

Report to Planning Services Scrutiny Standing Panel



Date of meeting: 10 January 2011

Subject: Proposals for Changes to Planning Application Fees in England Consultation

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Committee Secretary: Mark Jenkins 01992 56 4607

Recommendations/Decisions Required:

1. To consider the consultation questions, issues and options raised by the principle of setting planning application fees at a local council level.

Background:

On 15 November 2010, the Secretary of State for Communities and Local Government (CLG) issued a consultation paper seeking views on proposed changes to the planning application fees regime, which would decentralise responsibility for setting fees to local planning authorities. It also proposes to widen the scope of planning application fees to allow authorities to charge for applications which are currently free and to set higher fees for retrospective applications. The proposals, if agreed, would help to reduce the subsidising of planning applications by local taxpayers. If accepted and approved by Parliament, the changes would be implemented from April 2011, with a six month transition period until October 2011. The consultation period is from 15 November 2010 to 7 January 2011.

Report:

The handling, checking, administering, assessing, deciding and publicising of planning applications requires each one to have appropriate and careful consideration. Over 20 years ago, the Government introduced fee charging on planning applications in order to recover costs of processing most type of planning applications, and subsequently the fees have been increased, the most recent of which was a 23% increase in 2008 to help authorities recover more of their costs. So far, setting these fees has been restricted so that they are done only nationally. Many authorities though, including ourselves, are still not recouping their costs whilst a few are recovering more than it costs them. This means that nationally set fees are not taking account of differing local circumstances and market conditions, which the current Coalition Government considers is contrary to the spirit of localism.

Arup, over a number of years, have carried out independent research for the Government, the latest of which in February 2009 revealed that:

- authorities are recovering 90% of their costs, on average
- the average cost of handling and determining planning applications was £619, and the average fee was £569
- Around 35% of development control resources are being allocated to dealing with applications which do not currently incur a fee

Assumptions are made in Arup's research that all authorities are using the same cost make-up in determining their expenditure, which raises a fundamental issue over what costs are being included and how are each local authority making assessments and reporting what full cost recovery includes. The concern is that the real position is likely to be greater in cost shortfall between expenditure and income and therefore amounts to an under assessment of the position. The Consultation paper assumes that most local planning authorities will increase fees on average by 10% to 15%, but as stated in the response to question 1 below, the Epping Forest District shortfall is greater and requires a much greater fee increase to achieve full cost recovery. The assumption in the consultation paper that the 25% cap (option 2) on fee increases should see full cost recovery is not borne out at this authority.

Options

There are three options outlined in the Consultation paper.

Option 1 would decentralise the responsibility for setting fees for planning applications to local planning authorities, who would have to establish a charging scheme which reflects full cost recovery and the principle that the user should pay for the actual service they receive. Authorities would need to be able to demonstrate that charges are justifiable and based on a cost kept to a minimum and not be profit-making. It is also proposed to widen the scope of planning application fees so that authorities can charge for more of their services. This would enable authorities to charge further for free-go planning applications (resubmissions of the same development within 1 year of the previous application decision) and charge higher fees for retrospective applications.

Option 2 is similar to option 1 but with a cap of 25% on maximum fee levels imposed by Central Government.

Option 3 would be to maintain the current centrally set planning fee system, subject to a 10% to 15% increase in fee levels.

Recommendations:

Invitation to Comment

There are 8 questions posed in the consultation response. At the time of preparing this report, a request had been made to CLG to allow an extension of time in responding, given this panel does not meet until 3 days after the deadline date. Officers though have made a suggested response, which is highlighted, and comment made in the response box in the consultation paper that allows for a justification.

The Planning & Economic Development Directorate in consultation with the Finance & ICT Directorate comment as follows:

- 1. Do you agree that each local planning authority should be able to set its own (non-profit-making) planning application fee charges?**

Strongly Agree / Agree / Neither Agree nor Disagree / Disagree / Strongly Disagree

Explanation/Comment:

Despite the Arup investigation, Epping Forest costs and fees are higher than the average 10% shortfall being quoted. There is a question mark on how the Arup

surveyed local planning authorities measure expenditure and cost and the likelihood is that there will be discrepancies. Based on the budget for 2011/12, our current fee income would cover 49% of costs and the average fee is £708. By using an initial maximum 25% annual increase based on the budget set for 2011/12 of £481,000, the Council could expect to raise a further £120,000, plus a further £80,000 from areas not currently subject to charges. Current fee income would then cover 69% of costs, so the likelihood would be that a further fee increase would be required for 2012/13 and beyond, until full cost recovery is achieved. Option 1 for full cost recovery is therefore sought and currently we are therefore not at risk of fees increasing above cost recovery.

2. Do you agree that local planning authorities should be allowed to decide whether to charge for applications that are resubmitted following withdrawal or refusal?

Strongly Agree / Agree / Neither Agree nor Disagree / Disagree / Strongly Disagree

Explanation/Comment:

There are a number of costs still included in handling, administering and assessing these applications. In particular, the checking for completeness of the submission, further consultation, report writing etc. In effect, this results in re-assessment of the planning issues and still use of officer time as with any other type of planning application.

3. Do you agree that local planning authorities should be able to set higher fees for retrospective planning applications?

