

To: Communities, Housing and Planning Policy Board

On: 10 March 2020

Report by: Director of Communities, Housing and Planning

Heading: Consultation on Planning Performance and Fees - 2019

1. Summary

- 1.1 The Scottish Government have set out a work programme 'Transforming Planning in Practice' which aims to support the implementation of the Planning (Scotland) Act 2019. As part of this work programme, a consultation on Planning Performance and Fees was issued on the 18 December 2019.
 - 1.2 The deadline for submissions closed on 14 February 2020 and in this context the response from the Head of Planning & Housing is set out in Appendix 1.
-

2. Recommendations

- 2.1 It is recommended that the Board:
 - (i) notes the response submitted by the Head of Planning & Housing in relation to the Consultation by the Scottish Government on Planning Performance and Fees – 2019 by the requested date of the 13 February 2020.
-

3. Background

- 3.1 The Planning Bill was passed by the Scottish Parliament on the 20 June 2019 and the Planning (Scotland) Act 2019 received Royal Assent on the 25 July 2019.
- 3.2 The majority of the provisions of the Act are not yet in force but Scottish Ministers have been introducing some of the provisions through Regulations and will continue to do so in the coming years.

- 3.3 A Consultation on Planning Performance and Fees – 2019 was issued by the Scottish Government which seeks to reflect the Scottish Ministers commitment to the principle that any increase to planning fees must be linked to performance.
 - 3.4 The consultation paper proposes a new approach to how the performance of planning authorities is measured, the appointment and role of a planning improvement co-ordinator and a new structure for the planning fee regime along with the introduction of additional services which may be charged for and the ability to waive or reduce planning fees in certain circumstances.
-

4 Consultation on Planning Performance and Fees - 2019

- 4.1 The Scottish Government set out that following on from the Planning (Scotland) Act 2019 they want to bring forward detailed proposals for substantial changes to the planning fee structure. The intention is that the new fee arrangements will be in place by mid-2020.
- 4.2 The consultation seeks to move planning fees towards covering the costs of determining applications for planning permissions as well as seeking views on what additional services which Planning Authorities provide should be subject to a fee, the circumstances whereby the Planning Authority may reduce or waive a planning fee and the introduction of charges for appealing planning decisions.
- 4.3 The consultation paper does recognise that the Planning (Scotland) Act 2019 will place additional duties on planning authorities, and it is not the role of planning fees to cover these new duties unless they relate specifically to the determination of an application.
- 4.4 It is highlighted that increasing fees is not the only solution to resourcing the planning service. Smarter resourcing and the opportunities which digital services can bring to the planning service require to be considered. The paper outlines that the overall resourcing of local planning services is the responsibility of local authorities.
- 4.5 The proposed increase in fees to be implemented in 2020 covers a range of applications and includes an increase in fees of around 50% for residential developments, an increase from £202 to £300 for extensions and alterations to dwellings. Increases in fees for retail and leisure developments up to 70%. Business and commercial developments decreasing in fee rates. There are also proposed increases and decreases in fees for agricultural developments. The consultation paper considers applying fees for listed building consent.
- 4.6 Extending the scope of discretionary charging and services which planning authorities can charge for carrying out such as pre-application discussions, processing agreements, monitoring and discharging of conditions, planning agreements and charging for appeals is also considered within the Consultation Paper.

- 4.7 Reducing and waiving fees is another new provision introduced in the Planning (Scotland) Act 2019, where planning authorities have the ability to use this power where they consider appropriate.
- 4.8 The Planning (Scotland) Act 2019 also includes the power for the Scottish 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. It is likely that the co-ordinator will sit within government and reports to the Scottish Ministers. The Consultation Paper asks for comments/suggestions about the role and responsibilities of a National Planning Improvement Co-ordinator.
-

5 Next Steps

- 5.1 Further updates in relation to the Planning (Scotland) Act 2019 and the subsequent Scottish Government work programme for assisting in implementing the new Planning Act will be presented to the Board when significant sections of the Act come into force and/or other relevant consultations are issued.
-

Implications of the Report

1. **Financial** – Possible financial implications which will be confirmed as new Regulations are set out by the Scottish Government.
2. **HR & Organisational Development** - Possible resource implications which will be confirmed once the Regulations are outlined by the Scottish Government.
3. **Community/Council Planning** – None
4. **Legal** – Possible legal implications which will be confirmed as new Regulations emerge
5. **Property/Assets** - None
6. **Information Technology** - None
7. **Equality & Human Rights**

