

GROWTH & DEVELOPMENT DEPARTMENT

**ORIGINATING SECTION: PLANNING (DEVELOPMENT
MANAGEMENT)**

REPORT TO: PLANNING & HIGHWAYS COMMITTEE - 20TH APRIL 2023

**TITLE: Department for Levelling Up, Housing & Communities
Technical Consultation: Stronger performance of
local planning authorities supported through an
increase in planning fees.**

WARDS: All

1.0 PURPOSE OF THE REPORT

1.1 To inform Members of current consultation by the Department for Levelling Up, Housing and Communities (LUHC) seeking views on improving performance of local planning authorities by:

- Increasing planning fees;
- Building capacity and capability;
- Introducing a more robust performance regime.

1.2 The report asks Members to note the proposed response to the consultation, which is attached to this report to be sent to the Secretary of State on behalf of Blackburn with Darwen Borough Council (BwDBC).

2.0 RECOMMENDATION

2.1 That the Committee note the report, and content of the responses to the consultation.

3.0 BACKGROUND & RATIONALE

3.1 As referred to in the Government's Levelling Up and Regeneration Bill (LURB) last summer, the Government published a consultation on the 28th February 2023, focussed on increasing planning application fees. This will introduce plans to annually adjust planning application fees in line with inflation, with an initial increase of between 25% and 35% being proposed as early as Summer 2023. The Government intends to review fee levels no later than three years following implementation and propose that any extra funds raised by the increase to planning application fees will be ring-fenced for local planning authorities (LPAs) rather than being available to support other Council services, to provide a more effective and efficient service through additional financing and resources.

3.2 The consultation covers three topics:

- (i) Increasing planning fees;
- (ii) Building capacity and capability in the planning system;
- (iii) Introducing a more robust performance regime.

3.3 This consultation takes place for 8 weeks from the 28th February 2023 to 25th April 2023. There are 21 questions within the consultation, and responses to these questions on behalf of BwDBC are attached to this report. The proposed responses to the questions have been presented to the Planning Cross Party Working Group at the meeting on the 18th April 2023.

Increasing planning fees:

3.4 Given that the Government has decided that planning fees should be regulated nationally, the headline from the consultation is the proposed 35% increase in planning application fees for major applications and 25% increase for all other applications, which include prior approval applications, minor and householder applications. In addition, the introduction of indexation which would allow planning application fees to rise with inflation is proposed to provide LPAs with greater financial stability, and more certainty to developers that will avoid a continuous cycle of review of the fees. The rationale behind this is that previous increases have been irregular, the last being in January 2018, and prior to that in November 2012, which has led to fee levels falling behind. A table of the proposed fees is provided at Figure 1.

Application	Current fee	Proposed fee (35% major applications, 25% all other applications)
Prior Approval	£96	£120
Householder	£206	£258
Non-major (residential - less than 10 dwellings, or sites of less than 0.5 hectares; non-residential, less than 1,000 sqm gross floorspace, or sites less than 1 hectare)	£462 per dwelling or per 75 sqm of non-residential floorspace	£578 per dwelling or per 75 sqm of non-residential floorspace

Application	Current fee	Proposed fee (35% major applications, 25% all other applications)
Major (residential - 10 or more dwellings or sites of 0.5 hectares or more; non-residential, 1,000 sqm or more gross floor space or sites of 1 hectare or more)	£462 per every dwelling or every 75 sqm of non-residential floorspace	£624 per every dwelling or every 75 sqm of non-residential floorspace
10 to 50 dwellings and commercial non-residential between 1,000 and 3,750 sqm of floorspace		
Major (residential - 10 or more dwellings or sites of 0.5 hectares or more; non-residential, 1,000 sqm or more gross floor space or sites of 1 hectare or more)	£22,859 + £138 for each additional dwelling in excess of 50 dwellings or additional 75 sqm in excess of 3,750 sqm up to maximum of £300,000	£30,860 + £186 for each additional dwelling in excess of 50 dwellings or additional 75 sqm in excess of 3,750 sqm up to maximum of £405,000

Application	Current fee	Proposed fee (35% major applications, 25% all other applications)
Over 50 dwellings or more than 3,750 sqm commercial floorspace		

Figure 1: Table showing current and proposed planning application fees – Source: Technical consultation: Stronger performance of local planning authorities supported through an increase in planning fees – 28th February 2023.

