

# Report

Report to:	<b>Planning Committee</b>
Date of Meeting:	<b>11 February 2020</b>
Report by:	<b>Executive Director (Community and Enterprise Resources)</b>

Subject	<b>Scottish Government Consultation on Planning Performance and Fees</b>
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## 1. Purpose of Report

1.1 The purpose of the report is to:-

- Seek approval of the Council's response to the Scottish Government consultation on planning performance and fees.

## 2. Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) That the response contained in the appendix to this report is submitted as the Council's response to the Scottish Minister's consultation on planning performance and fees.
- (2) That the Head of Planning and Economic Development be authorised to make drafting and technical changes to the response prior to its submission.

## 3 Background

3.1 The Planning (Scotland) Act 2019 received Royal Assent in July 2019. During consultation on the likely provisions of the Act, the Scottish Government highlighted that it sees the planning system as being central to support the objective of creating a more successful country with opportunities for all to flourish through increased wellbeing and sustainable and inclusive economic growth. The planning system has a key role in achieving this goal and the new legislation puts in place a range of new statutory duties and measures to make it more efficient and effective and ensure it is capable of providing a high quality service. Among other things, the Act places annual performance reporting by planning authorities on a statutory basis and introduces the role of a National Planning Improvement Co-ordinator. The Government has also recognised that resourcing is an important element in improving performance and service quality and the Act introduces powers to widen the scope of services for which fees can be charged. At the same time, a commitment was given to reviewing the existing fee structure for planning applications.

- 3.2 Resourcing of the planning system has been a key issue since the economic downturn. This led to the Government increasing the maximum fee for a planning application to £125,000 in 2017. However, the paper states that, at present, planning application fees account for, on average, only 63% of the cost of determining an application. In response to this issue, the Government launched a consultation paper on Planning Performance and Fees on 18 December 2019. The aim is to close the gap between fee income and costs which, in turn, should free up resources for the remainder of the planning service. Critically, the paper states that it is not the role of planning fees to cover the cost of the new duties introduced by the Act unless they relate specifically to the determination of an application. This could involve the recruitment of additional staff to address new themes emerging from the Act and the Government's Programme for Scotland 2019/20, training and investment in digital systems.
- 3.3 Members will be aware that the planning service is responsible for other statutory duties that do not attract fees. These include:-
- the preparation of a Local Development Plan
  - the planning enforcement function
  - input into strategic development planning at a City Region level

It is also involved in providing a wide range of advice and guidance to members of the public, elected members, other parts of the Council and outside organisations and is at the forefront of helping deliver Council projects and priorities. In addition, the Act introduces a particular requirement for spatial and community planning to work more closely; moreover, it is clear that the planning system will be at the forefront of delivering on climate change issues. It is a concern that the Scottish Government does not support the full cost recovery for the planning service as a whole rather than just the development management function which deals with applications.

- 3.4 In his foreword to the consultation paper Kevin Stewart the Minister for Local Government and Housing states that it is fundamental that the planning system is appropriately resourced to deliver on the Government's ambitions. As a result, increases in planning fees should be matched by continuing improvements to performance. This is to be achieved through an effective reporting regime that ensures priorities of all users of the service are delivered.

## **4 Planning Performance**

- 4.1 Since 2012, planning authorities have been responsible for producing an annual Planning Performance Framework (PPF) which is used to show commitment to continuous improvement in the delivery of the planning service. The report is submitted to Scottish Ministers and markings are awarded in 15 key markers. The Council's overall markings have seen a year on year improvement from 7 Red, 4 Amber and 4 Green in 2012/13 to 0 Red, 3 Amber and 10 Green in 2017/18. The consultation paper states that the PPF is a starting point for reviewing the way in which performance is measured.
- 4.2 Firstly, the consultation proposes that a statement about the performance of the system should be developed to sit alongside the purpose of planning defined in the Act i.e. 'to manage the development and use of land in the long term public interest.' The following wording in relation to performance is suggested:

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

Overall, it is considered that the incorporation of such a statement is a useful and positive step forward to focus attention on achieving performance improvements. The paper goes on to list a series of areas that the annual performance report should cover including statistics, customer service, engagement, case studies, outcomes, improvement and resources. The continued move away from a purely statistical approach to performance outcome measurements is welcomed and helps demonstrate the added value the planning system can achieve; for example in terms of high quality places and design, support the delivery of sustainable economic growth, addressing climate change issues and facilitate greater community participation in the system. Nevertheless, the time taken to make decisions on applications will remain the focus of the service as it is recognised delays have an impact on the development industry and create uncertainty within communities. It is considered that this focus on timescales is appropriate, provided it is viewed in the context of wider qualitative measures.