The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

8. **Health & Safety** - None

9. **Procurement** - None
 10. **Risk** - None
 11. **Privacy Impact** - None
 12. **Cosla Policy Position** – The implications will require further analysis and engagement through COSLA as the details in relation to the Regulations are outlined by the Scottish Government.
 13. **Climate Risk** - None
-

List of Background Papers

- I. The Scottish Government work programme 'Transforming Planning in Practice' <https://www.gov.scot/publications/transforming-planning-practice-post-bill-work-programme/>
 - II. Consultation on Planning Performance and Fees – 2019
<https://www.gov.scot/publications/planning-performance-fees-consultation/>
 - III. Appendix 1 – Renfrewshire Council's response to Scottish Government Consultation on Planning Performance and Fees – 2019
-

Author: The contact officer within the service is Sharon Marklow, Strategy and Place Manager, 0141 618 7835, email: sharon.marklow@renfrewshire.gov.uk

Renfrewshire Council Response to the Scottish Government Consultation on Planning Performance and Fees - 2019

Planning Performance

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

1a Do you agree with the vision proposed in this consultation? **Yes.**

1b Do you have any comments about the proposed vision?

Renfrewshire Council would suggest that transparency and equality are also important qualities for the Planning System.

2 Is the proposed approach to the content of the Planning Performance Framework correct? **Yes.**

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

Renfrewshire Council consider that by using the outcomes in the National Performance Framework that this aligns Planning well with the purpose, the values and national indicators for Scotland. It provides an opportunity for the profile of Planning to be raised.

3a Do you have any comments or suggestions as to how reports should be prepared?

Reports require to be streamlined and to provide progress on actions, lessons learned from others and outcomes provided by case studies.

There needs to be a move away from business as usual aspects such as reporting that the Enforcement Charter/LDP is up to date this should be monitored elsewhere.

The Planning Performance Framework should be a marketing document which promotes high quality planning.

3b What statistical information would be useful/valuable to include and monitor?

It is considered that there is no need to replicate the statistical information. This information can be obtained from the Scottish Government webpages.

The PPF should be a yearly update of how Planning is delivering the high quality system and what outcomes are required to improve as well as an opportunity to learn from others.

3c What are the key indicators which you think the performance of the system and authorities should be measured against?

Customer Service, Engagement, Outcomes and Improvements are the key areas.

- 3d** Do you have any other comments to make with regards to how the Performance of the Planning System and Authorities is measured and reported?

Can the Reporting date for the PPF be moved to September to enable PPFs to be reported to Boards/Committee before submission to the Scottish Ministers.

- 3e** Do you have any suggestions about how we could measure the outcomes from planning such as:

- Placemaking
- Sustainable Development
- Quality of decisions

Case studies which are used at present provide a good measurement for the outcomes.

- 3f** 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?

Again, case studies provide a good indication of Planning's contribution to the National Outcomes.

- 4** Do you agree with the proposed responsibilities of the planning improvement co-ordinator?

Renfrewshire Council consider depending on the role and responsibilities outlined for this post, that this role could enhance the sharing of good practice where the co-ordinator identifies improvements, where things have worked well or not so well for Planning Authorities.

- 4a** Do you have any comments/suggestions about the role?

In applying a consistent approach across Planning Authorities in Scotland it would be beneficial if the co-Ordinator role provided assistance with interpretation of legislation, Government Policy and assisted in consistency with advice from Key Agencies and the reports from the DPEA.

Planning Fees

- 5** Do you agree with the proposed planning fees for Category 1 - Residential Development?

Yes. In terms of applications for Permission in Principle, 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.

- 6 Do you agree with the proposed planning fees for Categories 2, 3, 4 and 5 - Extensions and Alterations to Existing Dwellings?

Yes, it is agreed that officer time to consider matters such as windows and fences does not need the same amount of work as an extension. However, the erection of decking/balconies in some instances can lead to considerable time and effort for the Planning Authority, this may need to be considered.

- 7 Do you agree with the proposed planning fees for Category 6 – Retail and Leisure including extensions?

No. It is considered that an increase in fees for applications which require careful consideration along with sometimes quite complex retail assessments in large scale application is justified. However, given the need to try and protect and where possible enhance the retailing sector back into centres, it is considered the fee increases for the smaller retail/leisure developments should be lowered.

In line with Category 7 – Businesses and Commercial, we should be trying to encourage development in the right areas. Small to medium sized retailing/leisure uses should be encouraged rather than discouraged by a high fee rate.

