



## **Technical consultation: Stronger performance of local planning authorities supported through an increase in planning fees**

Date: 25 April 2023

### **The CLA**

The CLA is the membership organisation for owners and managers of land, property and businesses in rural England and Wales. Our 27,000 members own or manage around half the rural land in England and Wales and operate more than 250 different types of businesses. We help safeguard the interests of owners of land, and all those with an economic, social, and environmental interest in rural land.

Most of our members have a base of agriculture and may operate ancillary businesses, for example food processing, retail, contracting. Many members also operate a range of other businesses, whether tourism related, leisure and event locations, or workspace. It is sometimes the case that our members are the main employers and the main housing providers in their area. Access to a fast, efficient and cost-effective planning system is therefore essential to allow these businesses to remain competitive and grow.

Most of our members will engage with the planning system at one time or another, whether this is to provide much needed local housing to support local communities or for economic development in the rural area. Contrary to the expectation set out in para 2 of the consultation, our members experience an expensive, slow, cumbersome system beset by delays, requests for last minute information and very uncertain outcomes. It is our position that substantial improvement needs to take place before fee increases above inflation should be considered.

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

1. No.
2. We question why the figure of 33% has been chosen for major applications, and the justification behind this figure, as it is not reflected in inflation, and will disproportionately harm strategic development which could have a game changing region impact. An artificial division between minor and major development in terms of fees is not helpful, we need a joined-up approach to development planning not a series of small applications coming together in an uncoordinated way to deliver larger development.
3. Whilst our members are more likely to be involved in householder and other non-major development, we do not see the justification for raising planning fees for major development by 35% for exactly the same reasons as for minor development (as detailed in Q2). Income to local authorities from planning applications fees is not ring fenced, and therefore any increased revenue will not be re-invested in the planning department. Going forward, there should be significant savings from increased use and investment in

IT- There is a real risk that increased planning fees will deter investment in desirable, but low yielding development where final returns may be marginal at best.

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

4. No.
5. Firstly, there is no guarantee that any increase in planning fees will be ring fenced and spent on improving the planning process and planning service at a local level. There is always a real risk that these monies will be diverted to more-visible and higher –legal and reputational-risk activities.
6. Secondly, over the next few years policy, IT, and other changes will create many opportunities for local authorities to increase productivity and cut planning costs (see Question 21 below), and it is vital that local authorities are incentivised to make that necessary investment.
7. Thirdly, increased planning fees will disincentivise desirable development, especially where this development may be low-return or loss-making in the short term. There is often a presumption that ‘development’ is carried out by ‘commercial developers’ and is very profitable. It needs to be remembered that most everyday rural development is not carried out by commercial developers and, in its own right, may not be profitable. Indeed some development may be loss-making, like development required by regulatory changes (e.g., slurry stores, livestock accommodation and crop storage buildings), or rescuing heritage buildings at risk. In addition, it is common in small-scale development, like minor changes to a dwelling, for planning fees and related fees to exceed the cost of the actual work being authorised. There may be instances where households or businesses need planning permission to make energy efficiency upgrades to their properties to work towards net-zero targets.
8. Finally, arguments that applicants are “paying less than the full cost of handling their applications and are being subsidised by the public” need to be handled with care. Planning is not a service just to applicants, but it is also a service to the public: ensuring that right development happens in the right places to meet the needs of the community. While it is inevitable that applicants bear part of the cost, sharing the costs is appropriate because of the public interest.
9. It is encouraging that this consultation has ruled out local fee setting, or fee-setting on a ‘cost-recovery’ basis. These options could promote stasis and inefficiency. If Local Planning Authorities could cover any costs they incur simply by increasing fees, they would be much less likely to control costs or to innovate.
10. Our conclusion therefore is that there should not be an initial, large increase without improvements in the performance by local planning authorities being made – this is not the case now, nor has it been in the past

**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.**

11. No, the proposed increases are too high for the reasons set out in our response to Question 2 above.

**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?**

12. No. In particular we think the decision not to charge a fee for listed building consent (LBC) is correct. Listing is imposed on owners and comes with very high building maintenance costs and long delays in getting consent. An additional cost burden of a Listed Building Consent application fee will discourage applications. The risk that a fee for LBC would discourage engagement between local planning authorities and the owners of listed buildings which is so important to ensure ongoing maintenance and improvement. A lack of engagement may mean that either essential repairs are not carried out, advice not obtained or 'would be' applicants undertaking work without the necessary consents in place – all these outcomes would be undesirable.