- 4.3 The consultation proposes targeted customer engagement in the preparation of the annual report. The planning service recently retained its Customer Service Excellence award for a 6<sup>th</sup> year and its commitment to customer focus and insight was highlighted as a particularly strong point in the submission. Further extending this area is considered appropriate and would build on the engagement work already carried out by the service.
- 4.4 The Act also introduces a power for Scottish Ministers to appoint a National Planning Improvement Co-ordinator to monitor and provide advice to planning authorities on the performance of their planning functions. The definition of this role is to be developed in collaboration with stakeholders so it is unclear at the moment what range of powers will be available if performance levels are not satisfactory. The consultation seeks views on the role and responsibility of this post and, in that respect, it is important to ensure that it includes opportunities to benchmark and share best practice with other planning authorities. It is also hoped that different ways of working between authorities be explored to enable expertise to be shared, where appropriate.

## **5 Planning Fees**

- 5.1 As noted above, the Government has not committed to full cost recovery of the Planning Service as a whole nor particularly in relation to the processing of applications, although they expect to move closer to that outcome as a result of the proposed changes. The paper states that the overall resourcing of the planning service is the responsibility of the Council and it is expected that it continues to be financed through its budget as well as fee income. It goes on to state that any increase in fees must be linked to sustained improvement in performance although what this may mean in practice (for example potential sanctions) is not set out. Nonetheless, the consultation paper is explicit that the additional income must be re-invested directly into the planning service. Given that fee income is directly related to the performance of the economy and, in turn, the development sector, this can vary year on year. As such, how this re-investment will be implemented in practice will require to be carefully considered to ensure that future funding pressures are not created.
- 5.2 The proposals set out in the paper include both changes to the current fee structure and the introduction of a range of additional and discretionary charges.

### Review of existing fee categories

In terms of fees for planning applications, significant increases are proposed in relation to both the amount per house or floor space as appropriate and the maximum fee that can be charged. For example:

- the fee for a single house would increase from £401 to £600 (50% increase)
- for 100 houses from £30,050 to £36,300 (20% increase) and
- the maximum fee from £124,850 to £150,000 (20% increase)
- The fees for householder applications would rise from £202 to £300 (49% increase).

Based on applications received in 2019, the proposed increase in fees for householder developments would result in an upturn in income from £149,000 to around £197,000. Similar figures for residential developments would see an increase from approximately £772,000 to £1,000,000. As a result, the uplift for these two categories alone amounts to around £276,000. Overall, the range of increased charges are considered appropriate and proportionate and would go some way to addressing the current under recovery of costs and the work involved in what is an increasingly complex assessment of even more minor applications.

### New charges

The proposals also seek views on the introduction of fees for applications for development in conservation areas and for listed building consent. In broad terms, these types of application involve detailed assessment so that their impact on the built environment is appropriately managed. The payment of a fee in these instances is, therefore, considered reasonable.

### Discretionary charges

Proposals for discretionary charges in the consultation paper cover a range of areas and include:-

- Pre-application discussions
- Processing agreements – which set out timescales agreed between the Council and applicant for determining an application
- Non-material variations – changes to approved plans that don't require a further application
- The discharge of planning conditions
- Planning appeals and local reviews

All of the above activities can involve significant input by officers and draw resources away from the processing of applications which have been the subject of a fee. In general, the introductions of fees for these areas of work is considered appropriate and reflects the wide array of tasks carried out by the service. It is considered that the scope for authorities to use discretion in applying and setting the fees to these activities is not correct and that it would be more appropriate for either these types of charges to become mandatory or at least for the levels of fees to be set at a national level. It has been estimated that charging for this service alone could generate around £50,000 a year for the Council. Feedback from developers has shown that they are willing to pay for this service provided relevant issues are raised at this stage and it helps the decision-making process post-submission.

### Retrospective applications

These types of applications are often more controversial than others and there is frequently community concern that developers are seen to be doing what they want without a penalty being imposed. At the same time, unauthorised development may

be as a result of ignorance of the need for permission and that is often the case with homeowners. The 2019 Act establishes that the surcharge may be no more than the normal fee for the development. The consultation suggests that discretion be used if the planning authority believes the developer has made a mistake. However, it is considered that it would be very difficult to make a judgement on whether this is the case and, therefore, the use of discretion is not considered appropriate.

