

Planning Committee

31 March 2023

Agenda item number 14

Department of Levelling Up, Housing and Communities - Increasing planning fees and performance - technical consultation

Report by Head of Planning

Summary

Department of Levelling Up, Housing and Communities (DLUHC) is consulting on proposals to increase planning fees by 25 – 35% to support Local Planning Authorities and increase capacity and capability. This report sets out the proposals and proposed response.

Recommendation

To endorse the proposed response.

1. Introduction

- 1.1. On 28 February 2023 the Department for Levelling Up, Housing and Communities (DLUHC) published a [technical consultation document \(www.gov.uk\)](http://www.gov.uk) setting out measures to improve the performance of Local Planning Authorities (LPAs). This is in response to concerns that inconsistent performance by LPAs will impact on the delivery of the levelling up agenda. Inadequacy in performance is attributed to insufficient resources and capability.
- 1.2. The objectives are to increase resources to LPAs to improve determination efficiency, thereby making the process quicker, and improve consistency and quality by introducing more streamlined and digitised process, which, again, will speed up the process. It is recognised that the issues are not solely about money, so the proposals seek to increase the number of planners (and associated professions). It is also proposed to reframe the performance assessment criteria to give a clearer indication of where there are problems.
- 1.3. Three mechanisms are proposed to address the issues identified: financial support, additional resources and increased measurement and monitoring of performance.
- 1.4. The consultation paper explains the proposed change and then asks a series of questions on each. The information and a brief commentary are set out below and the proposed answers are in Appendix 1.

2. Financial support

Fee increases (questions 1 – 4, 6 &7)

- 2.1. DLUHC recognise that the income received by LPAs through planning application fees does not cover the cost of the development management service, whilst other elements of a planning service (e.g., plan making and enforcement) receive no direct income from users. The deficit is estimated at around 33%. Planning application fees were last increased in January 2018 and, before that, in November 2012.
- 2.2. It is proposed to increase the fee by 35% for major applications and by 25% for all other applications, with a future annual increase which would be index linked to inflation. The justification for this is to ensure that planning application service is funded principally by the beneficiaries of the planning gain (ie the increased land value). It is also noted that the costs associated with applying for planning permissions typically represent only a small proportion of overall development costs.
- 2.3. In terms of comments, overall the proposals are welcomed. Application fees have fallen in real terms over many years, meaning that nationally the planning process has increasingly been subsidised by the funding provided by Central Government to a Council or LPA rather than being largely self-funding. In addition, the planning function has had to compete with other services for funding, which has had an impact on resources.
- 2.4. The increase proposed is significant, particularly for major development (at 35%), but would help to restore the link between demand for the service/workload and capacity in an LPA. This would support the principle that the beneficiary of a service should bear a greater proportion of the cost of its costs.
- 2.5. It is proposed to ringfence the additional monies to ensure it is retained in planning and this is important if the increase is to be effective.

Discretionary and bespoke planning services_(question 5)

- 2.6. The consultation raises the question of how LPAs charge for additional or 'fast track' services to improve the speed of decision making and asks for comments on this.
- 2.7. The Broads Authority has not offered a 'fast track' service, but is aware this has been used elsewhere in the county, and by a number of the NPAs, for larger schemes. It would be considered if an appropriate scheme arose and a developer requested it, but to date there has been no need so no comments can be made on the experience of this. As a principle, however, whilst the rationale for additional services on a 'paid for' basis is understood, there is concern that this risks the creation of a two tier system and it is considered that there should be an effective and efficiently functioning planning system in place for all users before resources are diverted to additional services unless it can be demonstrated that this would improve overall effectiveness.

Retrospective and 'free go' applications (questions 8 & 9)

