

Response to Technical Consultation: *Increasing Planning Fees and Performance*

Background

On 28 February 2023 the Department for Levelling Up, Housing and Communities (DLUHC) published a national consultation which sought views on proposal to increase nationally set planning application fees. The consultation also discussed potential proposals to improve the performance of local planning authorities.

The headline proposals included:

- An increase of national planning fees by 35% for major applications, and 25% for all other applications;
- The potential to introduce additional fees for bespoke or 'fast track' services;
- An annual inflation-related adjustment to planning fees;
- Proposals to ring-fence the additional planning application fee income to be spent on planning services only;
- The introduction of double fees for retrospective planning applications;
- The removal of the 'free go' for repeat applications;
- The introduction of a prior approval fee for the permitted development right allowing the Crown to develop sites within the perimeter of a closed defence site;
- Proposals to build planning capacity and capability within local authorities, including addressing challenges in recruitment and retention;
- Reducing the national 'Planning Guarantee' from 26 weeks to 16 weeks for non-major applications; and,
- To improve the quality of the local authority planning service by monitoring more performance measures.

The consultation provides further detail regarding the above proposals and is structured around a series of consultation questions.

Procedural Matters

Given that the proposals have a direct impact upon Development Management matters, this draft response will be shared with the Chair and Vice-Chair of the Planning Regulatory Committee in advance of submission to the Council's Business Committee.

The agreed response will be submitted in advance of the consultation deadline of 25 April 2023.

Questions 1-4 – Planning fees

Question 1. Do you agree that fees for planning applications should be increased by 35% for major applications?

Yes.

Planning fees have remained unchanged since January 2018 and an increase in the national fee structure is overdue. During that time the planning system has continued to become ever more complex, and the costs of processing major applications far outstrip the planning application fee. The proposed fees would not be prohibitive for applicants seeking to develop major proposals.

Question 2. Do you agree that the fee for householder planning applications should be increased by 25%?

Yes.

Notwithstanding the current cost of living concerns, the cost of processing and determining a householder planning application would still be considerably higher than the fee that accompanies the planning application. The increase in fees would contribute to mitigating the Council's cost burden. Increasing the fee from £206 to £258 would not, in our opinion, deter householders who are intent on extending their property.

Question 3. Do you agree that fees for all other planning applications should be increased by 25%? If not, please include in the comments box the particular application types where you believe the proposed increase is too high or too low. Your comments should be accompanied with evidence/costs if possible.

We agree with the proposed fee structure, with one exception.

We would advocate that Prior Approval fees should be increased further. The process is rarely the 'light touch' process that was advocated at the time of legislative introduction. It is recommended that the current fee of £96 is increased to £150 (which would still be over £100 cheaper than a proposed householder development)

Question 4. Are there any other application types or planning services which are not currently charged for but should require a fee or for which the current fee level or structure is inadequate?

None – subject to the retention of the ability to set local charges for pre-application advice services (see Q5).

Question 5 – Discretionary and bespoke planning fees

Question 5. Please can you provide examples of bespoke or 'fast track' services which have worked well or you think could be introduced for an additional fee? Are there any schemes that have been particularly effective?

We have concerns regarding the introduction of fast-track service.

The introduction of a higher fee band for those applicants who wish to expedite their applications would, in our view, lead to the creation of a two-tier service where applicants who may be unable to afford the higher fee rate would have to endure a slower decision-making process.

Lancaster has operated a successful pre-application system for some time, which includes a bespoke Local Forum (consisting of City Councillors, Ward Councillors, Parish Councillors and Local Interest Group representatives), who aim to work collaboratively with developers to improve the quality of development proposals at the pre-application stage. The Forum system has recently been featured by the Planning Advisory Service as an example of good practice regarding community engagement.

Swifter processes regarding the discharge of conditions and non-material amendments (i.e. where development proposals have already been approved) might justify higher application fees.

Question 6 – Indexation

Question 6. Do you agree with the proposal for all planning fees to be adjusted annually in line with inflation?

Yes.

This will provide certainty and will ensure that there is greater financial stability regarding service provision.

Question 7 – Ringfencing of additional fee income

Question 7. Do you consider that the additional income arising from the proposed fee increase should be ringfenced for spending within the local authority planning department?

Yes.

The consultation sets out that the national planning system is under-resourced. Groups including the British Property Foundation have cited the need for an increase in resources for local planning authorities. Without ringfencing, there is a danger that local planning authorities will not directly benefit from the proposed fee increase. We would suggest that acceptance of the proposed new fee structure is predicated on written commitment from local planning authorities, and that it is followed up by a requirement to audit the additional income spend.

Question 8 – Fees for retrospective applications

Question 8. Do you agree that the fee for retrospective applications should be doubled, i.e. increased by 100%, for all applications except for householder applications?

Yes.

