applicants to those who comment on applications, policies and plans as their views on how their engagement has been handled are also important and can have a key role in helping to build trust and confidence in the planning system.

Engagement – how the authority has carried out their engagement activity during the reporting year. Examples of the types of engagement to be considered include the authority's approach to Local Place Plans added through the new Act, pre-application discussions with applicants, agencies and other statutory consultees and also how they are engaging with elected members and other stakeholders on the development of the LDP and proposed applications.

Case Studies – specific examples which demonstrate how authorities are helping to deliver better development and places and their contribution to national outcomes. Both good examples and examples where the process hasn't necessarily worked as intended to help identify areas for improvement.

Outcomes – key achievements/metrics contributing to the national outcomes.

Improvement – areas for improvement and to outline how the authority is learning from and sharing good practice with other authorities and stakeholders.

Resources – how an authority has allocated/used its available resources during the reporting period both financial and staff resource. This could include how staff have been allocated to different disciplines to address workload pressures or provide a focus on particular types of applications, policy issues or the development of Regional Spatial Strategies, Local Development Plan or how an authority has engaged in the preparation of Local Place Plans.

¹¹ <https://www.rtpi.org.uk/media/2896429/Value-of-Planning-Handout.pdf>

Is the proposed approach to the content correct?

- Yes
- No

Do you have any comments on the proposed content of Planning Performance Reports?

Do you have any comments or suggestions as to how reports should be prepared?

What statistical information would be useful/valuable to include and monitor?

What are the key indicators which you think the performance of the system and authorities should be measured against?

Do you have any other comments to make with regards to how the Performance of the Planning System and Authorities is measured and reported?

Do you have any suggestions about how we could measure the outcomes from planning such as:

- Placemaking
- Sustainable Development
- Quality of decisions

Do you have any suggestions about how planning's contribution to the National Outcomes contained in the National Performance Framework should be measured and presented?

National Planning Improvement Co-ordinator

The Planning (Scotland) Act 2019 includes a power for Ministers to appoint a National Planning Improvement Co-ordinator to monitor and provide advice to planning authorities and others on the performance of general or specific functions.

The Co-ordinator will be appointed by Scottish Ministers following an open recruitment process. Stakeholders' views on the role of the co-ordinator were invited during the consideration of the Planning Act and during pre-consultation workshops. We consider that the co-ordinator should sit within government and ultimately report to Scottish Ministers. Their role will be focussed on the performance of the planning system as a whole; working on behalf of the Scottish Government and Scottish Ministers positions them well to do that. The Co-ordinator may be provided with administrative support from the Planning and Architecture Division (PAD). They will provide advice to Ministers in an impartial way, including looking at PAD and Department for Planning and Environmental Appeals (DPEA) and Scottish Ministers' role. Initially we think that the Co-ordinator should help to develop their role in collaboration with stakeholders once they are in post so that they can learn from what does and doesn't work.

Do you have any comments/suggestions about the role and responsibilities of the National Planning Improvement Co-ordinator?

We will continue to work collaboratively with the High Level Group on Planning¹² and other stakeholders on the development and implementation of the new statutory Annual Reporting framework and the role of the National Planning Improvement Co-ordinator.

¹² <https://www.gov.scot/groups/high-level-group-on-planning-performance/>

PLANNING FEES

Background

Resourcing of planning services has been a consistent priority during the review of the planning system. Resources are going to be an essential element in successfully implementing the reforms which are being brought forward through the Planning Act and other legislative and non-legislative actions.

The [Independent Panel](#)¹³ recommended that “planning fees on major applications should be increased substantially, so that the service moves towards full cost recovery”. They also recommended that discretionary charging, for example for pre-application processes, should be considered further.

In response to the Independent Panel’s recommendations we consulted on raising the [maximum planning fee](#)¹⁴ in December 2016 and subsequently introduced a new revised maximum fee of £125,000 for most types of application on 1 June 2017.

We also set out our initial thoughts about reforms to the fee structure in [People, Places and Planning \(January 2017\)](#)¹⁵ and sought comments on those. Following the consultation we published a [Position Statement](#)¹⁶ setting out our response to the consultation.

Given the limited existing powers in current legislation around resourcing, the Planning (Scotland) Act 2019 includes enabling powers that provide additional scope for the range of services for which fees can be charged, as well as introducing the ability for Scottish Ministers to charge fees, the ability for fees to be waived or reduced and an increased fee for retrospective applications.

We are now seeking views on how we can implement the new provisions as well as reviewing the current planning fee structure.

In this paper, full cost-recovery refers to the cost of processing an application, from validation to the issuing of the decision letter. We have not committed to delivering full cost-recovery through the changes proposed below, however we do expect to move closer towards that outcome. As the new planning act is implemented, further work may be needed to model how much income the new structure will generate for each authority given the different profile of application types and numbers handled by authorities across Scotland.

We recognise that the development and business sectors have some concerns about the impact of further charging on development viability and wider investment. We have prepared a draft Business and Regulatory Impact Assessment and will continue to work with all sectors to understand the impacts of any changes.

Linking fees to performance

The overall resourcing of local planning services is the responsibility of local authorities. Those services are financed through the local authority’s budget and fees from planning applications. Scottish Ministers expect a planning system that is reliable, proportionate, provides a service that is focused on delivery and which is able to develop, share and adopt good practice for continuous improvement.

¹³ <https://beta.gov.scot/publications/empowering-planning-to-deliver-great-places/>

¹⁴ <https://consult.gov.scot/planning-architecture/consultation-on-raising-planning-fees/>

¹⁵ <https://www.gov.scot/publications/places-people-planning-consultation-future-scottish-planning-system/>

¹⁶ <https://consult.scotland.gov.uk/planning-architecture/places-people-and-planning-position-statement/>

Scottish Ministers agree with the views expressed in the review that any increase in fees must be linked to sustained improvements in performance. The fees proposed in this paper are intended to provide additional resources to planning authorities to help support performance improvement.

Previous Consultations

This consultation paper draws upon the previous consultations which were undertaken in 2010¹⁷ and 2012¹⁸. The results from those consultations has informed the content of this consultation paper along with intelligence gathered from stakeholder workshops.

The only changes implemented following the 2010 and 2012 consultations were to the levels of fees charged, with no changes made to the method of calculating fees or to the categories. Fee levels were increased in 2013, 2014 and 2017.

Heads of Planning Scotland undertook research to establish the impact of increase to the maximum fee which showed that in the first 12 months:

- £4,218,242 additional fee income was generated across Scotland
- 2 authorities received no major applications during this time (Shetland and Cairngorms)
- Only 2 councils received income uplift of more than £500,000 (Edinburgh and Glasgow)
- 4 Councils received more than £200,000 but less than £500,000 (North Lanarkshire, Highland, Fife and East Lothian)
- 9 Councils received less than £50,000 in additional income
- 10 councils reinvested uplift income totalling £1,412,018. (33% of overall uplift)

A further change was made in 2018 to mitigate the impact of the fee increase on hydro developments. This resulted in a new category being created for hydro developments.

The Planning (Scotland) Act 2019 includes new provisions which presents an opportunity to carry out a wide review of the planning fee structure. Further changes are required to the fee regime to better support planning services.

