

Report

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| Report to: | Planning Committee |
| Date of Meeting: | 29 March 2022 |
| Report by: | Executive Director (Community and Enterprise Resources) |

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| Subject | Fees for Planning Applications - Update |
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1. Purpose of Report

1.1 The purpose of the report is to:-

- ◆ Inform Committee of changes to fees for planning applications following publication of the Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022.
- ◆ Seek approval for the recommendations in relation to discretionary charging; the waiving or reducing of fees; and applying a surcharge for retrospective applications as set out in paragraph 5.3 of the report.

2. Recommendation(s)

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

- (1) that the recommendations in relation to discretionary charging; the waiving or reducing of fees; and applying a surcharge for retrospective applications, as set out in paragraph 5.3 of the report, be approved.

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 Performance Co-ordinator. The Government has also recognised that resourcing is an important element in improving performance and service quality and the Act introduced powers to widen the scope of services for which fees can be charged and waive/reduce fees.

3.2 Resourcing of the planning system has been a key issue since the economic downturn in the late 2000s. This led to the Government increasing the maximum fee for a planning application to £125,000 in 2017. However, figures from 2019 indicate planning application fees still account for on average only 63% of the cost of determining an application. In response to this issue, the Government published a consultation paper on Planning Performance and Fees on 18 December 2019. The paper stated that the aim was to close the gap between fee income and the cost of processing of applications which in turn should free up resources for the remainder of the planning service. This could involve the recruitment of additional staff to address new themes emerging from the Act (see 3.3 below) and the Government's Programme for Scotland, training and investment in digital systems.

3.3 The planning service is responsible for other statutory duties that do not attract fees. These include:-

- ◆ the preparation of a Local Development Plan
- ◆ Open Space Strategy and Play Sufficiency Assessment
- ◆ the planning enforcement function
- ◆ input into strategic development planning at a City Region level
- ◆ the ability of community bodies to prepare Local Place Plans

A separate report is on the agenda for this committee seeking approval for the Council's response to current consultations by the Scottish Government on the draft National Planning Framework 4, changes to the way in which Local Development Plans are produced and the introduction of new statutory duties to prepare Open Space Strategy and Play Sufficiency Assessment. The Royal Town Planning Institute has estimated that the additional burdens placed on the planning system by the 2019 Act has resulted in 49 new requirements for planning authorities which in turn is estimated to result in up to £59m worth of additional demand on the planning service which has not been funded by the Scottish Government.

The Planning Service is also involved in providing a wide range of non-statutory services such as providing advice and guidance to members of the public, elected members, other parts of the Council and outside organisations; it is also 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 the climate emergency and nature crisis, improving health and wellbeing and supporting the placemaking agenda and the creation of 20 minute neighbourhoods – all new themes for the planning system to address.

3.4 The Planning Committee approved the Council's response to the consultation on fees and performance at its meeting on 11 February 2020 and this was duly submitted to the Scottish Government.

4 Current position

4.1 The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022 were laid before the Scottish Parliament on 11 February 2022 and will come into force on 1 April 2022. A number of different issues arise from the new regulations

4.2 Fees for applications for planning permission and applications for the approval of matters specified in conditions

A range of changes are proposed to the planning application fee regime. For the most common types of application received these are summarised as follows:-

- ◆ Fees for applications for householder development will increase from £202 to £300.
- ◆ For applications for permission in principle
 - at present where the site area does not exceed 2.5 hectares, £401 for each 0.1 hectare;
 - where the site area exceeds 2.5 hectares, £10,028 plus £100 for each 0.1 hectare in excess of 2.5 hectares, subject to a maximum in total of £62,500.

The figures have been increased to £600 and £300 respectively with a maximum fee payable now £75,000.
- ◆ For detailed applications for new residential development, at present the fee is calculated on the basis of £401 for each unit where the number of dwellinghouses to be created does not exceed 50; plus £200 for each dwellinghouse in excess of 50, subject to a maximum in total of £124,850.
 - Going forward – for developments of less than 50 units £600 will be charged for the first 10 units and £450 for each house above that number. For developments of more than 50 units, £250 will be charged for each house in excess of 50 subject to a maximum of £150,000.
- ◆ For the erection of buildings other than houses, the fee is calculated on the basis of the floor area to be created ie
 - where the area of gross floor space to be created by the development exceeds 40 square metres but does not exceed 75 square metres, £401;
 - where the area of gross floor space to be created by the development exceeds 75 square metres but does not exceed 3,750 square metres, £401 for each 75 square metres (or part thereof); and
 - where the area of gross floor space exceeds 3,750 square metres, £200 for each 75 square metres (or part thereof), subject to a maximum in total of £125,000.