### Refunds

Views are sought on whether an applicant would be entitled to a refund where there has been an unreasonable delay in determining an application. It is considered this would not be fair as delays could be due to delays in responses from consultees or the failure of applicants to submit additional information or make changes to proposals. It would also be difficult to arbitrate over the responsibility for delays.

- 5.3 In summary, the proposed fee increases are welcome and will have a significant impact on closing the gap between the fees received and the cost of determining an application as described in 3.2 above. However, the role of the planning service involves more than the processing of planning applications in terms of existing statutory duties and this will be extended as a result of the new legislation. In addition, expectations in terms of non-statutory tasks such as customer engagement and other matters that will form part of the annual reporting framework as well as planning's role in community planning and climate change are high and will require additional resources. It is, therefore, disappointing that full cost recovery for the entire remit of the service is not addressed in the consultation. It is considered that this issue be raised in the response to the Government.
- 5.4 Notwithstanding this, the consultation paper makes it clear that any fee increases must be accompanied by performance improvements. This applies not just in relation to the time taken to make decisions on applications but also the areas likely to be covered in the revised performance reporting framework, e.g. customer service and engagement with stakeholders, as mentioned above. However, it is recognised that any investment of the additional income in the planning service will continue to be considered alongside budgeting for other Council services and priorities. It would not be appropriate to 'ringfence' this money within the Planning Service but rather the needs of the Service will be considered at the time.

## **6. Employee Implications**

- 6.1 Investment in the Planning Service will likely be predominantly in terms of the retention and/or recruitment of staff and the procurement of specialist advice, where appropriate.

## **7. Financial Implications**

- 7.1 The increase in fees for planning applications for householder developments and residential developments alone would result in additional income of approximately £276,000 if the proposals are applied to applications received in 2019. In addition, it is estimated that charging for pre-application discussions would generate an income of around £50,000 a year. These are, of course estimates based on last year and the sum could rise or fall, depending on performance of the economy and applications submitted.

## **8. Climate Change, Sustainability and Environmental Implications**

- 8.1 The planning system will have an increasingly key role in addressing the climate change agenda. Investing additional income in resources within the planning service will contribute to meeting these aims.

## **9. Other Implications**

- 9.1 The Minsters have requested all interested parties to submit their views on the White Paper. There would be reputational risk if the Council did not respond.

## **10. Equality Impact Assessment and Consultation Arrangements**

- 10.1 The Scottish Minsters are undertaking the consultation on the Scottish planning system. Any resulting changes would, thereafter, be the subject of assessment and consultation by the Scottish Ministers.

**Michael McGlynn**

**Executive Director (Community and Enterprise Resources)**

**30 January 2020**

### **Link(s) to Council Objectives/Values/Ambitions**

- Demonstrating governance and accountability
- The efficient and effective use of resources and managing and improving performance

### **Previous References**

- None

### **List of Background Papers**

- Planning (Scotland) Act 2019
- Scottish Government consultation on Planning Performance and Fees.

### **Contact for Further Information**

If you would like to inspect the background papers or want further information, please contact:-

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# **Scottish Government Consultation on Planning Performance and Fees**

## **Appendix**

### **Planning Performance Reporting**

#### **Purpose of Planning**

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

- Yes

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

- Yes

*Do you have any comments about the proposed vision?*

Overall it is considered that the incorporation of such a statement is a useful and positive step forward to focus attention on achieving performance improvements across the planning system. It is suggested greater clarity on the themes identified in the consultation paper be provided in National Planning Framework 4. In addition, this is an opportunity to ensure that the role of all parties who participate in the planning system is defined in order to make it more effective and participatory. This would include the development industry, housebuilders, community bodies, stakeholders and infrastructure providers.

#### **Preparation and Content of reports**

*Is the proposed approach to the content correct?*

- Yes

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

The paper lists a series of areas that the annual performance report should cover including statistics, customer service, engagement, case studies, outcomes, improvement and resources. The continued move away from a purely statistical approach to performance outcome measurements is welcomed and helps demonstrate the added value the planning system can achieve; for example in terms of high quality places and design, support the delivery of sustainable economic growth, addressing climate change issues and facilitate greater community participation in the system. Nevertheless, the time taken to make decisions on applications should remain the focus of the service as it is recognised delays have an impact on the development industry and creates uncertainty within communities. It is considered that this focus on timescales is appropriate, provided it is viewed in the context of wider qualitative measures.