- 2.8. Retrospective applications are where a planning application is made to regularise a development after it has taken place. The usual application fee is paid for this. Retrospective applications often arise out of an enforcement investigation, where the LPA is often advised by a third party that development is underway. The failure to apply for planning permission may have been a mistake or may have been deliberate.
- 2.9. The consultation proposes that the fee for a retrospective application should be double the normal fee, in recognition of the additional initial investigation work. An exception would be made for householder development, where only the standard fee would be paid (as currently) as there may have been a genuine mistake.
- 2.10. In terms of comments, the double fee for retrospective applications is welcome as these do often incur additional costs. The rationale for the householder exemption is understood, however there is extensive information about planning available on-line now, including on the Government's own GOV.UK site where there is an interactive house tool so users can identify their own proposals. In addition, all LPAs will be able to advise whether planning permission is required, although some will charge for this. Given that Government and LPAs have put considerable resources into making this information available, the justification given in the consultation for exempting householder development is not considered to be strong. The risk of a double fee is likely to provide an effective impetus for getting correct advice.
- 2.11. Currently where an application is withdrawn, a resubmission of a substantially similar scheme may be submitted within 12 months without paying a further fee. The consultation paper advises that this process may be being used to 'sound out' an LPA on a scheme, without incurring the cost of pre-application advice and experiences of this and suggestions to address it are sought.
- 2.12. This situation is not uncommon on larger schemes, or where a developer wants to get the formal comments of a statutory consultees or to understand local opinion. The Broads Authority experiences it to some degree. A fee for the resubmission would not be unreasonable, as the LPA does incur processing costs and if this were to be reduced to 50% this would contribute to the resource burden.

Prior Approval by Crown development on closed defence sites (question 10)

- 2.13. The Broads Authority has no experience of this specialist area and does not propose to make any comments.

3. LPA capacity and capability

Increasing resources (questions 11 – 13)

- 3.1. DLUHC recognises in the consultation document that increasing fees alone will not achieve the Government's objectives, and identifies difficulties in recruiting staff, particularly to senior posts and in specialist roles, as being a significant constraint. There are various ways in which LPAs can seek to deal with this issue in the short term, but a cross sector working group has been established by DLUHC to look at ways of

building capacity and capability in the future. The consultation asks for LPAs to provide details of their experience of the above and suggestions.

- 3.2. With its extensive protected areas and little major development, the Broads Authority as an LPA has different pressures to other LPAs. Much of the work involves specialist knowledge, for example of flood risk or making landscape assessments, and much of this is specific to the Broads. Consequently, the approach has always been to develop our own staff, providing training on their specific role and putting them through a formal planning qualification where possible. This has served us well. This approach should be encouraged and wider opportunities given.

4. LPA Performance

Tightening the Planning Guarantee (question 14)

- 4.1. Currently, where a planning decision has not been made within 26 weeks and no extension of time has been agreed an applicant can request a refund of their application fee. It is proposed to reduce this to 16 weeks for all non-major and EIA applications.
- 4.2. In commenting on this, the rationale for the proposal is clear but if poor performance is a result of insufficient resources and capacity, the application of a penalty will not improve the situation. Targeted support and focus on stalled applications is a better approach to clear backlogs, after which the use of such a measure to identify any slowdown in performance may be useful.

Extension of Time Agreements and Planning Performance Agreements (questions 15 & 16)

- 4.3. Where an application has not been determined within the statutory period, an LPA can request a formal Extension of Time (EOT) from the applicant and this in effect extends the measured determination period. It is useful in circumstances where, for example, the negotiations are on-going, consultations responses are awaited or a reconsultation is required. A Planning Performance Agreement (PPA) is similar, but for a PPA the LPA and developer formally agree a timetable for the determination process. The consultation document set out concerns that EOTs and PPAs can be used to conceal poor performance and DLUHC therefore propose that speed of determination be assessed primarily on the statutory timescale. It also proposes to monitor different types of application separately.
- 4.4. In terms of comment, it is the case that EOTs (and PPAs) are a useful short term mechanism to allow negotiations (or other processes) to continue without an LPA being penalised. They should not be used for long periods, or to hold an application in abeyance – in such cases an application should be withdrawn and resubmitted when the issues are resolved. Rather than discount them altogether, a more nuanced approach could be devised using a fixed maximum period.

- 4.5. Determination times are currently assessed separately for different application types and this is satisfactory.

Broadening the Planning Performance Framework (questions 17 & 18)

- 4.6. Members will be aware that the speed of determination of planning applications is monitored, as the Planning Committee receives the quarterly report to DLUHC setting out the speed of determination statistics. DLUHC also separately monitor the appeal success rate as a measure of quality of decision. It is proposed that these measures be extended to include the number of EOTs, the backlog in validation, the speed of three identified processes around planning enforcement, the percentage of delegated decisions and Committee decisions and, finally, the percentage of committee decisions to refuse against officer recommendations that are subsequently allowed at appeal.
- 4.7. The Broads Authority currently reports appeal decisions, EOTs and the percentage of delegated/committee decisions to Planning Committee. Enforcement statistics are reported quarterly to Management Team, following a 2020 audit recommendation.
- 4.8. The additional measurements would give a clearer picture of how an LPA is performing, however the ease of providing the information would depend on how it is recorded and on having the ICT capability to extract it. Significant support could be required to achieve this and that may distract from other service improvements.