- 8 Do you agree with the proposed planning fees for Category 7 - Business and Commercial including extensions?

Yes. However as set out above, there requires to be a consistent approach in relation to small/medium scale retailing and small/medium scale business and commercial operations.

- 9 Do you agree with the proposed planning fees for Category 8 - Agricultural Buildings? **Yes.**

- 10 Do you agree with the proposed planning fees for Category 9 - Glasshouses?

Yes, this increase would provide more consistency between agricultural buildings and glasshouses.

- 11 Do you agree with the proposed planning fees for Category 10 - Polytunnels?

Yes.

There should not be a separate category established for the erection of polytunnels on land that is not agricultural land. The same amount of officer time is required regardless.

- 12 Do you agree with the proposed planning fees for Category 11 – Windfarms – access tracks and calculation? **Yes.**

- 13 Do you agree with the proposed planning fees for Category 12 - Hydro Schemes?

No. These applications can be very complex with significant amount of work and assessment required as well as consultation and engagement.

- 14** Is the definition and the proposed method for calculating the planning fee correct for Category 13 - Other energy generation projects? **Yes.**
- 14a** Do you have any comments on the proposed fees and for calculating the planning fee for Solar Farms, energy storage developments, heat networks ?
- No, fee level appropriate. A separate category for energy storage developments is not required they should be included within energy generation projects.**
- 15** Do you agree with the proposed planning fees for Category 14 – Exploratory Drilling for Oil and Natural Gas? **Yes.**
- 16** Do you agree with the proposed planning fees for Category 15 – Fish Farming? **Yes.**
- 17** Do you agree with the proposed planning fees for Category 16 – Shellfish Farming? **Yes.**
- 18** Do you agree with the proposed planning fees for Category 17 – Plant and Machinery? **Yes.**
- 19** Do you agree with the proposed planning fees for Category 18 – Access, Car Parks etc. for Existing Uses? **Yes.**
- 20** Do you agree with the proposed planning fees for Category 19 - Winning and Working of Minerals? **Yes.**
- 21** Do you agree with the proposed planning fees for Category 20 - Peat? **Yes.**
- 22** Do you agree with the proposed planning fees for Category 21 – other operations? **Yes.**
- 23** Do you agree with the proposed planning fees for Categories 22 and 23 – Waste Disposal and Minerals Stocking – does not cover waste management (recycling)? **Yes.**
- 24** Do you agree with the proposed planning fees for Category 24 - Conversion of Flats and Houses? **Yes.**
- 25** Do you agree with the proposed planning fees for Category 25 - Changes of Use of a Building? **Yes.**
- 26** Do you agree with the proposed fees for Category 26 - Changes of Use of Land? **Yes.**
- 27** How should applications for planning permission in principle and Approval of Matters Specified in Conditions (AMSC) be charged in future?
- At present the fee structure is not appropriate at all for large complex development sites that some Planning Authorities have been and will continue to work on for years.**
- At present Renfrewshire have applications at Dargavel Village in Bishopton where there are applications for hundreds of houses going for the £401 fee. The amount of work and consultation is extensive for the fee.**

Renfrewshire Council also consider that the current fee structure didn't seem very fair on either the developers who are first in who have to pay full fee.

28 How should the fee for AMSC applications be calculated?

Renfrewshire Council suggestion would be to keep the same fee's for permission in principle, but then charge a fee for AMSC's thereafter which would be 50% of the fee which would be levied if it were an application for full planning permission.

The rationale being that half the work associated with the application has already been done i.e. establishing the principle of the development. The flat rate of 50% of the standard planning fee would be maintained until the development is built out, so you wouldn't get a situation where the full fee is met, and subsequent applications are for the minimum fee. Instead the Council would take in more fees overall which would accurately reflect the work done, but the fees would also be spread more evenly across the life of the development.

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

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

Renfrewshire Council consider that the current fee procedure for cross boundary application is not appropriate. A complex application can have a significant of work for all authorities involved before and after the decision due to complex conditions, submission of assessment.

Renfrewshire Council consider that where the majority of the development occurs 100% should go to that authority and 50% to the other. If there are more than two authorities involved, then the fee should be spread more equal amongst the authorities.

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

No. The amount of work in considering these applications tends to be more onerous on planning officers. As well as this they generate interest from the general public, community council and Councillors and can be time consuming for the Planning Authority.

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

Yes. Although the Planning Authority would not want to discourage applicants from protecting and preserving their property particularly when the cost of adding or changing materials, etc to listed buildings are more costly that buildings which are not listed.