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

The consultation proposes targeted customer engagement in the preparation of the annual report. The planning service has held a Customer Service Excellence award for 6 years and its commitment to customer focus and insight is regularly highlighted as a particularly strong point in the feedback from assessors. Comments from stakeholders has been used to identify and implement service improvements. Further extending this area is considered appropriate and would build on the engagement work already carried out by the service. The service holds annual stakeholder forums together with colleagues in Building Standards which are used to provide updates on legislation and processes as well gather comments on how it is performing and suggestions for improvement.

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

Discussion should take place on the data required to evidence key themes such as the contribution planning makes to tackling climate change and working together to deliver community planning objectives (in particular in relation to disadvantage and inequality) would be useful.

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

In general the key indicators should be linked to the six main outcomes for planning to be set out in NPF4. The goals that are set out in the RTPI Wales Value of Planning document are a good starting point for defining the key objectives.

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

The performance of other participants in the planning system should be measured and reported on. This will recognise the need for partnership working across all areas of planning and set out how they will contribute to the vision statement and key objectives of the system. The delivery of sustainable economic growth is a matter for parties with a role in the system and cannot be confined to the public sector.

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

- Placemaking
  - Remediation of vacant and derelict land
  - Delivery of mix of range of housing including size and affordability and accessibility
  - Access to services including health and social care and education
  - Surveys of users of the place to identify satisfaction
  - Involving stakeholders and communities in decision making about their place
- Sustainable Development
  - Remediation of vacant and derelict land
  - Proportion of development served by a heat network
  - Reduction on carbon dioxide emissions from buildings
  - Proportion of new buildings with low and zero carbon generation technologies
  - Improvements in air quality
- Quality of decisions
  - Surveys of communities to measure impact on local area

### **National Planning Improvement Co-ordinator**

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

The definition of this role should be developed in collaboration with stakeholders to agree the range of powers that will be available if performance levels are not satisfactory. The consultation seeks views on the role and responsibility of this post and in that respect it is important to ensure that it includes opportunities to benchmark and share best practice with other planning authorities. It is also hoped that different ways of working between authorities be explored to enable expertise to be shared where appropriate.

The link between fee increase and performance improvements is noted and understood. The starting point for measuring the relationship between fees and performance should be tailored to reflect the situation each planning authority finds itself at the start of this process and appropriate and proportionate targets are set.



## **PLANNING FEES**

### **Category 1 – Residential Development**

*Do you agree with the proposed planning fees?*

- Yes. The general approach of using a sliding scale so that the fee per unit decreases as the number of units within a scheme rises is reasonable. The fee suggested of £250 per unit on proposals with over 50 units seems low and it is suggested this be increased to £300. The increase in the maximum fee payable is appropriate. In terms of applications for Permission in Principle it is noted that the amount per 0.1ha is lower than that for other categories of development. It is considered the same amount should apply across all categories to provide consistency.

*Is the proposed method for calculating the planning fee correct?*

- Yes. *The setting of a round figure per unit will help calculate fees in general. This comment also applies to the other categories of development.*

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

*Do you agree with the proposed planning fees?*

- No. The differentiation between enlarging an existing dwellinghouse and other ancillary development within the curtilage of a house fails to recognise that some of the categories in the latter group can often prove to be sensitive and generate representations. This includes proposals for fences, garages and sheds as well as detached decking which isn't listed. It may be appropriate to charge a lower fee by reference to classes in the General Permitted Development Order to provide clarity. This could include classes 1C, 2A, 2B and 3C.

*Is the proposed method for calculating the planning fee correct?*

- Yes

### **Category 6 – Retail and Leisure including extensions**

*Do you agree with the proposed planning fees?*

- Yes. The overall increase in fee levels is appropriate. The comment made in category 1 above regarding PPP applications is relevant however.

*Is the proposed method for calculating the planning fee correct?*

- No. The introduction of four fee levels across different increases in floor levels is overly complicated and consideration should be given to simplifying the means of calculating the fee in this category by reducing the number of levels.