This consultation looks at how the fee regime could be revised as well as looking at the potential for discretionary charging, increased fees for retrospective applications, the removal of fees for advertising planning applications and reducing and waiving fees. There are also some practical issues which this paper seeks views on.

This consultation takes note of the recent [consultation](#)¹⁹ and [subsequent increase](#)²⁰ to fees for Section 36 & 37 Electricity Act applications and the fees for Marine Licences for offshore developments. The Fees for Section 36 & 37 applications can be found at: <http://www.legislation.gov.uk/ssi/2019/176/contents/made>. The voluntary contribution which the Scottish Government makes to planning authorities has also increased to 50% of the fee.

Proposed Changes to Fee Structure

This section examines in more detail some of the issues related to how fees might operate. The categories below were previously consulted upon in 2012 and take account of some of the

¹⁷ Consultation Paper - <http://www.gov.scot/Publications/2010/07/07154028/0> & Analysis - <http://www.gov.scot/Publications/2011/03/18151009/4>

¹⁸ Consultation Paper - <http://www.gov.scot/Publications/2012/03/3164> & Analysis - <http://www.gov.scot/Publications/2012/09/7926>

¹⁹ <https://consult.gov.scot/energy-and-climate-change-directorate/power-lines-and-electricity-generating-stations/>

²⁰ [Fees Charged for Applications under the Electricity Act 1989 – Scottish Government Response](#)
[Fees Charged for Applications under the Electricity Act 1989 – Analysis of Consultation Responses](#)
[Fees Charged for Applications under the Electricity Act 1989 – Business and Regulatory Impact Assessment](#)

feedback including some additions and amendments to some categories. The structure is based on the current model and reflects previous responses to consultations.

Category 1 – Residential Development

The Scottish Government recognises that, whether a planning application is for a single residential unit or 10, a large proportion of the work that goes into making a decision on the application is dependent on the initial decision on the suitability of the site for housing. With this in mind we propose that the fee for a single house should more accurately reflect the processing and advertising costs associated with making a determination on the suitability of the site. The fee per unit for the first 10 units will be £600. Between 11 and 49 units (inclusive) the planning fee per unit will be £450. Housing developments containing 50 or more residential units would pay £23,550 with each additional unit charged at £250 per unit until a new fee maximum of £150,000 is reached.

For applications for planning permission in principle (PPP) the fee for one residential unit will be £300 and where the application is based on site size the fee will rise on a £300 per 0.1 ha incremental basis until the maximum for PPP (£75,000) is reached.

Number of Dwellings	Current	New	% Increase
1	£401	£600	50%
10	£4,100	£6,000	50%
49	£19,649	£23,550	20%
100	£30,050	£36,300	20%
200	£50,050	£61,300	22%
400	£90,050	£111,300	24%
563	Max – £124,850	£150,000	20%
2,058	Max – £124,850	Max – £150,000	20%

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Categories 2, 3, 4 and 5 – Extensions and Alterations to Existing Dwellings

Development relating to the alteration and extension of dwellings has been split into two different types and the fees have been adjusted accordingly. There should also be a clear distinction between the work involved in the creation of an extension to a dwelling and other smaller ancillary developments such as replacement windows, fences and garden huts and that fees are more commensurate with the work involved in making a decision on such applications.

The fee for an application to enlarge an existing dwelling will increase to £300. Enlargement should be considered to be, any development that alters the internal volume of a dwelling. This

would usually be through the addition of extensions or dormer windows. An application relating to two or more dwellings within this category will attract a maximum fee of £600.

The fee for an application for alterations to dwellings, as well as operations within the curtilage of an existing dwelling will be £300 per dwelling subject to a maximum of £600. This includes a range of developments that improve or alter a dwelling along with other developments within the curtilage of the dwelling which are for purposes ancillary to the enjoyment of the dwelling.

The replacement of windows, sheds, gates, fences and other enclosures, garages and micro-generation equipment will carry a fee of £150 for one single dwelling. For 2 or more dwellings or building containing one or more flats, the fee will be £300.

Applications for PPP for the erection of buildings under these categories will incur the same fees.

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Category 6 – Retail and Leisure including extensions

Retail and leisure developments can have significant impacts and require careful consideration from the planning authority and often require retail and traffic impact assessments.

Applications for full permission for buildings (other than dwellinghouses) are charged according to the gross floor space to be created.

Applications for development creating no new floor space, or not more than 50 m² of new floor space will be charged a fee of £300.

For developments above 50m² the fee is £1,500 for the first 50-100m² of the development followed by £800 per 100m² thereafter up to 2,500m², then the fee reduces to £500 per 100m² or part thereof subject to a maximum of £150,000. For example the following fees would be payable:

Floor Space	Current	Proposed	Increase
1,500m ²	£8,020	£12,700	58%
5,000m ²	£23,450	£33,200	42%
10,000m ²	£36,850	£58,200	58%
20,000m ²	£63,650	£108,200	70%
50,000m²	£125,000	£150,000	20%

Applications for Planning Permission in Principle shall be charged at £500 for each 0.1 hectare of the site subject to a maximum of £75,000.

Do you agree with the proposed planning fees?

- Yes
- no

Is the proposed method for calculating the planning fee correct?

- Yes
- no

Do you have any comments on the proposed fees and for calculating the planning fee?

Category 7 – Business and Commercial including extensions

This category covers those developments not covered by residential, agriculture, retail and leisure. Planning fees should not be a deterrent for the expansion of small to medium enterprises therefore the proposed fees are designed to encourage affordable levels of expansion for small to medium businesses. Fees will be calculated based on the floor area/site size being covered.

Applications for full permission for buildings (other than dwellinghouses) are charged according to the gross floor space to be created. Applications for development creating no new floor space, or not more than 50m² of new floor space, are charged a fee of £300. For buildings above that size the fee is £800 for the first 100m² of floorspace with this falling to £400 per additional 100m² or part thereof subject to a maximum of £150,000.

Floor Space	Current	Proposed	Increase
1,500m ²	£8,020	£6,400	-20%
5,000m ²	£23,450	£20,200	-14%
10,000m ²	£36,850	£40,200	10%
20,000m ²	£63,650	£80,200	26%
50,000m²	£125,000	£150,000	20%

Applications for Planning Permission in Principle shall be charged at £400 for each 0.1 hectare of the site subject to a maximum of £75,000.

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Category 8, 9 and 10 – Agricultural Buildings, Glasshouses and Poly tunnels

The Scottish Government considers that linking fee levels for agricultural buildings and developments to housing developments as has occurred in the past is disproportionate to the value of the development and the actual work involved in processing such applications.

Category 8 – Agricultural Buildings

The current regulations provide that an application for planning permission for buildings under 465m² which do not have permitted development rights require no fee to be paid.

The fee for applications for agricultural buildings (other than glasshouses or poly tunnels as shown below), as defined in the Interpretation of Part 6 of the General Permitted Development Order will increase from £401 for each 75m² to £500 for every 100m² in excess of the 465m² or part thereof with the maximum fee increasing from £20,055 to £25,000.