3.5 In addition to the fees set out above, the proposals include double the fees for retrospective planning applications (except for householders), and the removal of the “free-go” for repeat applications. As Members will be aware, LPAs incur additional costs in respect of retrospective planning applications e.g. investigating the suspected breach of planning control and considering the need for enforcement action. If an enforcement notice is served which is subsequently appealed against, a fee is charged which is currently double that which would apply for a corresponding planning application. With regards to the removal of the “free-go” for repeat applications, the Government proposes this as there are instances where a free-go is used as a substitute for pre-application discussions, and there is a growing cost burden for LPAs who still incur costs for processing revised applications but receive no fee.

- 3.6 The Government estimate that the proposed increases will represent on average, less than 1% of overall development costs incurred by applicants. Regarding the proposed increase to householder planning application fees, the fee for this type of application represents a one-off cost to the applicant and represents a very small proportion of overall development costs, and therefore the Government consider the proposed 25% increase is justified.
- 3.7 In addition to the proposed increase to fees to statutory planning applications, the Government want to retain the flexibility that LPAs have to set their own fees for pre-application, Planning Performance Agreements (PPAs) and other bespoke services, and wish to hear from LPAs of their experience introducing such fees and how this has assisted the level of service provided.

Building capacity and capability in the planning system:

- 3.8 The Government want to make sure that planners and the planning system are valued, and that there is a culture of proactive delivery, pride in performance and a clear understanding of what is high-quality customer service, together with adapting to new measures which will be introduced through the LURB. The Government recognises there are significant challenges for LPAs in recruiting and retaining planning professionals and other technical experts with the right skills and experience, particularly at senior and principal planner levels. This has led to many LPAs exploring alternative service delivery such as through agencies, external consultants, which is proving to be very costly and unsustainable.

Introducing a more robust performance regime:

- 3.9 In relation to the performance of the planning applications service, the Government aim to ensure that all applicants experience a high-quality and timely service. The consultation therefore proposes a new approach to how the performance of LPAs will be measured across a broader set of quantitative and qualitative measures.
- 3.10 The Government recognises that “extensions of time” are useful, however they should only be used in exceptional circumstances. Currently, “extensions of time agreements” do not count against a LPAs performance figures for speed of decision-making, and therefore the Government considers this can mask instances where LPAs are not determining applications within the required statutory periods. In addition, the Government is proposing that performance measures should be assessed separately for the following application types:
- Major applications (10 or more new dwellings, or site area of 0.5 hectares or more and the number of dwellings is unknown;

provision of a non-residential building or buildings where the floor space created by the development is 1000sqm or more; development on a site with an area of 1 hectare or more)

- Non-Major applications (excluding householder applications) (anything smaller than the criteria for major development, including residential development of between 1 and 9 new dwellings on a site with an area less than 1 hectare, or site area is less than 0.5 hectares and the number of dwellings is unknown; non-residential development where the floor space created is less than 1000sqm or where the site area is less than 1 hectare; or other types of non-major development such as change of use)
- Householder applications (development within the curtilage of a dwelling house which requires an application for planning permission and is not a change of use)
- Discharge of conditions
- County matters (minerals and waste) applications.

3.11 The Government is also proposing to introduce a wider range of metrics to encourage improvements to service quality, which they feel will identify LPAs that are in need of additional targeted support. The proposed metrics are as follows in Figure 2.

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)) 2. Average time taken to determine non-majors (inc. EoT and PPAs) 3. Average time taken to determine householders (inc. EoT and PPAs) 4. Average time taken to determine discharge of conditions (inc. EoT and PPAs) 5. Average time taken to determine county matters (inc. EoT and PPAs)
B. Quality of decision-making	<ol style="list-style-type: none"> 1. Major appeals allowed by Planning Inspectorate as percentage of all appeal decisions. 2. Non-major appeals allowed by Planning Inspectorate as percentage of all appeal decisions. 3. Householder appeals allowed by the Planning Inspectorate as percentage of all appeal decisions
C. Extension of Times	<ol style="list-style-type: none"> 1. Total number of EoTs as percentage of all decisions majors 2. Total number of EoTs as percentage of all decisions non-majors 3. Total number of EoTs as percentage of all decisions householders
D. Backlog	<ol style="list-style-type: none"> 1. Average time taken to validate planning applications 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)

