



Planning Fees in England: Proposals for Change

Consultation



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Contents

	Page
Introduction	5
The legal background	6
Resourcing the planning system	7
The changes we propose	9
Options	10
Invitation to comment	13
Annex A	
Table of current and proposed fee arrangements	15
Annex B	
Draft Regulatory Impact Assessment	22
Annex C	
Criteria for governmental consultation exercises	31

Introduction

1. In 2005-06, over six hundred thousand planning applications were submitted for processing by local planning authorities. They ranged from relatively small-scale applications for house extensions to the kind of large-scale mixed use developments that can have an impact, whether positive or negative, upon entire communities, townscapes and landscapes. Handling, checking and publicising these applications, and giving each one appropriate and careful consideration, is resource-intensive. Government policy is to allow local planning authorities to recover all the costs of processing most types of application by charging fees, which are set nationally. However, local planning authorities are not recovering from planning fee income the money they need to cover these costs.
2. Since the last fee increase, the Government has become aware of a general opinion that if the ambitions of spatial planning, the effective management of development, and the retention of improved local planning services are to be achieved, we need to augment the resources available to local authority planning services. Local authorities must maintain and improve the quality of those services not only for applicants but for the chief stakeholders in the planning system, local communities.
3. In this consultation paper, we introduce a number of proposals for changes to the planning fees régime. The fee increases we recommend reflect not only inflation in relation to local authority costs but also the cost of continuing to drive service improvements. If accepted and approved by Parliament, the proposed arrangements would come into effect on 1 April 2008.

The legal background

The Planning and Compulsory Purchase Act 2004

4. The provisions for charging planning application fees are set out in section 303 of the Town and Country Planning Act 1990, as amended by section 53 of the Planning and Compulsory Purchase Act 2004, which widened its scope. The section now allows fees to be charged in relation to any function of a local planning authority and for matters ancillary to those functions. It allows the Secretary of State to prescribe a fee or charge or a means of calculating a fee or charge to be set by someone else (such as the local planning authority), including the setting of performance-related fees or charges. The section also empowers the Secretary of State to prescribe when a service would be exempt from planning fees.

The Local Government Act 2003

5. Section 93 of the Local Government Act 2003 introduced a general power for authorities to charge for ‘discretionary’ activities: services that an authority has the power, but is not obliged, to provide. In the case of planning, this may apply to areas of activity outside the scope of the existing fees structure, such as pre-application discussion and advice. We know that a number of authorities are using section 93 powers to charge applicants in relation to pre-application advice. The power is available equally to all authorities and does not depend on performance categorisation following Comprehensive Performance Assessment.¹ However, such charges must relate to the purposes for which they are set. Taking one year with another, the income from these charges must not exceed the costs of providing the service. As with planning fees, neither central nor local government is empowered to go beyond cost recovery, into profit.

The basis for charging planning fees

6. There is a convention that a local authority should be prepared to pay for activities that are purely or largely to the wider public good – such as enforcement activity in a planning case. The intention of development management by local planning authorities is above all to promote the public good: in particular, the long-term benefits of sustainable, well-designed communities. Yet planning decisions often bring private benefit to the applicant as well; a property with planning permission may be much more valuable than it would be without. The power granted to local authorities to charge planning fees is a reflection of that possible private benefit implicit in a planning permission. An applicant, even one not in business, should expect to pay a fee for an application that will bring a measure of gain.
7. However, the amount of fee payable in a particular case is, unless otherwise specified, a reflection of the overall cost of handling, administering and deciding the various types of fee-chargeable application. The fee amount chargeable is designed to include recovery of direct costs and an apportionment of overheads directly related to the costs of staff time involved in processing an application in the relevant fee category. That is the basis of the existing and the proposed new fees set out in **Annex A**.

¹ *General power for Best Value Authorities to Charge for Discretionary Services – Guidance on the Power in the Local Government Act 2003* (ODPM, 2003).