Floor Space	Current	Proposed	Increase
465m ²	£0	£0	n/a
1,565m ²	£6015	£5,500	-8%
5,065m ²	£20,055	£23,000	15%
10,065m ²	£20,055	£25,000	25%

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Category 9 – Glasshouses

Applications for the erection of glasshouses on land used for agriculture are currently charged a flat rate fee of £2,321 where the ground area to be covered exceeds 465m². It is proposed to change this to a fee of £150 per 0.1 ha subject to maximum of £10,000. There is no provision within the fees regulations for applying for planning permission in principle for such developments.

Floor Space	Current	Proposed	Increase
465m ²	£0	£0	n/a
1,565m ²	£2321	£1,650	-28%
5,065m ²	£2321	£6,900	197%
10,065m ²	£2321	£10,000	330%

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Should a separate category be established for erection of glasshouses on land that is not agricultural land?

- Yes
- No

Please provide reasons for your answer

Category 10 – Polytunnels

Applications for the erection of polytunnels on land used for agriculture are currently charged a flat rate fee of £2,321 where the ground area to be covered exceeds 465m². It is proposed to change this to a fee of £100 per 0.1 ha subject to a maximum of £5,000. There is no provision within the fees regulations for applying for planning permission in principle for such developments.

Floor Space	Current	Proposed	Increase
465m ²	£0	£0	n/a
1,565m ²	£2321	£1,100	-52%
5,065m ²	£2321	£4,600	98%
10,065m ²	£2321	£5,000	115%

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Should a separate category be established for erection of polytunnels on land that is not agricultural land?

- Yes
- No

Please provide reasons for your answer

Categories 11, 12 and 13 – Electricity Generation

Currently all such applications fall within the plant and machinery category. Given the rise in numbers of applications for wind turbines, wind farms, energy from waste plants etc., the Scottish Government has concluded that there should be a separate fee category for these. The fee category is split into three parts, one of which covers turbines and windfarms, another which covers hydro schemes and the other covering all other generation.

Category 11 – Windfarms – access tracks and calculation

A distinction has been made between single wind turbines under 15 m to hub height, and those over 15m and 50m. This is because it is acknowledged that any turbine with a hub height over 15m is required to be screened for EIA purposes and those over 50m require significant resource input by authorities. Otherwise the fees for windfarms will be based on their site size.

- Where less than 3 turbines are to be installed and:
 - All turbines are < 15m will attract a fee of £500
 - Any one turbine > 15m and <= 50m will attract a fee of £1,500
 - Any one turbine > 50m will attract a fee of £5,000
- Windfarms totalling 4 or more turbines will be charged at £500 per 0.1 hectare up to a maximum of £150,000.
- Applications for PPP will be charged at £500 per 0.1 hectare up to a maximum of £75,000.

Do you agree with the proposed planning fees?

- Yes
- No

Is using site area the best method of calculating fees for windfarms of more than 3 turbines? Y/N

- Yes
- No

If not, could you suggest an alternative? In your response please provide any evidence that supports your view.

Do you have any comments on the proposed fees and for calculating the planning fee?

Category 12 – Hydro Schemes

A new category was created in 2018 for Hydro developments. The fee is currently set at £401 per 0.1 hectare subject to a maximum of £20,055. The fee is calculated on the full extent of the proposed development. The regulations describe what is included as set out below.

The construction of a hydro-electric generating station and the carrying out of any other operations in connection with the construction of the generating station, including the construction or installation of any means of access to the generating station, pipes or other conduits and overhead electric lines.

It is proposed that the fee increases to £500 per 0.1 hectare subject to a maximum of £25,000.

Do you agree with the proposed planning fees?

- Yes
- No

Is the definition and the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed method for calculating the planning fee?

Could the planning fee be set using site area for the generating station and equipment with a separate calculation used for pipework? This could be similar to the fee for Fish Farms where the surface area is subject to a different fee to the seabed.

Category 13 – Other energy generation projects

Other energy generation projects which are not windfarms will be based on their site size or floor space and the fees calculated accordingly. The first 100m² of site size/floor space to be created will be £1,000 with £500 for every 100m² thereafter to a maximum of £150,000.

Applications for PPP will be charged £500 for every 100m² until the maximum for PPP (£75,000) is reached.

Is the definition and the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed method for calculating the planning fee?

Should a category be created for Solar Farms?

- Yes
- No

Do you have any suggestions for how the fee should be calculated?

Should a category be created for energy storage developments?

- Yes
- No

Do you have any suggestions for how the fee should be calculated?

Should a category be created for Heat Networks?

- Yes
- No

Do you have any suggestions for how the fee should be calculated?

Category 14 – Exploratory Drilling for Oil and Natural Gas

Applications in respect of on-shore oil and natural gas exploration will be charged according to the area of the site at a rate of £500 per 0.1 ha or part thereof, subject to a maximum of £100,000.

Site Area	Current	Proposed	Increase
1 Hectare	£4,010	£5,000	25%
5 Hectares	£20,050	£25,000	25%
10 Hectares	£32,640	£50,000	53%
15 Hectares	£37,640	£75,000	99%
20 Hectares	£42,640	£100,000	135%

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Category 15 and 16 – Placing or Assembly of Equipment on Marine Waters for Fish Farming

Category 15 – Fish Farming

There are no changes in how fish farming fees are calculated. However, the fee will increase to £200 for each 0.1 hectare of the surface area of the marine waters which are to be used in relation to the placement or assembly of any equipment for the purposes of fish farming and £75 for each 0.1 hectare of the sea bed to be used in relation to such development, subject to a maximum of £150,000.

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Category 16 – Shellfish Farming

Previous consultations and engagement with stakeholders has shown that there is support for creating a separate fee for Shellfish Farms due to the differing nature of the development. The proposed change removes the seabed calculation. Therefore the fee will be: £250 for each 0.1 hectare of the surface area of the marine waters which are to be used in relation to the placement or assembly of any equipment for the purposes of shellfish farming.

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Category 17 – Plant and Machinery

Applications for the installation of plant and machinery WILL BE charged according to the area of the site at a rate of £500 per 0.1 hectare or part thereof, subject to a maximum of £150,000.

Site Area	Current	Proposed	Increase
1 Hectare	£4,010	£5000	25%
5 Hectare	£20,050	£25,000	25%
10 Hectare	£30,050	£50,000	66%
20 Hectare	£50,050	£100,000	100%
30 Hectare	£70,050	£150,000	114%

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Category 18 – Access, Car Parks etc. for Existing Uses

Applications for the construction of service roads, other accesses, or car parks serving an existing use on a site will be subject to a flat rate fee of £600.

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Categories 19, 20 and 21 – Winning and Working of Minerals, peat and other operations

Category 19 – Winning and Working of Minerals

Applications for the winning and working of minerals (other than peat) will be charged according to the area of the site at a rate of £500 for the first 0.1 ha of the site and after that at a rate of £250 per ha or part thereof, subject to a maximum of £150,000.

Site Area	Current	Proposed	Increase
1 Hectare	£2,020	£2,750	36%
5 Hectares	£10,100	£12,750	26%
10 Hectares	£20,200	£25,250	25%
15 Hectares	£30,300	£37,750	25%
20 Hectares	£35,300	£50,250	42%
50 Hectares	£65,300	£125,250	92%
109 Hectares	£124,300	£150,000	21%

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Category 20 – Peat

Fees for applications for the winning and working of peat are to be charged at the rate of £300 for each hectare of the site area, subject to a maximum of £6,000.