31a How should the fee be set

A flat fee is required. However, there needs to be a separation of the fee as to whether the application accompanies a detailed application, or it is proposals that would otherwise be permitted development.

32 Should the fees for Hazardous Substances Consent be increased?

Yes. Again, there needs to be a degree of knowledge, understanding, time and resources factored into decision making on these applications.

33 Are the proposed increases in fees for the categories CLUDS, Advertisement, Prior Approval appropriate? **Yes.**

34 Are there other fees which have not been considered?

The current fee required for a section 42 application appears disproportionate to the work an assessment involved in some applications.

A fee level that is relevant to the scale and type of proposal is required in the new fee regulations.

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

Yes. This would provide clarity as there are various Planning Authorities across Scotland charging for functions/services with a range of fees and charges. This does not provide stakeholders confidence and transparency in the Planning System with different Authorities charging for different functions/services.

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

If the Scottish Government consider that Planning Authorities should be charging for pre-application discussions then it needs to be a fair, open, transparent charging system that is fully evidenced and not open to interpretation. It needs to set out standards and what people can expect from being charged.

It has to be proportionate and not hinder or stop people asking for pre-application advice.

There has been a lot of good work which is highlighted in Planning Authorities Planning Performance Framework each year about the advantages of good pre-applications, good design and good outcomes.

In looking at the vision and purpose of Planning outlined in page 9 of this consultation document, 'Planning must provide certainty, consistency and clarity to all of those who participate.....' Charging for a service that adds value must provide that certainty.

It is also considered that the fee levels and the right to waive the fee should be allowed to be set locally to reflect local circumstances.

- 36a** Should the fees for pre-application discussions be subtracted from the full fee payable on submission of an application?

Renfrewshire Council would await the fee structure set by the Scottish Government before making that decision.

- 37** 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 and resources to prepare and add to a template is minimal.

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

Renfrewshire Council would consider that there should be a fee and it should be on a pre request basis.

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

Yes. The fee should be allowed to be set locally to reflect local circumstances.

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

Yes, this may facilitate new roles within Planning taking on graduates and those wishing to progress a career in Planning.

- 39a** Should a fee for monitoring be limited to certain types of monitoring requirements?

Yes. The fee structure should be per application rather than per condition, which would be subject of review.

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

Yes. Discharging of conditions involves resources which are not accounted for in day to day workload.

- 41** Do you think that Planning Authorities should be able charge for the drafting of planning agreements? **No.**

- 42** 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. There could be considerable work involved which requires officers from across planning to assist.

- 43** Should the ability to offer and charge for an enhanced project managed service be introduced? **No.**

- 44** 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.**

- 45 Do you think that, in principle, fees should be charged for appeals to Planning and Environmental Appeals Division (DPEA)?

Yes, appeals can generate work which requires to be prioritised to meet deadlines set by the DPEA.

- 45a Should we limit the circumstances in which a fee can be charged for lodging an appeal? **No.**

- 45b In what circumstances do you think a fee should be paid for lodging an appeal?

Each circumstance.

- 45c Do you think that the fee should be refunded in the event of a successful appeal? **No.**

- 45d 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?

No, the resource implications are less onerous than an appeal to the DPEA.

- 46 Do you have any suggestions as to the circumstances in which authorities could waive or reduce a planning fee?

Waiving or reducing a fee should be allowed to be set locally to reflect local circumstances.

- 47 Retrospective Applications, should the surcharge be set at 100%? **Yes.**

- 47a 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.**

- 48 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?

Please provide reasons for your answer

Yes. Planning Authorities require to continue to purchase hardware and software as well as provide staff time and resources to download paper copies of application forms and plans. There needs to be more encouragement to submit electronically to ensure we are all moving forward in this digital agenda.

- 48a Do you consider the use of rebates, discounts or other incentives, a useful tool delivering a more efficient service?

No. The delay is normally caused because the applications are complex and require time to ensure the right decision is made. The responses on complex applications take time for consultees and the general public as well as officers to go over all of the information, assessments, investigations.

- 49** Do you consider there should be a single advertising fee? **Yes.**
- 50** Do you consider that submission of an Environmental Impact Assessment (EIA) should warrant a supplementary fee in all cases? **No.**
- 51** Do you think that applications for planning permission in principle should continue to be charged at half the standard fee? **Yes.**
- 52** Should there be a different fee for 'hybrid applications' as described? **No.**
- 53** Should the Scottish Government introduce a service charge for submitting an application through eDevelopment (ePlanning and eBuilding Standards)? **No.**