Resourcing the planning system

8. It has long been a principle that developers should pay for the work involved in deciding planning applications. Fees are set centrally². For some years there has been reluctance to increase fee levels fully to meet the cost of the service, because of the perceived poor standard of local authority performance. However, without the necessary resources, local authorities have been unable to attract and retain suitably qualified staff and improve delivery. Fee levels were last raised in April 2005, on the basis of research undertaken in 2003.
9. For the last five years, Planning Delivery Grant has partly bridged the gap between fee income and cost of service. Planning Delivery Grant brought significant improvements in service delivery but this grant régime is now in its final year in its current form. The issue of planning fees needs to be addressed soon if the reported improvements are to be maintained and further improvement delivered.

Improvements to service

10. Over the last five years there has been a significant improvement, with 70% of major applications now being handled within 13 weeks, and 75% of minor and 87% of other applications within 8 weeks. This is a substantial improvement in efficiency compared to 2001/02 (when the proportions were 43%, 53% and 70% respectively) and has been achieved despite a 13% increase in the number of applications over that period.
11. There are now 277 authorities – 75% of all councils – meeting all three national targets for deciding planning applications on time, in comparison to only 6% in the year ending December 2002. This improvement provides applicants and developers with significantly greater speed and certainty over the timing of development control decisions.
12. The Government remains committed to the continuing improvement of planning performance to ensure the delivery of a good service. We expect local planning authorities not only to meet existing targets but to continue improving beyond their existing performance level (as many already have). We need decision times to be brought down even further whilst still maintaining the quality of those decisions. In line with the Local Government White Paper published last November, future delivery arrangements between local and central government will be focused through Local Area Agreements. Under these Agreements a local strategic partnership (LSP) comprised of local authorities and other key stakeholders including representatives of the voluntary, community and business sectors, together with other public bodies, work together to achieve agreed outcomes. This allows much greater flexibility and encourages arrangements and priorities to reflect local circumstances. We will also consider, as part of the Comprehensive Spending Review process, how best to continue to drive further improvements in development control performance through the new performance management processes.

² Section 303 of the Town and Country Planning Act 1990 (as amended); the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989; and the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2005.

13. From April 2008, local authorities will report on a set of 200 national indicators, and Local Area Agreements will define the priorities for improvement by means of 35 targets drawn from the 200. Planning is a key service for local government. As well as providing a service to householders and businesses, it underpins the delivery of wider social, economic and environmental outcomes and the future shape and health of the locality. Where planning is a particular priority, either because of poor performance historically or the need to deliver on regeneration and development, we will seek to negotiate appropriately stretching targets through the Local Area Agreement.
14. Where performance continues to be significantly poorer than expected, the Local Government White Paper proposes a streamlined 'ladder' of engagement and intervention. If interventions do not produce the required results, serving an improvement notice could lead, ultimately, to a statutory direction to re-commission the service and identify alternative providers such as other local authorities.

Research

15. In July 2006, we commissioned independent research from Arup with Addison Associates. The result, a comprehensive study of planning costs and fees³, is being published on our website at www.communities.gov.uk/research_and_statistics. It indicates that local planning authority income from planning fees still does not cover the cost of the development control system, particularly in respect of large applications. The research suggests that the total cost of the development control service is approximately £290 – £365 million per annum, and fee income for 2005/06 was £232 million.
16. In December 2006, further support for a review of resource arrangements for local planning authorities came in the independent *Review of Land Use Planning* by Kate Barker. Her recommendations included:
 - raising the £50,000 threshold for fee payments on a tapered basis;
 - allowing applicants to pay for a premium service or to pay for additional resource/consultants to be put towards their application; and
 - maintaining a form of Planning Delivery Grant, ensuring some form of benefit for commercial speed and delivery outcomes alongside housing development and incentivising plan-making.

There was a proviso that any fee increase be allowed only 'on the basis of a clear mechanism for indicating the higher quality of service that will be delivered as a result.'