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

In light of the climate emergency do you agree that fees for applications relating to the winning and working of peat should continue to be considered separately from other mineral operations?

Category 21 – other operations

Operations for any other purpose will be charged at the rate of £400 for each 0.1 hectare of the site area, subject to a maximum of £4,000.

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Categories 22 and 23 – Waste Disposal and Minerals Stocking – does not cover waste management (recycling)

Applications for the disposal of waste or minerals stocking will be charged according to the area of the site with the first 0.1 ha requiring a fee of £500 followed by a rate of £300 per 0.1 ha or part thereof, subject to a maximum of £150,000.

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Categories 24, 25 and 26 – Changes of Use

Category 24 – Conversion of Flats and Houses

Applications for the change of use of any building to use as one or more separate dwellinghouses will be charged at the same rate as residential units. £600 per house for the first 10 houses and then £400 for each new dwellinghouse created between 11 and 49 units and thereafter £250 per house, subject to a maximum of £150,000.

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Other Changes of Use (categories 25 and 26)

Applications for the change of use of large site areas can be resource intensive. In view of this, applications for the change of use of buildings or land (other than the conversion to, or subdivision of, dwelling houses, the tipping of waste or the stocking of minerals and spoil) will now be charged separately.

Category 25

Change of use of a building will be charged at £600 per application.

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Category 26

The fee for a change of use of land will be based on the site area with an initial fee of £500 for the first 0.1 ha and £300 for each 0.1 ha or part thereof up to a maximum of £150,000.

Do you agree with the proposed planning fees?

- Yes
- No

Is the proposed method for calculating the planning fee correct?

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Please list any types of developments not included within the proposed categories that you consider should be.

OTHER FEES

AMSC Applications

Applications for approval of matters specified in conditions (AMSC) is another area where changes are potentially required to provide clarity and to update procedures to reflect the nature of development now coming forward.

Currently AMSC applications are charged at the full rate until the total amount paid by the applicant is equal to the fee that would have been paid if approval of all matters involved had been sought all at once for the whole development. The circular states that:

“The applicant concerned must be the same as the applicant who incurred the full rate fees for earlier reserved matters applications. Each reserved matters application made after obtaining the outline permission for a development incurs a fee at the full rate, whatever matters are involved, until the total amount paid by the applicant in respect of the reserved matters is equal to the fee

that would have been paid at that time had approval been sought all at once in a single reserved matters application for the whole of the development covered by the original outline permission. When, but only when, that point is reached, any and all further applications pursuant to that outline permission will attract the flat rate fee". This appears to suggest that it was envisaged that only one applicant was responsible for a site.

We do not intend to change the principle that Planning Permission in Principle and AMSC applications ultimately leads to 150% of the planning fee being paid. What we are seeking views on is how the maximum fee is reached thus triggering the standard fee for AMSC applications. It currently appears to be the case that where a site is being taken forward by multiple developers/applicants there is potential that the first developers/applicants could end up paying significantly more for their AMSC applications than developers/applicants who take forward their part of the site at a later time.

How should applications for planning permission in principle and Approval of Matters Specified in Conditions be charged in future?

How should the fee for AMSC applications be calculated?

Should the maximum fee apply to the individual developers/applicants or applied to the whole development with applicants (if number is known) paying an equal share of the max fee?

Should the granting of a Section 42 application lead to the fee calculator being reset?

Cross boundary Applications – Allocation of the fee

Cross boundary applications is an area where questions have been raised about the division of planning fees. The fee is currently calculated separately for each application, in the normal way, and then added together. The applicant pays this amount or he pays – if less – an amount equal to 150% of the fee he would have paid had he been able to make one application. Currently the planning fee goes to the authority where the majority of the development occurs with the other authority receiving nothing. As there can still be significant work involved for both parties particularly with regards to co-ordinating decision making on the application should there be a more equal distribution of the fee.

Should the fee for cross boundary applications be split between the respective authorities?

- No change
- 100% to authority where majority of development occurs – remaining 50% to other authority.
- Fee divided as per how the development is split across the authority boundaries
- Other – please explain

Please provide reasons for your answer

Conservation Areas

Concerns have been raised recently about the requirement to submit an application for planning permission for carrying out alterations to a property which would have otherwise have been carried out under permitted development rights. We propose that where applications are submitted under categories 2, 3, 4, and 5 for developments in conservation areas which are required because of the restriction on permitted development, then only half the fee would be payable.

Do you agree or disagree with the proposal that where applications are required because permitted development rights for dwellings in conservation are restricted, then a reduced fee should be payable?

- Agree
- Disagree

Please provide reasons for your answer

Listed Building Consent

Currently when applying for listed building consent there is no fee payable however, authorities are required to process the application and therefore it is reasonable to consider whether a fee should be payable.

During the course of this consultation we are keen to understand any potential long-term implications and unintended consequences of introducing fees for Listed Building Consent (LBC). We want to make sure that the long-term viability of historic buildings is not compromised by the introduction of additional costs for homeowners and applicants, but also recognise the considerable resource required to deal with applications for Listed Building Consent.

For larger developments, which will in many cases require planning permission, we think the introduction of fees for LBC would make little difference. However, many applications for LBC are for works that are relatively minor in planning terms – either permitted development or not development.

The introduction of fees for listed building consent may require a clearer national-level guidance on the need for consent to be produced.

Is the introduction of a fee for applying for Listed Building Consent appropriate?

- Yes
- No

How should that fee be set?

Hazardous Substances Consent

The fees for Hazardous Substances consent sit within the Town and Country Planning (Hazardous Substances) Regulations 1993. The fee levels of £200, £250 and £400 or where the quantity is twice the controlled quantity the fee is £1,000, have not increased in the last 25 years. It is not our intention to change the fee structure in the Hazardous Substances regime, however we now consider it is an appropriate point to consider an increase in the fee levels.

Should the fees for Hazardous Substances Consent be increased?

- Yes
- No

What levels do you think are appropriate?

Other types of Applications

Type of Application	Current Fee		Proposed Fee
Certificate of Lawful Use or Development (CLUD)	Section 150(1)(a) – use as one or more separate dwellinghouses.	£401 for each dwellinghouse subject to a maximum of £20,055 .	£600 for each dwellinghouse subject to a maximum of £150,000
	Section 150(1)(a) or (b) – uses other than use as one or more separate dwellinghouses and any operations.	The same fee as would apply to a planning application for the same development.	
	Section 150(1)(c) Existing use	£202	£300
	Section 151(1) Proposed use	Half the fee applying to a planning application for the same development	
Advertisement	£202		£300
Prior Notification/Approval	Telecomms – £300 All others – £78		Telecomms – £500 All Others – £100
Alternative Schemes	Highest applicable fee for options and sum equal to half of the cumulative remaining options		No change
Section 42 application	£202		£300

Are the proposed increases in fees for the categories above appropriate?

CLUDS

- Yes
- No

Please explain the reasons for your answer

Advertisement

- Yes
- No

Please explain the reasons for your answer

Prior Approval

- Yes
- No

Please explain the reasons for your answer

Should the fee for Alternative Schemes remain as it is?

- Yes
- No

Please explain the reasons for your answer

Are there other fees which have not been considered?