Punitive fees for those who fail to secure the appropriate consents before starting work should be part of a wider suite of tools aimed at deterring those who deliberately undermine the planning process.

We would also recommend the introduction of fees for Listed building applications in circumstances where development has unlawfully taken place.

Question 9 – Removal of the 'free go' for repeat applications

Question 9. Do you consider that the ability for a 'free-go' for repeat applications should be either:

- (a) removed
- (b) reduced for re-applications within 12 months
- (c) retained
- (d) none of the above
- (e) don't know

(d) None of the above

We consider that a free go should only apply to householder development submitted within 6 months of the date of decision. Other application proposals (i.e. non-householder development) are more likely to have been subject to pre-application advice, which theoretically should have reduced the chances of a refusal which, in turn, might necessitate a free go.

Question 10 – Introduction of a prior approval fee for the permitted development right allowing development by the Crown on a closed defence site

Question 10. Do you agree that a fee of £96 (or £120 if the proposed fee increase comes forward) should be charged for any prior approval application for development by the Crown on a closed defence site?

Yes – we have no further comments to add.

Questions 11-13 – Local planning authority capacity and capability

Question 11. What do you consider to be the greatest skills and expertise gaps within local planning authorities?

In-house viability skills.

With ever-increasing pressure on development viability, local planning authorities would benefit from in-house professional expertise regarding viability assessment.

Question 12. In addition to increasing planning fees, in what other ways could the Government support greater capacity and capability within local planning departments and pathways into the profession?

We find that there are usually no difficulties enticing new graduates into local authority planning. It is imperative that local planning authorities create career pathways for new graduates so that they can visualise their career development opportunities.

Retaining more experienced professionally qualified planners in the public sector in the north of England is proving more difficult. As an example, we continue to experience a dearth of candidates at Senior and Principal Planning Officer level. This is increasing our reliance on expensive private consultants and slowing down planning application delivery.

One way to address this issue could be to offer bursary opportunities for mid-career development at the planning schools at universities in England. These could be tied to local authority job retention for a fixed period of time (i.e. to ensure that trained staff do not leave for the private sector shortly afterwards). A learning programme could include masterplanning, viability/commercial considerations, biodiversity net gain, planning for climate change, etc.

Question 13. How do you suggest we encourage people from under-represented groups, including women and ethnic minority groups, to become planning professionals?

We have a good gender balance within our Planning Teams at Lancaster, although women are still under-represented at managerial level. We are less successful in attracting applications for ethnic minority groups.

Our job advertisements often require a minimum standard of qualification, either at A-Level (for graduate-entry roles) or planning-related degrees and Royal Town Planning Institute membership (for more senior roles). It is possible that these qualification-related requirements, as necessary as they are, are creating barriers to certain under-represented groups. We would therefore advocate that more focus is given to providing education opportunities for all, particularly at graduate level.

Questions 14-18 – Local planning authority performance

Question 14. Do you agree that the Planning Guarantee should better mirror the statutory determination period for a planning application and be set at 16 weeks for non-major applications and retained at 26 weeks for major applications?

Partially.

It is essential that the 26-week timescale is retained for major applications. Local planning authorities often find that they are using a significant amount of time chasing external statutory consultees for formal planning application observations. Many consultees are not sufficiently resourced to respond within the statutory timescales.

Other non-major development can be just as complex, and subject to similar time pressures, and consequently we do not support the proposal to reduce all non-majors to 16 weeks.

However we do see merit in reducing the Planning Guarantee for householder development to 16 weeks.

Question 15. Do you agree that the performance of local planning authorities for speed of decision-making should be assessed on the percentage of applications that are determined within the statutory determination period i.e. excluding extension of times and Planning Performance Agreements?

No.

The continued crisis in national planning regarding the recruitment and retention of qualified staff means that the use of PPAs and Extensions of Time are an important tool to managing caseloads and developer expectations. The best local planning authorities work collaboratively with developers regarding extensions of time, and the removal of this flexibility could have negative effects for both parties.

For example, we can foresee a situation where the removal of extensions of time would simply result in a greater number of refused planning applications. This is because the local planning authority would rather refuse an application at the outset, perhaps with little or no discussion, than be faced with an application that is at risk of running 'out of time'.

Question 16. Do you agree that performance should be assessed separately for

- (a) Major applications - **Yes** / no / don't know
- (b) Non-Major applications (excluding householder applications) - **Yes** / no / don't know
- (c) Householder applications - **Yes** / no / don't know
- (d) Discharge of conditions - Yes / **no** / don't know
- (e) County matters applications - Yes / no / **don't know**.

Discharge of condition applications often depend upon the quality of information submitted and the availability of statutory consultees to make comment. Both are outside the control of the local planning

authority. Instead of introducing yet another performance metric, a more simplified approach to the discharge of condition regime would be welcomed instead.