E. Planning Enforcement	<ol style="list-style-type: none"> 1. Average number of weeks taken to respond to suspected breaches of planning and determine the appropriate course of action. 2. Average number of weeks to take action where a breach of planning has occurred, having decided it is expedient to do so. 3. Total number of cases over 6 months old as percentage of all open cases.
F. Planning Committee	<ol style="list-style-type: none"> 1. Percentage of delegated decisions and committee decisions 2. Percentage of committee decisions to refuse against officer recommendation that are subsequently allowed at appeal

Figure 2: Table of possible quantitative metrics to be used in broader performance framework. Source: Technical consultation: Stronger performance of local planning authorities supported through an increase in planning fees – 28th February 2023.

3.11 The proposals also include the “Planning Guarantee” being tightened. The Guarantee allows for an applicant to secure a refund of the planning fee where a decision has not been made within 26 weeks of a valid application being submitted, if an extension of time has not been agreed by the applicant. The Government is proposing this is reduced to 16 weeks for minor applications, and majors being retained at 26 weeks.

3.12 Finally, the consultation considers including a qualitative measure as part of a new planning performance framework in the form of a “customer experience” metric. A “customer experience” measure could be based on a standardised customer satisfaction survey which focusses on the overall quality and timeliness of, for example, pre-application advice service and the decision-making process and service. It could also be used as a measure for community engagement, including the volume and diversity of people who participate in the planning application process.

4.0 CONTACT OFFICER: Gavin Prescott, Planning Manager
(Development Management)

5.0 DATE PREPARED: 6th April 2023

6.0 BACKGROUND PAPERS:

Department for Levelling Up, Housing & Communities Technical Consultation: Stronger performance of local planning authorities supported through an increase in planning fees – Published 28th February 2023.

Department for Levelling Up, Housing & Communities Technical Consultation: Stronger performance of local planning authorities supported through an increase in planning fees.

QUESTIONS AND PROPOSED RESPONSE FOR BwDBC

Increasing planning fees:

Q1: Do you agree that fees for planning applications should be increased by 35% for major applications?

Yes, this is welcomed and considered to be significantly overdue. This would allow investment in resources i.e. case officer level and through the consultation process, that are required to ensure that planning applications are considered within the statutory time frame. Planning fee income provides an invaluable resource for local authorities to invest in improving services, and here at BwD any proposed increase to the larger development applications would assist in ensuring the service delivers on the schemes aligned to the Growth Programme, and the adopted Corporate Plan, in an efficient manner. Planning application fees are currently set by the Government and have not been increased since 2018. The revenue generated through charging planning application fees does not normally cover the costs of deciding planning applications. The shortfall has to be subsidised by local authorities.

Q2: Do you agree that the fee for householder planning applications should be increased by 25%?

Yes, the householder application fee does not cover the costs to process and assess the application, given the often controversial nature of these applications with immediate neighbours, and any proposed increase is welcomed. The proposed increase would amount to around 1% of the overall costs for the development, and therefore is considered to be reasonable, particularly taking into account the current financial climate.

Q3: Do you agree that fees for all other planning applications should be increased by 25%?

Yes, this is welcomed and considered to be significantly overdue. This would allow investment in resources i.e. case officer level and through the consultation process, that are required to ensure that planning applications are considered within the statutory time frame. Planning application fees are currently set by the Government and have not been increased since 2018. The revenue generated through charging planning application fees does not normally cover the costs of deciding planning applications. The shortfall has to be subsidised by local authorities.

Q4: 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?

A critical mass of applications is required in order to be able to retain the expertise within a LPA to be able to consider the wide range of different issues associated with applications. For example, applications for works to a tree which is the subject of a Tree Preservation Order (TPO), or where the application site is located within a conservation area, and works to listed buildings currently have no fee payable. The assessment of these type of applications requires specialist input from Arboricultural and Conservation Officers which is resource intensive. Listed Building Consent applications quite often generate significant work for planning departments. Therefore, it is considered a fee similar to the householder application type fee should be payable.