DISCRETIONARY CHARGING

The Planning (Scotland) Act 2019 contains provisions which can enable extension of the scope of services planning authorities can charge for in carrying out their functions. We have set out below some examples of services for which authorities may wish to charge, including pre-application discussions, which some authorities already charge for. We do not intend to make it compulsory for authorities to charge for delivering these services but leave it up to their discretion.

Do you think we should set out the range of services which an authority is allowed to charge for?

- Yes
- No

Please provide reasons for your answer

Pre-application Discussions

Planning authorities are encouraged to enter into pre-application discussions with prospective applicants. Pre-application discussions can help to provide certainty to applicants with regards to the information required to be submitted alongside their application ensuring that it can be processed effectively and efficiently. We are aware that some authorities have started to charge for entering into pre-application discussions with applicants and we understand that more authorities are investigating the potential of introducing this. For instance Highland have been doing this for a number of years now and have set out clear guidance of what to expect when entering into their pre-application advice service and the fee required to be paid. We understand that this has been well received by users of the service.

The fees for each service are set out below for comparison.

Local Authority	Major	Local – Non-householder	Householder
Highland	5% of planning application fee but a minimum fee of £3000 and maximum fee of £6250	35% of application fee – various max fees ranging from £750 up to £43,750 (exploratory drilling for oil and gas)	35% of application fee – Max £2000
Fife	£1200	£500	£55
West Lothian	50% of application fee up to £800 with additional £200 if meeting or site visit requested.	50% of application fee up to £500 with additional £200 if meeting or site visit requested.	£50 with additional £50 for meeting or site visit.
Edinburgh	Pre-position discussion – £1200. Standard service – £5,880 Additional Services Further one hour meeting – £600 Detailed advice on information required to accompany application – £600	Local Medium development Standard Service – £1020 with additional Additional Services £600 for a further one hour meeting with case officer. £240 for meeting with officer on site. Detailed advice on information required to accompany application – £600	Local – Small Development Standard Service – £240 Additional Services £120 for one hour meeting with case officer.

How should the fee for pre-application discussions be set?

Should the fees for pre-application discussions be subtracted from the full fee payable on submission of an application?

- Yes
- No

Please provide reasons for your answer

Processing Agreements

Processing agreements can be a vital tool in setting out the expectations of all parties with regards to the processing timescales for determining an application. Processing agreements will rely on effective pre-application discussions and guidance about what information is required to support an application along with when that needs to be submitted.

Do you think that there should be an additional charge for entering into a processing agreement to reflect the additional resource required to draft and agree the timescales to be included?

- Yes
- No

Should we set the fee for that or an upper limit allowing authorities the flexibility to set their fee within clear parameters?

Non-material variations

Applications for planning permission (including planning permission in principle) can be varied after submission with the agreement of the planning authority.

Where a non-material variation is required should an authority be able to charge for each change which is made? Or per request?

- No charge
- Per Change
- Per Request

Should regulations set the fee for that or an upper limit allowing authorities the flexibility to set their fee within clear parameters?

Monitoring Conditions

Conditions play an important role in ensuring that developments can proceed where it may otherwise have been necessary to refuse planning permission. It is essential that the operation of the planning system should command public confidence. The use of conditions can improve the effectiveness of managing development and enhance that confidence. Whilst some conditions will require an applicant to notify the authority of the completion of a condition or to seek approval of a condition it may be the case that the terms of the condition requires monitoring throughout the construction phase or ongoing use of the development. Where this is the case it has been suggested that authorities should be able to levy a charge for undertaking this monitoring. The principle of this has already been established through The Town and Country Planning (Fees for Monitoring Surface Coal Mining Sites) (Scotland) Regulations 2017 which introduced fees in respect of the monitoring of large opencast coal sites. The monitoring fee was introduced following a recommendation from the coal taskforce, as a means to ensure a planning authority had a statutory opportunity to recover some of the costs associated with the additional monitoring requirements for these large sites. The fee was to ensure a planning authority had the proper resources in place for monitoring and any breaches of planning control were more likely to be identified and where relevant, whether any enforcement action required had actually been undertaken.

Should authorities be able to charge for carrying out the monitoring of conditions?

- Yes
- No

Should a fee for monitoring be limited to certain types of monitoring requirements?

- Yes
- No

What should this be limited to?

How should the fee be set?

Discharge of Conditions

The discharging of conditions is a crucial step needed to ensure developers can get on site and start works. It has been suggested that requests to discharge conditions may not receive adequate resource and priority within authorities to ensure these are turned around within reasonable timescales. In England there are fees associated with the discharge of conditions attached to planning permissions. This is based on £85 per request, rather than by condition, allowing developers to group conditions together to be discharged. This is refundable if the planning authority has not responded within 12 weeks.

Do you think there should be a fee payable for the discharge of conditions?

- Yes
- No

Please provide reasons for your answer

Planning Agreements

Planning agreements have a limited, but useful role to play in planning, they can however, involve lengthy negotiations and significantly add to timescales. Processing agreements or pre-application discussions can be used to establish upfront what will be expected from any agreement.

Do you think that Planning Authorities should be able charge for the drafting of planning agreements?

- Yes
- No

Please give reasons for your answer

If so how should this be calculated?

Masterplan Consent Areas

The Planning (Scotland) Act 2019 introduces new powers for local authorities to designate Masterplan Consent Areas (MCA). We believe there is significant potential for MCAs to be an effective tool for planning authorities in leading and enabling development. Planning authorities can use MCAs as part of a proactive, place-making approach to planning and consenting. MCAs can support the plan led system, contributing to the delivery of LDP strategies and particular local priorities, by providing upfront approval for development that has been subject to community consultation – supporting investment in planned developments.

To put a MCA scheme in place, the planning authority will analyse the site, consult, prepare a masterplan, and set out the type of development consented in a particular area, along with any necessary conditions such as design guidelines and other criteria. Development that is in line with the MCA scheme could be brought forward without the need for a planning application.

We recognise this front-loading will involve a shift in approach, with different resource implications for authorities. Planners will be more involved in setting out what they want to see developed rather than just responding to applications, where a developer may have carried out a lot of the background studies. Preparation costs will vary, depending on the size and complexity of the type of development and the area the scheme is being prepared for, and what supporting information and studies might be needed to inform the consent provided in the scheme.

In effect, the authority will grant up-front consent for planned development, so there is benefit to potential investors in terms of adding certainty and removing much of the risk. In order to allow planning authorities to recoup some of the cost of establishing MCA schemes, where they consider that would be appropriate, during the Planning Bill process we committed to bringing in provisions for discretionary charging.

Should an authority be able to charge for development within a MCA (building, or changes or use) in order to recoup the costs involved in setting one up?

- Yes
- No

Should we set the fee or an upper limit in the regulations?

Please provide reasons for your answer

Enhanced Project Managed Applications

Scottish Ministers are interested in improving the way that major developments are processed by authorities, from conception through to delivery. That means taking on a more corporate project management role. To ensure authorities are appropriately resourced to carry out this role we are seeking views on the introduction of a new mechanism and fee category for applications which will be subject to an Enhanced Project Managed Service. Our preferred approach is that an applicant and authority would come to an agreement on the time and resources required to determine the application and the management and co-ordination of the other consents and licences which an authority is responsible for delivering to enable development to commence. To ensure that this is an open and transparent process, authorities would be expected to publish a schedule outlining how the fee will be calculated and in each case subject to this procedure, to publish the fee which has been charged, along with how it was arrived at. To ensure further transparency the project plan should also be published to ensure that in particular communities are aware of what is being proposed and when they can get involved. We have already identified some tools which have previously been used such as the enterprise area planning protocol²¹ and processing agreements²² which are currently offered by all authorities. Applicants and Authorities would also need to work closely to ensure that the application and supporting information which is to be submitted is of a suitable quality to enable appropriate consideration.