Under the new regulations

- where the area of gross floor space to be created by the development exceeds 50 square metres but does not exceed 100 square metres, £600;
 - where the area of gross floor space to be created by the development exceeds 100 square metres - £600 plus £600 per 100 square metres up to 4,000 square metres
 - where the floor area exceeds 4,000 square metres, £24,000 plus £300 per 100 square metres subject to a maximum of £150,000.
- ◆ The fee for a material change of use of buildings or land is currently a flat fee of £401. The new regulations now differentiate between land and buildings and also introduce a sliding scale of fee depending on the floor space of the building or, in the case of land, the site area as follows:-
 - For buildings where the floor area is less than 100 square metres, a fee of £600 is payable. Where the floor area does not exceed 4,000 square metres - £600 plus £600 per 100 square metres. Where the floor space exceeds

4,000 square metres - £24,000 plus £300 per 100 square metres up to a maximum of £150,000.

- For land the fee is calculated as £500 per 0.1 hectare up to a maximum of £5,000.
 - The fee for a change of use involving the creation of houses will be calculated as £600 per unit for up to 10 units; £450 per each unit involving the creation of up to 50 units; and, where more than 50 units would be formed, £23,550 plus £250 per unit in excess of 50.
- ♦ For wind farms a new category is introduced whereby the fee is calculated on the basis of £500 per 0.1 ha up to a maximum of £150,000.

Work has been carried out to apply the new fee regime to the more common types of application the Council receives over the last three years. The outcome of that exercise is set out in the following tables.

| 2019/20 | Income – current charges | Income – new charges applied |
|--------------------------|--------------------------|------------------------------|
| Householder | £131,360 | £195,600 |
| Housing (up to 50 units) | £489,334 | £628,020 |
| All major developments | £333,585 | £467,800 |
| Wind farms | £151,868 | £182,500 |

This represents a 39.3% increase in income if the new charges are applied.

| 2020/21 | Income – current charges | Income – new charges applied |
|--------------------------|--------------------------|------------------------------|
| Householder | £154,272 | £229,200 |
| Housing (up to 50 units) | £268,375 | £375,300 |
| All major developments | £211,280 | £273,750 |
| Wind farms | £1,800 | £8,000 |

This represents a 33.3% increase in income if the new charges are applied.

| 2021/22 | Income – current charges | Income – new charges applied |
|--------------------------|--------------------------|------------------------------|
| Householder | £173,316 | £257,400 |
| Housing (up to 50 units) | £221,485 | £309,600 |
| All major developments | £565,638 | £608,409 |
| Wind farms | £215,754 | £156,500 |

This represents a 13.6% increase in income if the new charges are applied.

NB: The Council also received fees from the Scottish Government in relation to consultations on applications for windfarms under section 36 of the Electricity Act of £152,000 and £126,000 for 2020/21 and 2021/22.

Over the three years applying the new fee regime, would have resulted in an overall increase of 26.7% in relation to the application types investigated.

4.3 Discretionary charges

The new regulations permit Planning Authorities to charge a fee for a service in relation to the carrying out of some of its functions as follows.

Where a request is made to the Council to vary a planning permission under section 64 of the Act (more commonly known as a non-material variation (NMV)) a fee of £200 for each request may be charged. Research has shown that applying this fee rate to applications for NMV over the last three years would have resulted in income of £19,200, £17,800 and £16,400 respectively. It is therefore considered that this charge should be introduced.

Considering a request for compliance with a condition imposed on the grant of planning permission can attract a fee of £100 per request. It has not been possible to calculate the effect of the introduction of this charge as data is not available. However discharging conditions can be complex involving significant officer time and often involves consultation with other services and external organisations. It is therefore considered that this charge should be introduced and that it apply to each individual condition that the developer is seeking to discharge.

In both cases a start date of 1 May 2022 is considered appropriate to allow information to be published in advance and for processing systems to be updated to allow the charging of fees to become part of the decision making process.

Finally, a Planning Authority can now impose a charge for carrying out pre-application discussions. However, before doing so, the Planning Authority must publish information setting out the services for which a fee is to be charged; how fees are to be calculated; and under what circumstances the charge may be waived or reduced. Charging for pre-application discussions is considered appropriate and the Planning service will seek to introduce this in the near future. A further report will be presented to a future meeting of the Planning Committee setting out how it is intended this charge will be introduced.

4.4 Waiving or reducing fees

The regulations allow the Planning Authority to waive or reduce a planning application fee where the primary purpose of the application is either to contribute to a not for profit enterprise or a social enterprise; or where it is likely to contribute to improving the health of residents of the area in which the application relates. However before doing so a charter setting out the circumstances in which the waiving or reduction of fees will be considered must be published. Further research into this matter is required and therefore it is intended a further report will be presented to a future meeting of the Planning Committee with an update on this matter.