Q5: 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?

Since 2011, Blackburn with Darwen Borough Council ("BwD") has implemented charges for the provision of discretionary services, in the form of pre-application advice charges. Feedback from developers has indicated they are willing to pay for the advice services which are tailored to meet the applicant's requirements in terms of speeding up the delivery of development. With BwD being a Unitary Authority, the level of service provided corresponds with the level of fees for largescale and major developments i.e. ability to have advice from highways, drainage, education, social services teams at meetings. BwD's Growth and Development Department's unique selling point compared to other local planning authorities within the region is the level of service provided between the multi-disciplinary teams, in providing a tailored service to developers that combines a number of specialist skills and experience to help customers to meet the requirements. Delivery of development is brought forward more efficiently, reducing the costs to the applicant and the Council.

Since 2018, BwD also implemented Enhanced Services with appropriately set fees. This has enabled the Development Management service to be more pro-active in its outlook. Planning Performance Agreements (PPA) for major applications and Enhanced Services for minor and householder type of planning applications are effectively a "Fast Track" Service for the customer from receipt of the planning application through to the decision. In essence, it is an agreement between the applicant and the Council that their planning application will be determined within a specified period. The "Fast Track" service is based on 2 levels of service – Platinum and Gold. The services are aimed at all Minor Planning Application types and

Householder applications only, together with Certificates of Lawfulness applications. Further details relating to each of these discretionary services at BwD, can be found on the following links:

<https://www.blackburn.gov.uk/planning/planning-permission-applications/planning-permission-application-advice/pre-application>

<https://www.blackburn.gov.uk/planning/planning-permission-applications/planning-permission-application-advice/development-team>

<https://www.blackburn.gov.uk/planning/planning-permission-applications/planning-permission-application-advice/premium-enhanced>

Q6: Do you agree with the proposal for all planning fees to be adjusted annually in line with inflation?

Yes, it is considered this would provide more certainty and financial stability to LPAs and developers, and will avoid a continuous cycle of review. It is commonly accepted that the nationally set planning fees have not covered costs to process applications, leaving Councils to subsidise 30% of the estimated cost of processing planning applications. The proposal to increase fees annually in line with inflation is welcomed as this will provide additional resource moving forward.

Q7: Do you consider that the additional income arising from the proposed fee increase should be ring-fenced for spending within the local authority planning department?

Yes, this would allow LPAs to maintain and improve the level of service provided to its customers, whilst at the same time, allow for the continued specialist expert advice to be provided on certain types of application by external consultees.

Q8: 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. The proposed changes to the national planning application fees, in particular introducing fees relating to retrospective planning applications, which will be double the normal fee, is welcomed by BwD. BwD has previously contacted the Secretary of State to raise this issue on two occasions since 2015, requesting that this measure is introduced. However, BwD does not agree that there should be an exception for householder applications. A large proportion of unauthorised works investigated by the Planning Enforcement Team relate to extension/alterations to domestic dwellings. One aspect that should be clarified is what will happen when an application is registered, which states it is not retrospective, but when the case

officer carries out their site visit, it is clear works have commenced. Will there be a facility to request the additional fee or to invalidate the application?

Q9: 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**

BwD consider that the “free go” option for repeat applications should be removed. This will allow LPAs to deter repeat applications for development which already exists. Experience has shown that resubmitted applications can represent substantial work, and therefore at a cost to the LPA. A comprehensive “free go” fails to reflect this cost. There are concerns applicants submit the first application as a substitute for any formal pre-application discussions. Would this still apply for withdrawn applications?

There is caution though that this proposal could be counter intuitive in terms of the performance measures that are looking to be introduced. This could lead to more refusals, and subsequently more appeals, reducing the level of customer experience currently enjoyed. Developers may see this as removing the incentives to negotiate as the process becomes more target driven, which in essence is not what positive planning is all about.

Q10: 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?

BwD does not have any of these application types within its jurisdiction, but consider a fee should be imposed which will tally with the other Prior Approval applications that are subject to a fee.