Should the ability to offer and charge for an enhanced project managed service be introduced?

- Yes
- No

How should this process work?

Please provide reasons for your answer

What, if anything, should happen in the event of failure to meet timescales?

²¹ <https://www.gov.scot/policies/supporting-business/enterprise-areas/>

²² <https://www.gov.scot/publications/planning-processing-agreement-template/>

Self/Custom Build Registers

The Planning (Scotland) Act 2019 introduces a requirement for planning authorities to prepare, maintain and publish a list of people who have registered with the authority that they are interested in acquiring land in the area for self-build housing which the authority are to have regard to in preparing their local development plan.

The purpose of the list is to provide an evidence base of the level of demand for self-build housing, recording the names and address of individuals or groups seeking to self-build, together with further detail on the preferred location, type of development, etc.

In England, councils are able to attach charges to the registers, which should reflect the cost-recovery of managing and fulfilling them, as well as local connection tests. Research by the National Custom and Self Build Association (as at October 2018) found that 40,000 people had signed up to Right to Build registers, but with a significant variance in activity (each planning authority in England was provided with £30,000 annually in the form of new burdens money to support the work required under the legislation). 12% of planning authorities impose a charge, which in the highest-charging authority can add up to £600 over 4 years per person/group.

Do you think charging for being added or retained on the register of interested people should be included in the list of services which Planning Authorities should be allowed to charge for?

- Yes
- No

Should there be a restriction on the amount that can be charged?

Please provide reasons for your answer

Charging for Appeals

The Planning Act includes new provisions which allow Scottish Ministers to charge for carrying out their functions under the Planning Acts. One option is the potential for charging for appeals against planning application decisions.

In our Places, People and Planning consultation we sought views on introducing the charging of fees by Scottish Ministers (Planning and Environmental Appeals Division, known as DPEA) for planning appeals and by local authorities for local reviews of planning decisions.

Previous consultation responses showed that while it was accepted by some that charging for appeals may be necessary and that any fee paid should be used explicitly for the appeal process, there were some concerns that applying a fee would undermine the independence of the appeal or review. Some respondents argued that, in the case of an appeal being upheld, the fee should be reimbursed.

We believe it is important to ensure that the planning system is appropriately resourced. While the focus of most calls for additional resources financed through fee income is directed towards planning authorities, Scottish Ministers through DPEA also play a crucial role in determining applications through appeals. On the same basis, we consider that they too should be appropriately resourced through fee income.

Appellants enjoy the benefit of an appeal right where the planning merits are considered afresh on appeal by an independent decision maker. At present, the cost of running this appeals system (as a proportion of the DPEA workload) is borne by the taxpayer at large. This contrasts with planning

applications to local authorities and, in principle, we consider that potential beneficiaries of a successful appeal should bear a reasonable and proportionate share of such costs.

There are important considerations to take into account when considering the introduction of charges for appeals. Important considerations are that the level of the fee imposed does not impede access to justice by discouraging meritorious appeals nor discourage business investment in Scotland, whether inward investment or from businesses based in Scotland.

We believe that introducing charges for appeals can help to build trust in the planning system with communities and applicants/appellants.

The work of DPEA extends beyond planning appeals. For example, they decide planning enforcement appeals, listed building and conservation area consent appeals, determine and also report on applications called in by Ministers or applications made direct to Ministers such as large wind farm applications for energy consent. DPEA examine local development plans and will continue to do so under gatecheck and subsequent LDP examination processes. They decide appeals on high hedges, appeals from decisions of SEPA and report on road schemes. Many of these fall outside the powers to charge under the Planning Acts, but questions arise of what should be charged for and what proportion of DPEA business should be funded through fees.

As fees for DPEA would be an innovation compared to the present position, we anticipate phasing fee levels (subject to views of consultees), starting at a modest introduction rate and moving towards full recovery of appropriate costs by a series of increases.

In that context, we would like to invite views in principle on how any fee should be set. We consider that there are 3 main options for setting the fee:

- A percentage of original application fee – maintaining a link between original application and appeal and also ensuring that the appeal fee increases in line with any application fee increases.
- Standard fee which is set by either the type/category of application or the hierarchy.
- Flat Rate Fee for all types of appeal.

We recognise there may be some concern that two fees will be paid (one to the planning authority and one to DPEA/LRB) to secure a consent (if the appeal is successful). However, the purpose of fees in spreading the burden of DPEA costs suggests that, since DPEA expend resources regardless of the outcome, a contribution to those costs is appropriate, where the first fee is paid to another body. By comparison, charging fees for appeals has been common practice in the civil court system for many years.

In relation to applications for local review made to planning authorities' Local Review Bodies this would mean extending existing arrangements under local authority feeing arrangements so that applications for a local review should attract fees.

It would not make sense to omit appeals to Local Review Bodies from consideration of feeing arrangements. In addition, not including appeals to Local Review Bodies could lead to potential unfairnesses across different local authority areas where, under schemes of delegation, some types of appeal would go to DPEA (attracting a fee) while others would go to a Local Review Body (not attracting a fee).

If it is decided, in light of this consultation, to proceed with fees for appeals, further consultation will be undertaken on the detail of fee levels and other fee arrangements (for example on the impact on the size of initial fees if fees are to be refunded on success).

Decisions will be made at a later date as to when fees for appeals would be paid and, in light of the need for such detailed work, may be later than June 2020.

Do you think that, in principle, fees should be charged for appeals to DPEA?

- Yes
- No

Should we limit the circumstances in which a fee can be charged for lodging an appeal?

In what circumstances do you think a fee should be paid for lodging an appeal?

Do you think that the fee should be refunded in the event of a successful appeal?

- Yes
- No

If so, should this follow the same process as is currently set out for awarding costs?

What categories of appeals should be considered for charging?

Do you think that a fee scale should be provided in relation to appeals to Local Review Bodies and, if so, should the arrangements differ from appeals to DPEA?

Reducing And Waiving Fees

Another new provision introduced in the Planning Act is the ability for authorities to waive or reduce a planning fee. We believe that authorities should have discretion to use this power where they consider appropriate. We consider that regulations should not prescribe the types of applications where an authority could waive or reduce a planning fee. To take a blanket approach across Scotland could lead to unforeseen consequences and we believe that authorities are best placed to take these types of decisions.

We expect to set out in regulations the procedures authorities would need to follow to allow them to waive or reduce fees. For instance they could be required to produce a charter explaining the circumstances in which they will consider waiving or reducing fees. We would also expect that authorities would in each circumstance of applying a reduced or waived fee that they clearly and publicly explain their reasons for doing this in that particular circumstance.

Do you have any suggestions as to the circumstances in which they could use this power?