4.5 Applying a surcharge – retrospective applications

Planning authorities are now able to apply a surcharge on retrospective applications. The 2019 consultation suggested that this could result in a doubling of the normal application fee and this was supported by the Council in its response. However the new regulations states that it should be no more than 25% of the level of fee that would normally apply. This is disappointing and it is unlikely to be a strong deterrent for those wilfully carrying out unauthorised development.

The regulations require a planning authority to publish information on how the surcharge is to be calculated and under what circumstances a surcharge may be imposed. In addition the surcharge is to apply only from 1 October 2022 onwards. As a result it is intended to bring a further report to a future meeting of the Planning

Committee with an update on this matter in time for the approved details to be implemented by that date.

5. Next Steps

5.1 The revised fees for planning applications will take effect on 1 April 2022. The Council's website will be updated to reflect these changes and further publicity alerting developers and agents will be carried out as appropriate.

5.2 Whether the fee increases will result in closing the gap between fee income and the cost of processing of applications and in turn free up resources for the delivery of other statutory duties in terms of the tasks described in section 3.3 above remains unclear. The Scottish Government has set out an ambitious and aspirational strategy for the planning system to deliver many of its wider ambitions which will require adequate resourcing in order to successfully achieve the change it seeks to deliver. As a result development proposals will become more complex at a time of increasing workloads. In addition there is nationwide issue in relation to the skills required to meet this challenge. At the same time 49 new duties have been introduced by the 2019 Act. CoSLA and the Heads of Planning Scotland consider the new fee regulations should be seen as an interim position and have lobbied for a commitment to full cost recovery within this Parliamentary period. The Planning Committee will be informed of any future additional changes to the fee regulations.

5.3 In terms of the other changes introduced by the new regulations the following is set out as a recommendation for committee to consider and agree:-

- ◆ That the introduction of a fee of £200 for dealing with each request for a non-material variation of a planning permission (under section 64 of the Act) and a fee of £100 for the discharge of each individual condition attached to a planning permission be agreed. These charges are to be introduced from 1 May 2022.
- ◆ That the ability to impose a surcharge of 25% for retrospective applications from 1 October 2022 is noted. A further report will be presented to a future meeting of the Planning Committee seeking approval of information in relation to how the surcharge is to be calculated and under what circumstances a surcharge may be imposed, as required by the Town and Country Planning (Fees for Applications) (Scotland Regulations 2022
- ◆ That a further report be presented to a future meeting of the Planning Committee updating members on research that has been carried in relation to waiving and reducing fees for applications that contribute to a not for profit enterprise or a social enterprise or where it is likely to contribute to improving the health of residents of the area in which the application relates; and seek approval as appropriate of a charter setting out the circumstances in which the waiving or reduction of fees will be considered. This is as required by the Town and Country Planning (Fees for Applications) (Scotland Regulations 2022
- ◆ That a further report to be presented to a future meeting of the Planning Committee setting out proposals for the introduction of charging for pre-application discussions. This will include seeking approval for information relating to the services for which a fee is to be charged; how fees are to be calculated; and under what circumstances the charge may be waived or reduced as required by the Town and Country Planning (Fees for Applications) (Scotland Regulations 2022

6. Employee Implications

6.1 The Scottish Government has advised that the increase in fees should result in full cost recovery for the processing of planning applications. However it does not address the cost of other statutory duties including the preparation of Local Developments and

Open Space Strategies and the enforcement function. Any 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 to meet increasing planning applications workloads and the new statutory duties imposed by the 2019 Act; additional officer training in order to improve skills awareness of a range of new themes in order to deliver the ambitions of the reformed planning system; and the introduction of digital systems to implement these ambitions.

7. Financial Implications

- 7.1 The increase in fees for planning applications would result in additional income of approximately £450,000 if the proposals are applied to applications received since April 2019. These are estimates based on this time period and the sum could rise or fall, depending on performance of the economy and the number and type of applications submitted.

8. Climate Change, Sustainability and Environmental Implications

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

9. Other Implications

- 9.1 There are no significant risks associated with the recommendations contained in this report.

10. Equality Impact Assessment and Consultation Arrangements

- 10.1 The Scottish Government carried out consultation on its proposals for amendments to the regulations on planning application fees in early 2020. This included an Equality Impact Assessment. Further consultation and assessment is not required.

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Executive Director (Community and Enterprise Resources)

17 March 2022

Link(s) to Council Values/Ambitions/Objectives

- ◆ 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 – Report to Planning Committee 11 February 2020
- ◆ Town and Country Planning (Fees for Applications) (Scotland Regulations 2022)

Contact for Further Information

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

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