### **Category 7 – Business and Commercial including extensions**

*Do you agree with the proposed planning fees?*

- Yes. The overall increase in fee levels is appropriate and recognises the contribution this category of development makes to economic growth. The comment made in category 1 above regarding PPP applications is relevant however

*Is the proposed method for calculating the planning fee correct?*

- Yes. The number of fee levels is appropriate.

## **Category 8, 9 and 10 – Agricultural Buildings, Glasshouses and Polytunnels**

*Do you agree with the proposed planning fees?*

- No. The absence of a fee for agricultural buildings up to 465 sqm is an anomaly and should be removed. A lower amount of £500 for such proposals would be appropriate.

*Is the proposed method for calculating the planning fee correct?*

- Yes

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

- No. It is considered the fee levels that apply to agricultural buildings are appropriate including the removal of the anomaly referred to above. The maximum fee should also be the same.

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

- No. It is considered the fee levels that apply to agricultural buildings are appropriate including the removal of the anomaly referred to above. The maximum fee should also be the same.

## **Category 11 – Windfarms – access tracks and calculation**

*Do you agree with the proposed planning fees?*

- In general yes. However it is not considered that a fee for a PPP application is necessary in this category of development.

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

- Yes. Access tracks and other infrastructure are a key element in determining these types of applications.

## **Category 12 – Hydro Schemes**

*Do you agree with the proposed planning fees?*

- Yes

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

- No. The maximum fee cap of £25,000 is considered low given the potential issues that could arise when determining applications. Extensive consultation is also normally required when assessing applications.

*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.*

- No. The consideration of an application involves assessing pipework proposals. Increasing the maximum fee would address this issue.

## **Category 13 – Other energy generation projects**

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

- Yes.

*Should a category be created for Solar Farms?*

- Yes. The fee level should be based on the site area.

*Should a category be created for energy storage developments?*

- No

*Should a category be created for Heat Networks?*

- Yes. Heat networks can be considered to be urban infrastructure and will in most cases be dealt with in the context of the applications of the development to which they relate if they form part of a larger application.

#### **Category 14 – Exploratory Drilling for Oil and Natural Gas**

*Do you agree with the proposed planning fees?*

- Yes

*Is the proposed method for calculating the planning fee correct?*

- Yes

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

*Do you agree with the proposed planning fees?*

- Yes

*Is the proposed method for calculating the planning fee correct?*

- Yes

#### **Category 17 – Plant and Machinery**

*Do you agree with the proposed planning fees?*

- Yes

*Is the proposed method for calculating the planning fee correct?*

- Yes

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

*Do you agree with the proposed planning fees?*

- Yes

*Is the proposed method for calculating the planning fee correct?*

- Yes

#### **Category 19 – Winning and Working of Minerals**

*Do you agree with the proposed planning fees?*

- Yes

*Is the proposed method for calculating the planning fee correct?*

- Yes

#### **Category 20 – Peat**

*Do you agree with the proposed planning fees?*

- No. The maximum fee that is proposed is low especially given the need to assess carbon capture issues as part of the climate emergency agenda.

*Is the proposed method for calculating the planning fee correct?*

- Yes

*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?*

The winning of peat deposits is less intensive than other forms of extraction and therefore a separate fee category is appropriate.

### **Category 21 – other operations**

*Do you agree with the proposed planning fees?*

- No. Development proposals in this category can often involve significant scales development. It is suggested the amount per 0.1ha is increased to £600 and the maximum fee payable increased to £25,000

*Is the proposed method for calculating the planning fee correct?*

- Yes

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

*Do you agree with the proposed planning fees?*

- Yes

*Is the proposed method for calculating the planning fee correct?*

- Yes

### **Category 24 – Conversion of Flats and Houses**

*Do you agree with the proposed planning fees?*

- Yes. See comments under category 1 above

*Is the proposed method for calculating the planning fee correct?*

- Yes. See comments under category 1 above

### **Category 25 – Change of Use of a building**

*Do you agree with the proposed planning fees?*

- No. Some changes of use of buildings can be sensitive within a local community and generate complex issues that require to be assessed for example those involving hot food take aways, amusement arcades and betting shops. Such proposals may also require consultation and detailed assessment of ancillary development such as flues. The scale of some proposals can also be significant based on for example the floor space the existing building and traffic generated by a proposal. Consideration should be given to charging a higher level of fee for proposed uses within a defined use class. In addition there may be justification for introducing a fee level per floorspace where the area of a building exceeds a defined threshold.