Question 17. Do you consider that any of the proposed quantitative metrics should not be included? Please give your reasons and, if appropriate, state the metric letter(s) and number(s) that you believe should not be included.

For ease of reference, the proposed metrics are copied below. Our observations are included in **bold next to each metric.**

Metric	Measurement
A. Average Speed of decision-making	<ol style="list-style-type: none"> 1. Average time taken to determine majors (inc. Extension of Time (EoT) and Planning Performance Agreements (PPAs)) Agreed 2. Average time taken to determine non-majors (inc. EoT and PPAs) Agreed 3. Average time taken to determine householders (inc. EoT and PPAs) Agreed 4. Average time taken to determine discharge of conditions (inc. EoT and PPAs) Not Agreed, for reasons stated at Q.16 5. Average time taken to determine county matters (inc. EoT and PPAs) This would be a County Council matter, and we offer no comment.
B. Quality of decision-making	<ol style="list-style-type: none"> 1. Major appeals allowed by Planning Inspectorate as percentage of all appeal decisions. Agreed 2. Non-major appeals allowed by Planning Inspectorate as percentage of all appeal decisions. Agreed 3. Householder appeals allowed by the Planning Inspectorate as percentage of all appeal decisions Agreed
C. Extension of Times (EoTs)	<ol style="list-style-type: none"> 1. Total number of EoTs as percentage of all decisions majors Agreed – this data would illustrate the extent of the capacity crisis in national planning (i.e. how many applications are dependent upon EoTs due to the shortage of planners) 2. Total number of EoTs as percentage of all decisions non-majors Agreed 3. Total number of EoTs as percentage of all decisions householders Agreed
D. Backlog	<ol style="list-style-type: none"> 1. Average time taken to validate planning applications Agreed – but with defined criteria to what constitutes ‘validation’. For example, is it all activities that result in the commencement of the consultation period? 2. Total number of cases beyond the Planning Guarantee period (currently 26 weeks for all applications but proposed to change to 16 weeks for non-major applications) Not

Metric	Measurement
	<p>agreed. This data would not interrogate the reasons for extension beyond the 26-weeks. It may be that developers are satisfied that their application(s) would extend beyond this period, in order to resolve issues, rather than receive a refusal.</p>
<p>E. Planning Enforcement</p>	<p>1. Average number of weeks taken to respond to suspected breaches of planning and determine the appropriate course of action. Not agreed without further clarification. This is difficult to define and the data would be open to manipulation in our view.</p> <p>2. Average number of weeks to take action where a breach of planning has occurred, having decided it is expedient to do so. Not agreed. What might 'take action' mean – commence notification regarding the cessation of the use/removal of the development; or actually secure the cessation/removal to resolve the issue? This metric is too vague.</p> <p>3. Total number of cases over 6 months old as percentage of all open cases. Agreed – this data is easier to compile. We would suggest that it is collected alongside a running total of all live enforcement cases, so as to provide a percentage perspective of enforcement workload per authority.</p>
<p>F. Planning Committee</p>	<p>1. Percentage of delegated decisions and committee decisions Agreed</p> <p>2. Percentage of committee decisions to refuse against officer recommendation that are subsequently allowed at appeal Agreed</p>

Question 18. Are there any quantitative metrics that have not been included that should be?

Yes.

The length of time to acknowledge new planning enforcement complaints, including conducting the initial site visit.

Questions 19-21 – Measuring customer experience

Question 19. Do you support the introduction of a qualitative metric that measures customer experience?

Yes.

We are trialling customer experience feedback via QR codes as part of our pre-application system. We aim to roll this out to planning application cases in due course and it will provide us with useful customer satisfaction data.

Question 20. What do you consider would be the best metric(s) for measuring customer experience?

This needs care. A customer experience cannot be measured simply on the outcome of a planning decision. It could be measured in terms of the quality and timeliness of the site visit and subsequent dialogue with the Planning Officer.

Question 21. Are there any other ways in which the performance of local planning authorities or level of community engagement could be improved?

Nothing further to add.

Question 22 – Public sector equality duty

Question 22. Do you have any views on the implications of the proposals in this consultation for you, or the group or business you represent, and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how. Is there anything that could be done to mitigate any impact identified?

Nothing further to add.

Authorisation

Report Sign Off M Cassidy, Head of Planning and Place, Lancaster City Council	17 March 2023
Planning Regulatory Committee Consultation Chair and Vice-Chair, Planning Regulatory Committee	28 March 2023
Business Committee Sign Off and Authority to Submit	

Background Files

The scope of the DLUHC consultation is available here:

<https://www.gov.uk/government/consultations/increasing-planning-fees-and-performance-technical-consultation/technical-consultation-stronger-performance-of-local-planning-authorities-supported-through-an-increase-in-planning-fees>