**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?**

13. There should be greater use of Permission in Principle to reduce both risk and cost to the applicant and the planning authority. Splitting an application into a two-stage process spreads and reduces the resource needed from the local authority. For the applicant, having the certainty of a first stage approval would encourage them to submit a full application and could unlock a flood of new investment.

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

14. Yes. We acknowledge that fees should increase annually with inflation, but this should be accompanied by a report showing how the local authority planning department are meeting their service standard agreements – not just in relation to planning applications but also listed building consent, appeals and local plan progress. If indexation is applied, this should not be any greater than CPI.

15. However, it is important to clarify that the CLA opposes a 25/33%, but if that scale of increase were to be applied then it would be inappropriate to use an inflationary increase as well. There would then be nothing to drive any of the increases in efficiency and improvements that are so necessary to achieve a proper functioning planning system.

**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?**

16. Yes, we agree, if that were possible to achieve. But our experience leads us to believe that, in reality, this will be very hard to deliver in a local authority context where tight budgets and ever-growing competing demands are prevalent. It is unlikely that the increased funds would be ring fenced to fund improvements in development control, and there is a risk, as there is at present, that the money will be allocated to a different budget and therefore be lost to that function.
17. However, as the consultation document says, “planning fees can often be diverted as part of wider corporate budget priorities to support other council services”. Local authorities routinely divert some or most additional planning fee income to other more visible and higher legal or reputational-risk activities, like social care. Even in 2017, when local authorities were not permitted to increase planning fees unless they had agreed in writing to voluntarily ringfence the additional revenue for planning services, it was clear that much of the revenue was in fact spent elsewhere, as other pressures on funding increased. It is understood that DLUHC has in the past researched diverted spend, but it appears that the final report has not yet been published
18. Fee increases, if they are not ring-fenced, would therefore be a highly inefficient and unreliable way of raising resource for planning services. There would be a high cost to applicants, and consequent disincentivising of development, but very limited benefit for delivery of planning services.

**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?**

19. No. Given the wide reach and the high complexity of the planning system, a high proportion of retrospective applications follow inadvertent rather than deliberate breaches, and it would not be reasonable to double fees in these cases. That should apply to all such cases, not only householder cases.

**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
- Please give your reasons.**

20. Retained. Removal would be a further disincentive to development, would not encourage the improvement of applications, and would drive an increase in appeals.
21. The proportion of applications submitted with inadequate information can be greatly reduced by improving guidance. Especially by using IT and Artificial Intelligence to show applicants during the application process that they are making inadequate applications and encourage them to be improved. Greater guidance would be a much better way of addressing the information problem. Improving pre-application advice so it is delivered quicker and more accurately will assist in better applications as well.

22. If the fee-free route were not retained, it should not be removed; the fee should be substantially reduced for re-applications submitted within 12 months.

**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?**

23. N/A.

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

24. The evidence we have comes from the CLA's advisory caseload, supplemented by other sources like the periodic Historic England/Institute of Historic Building Conservation - Association of Local Government Archaeological Officers surveys of local authority conservation services.
25. There is clearly a general shortage of planning officers, in the sense that there are not enough to operate the current system, and there are particular knowledge gaps in: the rural economy, heritage conservation, design, renewable energy, agricultural development, and natural environment conservation.
26. It may be possible to improve knowledge of existing planning department personnel at the margins, but there is a need to ensure that local authorities have sufficient expertise across a much wider spectrum to deal with the current and future challenges (Biodiversity Net Gain, Nutrient and Phosphate Neutrality and increased environmental controls. Government and local authorities need to focus on greatly increasing the productivity of the planning system at every stage. We address this under Question 21 below.

**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?**

**Please provide examples of existing good practice or initiatives if possible.**

27. Again, the key need is to greatly increase the productivity and efficiency of the planning system at every stage. We address this under question 21 below.
28. The detail of this question is largely outside our expertise. At the margins, there is probably scope to make improvements, for example taking steps to retain older staff members with experience, and take on apprentices.