*Is the proposed method for calculating the planning fee correct?*

- No see above

### **Category 26 – Change of Use of Land**

*Do you agree with the proposed planning fees?*

- Yes

*Is the proposed method for calculating the planning fee correct?*

- Yes

## **OTHER FEES**

### **AMSC Applications**

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

While the consultation states that the total fee for the PPP and subsequent AMSC applications should not exceed 150% of the planning fee paid this in effect means that it is anticipated that AMSC applications require lower levels of assessment than the PPP. However conditions attached to PPP can involve a wide of range of issues to be addressed at the later stage in the process and significant levels of detail need to be consulted on and assessed. Consideration should therefore be given to reviewing this general position.

*How should the fee for AMSC applications be calculated?*

The fee levels should be calculated on the basis of the development category to which the application relates.

*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?*

It is unlikely the number of developers will be known at the start of the AMSC process. Any maximum fee should therefore apply to individual developers.

### **Cross boundary Applications – Allocation of the fee**

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

- The allocation of the fee should be based on the site area of the proposed built development within each authority.

### **Conservation Areas**

*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?*

- Disagree. The work involved in assessing an application for works in a conservation area can be considerable and require lengthy negotiations. Some of these applications are also required to be advertised if they affect the setting of the conservation area but at the moment the cost of the advert cannot be recovered.

### **Listed Building Consent**

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

- Yes.

*How should that fee be set?*

There should not be a differentiation between whether an application for LBC is accompanied by a detailed application or whether it involves proposals that would otherwise be permitted development or not development at all. A flat fee of £500 is suggested.

### **Hazardous Substances Consent**

*Should the fees for Hazardous Substances Consent be increased?*

- Yes

*What levels do you think are appropriate?*

The fee levels should be increased to £1,000, £1500, £2,000 and £5,000.

## **Other types of Applications**

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

CLUDS

- Yes

*Advertisement*

- Yes

*Prior Approval*

- Yes

*Should the fee for Alternative Schemes remain as it is?*

- Yes

*Are there other fees which have not been considered?*

The nominal fee required for the submission of a section 42 application is often disproportionate the level of scrutiny required to determine the application. Consideration should be given setting a fee level that is relevant to the scale and type of proposal.

## **DISCRETIONARY CHARGING**

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

- Yes. The range of services should be set out in secondary legislation or guidance to provide certainty on what authorities can charge for. However it is important to ensure that this list is kept under review to allow other areas to be subject of charging..

## **Pre-application Discussions**

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

It is considered that a common approach be applied across Scotland in terms of what the pre-application discussion should involve, what the customer can expect to receive in return and a cap on the maximum fee that can be charged. However the fee levels should be set locally to allow discretion to reflect local circumstances.

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

- No. The pre-application service can involve significant officer time and discussion with other parties. It is not guaranteed that an applicant will take on board the advice provided which could result in delays in processing the application.

## **Processing Agreements**

*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?*

- No. The amount of time required to prepare a processing agreement is limited and the payment of a fee would be unreasonable.

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

N/A.

## **Non-material variations**

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

- Per Request

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

If Scottish Ministers decide to introduce fees for this then it is considered authorities should be given the flexibility to set levels to reflect local circumstances.

## **Monitoring Conditions**

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

- Yes. However it should be noted that South Lanarkshire has a process in place whereby Planning Monitoring Officers are employed at the expense of the developer to monitor development on site through a section 75 agreement. This has been confined to windfarms and mineral extraction to date.

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

- Yes

*What should this be limited to?*

It could be limited to proposals that fall outwith the Council's scheme of delegation. For example in South Lanarkshire 10 or more houses.

*How should the fee be set?*

The fee should be charged per condition.

## **Discharge of Conditions**

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

- Yes. Often conditions are imposed because an applicant has failed to provide additional information that could have avoided the use of a condition. Dealing with the discharge of conditions can also result in site visits and consultation. It is considered appropriate to charge by condition rather than per request. A refund should not be payable as failure to respond may be due to a number of factors including full details not being provided by the applicant at the time the request to discharge the condition is made.

## **Planning Agreements**

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

- No. The increase in fees for applications is expected to cover the time involved in preparing agreements. In addition the Councils Legal services recoup their own costs from applicants before the agreement is signed.

## **Masterplan Consent Areas**

*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.

