



Secretary of State for Housing, Communities  
& Local Government  
Rt Hon Sajid Javid MP  
Department for Housing, Communities &  
Local Government  
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Dear Secretary of State,

#### **RETROSPECTIVE PLANNING APPLICATIONS:**

Blackburn With Darwen Borough Council previously wrote to you on the 17<sup>th</sup> April 2015, regarding the concerns of the Council's Planning & Highways Committee over the number of retrospective planning applications being submitted.

The increase to the national planning application fees by 20% which came into force on the 17<sup>th</sup> January 2018 under The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2017, is welcomed. It is noted that a new Regulation 5(2) omits regulation 5 of the previous 2012 Regulations. This means that a planning application fee may be charged by local planning authorities where they have made a direction withdrawing permitted development rights under article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (S.I. 2015/596 "the General Permitted Development Order 2015") or where permitted development rights have been withdrawn by a condition imposed on a planning permission. However, it is with disappointment that a new regulation was also not introduced that applied a higher fee for retrospective planning applications to the relevant fee in the 2017 Regulations.

The Council has recently restructured its Growth & Development Department and Development Management Service with a key focus on delivering the Council's Growth Agenda. As part of this restructure the Development Management Team has a more lean focussed approach that maintains growth whilst at the same time maintains high performing efficient service. The Council consider retrospective planning applications in terms of how they are processed should be reviewed, in order to try and eliminate abortive work and enforcement costs.

The Council supported the Government's intention in 2010 to introduce Local Fee Setting, to allow planning services to recover their costs to sustain an efficient planning service. One of the proposals at that time was to introduce additional costs for retrospective planning applications. This received unanimous support at Blackburn With Darwen Borough Council. Disappointingly the local fee setting never materialised, and the Council wrote to you in April 2015, asking you to reconsider the approach towards retrospective applications. I was disappointed to note we never received a response from you and this was reported to my Committee. Again I wish to express the reasons why we consider such an approach is necessary to help sustain efficient planning services.

In setting fees for retrospective planning applications, the Council wish to highlight to the Secretary of State, they must be able to recoup any enforcement costs of facilitating the submission of retrospective applications as well as the costs of determining the application. In the current economic climate, where the planning fee income is required to sustain providing an effective and efficient service, the inability to recoup such costs could impact on the Council continuing to provide an efficient enforcement service.

It is possible that higher fees for retrospective applications could deter homeowners/developers from submitting such applications. Consideration should, therefore, also be given to increasing fees for enforcement appeals to match the increased retrospective applications fees, and to imposing a fee for dealing with the appeal itself in addition to the retrospective application fee. Consideration should also be given to penalising those who undertake development requiring planning permission but refuse to submit a retrospective application. The Local Planning Authority can decide to take no further action against unauthorised development if it is considered to be not expedient. However, the assessment of such cases are resource intensive. In such cases, developers, by complying with the terms of the enforcement notice, obtain a

deemed planning permission at no cost to themselves, but at substantial cost to the Local Planning Authority. The Council consider one way of alleviating this problem would be for the Local Planning Authority to register a charge on the property which would have to be paid to the Local Authority when the property is sold.

If the Secretary of State considers that higher fees should be introduced for retrospective planning applications, the Council consider it will be necessary for the following to be clarified:

- (i) A definition of when development is deemed to have commenced and therefore when the higher fee for a retrospective application is required. The definition should indicate not only the works required for the development to be considered to have begun, but also whether a higher fee is required if works start after an application has been submitted, but before it is made valid or determined.
- (ii) A deterrent for those prepared to carry out works without planning permission would be to allow local authorities to increase the business rates or Council Tax of the property by 25% for every year the breach remains without retrospective consent being sought and obtained.

As some retrospective planning applications are submitted without the need for any enforcement action by the authority, the charging arrangements should allow some flexibility to permit Local Planning Authorities the opportunity not to impose higher fees for retrospective applications in appropriate cases.

I would ask that you consider all the points raised in the above proposal, and acknowledge receipt of this letter. I look forward to hearing from you with your comments to the issues and points raised in this letter.

Yours sincerely,

Ian Richardson,  
Director of Growth & Development