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

29. This is outside our expertise.

**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?**

30. Yes. We agree that the Planning Guarantee should cut in more quickly for minor applications – the current 26 is still unreasonably long and provides little incentive to local authorities to handle these applications quickly. We would welcome a 16-week determination period for non-major applications.

**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?**

31. Yes. It is now too easy for local authorities to extend the decision period without harming their performance statistics. In 2021-22, of all District planning authorities' applications received, only 47% were decided within the relevant statutory time period<sup>1</sup>. Local planning authorities sometimes ask for more than one extension of time, and some appear to, almost routinely, contact applicants just before the decision period expires saying they will refuse the application unless the applicant agrees an extension.

**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.**

32. Yes. Performance should be published separately for each of the above.

33. What matters to applicants is of course the performance of individual local authorities on their own applications. It is very important that performance is monitored. The new metrics suggested in this consultation, and the increasing use of IT in planning processes, should make monitoring performance much easier and more effective. There should be effective sanctions (especially fee reductions) on local authorities to incentivise them to meet performance standards.

34. Where timescales are measured these should be from the day the application is submitted to the day the decision is delivered. This would prevent any validation delays and extensions being taken into account.

**Question 17: Do you consider that any of the proposed quantitative metrics should not be included?**

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<sup>1</sup> DLUHC Table P120: District planning authorities – planning applications received, decided and granted, performance agreements and speed of decisions. Accessed 13<sup>th</sup> of April 2023.

**Yes/no/don't know. Please give your reasons and, if appropriate, state the metric letter(s) and number(s) that you believe should not be included.**

35. No. We think all of these metrics are helpful and should give a considerably more accurate picture than the more limited metrics now in use. F2 (percentage of committee decisions to refuse against officer recommendation that are subsequently allowed at appeal) may be a particularly interesting measure and might discourage planning committees from being over-influenced by small numbers of engaged local objectors.

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

**Yes / no / don't know. Please indicate what additional quantitative metrics you consider should be included.**

36. No.

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

37. Yes. Customer experience and perceptions of that experience are very important if the system is to work effectively and proportionately and be seen as working effectively and proportionately. It is important that the aggregated customer experience scores are publicly available, and that there are mechanisms to ensure they are acted on as necessary.

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

38. The system should ask users for their opinion of service quality not only at the end of the process, but also briefly at/after each stage of the planning process, in a form which allows them to respond in seconds (though with the ability to add free-text comments if they wish). IT and the end-to-end digitisation of the process should enable this to be done cheaply and effectively. It is also vitally important to include the cases which do not reach a conclusion, for example where pre-application discussions are not followed by an application, or where an application is not validated, or where the applicant withdraws the application, and cases which although not withdrawn are never actually determined.

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

39. It is certainly true that the current planning system and current processes are inadequately resourced. The solution, short of adequate resources, is clearly to improve the system so that it can be operated within the resource which is actually available. Government and local authorities are taking steps in that direction, especially the current Open Digital Planning project and others, but it is of paramount importance that these are taken forward and expanded.

40. Resource must be focused on the vital but unglamorous tasks of making processes much more effective and efficient, and driving greater engagement of a greater

proportion of the public in delivering and owning the local plan - not on making it easier to object to planning applications from your smartphone!

41. Wider community engagement is vital, given the narrowness of the demographic which currently engages in the plan-making and development management process, often has vocal objectors. It is essential that engagement reaches far into the rest of the population which currently does not engage where the benefits of development might be more keenly felt. There are a number of different ways to drive engagement, whether through citizen panels, charettes or other methods. We are happy to engage with the department to help find solutions

**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?**

42. The proposals to increase fees in the first half of this consultation would have negative impacts on rural businesses, communities, and property owners, by discouraging applications, reducing economic activity, job creation, and the development of much-needed rural housing.
43. In contrast, the proposals in the second half of the consultation to improve metrics and the planning guarantee should have positive effects on the planning system and on all these activities. Greater public engagement could have further very positive effects, but only if it reaches well beyond the narrow and mainly anti-development demographic which is currently engaged.

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