OTHER ISSUES

Retrospective Applications

Retrospective applications can often be more resource intensive and more controversial than other applications. There can be local frustration/tension where people are perceived to be abusing the system. This can particularly be the case where a development is granted retrospective permission. There is also a reputational/trust element to this whereby communities see applicants doing what they want without any penalty being imposed. However, not all retrospective applications are the result of what might be deemed “bad practice”. We consider that authorities should be able to exercise some discretion in whether the surcharge is applied or not, taking account of whether the authority believe that the applicant has made a genuine mistake in carrying out development without first seeking permission to do so.

Should the surcharge be set at 100%?

- Yes
- No

If not what level should it be set at?

Authorities will need to apply discretion when applying this surcharge. Should authorities need to clearly set out the reasons why the surcharge has been applied or not in each individual case?

- Yes
- No

Please provide reasons for your answer

Incentives

An amendment was lodged during the Planning Bill which sought to define that an applicant would be entitled to a refund if there had been an unreasonable delay in processing their application. The amendment defined an unreasonable delay as an application which has not been determined within 26 weeks or another agreed timescale. This copies the provision which is in place in England under the [Planning Guarantee](#). The planning guarantee is the UK Government's policy that no application should spend more than a year with decision-makers, including any appeal. In practice this means that planning applications should be decided in no more than 26 weeks, allowing a similar period for any appeal. The planning guarantee does not replace the statutory time limits for determining planning applications. Although, the amendment was not agreed by the Scottish Parliament, we believe it is appropriate to seek views on the principle of refunds.

Planning Authorities have previously expressed concern about the fairness of introducing refunds particularly where delays could lie outwith their control, for example, due to delays in responses from consultees or developers. It is also recognised that potentially having to repay fees will add additional administrative burdens and costs to planning authorities and could introduce the need for arbitration.

Do you consider the use of rebates, discounts or other incentives, a useful tool in delivering a more efficient service? If so what would you consider to be an effective discount, rebate or other incentive?

Given the success of ePlanning, the continuing increase in its use and the savings which are made to both an applicant and authority in submitting an application electronically, do you think it is appropriate to apply an increased fee for submitting a paper application due to the additional work involved?

- Yes
- No

Please provide reasons for your answer

Advertising Fee

Some planning authorities have argued that there should be a single fee to absorb all other costs and charges including recovering the costs related to publishing planning applications in local newspapers. This would avoid planning authorities having to pursue the applicant for further costs before being able to issue a decision.

It has been suggested that any change in planning fees should be used to ensure that everything required of a planning application is paid for up front. The introduction of a requirement for planning authorities to advertise development proposals where there are no premises on adjoining

land and then re-charge the developer for this activity has caused some difficulties across Scotland. A single fee to absorb all other costs and charges, including recovering the costs related to publishing planning applications in local newspapers would solve this cost recovery issue.

Until now planning authorities were unable to issue a decision on a planning application until the advertising fee had been paid. The Planning (Scotland) Act 2019 removes this requirement. The cost of advertising now needs to be included in the planning application fee.

A solution to this would be to add a small percentage increase to the planning fee to ensure the cost of advertising is recovered without the need for recharging applicants and pursuing payment which again leads to delays within the system and processing times of the application.

Do you consider there should be a single fee?

- Yes
- No

How do you think the cost of advertising should be recovered?

Environmental Impact Assessments (EIA)

The technical information contained within an EIA Report can be substantial. Specialist skills and expertise may also be required in order to properly understand and where necessary address some of the more technical areas, requiring staff to receive specialist training or seek input from outwith the planning service or local authority. This can ultimately result in additional costs for the planning authority. Some authorities have indicated they would wish to see the requirement for an EIA being a trigger for attracting an enhanced fee. Although we are aware that in certain circumstances the need for an EIA is not always known at the stage of submission. Consideration would need to be given as to whether a supplementary fee would be payable at the point it is determined whether an EIA is required.

The number of applications subject to EIA is, however, a small proportion of the total number of applications received a year. The figures for 2018-19 show that 26 local applications which were determined required an EIA.

Do you consider that submission of an EIA should warrant a supplementary fee in all cases?

- Yes
- No

Please give reasons for your answer

If so what might an appropriate charge be?

Hybrid Applications

Fees for applications for planning permission in principle are calculated at half the fee for a full planning permission. However, we have been aware of some circumstances where an applicant has submitted an application for planning permission in principle which provides additional detail that would normally be considered through an application for Approval of Matters specified in Conditions. This has been unofficially referred to as a hybrid application.

Do you think that applications for planning permission in principle should continue to be charged at half the standard fee?

- Yes
- No

Should there be a different fee for 'hybrid applications' as described here?

- Yes
- No

Please give reasons for your answer

Charging for SG services

All applications submitted through the Planning Portal in England which attract a planning fee of £60 or more to be paid incur a service charge of £20.83 (+ VAT).

The income from the service charge is retained by the Planning Portal to cover the costs of delivering the payment service, to invest in improving the planning application service and to put the business on a secure financial footing in order to continue to deliver services, content and interactive guidance.

Should the Scottish Government introduce a service charge for submitting an application through eDevelopment (ePlanning and eBuilding Standards)?

- Yes
- No

This income would allow us to invest in developing our services, including:

- The range of free-to-use content and interactive guidance to explain planning, from permitted development on common projects through to applying for planning permission for homeowners and others
- Free-to-use technical and legislative content for planning and building professionals
- A dedicated customer support team available 9am – 5pm to support customers
- The planning application service itself, including increasing the maximum file size of supporting documents, e-enabling further application types and improvements to local validation amongst many others.

Consolidated Impact Assessments

Title of Policy – Planning Performance and Fees

Lead Minister – Minister for Local Government, Housing and Planning

Lead Official – Chris Sinclair

Directorate – Local Government and Communities

Division – Planning and Architecture Division

Team – Development Delivery

Brief Summary – The consultation paper looks at reforming how the performance of the planning system is measured and the role of the National Planning Improvement Co-ordinator. The Consultation also seeks views on revising the Planning Fee regime, to better reflect the nature and scale of development now coming forward, with revisions and additions to the categories of developments and how the fees are calculated. The consultation in some circumstances increases the maximum planning fee to £150,000 and the per unit fee. The consultation paper also seeks views on the introduction of charges for discretionary services such as pre-application discussions, enhanced project managed applications, increased fees for retrospective applications and waiving or reducing planning fees.

Consultation

Internal

In light of the independent review of planning in 2016 and also the consultation *Places, People and Planning* on the future of the Scottish planning system carried out between January and April 2017, the Scottish Government has worked with key stakeholders through a series of working groups to consider a wide range of planning issues including resourcing and fees.

Scottish Government colleagues in other policy areas such as housing, energy and marine fish farming were also consulted about the proposals.

External

In 2017 we published the *Places, People and Planning* Consultation which included some initial thoughts about planning fees and performance which influenced our approach to the provisions within the Planning (Scotland) Act 2019.

In October 2019 a number of workshops were held with over 50 attendees, representing a wide range of sectors, to discuss the topics of planning performance and planning fees. This early engagement has assisted in the preparation of the consultation paper. Identifying current issues which should be consulted on and providing helpful insight into how planning fees are currently implemented.

This consultation now looks to take these views forward. The consultation will be held over 2 months from December to February in which stakeholders will be invited to make their views known on our proposals.