Strongly Agree / Agree / Neither Agree nor Disagree / Disagree / Strongly Disagree

Explanation/Comment:

It has been constantly raised by Members that there should be some type of penalty to applicants in those cases where development has been carried out in breach of planning control, in recognition of the investigation time and cost carried out by Planning Enforcement Officers, particularly as enforcement is an area of Development Control where there is low fee generated to the Council. A doubling of the fee would appear not to be unreasonable.

4. Are there any development management services which are not currently charged for but should require a fee?

Yes / No

Explanation/Comment:

Whilst not part of the CLG preferred consultation recommendation, fees should be chargeable for listed building applications and conservation area consents, particularly where these are not accompanied by a fee paying planning applications, because this Council has a large number of listed buildings and requires specialist advice to assess them. It may go some way to covering the astronomical advertising fee for these types of applications in the local newspaper (£58,000 in 2009/10). Also, a fee should be chargeable for development where Article 4 Orders or planning

conditions have removed permitted development rights (currently free) because an assessment by a planning officer is still required and the condition would have necessitated the original granting of planning permission. At Epping Forest, between 01/04/10 and 01/12/10, no fee application accounted for 30% of all type of submitted applications. We already charge for pre-application advice on Major category applications and we will be exploring other options in a bid to seek full cost recovery, i.e. charge for pre-application advice on other categories of development, a checking service to ensure validation of planning applications when deposited etc.

Apart from claiming for costs, there is no income return on planning application related appeals. Whilst appreciating the applicant has already paid a planning application fee, a fee payable to the Council to cover administration costs should be introduced and be variable depending on which procedure (written representations, hearings or public inquiry) is chosen.

5. Are there any development management services which currently require a fee but should be exempt from charging?

Yes / No

Explanation/Comment:

We are still in favour of not charging for applications relating to disabled access/ comfort issues. Works to trees in Conservation Areas and those that are Protected would also appear a little unreasonable given the Council protects these in the first place and there is the fear that a fee may encourage works to take place without submission of an application.

6. What are the likely effects of any of the changes on you, or the group or business or local authority you represent?

Comments:

It would allow for a move closer towards full cost recovery, reduce overall cost of the service by re-looking at our overheads and re-charges, staff retention and greater emphasis on pre-application advice and collaboration with various parties. Increase in administering this service at expense of professional time spent on dealing with planning applications. Setting fees locally would allow authorities to run a more efficient service since it will be a more transparent system, directly accountable to local residents.

7. Do you think there will be unintended consequences to these proposals?

Yes / No

Explanation/Comment:

Difficulty in accountability of cost recovery as a comparison across local authorities, depending on what is included in the budget make-up of Development Control/Management sections.

Potential disagreement and fluctuations of fees comparable to neighbouring authority, resulting in increased challenges of fees set.

Threat to general positive customer feedback as agents become disillusioned and confused by varying fees between authorities, particularly if the fees are substantially increased.

Possible increase in unauthorised development to avoid paying the fee.

8. Do you have any comment on the outcomes predicted in the Impact Assessment, in particular the costs and benefits (See Annex B)?

Yes / No

Explanation/Comment:

Cost Benefit impact Assessment

Option 1 - This would be our preferred option. The benefits for local planning authorities will result from being able to locally set fees and allow them to increase to a level where costs are fully recouped. The benefit for Epping Forest will be full cost recovery, based on local conditions and on current estimates, this would mean a further income in a full year of approximately £500,000.

The costs would be the additional cost burden imposed on applicants with an average estimate of 13% on fees paid by individuals and 87% on fees paid by businesses. Full cost recovery would in the case of Epping Forest possibly double the fees currently being charged.

Option 2 - The benefits for local planning authorities will result from a maximum 25% increase in fees initially, which in the case of Epping Forest will not fully recoupe all costs. The benefit for Epping Forest would be approximately £120,000 in a full year still leaving a significant gap between income and expenditure.

The costs would be the additional costs and burdens outlined in option 1 but limited to 25%.

Option 3 - The benefits for local planning authorities will result from a 10% to 15% increase in fees imposed by central Government. The benefit for Epping Forest will be approximately £70,000 in a full year, which would be a long way from full cost recovery.

The costs would be the additional costs and burdens outlined in option 1 but limited to 15%.

Reason for the Decision:

The CLG consultation requires a response by 7 January 2011. A request has been made to the CLG to allow a short extension of time in order that Members can comment on this report.

Options considered and rejected:

Not to respond to the consultation, but responding is in our interest as it would have potential fundamental implications for local government financing.

Consultation undertaken:

Management Board/Cabinet Members Session – 15/12/2010
Finance and ICT Service – Principal Accountant

Resource implications:

Budget provision: Significant, if allowed full cost recovery.

Personnel: Nil

Land: Nil

Community Plan/BVPP reference: Nil

Relevant statutory powers: Section 303 of the Town and Country Planning Act 1990, as substituted by Section 199 of the Planning Act 2008

Background papers: CLG Consultation Paper: Proposals for changes to planning application fees in England, November 2010;

Environmental/Human Rights Act/Crime and Disorder Act Implications: Nil

Key Decision reference: (if required)