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

The work involved in establishing a MCA scheme could be an intensive as assessing a PPP application. The fees to be charged should therefore reflect the proposed fees for PPP applications as per the residential development category.

### **Enhanced Project Managed Applications**

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

- Yes

*How should this process work?*

It is difficult to comment on fee level that could be charged in the absence of details on what this process would involve.

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

The reasons for failing to meet the timescales would need to be understood and responsibility for this agreed.

### **Self/Custom Build Registers**

*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?*

- No. The cost of setting up and maintaining the register appears to be minimal and therefore charging a fee appears unreasonable.

### **Charging for Appeals**

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

- Yes. Appeals generate additional administrative work as well further input from the case officer and possibly internal consultees.

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

No

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

All circumstances

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

- No. However a link could be made to circumstances where a Reporter judges that the planning authority has acted unreasonably in its decision making.

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

Yes

*What categories of appeals should be considered for charging?*

All types of appeal will generate additional work and resources. To make sure the fee is proportionate the level could be related to a percentage of the original planning application fee.



*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?*

Yes the same principles apply as above.

### **Reducing And Waiving Fees**

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

The Council is not convinced of the argument that reducing or waiving fees is appropriate.

### **OTHER ISSUES**

#### **Retrospective Applications**

*Should the surcharge be set at 100%?*

- Yes. The Act does not permit the surcharge to be any greater than 100% of the fee that would be required for the unauthorised development. Setting the fee at this level would be a useful deterrent.

*If not what level should it be set at?*

N/A

*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?*

- No. These types of applications are often more controversial than others and there is frequently community concern that developers are seen to be doing what they want without a penalty being imposed. At the same time unauthorised development may be as a result of ignorance of the need for permission and that is often the case with homeowners. The 2019 Act establishes that the surcharge may be no more than the normal fee for the development. The consultation suggests that discretion be used if the planning authority believes the developer has made a mistake. However it is considered that it would be very difficult to make a judgement on whether this is the case and therefore the use of discretion is not considered appropriate.

#### **Incentives**

*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?*

Views are sought on whether an applicant would be entitled to a refund where there has been an unreasonable delay in determining an application. It is considered this would not be fair as delays could be due to delays in responses from consultees or the failure of applicants to submit additional information or make changes to proposals. It would also be difficult to arbitrate over the responsibility for delays.

*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. The proportion of applications made online has plateaued and it is considered further measures are needed to increase this. In the longer term consideration should be given to removing the ability to make paper applications as has happened in many other areas of government. It is recognised that some applicants will not have the confidence or expertise

to use ePlanning. A financial penalty may also affect their ability to make an application or employ an agent. As a result provision should be made to provide technical assistance.

### **Advertising Fee**

*Do you consider there should be a single fee?*

- Ideally a single fee would resolve the issues that arise in terms of recovering the advertising costs. A downside is that spreading the cost across all applications would penalise the large number of applicants whose proposals do not need to be advertised. However administratively this is the best solution.

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

As above

### **Environmental Impact Assessments ( EIA)**

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

- No in general. However a supplementary fee is considered appropriate in cases where a section 42 application requires an EIA. The charge should be equal to the category of fee that the proposal would have generated if a detailed application had been submitted.

### **Hybrid Applications**

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

- Yes

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

- No

### **Charging for SG services**

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

- No. This links to the question about incentives to increase the number of online applications. Introducing a service charge would dissuade applicants making use of eDevelopment to submit applications.

### **General comments**

In summary, the proposed fee increases are welcome and will have a significant impact on closing the gap between the fees received and the cost of determining an application. However the role of the planning service involves more than the processing of planning applications in terms of existing statutory duties and this will be extended as a result of the new legislation. In addition, expectations in terms of non-statutory tasks such as customer engagement and other matters that will form part of the annual reporting framework as well as planning's role in community planning and climate change are high and will require additional resources. It is therefore disappointing that full cost recovery for the entire remit of the service is not addressed in the consultation.

Notwithstanding this the consultation paper makes it clear that any fee increases must be accompanied by performance improvements. This applies not just in relation to the time taken to make decisions on applications but also the areas likely to be covered in the revised performance reporting framework e.g. customer service and engagement with stakeholders as mentioned above. However it is recognised that any investment of the additional income in the planning service will continue to be considered alongside budgeting for other Council

services and priorities. It would not be appropriate to 'ringfence' this money within the planning service but rather the needs of the service will be considered at the time.