Options

Do nothing

The planning fee structure is over 25 years old and no longer reflects the nature and scale of developments which are now being brought forward. The review of planning recommended that planning fees should be substantially increased towards full cost recovery. In 2017 we increased the maximum planning fee to £125,000. Although some authorities saw a significant increase in their income this was not universal across the country with 2 authorities identifying no increased income.

Doing nothing would result in a continuing gap in resources between the income received from planning applications and the costs of processing and making decisions.

Proposed Approach

Our proposed approach sees the basic planning fee increased by 50% in many cases with the maximum fee increased further to £150,000. The consultation also proposes bringing into line the unit of calculation for area based developments to either m² or per 0.1 hectare.

Sectors and Groups Affected

The sectors most likely to be affected by the proposals are:

- Planning authorities that are required to resource their development management service.
 - Given the nature and scale of developments which are brought forward the impact of the fee increases will have different impacts for urban, rural and island authorities.
 - We will continue to work with Heads of Planning Scotland to assess the impact of the changes to the fee structure and levels.
- All those who submit planning applications.

Benefits

The fee increase proposed is intended to provide increased resources to planning authorities to help support ongoing performance improvement which should benefit applicants by providing improved customer service.

Costs

The proposed changes involve in most cases the increase in the fee payable for applying for planning permission. At this time due to the creation of new categories and method of calculation there is a variation in the increases across different types of development. The variations include reductions in some levels and substantial increases in percentage terms in others. Research has shown that on average planning fees only cover 63% of the cost of processing an application which shows that Local Authorities are subsidising the planning application process. The increases will take us some way towards fully recovering these costs however, because the structure of fees is changing it has not been possible to model the potential impact of these increases with regards to cost recovery. Although due to the gap between fee income and cost of processing the application it is considered that the increase will not lead to authorities profiting from application income. The consultation also proposes the introduction fees for additional services provided by the planning authority. These fees are also intended to be based on the principle of cost recovery and are not pitched at a level which would lead to authorities profiting from their collection and ultimately subsidising other authority services.

Equality and Childrens Rights Assessment – During the passage of the Planning Bill, draft assessments (EqIA and CRWIA) were published in advance of Stage 3 (June 2019). These assessments do not provide any direct evidence on matters pertaining to performance or fees. In developing our proposals, the public sector equality duty requires the Scottish Government to pay due regard to the need to:

- eliminate discrimination, victimisation, harassment or other unlawful conduct that is prohibited under the Equality Act 2010;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a relevant protected characteristic.

The aim of the Scottish Government is to use this consultation process as a means to explore fully any potential equality impacts. Comments received will be used to determine if any further work in this area is needed, including full assessments.

Environmental Assessment – The Planning Performance and Fee Regimes are not intended to be used to promote or discourage certain types of development. Planning Fees should only seek to recover the cost of the service being provided whether that be pre-application discussions or the processing of an application. Therefore we do not envisage the proposed changes having any direct environmental impacts. With regards to indirect impacts it is not clear what these impacts could be at this time. However, changes to planning fees does not remove the need for applying for permission and any proposed developments will still be subject to the planning process.

Scottish Firms Impact Test

As part of the consultation process on fees, the independent review of planning which reported in 2016 and *Places, People and Planning* a consultation on the future of the Scottish planning system carried out between January and April 2017, we have consulted with a range of businesses to understand the direct impacts of this change to legislation on their business.

Competition Assessment

The proposals are not expected to impact significantly more on some firms than others nor restrict new entrants to the market. The need to produce detailed plans is not impacted by these changes. We consider that the freedom of firms to choose the price, quality range or location of their products will be unaffected.

Consumer Assessment

The proposals are not intended to impact one set of consumers over another. Although, there may be circumstances whereby an authority in one area charges for a service which may be free in another, we would expect that both services should meet the needs and expectations of the customer. It will be up to the authorities in question to decide whether they implement some particular charges to support the delivery of their planning service.

We consider that the proposals will support the delivery of improved services to applicants.

Digital Impact Test

The consultation seeks views on the introduction of charges for applications submitted both digitally and in the more traditional paper method. The charge for the traditional method of submission is intended to reflect the increased cost to authorities in resources of having to upload paper copies into the online planning portal to make available to the public. Introducing the fee for submitting an application through ePlanning is to help fund ongoing maintenance and future development of the ePlanning service.

The practical implementation of any fee will be carefully considered to avoid any adverse impacts.

Legal Aid Impact Test

As far as we are aware these proposals have no impact in relation to Legal Aid, as the policy does not introduce any new procedures or right of appeal to a court or tribunal.

Enforcement, Sanctions and Monitoring

An application for planning permission is not valid unless the appropriate fee has been paid. Where the fee is incorrect or missing the planning authority can turn the application away.

Where a developer considers they have paid the correct fee but this is disputed by the planning authority then they can seek either a local review or appeal against non-determination.

As the consultation notes, fee income and planning authority performance are inextricably linked. With an increase in resources through fee income Ministers expect to see an increase in performance and service delivery. As part of this planning authorities will be monitored and assessed against the Annual Reports which they are now to prepare on a statutory basis. The content of these reports is part of this consultation.

Implementation and Delivery Plan

It is anticipated that the amendments to fees will be laid before the Scottish Parliament in April 2020 and will come into force in June 2020

Summary and Recommendation

It is recommended that these regulations are implemented to help ensure that the planning fees regime becomes more proportionate, fit for purpose and accurately reflects the developments coming forward in modern Scotland. We expect all Planning authorities will see an increase in resources regardless of the different profile of developments which are brought forward in their areas. There will be an impact on developers' costs with such an increase but there is an expectation that any increase in resources will see an increase in performance level from authorities and the service they provide to people and businesses.

Sign off for Impact Assessments

I have read the consolidated impact assessment and I am satisfied that, given the available evidence, it represents, a reasonable view of the likely costs, benefits and impacts of the of the leading options I am satisfied that the impacts have been assessed with the support of businesses and other stakeholders in Scotland.

Signed

Date

Do you have any comments on the BRIA?

Do you agree with our conclusion that a full EQIA is not required?

Please provide reasons for your answer

Do you have any comments on the EQIA?

Please provide reasons for your answer

Do you agree with our conclusion that a full SEA is not required?

Please provide reasons for your answer

Do you agree with our conclusion that a full CRWIA is not required?

Please provide reasons for your answer

Do you agree with our conclusion that a full Fairer Scotland Duty assessment is not required?

Please provide reasons for your answer

Islands Proofing

During the Places, people and planning consultation we identified the following issues which would affect Island Authorities. The consultation has been developed with these points in mind.

Proposal 17 Investing in a better service

It was noted that the recent increase to the maximum fee was not impacting on the resourcing of island authorities given the small number of major developments encountered. An example of where in-house expertise has been offered to applicants and charged was raised.

Recommendation: No island-specific recommendations were made.

Proposal 18 Performance

There were few issues arising from these proposals, although it was noted that performance reporting can have a significant impact on resourcing where there are small teams involved. The authorities asked that the performance reporting system is as simple as possible and that any further complexity should be avoided.

Recommendation: No island-specific recommendations were made.

Do you have any comments which relate to the impact of our proposals on the Islands?



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