Measuring customer experience

- 4.9. Finally, the consultation paper proposes the use of a qualitative measure to measure customer satisfaction and seeks views on this.
- 4.10. Members will be aware that the Broads Authority as LPA does an annual customer satisfaction survey, sending out a questionnaire to everyone who has received a planning decision in January – March, with the results reported to Planning Committee usually in May. This is a useful exercise and the feedback received is always helpful.

5. Conclusion and recommendation

- 5.1. The purpose of the measures outlined above is to increase support to LPAs to facilitate service improvements, particularly around speed of decision making on planning applications. The additional funding would be welcomed, however there are significant problems in many LPAs due, amongst other things, to an historic shortage of suitably experienced and qualified staff and increasing workload pressures and these issues will not be resolved by simply providing more money.
- 5.2. The consultation paper does recognise these established difficulties, which is acknowledged, and there is strong emphasis on the need to increase the number of people going into the profession. This is welcomed.
- 5.3. The third element covers proposals for the measuring and monitoring of planning performance. None of the proposed metrics are in principle unreasonable, but

targeted and funded support will be needed to improve services where there is long established underperformance and the metrics could be useful in monitoring change.

- 5.4. It is recommended that that responses set out in Appendix 1 are submitted as the formal response of the Broads Authority.

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Appendix 1 – Technical consultation: Stronger performance of local planning authorities supported through an increase in planning fees: Responses of the Broads Authority

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

YES/no/don't know. Please give your reasons.

Application fees have fallen in real terms over many years and whilst the increase proposed is significant, it would help to restore the link between demand for the service/workload and capacity in an LPA. Ringfencing the additional monies is essential.

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

YES/No/don't know. Please give your reasons.

The planning fee represents a minor proportion of the cost of development. The beneficiary of the development should bear a greater proportion of the cost of the service.

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.

YES/no/don't know. Please give your reasons.

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?

Yes_- please explain / NO.

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?

No comments.

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

YES/no/don't know. Please give your reasons.

This will assist retention and stability in the planning profession.

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/no/don't know. Please give your reasons.

This is essential if the increases proposed are to be effective.

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/NO/don't know. Please give your reasons.

Strong support for the double fee proposal, but do not agree with the householder exemption as there is extensive information available on-line that a householder can view, or they can contact their LPA for advice.

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.

Support for a fee for resubmission, but suggest reduced to 50% to reflect previous negotiations time.

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/no/DON'T KNOW

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

There is a shortage of suitably experienced staff in most areas of planning. Enforcement has always been difficult to recruit to.

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?

Providing training at different levels, with clearly defined career stages and pathways. Broaden membership of RTPI to include more of the technical and administrative functions which are essential to an effective process. LPAs should promote the importance of professional membership and support staff in this to develop commitment and ambition.

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

The Broads Authority has maintained a trainee DM planner post since 2007 and has put six people through training to RTPI-eligible qualifications. We currently have a planning trainee on the new Apprenticeship scheme.

A commitment to training staff is essential and any incentives to LPAs and the private sector to do this should be considered. The Newcastle University year-out scheme is a good one, but shorter blocks or task-specific would be easier to incorporate into a work programme. The ability to share trainee posts with other LPAs would be useful.

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

Is there a route in through Youth and Community services to engage with young people earlier?

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?

Yes/NO/don't know. Please give your reasons.

This may be useful to monitor performance when the statutory targets are regularly met, but as a penalty for poor performing LPAs it would be counter-productive and targeted support is a better approach.

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?

Yes/NO/don't know. Please give your reasons.

EOTs can be really useful for all parties. Rather than discount them altogether, a more nuanced approach could be devised using a fixed maximum period.

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.

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

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.

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.

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

YES/no/don't know. Please give your reasons.

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

The Broads Authority does an annual survey asking standard questions about satisfaction with a range of elements of the process from pre-application engagement to contactability. We find the results really valuable in looking at the service.

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

There are always ways to improve this, but the constraint is usually resources.

Better guidance with the introduction of new schemes such as BNG and Nutrient Neutrality would reduce the amount of time spent looking at how to implement such schemes.