Building capacity and capability in the planning system:

Q11: What do you consider to be the greatest skills and expertise gaps within local planning authorities?

It is considered the biggest gaps within LPAs, particularly experienced here at BwD are urban design skills and biodiversity expertise. This is particularly important considering proposed changes to the National Planning Policy Framework to place greater emphasis on beauty and place-making, the requirement for biodiversity net gain and to ensure that all new streets are lined with trees.

Q12: 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?

It is considered that the Government should introduce a specific pathway for Apprenticeships and make it easier for Graduate Planners at Universities to get on the professional ladder working in LPAs. This could be achieved through Undergraduate Student Working Placement Schemes. These have proven to be a great opportunity for students which sees benefits for both them and the service. To support this would require grant money being available so that LPAs can recover the costs.

Q13: How do you suggest we encourage people from under-represented groups, including women and ethnic minority groups, to become planning professionals?

The planning profession should be promoted more in schools, and colleges particularly where there are existing good working partnerships between the Council and the education establishments. Apprenticeships could be introduced by the Government aimed at the under-represented groups, particularly in areas where the demographic has a high proportion of the group e.g. ethnic minority.

Introducing a more robust performance regime:

Q14: 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?

Yes, BwD agrees with this proposal so long as it enables the LPA to engage and work with applicants/developers and there is still the provision to enter into “extensions of time”.

Q15: 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, there is strong caution that this proposal could be counter intuitive in terms of the performance measures that are looking to be introduced. This could lead to more refusals, and subsequently more appeals, reducing the level of customer experience currently enjoyed. Developers may see this as removing the incentives to negotiate as the process becomes more target driven, which in essence is not what positive planning is all about. Furthermore, extensions of time are

usually required for reasons outside the LPAs control, such as a delayed statutory consultation response, or negotiations relating to Section 106 Agreements, and therefore they do not reflect the performance of an LPA.

Q16: Do you agree that performance should be assessed separately for:

- (a) Major applications**
- (b) Non-Major applications (excluding householder applications)**
- (c) Householder applications**
- (d) Discharge of Condition applications**
- (e) County matters applications**

BwD agree with the proposal to assess all of the above categories separately except for Discharge of Condition applications. These types of application are heavily reliant on statutory and non-statutory consultees, which often leads to significant delays in the assessment of the details submitted e.g. contaminated land conditions. It will lead to more “Partial Discharge” decisions being issued, which will lead to further applications being submitted to deal with the outstanding conditions, thereby impacting on good customer service. This appears to the customer that the planning service is being target driven rather than providing a quality customer service.

Q17: Do you consider that any of the proposed quantitative metrics should not be included?

The quantitative metrics as referred to in Figure 2 above, all appear to be reasonable and acceptable, except for the “Planning Enforcement” E 1-3 metric. Enforcement has no statutory deadlines in terms of investigating breaches, and most LPAs including BwD set their own local targets as defined in their published Local Enforcement Plan.

BwD are concerned that the government is proposing even more planning indicators when planning departments are already subject to numerous measures which are publicly available. Producing these reports can also be time consuming adding to the pressure on resources. It is vitally important that any increase in planning fees is not swallowed up by time-consuming and onerous reporting requirements.

Q18: Are there any quantitative metrics that have not been included that should be?

No.

Q19: Do you support the introduction of a qualitative metric that measures customer experience?

No, the customer experience is likely to be aligned to the outcome of the decision relating to their planning application. Most local authorities produce their own customer feedback service.

Q20: What do you consider would be the best metric(s) for measuring customer experience?

Customer satisfaction with the service provided.

Q21: Are there any other ways in which the performance of local planning authorities or level of community engagement could be improved?

With the agreement of developers, more engagement with the community at pre-application stage, without disclosing personal information or business information that is commercially confidential. In addition to this, there is now the opportunity to utilise digital tools – like some authorities have introduced Digital Customer Forum on their websites on which developer's proposals are uploaded, including their presentations, with awareness raised through the council's communications team and social media pages. The LPA officers identify interested parties, including residents' associations, disability and design groups, and invite them either to speak or to provide written comments, with residents living adjacent to the application site and those on connecting streets or in the wider area often invited to attend.