³ Arup with Addison & Associates: *Planning Costs and Fees* (Communities and Local Government, 2007)

The changes we propose

17. The Government has set out its response to Kate Barker in the Planning White Paper. Our proposals should be seen as a further strand in the Government's programme for reform. Local authorities need to be resourced if they are to continue to improve the operation of the planning system, and provide a better service for all. Accordingly, fees are proposed to be increased in order to sustain and continue improvements in the performance of local planning authorities, and to build on the positive effects of the Planning Delivery Grant which the Government has been paying to local planning authorities since 2003.
18. A proposal to introduce Planning Performance Agreements is the subject of a separate consultation paper, *Planning Performance Agreements: a new way to manage large-scale major planning applications*, which can be found at www.communities.gov.uk/consultations. So far as fees are concerned, we propose that fees for applications subject to Planning Performance Agreements remain the same as for any other equivalent planning application. However, there would be scope to charge developers for pre-application work, to which the Planning Performance Agreement would relate, on a cost recovery basis.
19. There are three specific and evidenced grounds for the suggested changes to planning fees. First, local planning authority income from planning fees does not pay in full for the service for which the fees are charged, especially for the largest schemes; second, increased costs since fees last went up in April 2005; and third, the fact that for some important, time-consuming work which authorities have to do, no planning fee at all is chargeable. The research findings confirm that the planning service continues to be under-funded, and that, in part, this is owing to insufficient fee coverage to achieve the intended level of cost recovery.
20. In their report, Arup with Addison & Associates propose three Options to remove the shortfall. These are as follows.

Options

Option 1 would be for no change to the current fee régime

21. In view of the evidence of shortfall, doing nothing is not a course we could responsibly advocate.

Option 2 would increase overall fees by approximately 40% (excluding householder applications)

22. The option here is to revise the current fees system and increase fees by 40 per cent whilst maintaining the current fee structure, though with restraint to ensure that an application to extend or alter a dwellinghouse, or to carry out other development within the curtilage of a dwellinghouse, will not go up by more than £10.

Option 3 would increase overall fees by 25% (excluding householder applications)

23. The option here is to revise the current fees system and increase fees by 25 per cent whilst maintaining the current fee structure, though with restraint to ensure that an application to extend or alter a dwellinghouse, or to carry out other development within the curtilage of a dwellinghouse, will not go up by more than £10.

24. There are a number of common elements to options 2 and 3. Both propose to:

- keep the fee increase for householder applications down to 7.5% (to reflect inflation since the last rise), increasing the fee from £135 only to £145;
- remove the maximum fee cap (currently £50,000); and
- introduce a new fee for when a local planning authority is requested to certify that a planning condition has been 'discharged' (that is, fulfilled);

Sub-options (further proposals, for adoption in conjunction with Option 2 or 3)

Sub-option (a)

25. **Householder applications** – We propose that the increase for householder applications (that is, in fee category 6 or 7a) will be only 7.5 per cent, increasing the fee from £135 to £145. Fees for householder applications largely cover the cost of determining the application (above 90% of costs in aggregate). Existing shortfalls on cost relate mainly to inflation since the last increase in fees.

Sub-option (b)

26. **Removal of fee cap** – The maximum fee is currently £50,000. Its abolition would allow local planning authorities to cover the costs of processing the largest proposals. Removing the fee cap on a tapered basis was recommended by Kate Barker in her review of the planning system.

Sub-option (c)

27. **Fee for discharge of planning conditions** – When conditions are imposed on a planning permission, the developer in a particular case may wish for confirmation in writing, and within a reasonable time, that one or more of them have been fulfilled to the satisfaction of the local planning authority. We propose a new fee of £85 (or £25 where the related permission was for extending or altering a dwellinghouse, or other development in the curtilage of a dwellinghouse), which the local planning authority would charge for dealing with a request for written confirmation that one or more conditions imposed on a planning permission have been complied with. The fee would be payable on submission of a request – which could be in the form of a letter – for the authority to ‘discharge’ any number of conditions imposed on the same permission. In these circumstances the authority would have to issue its written confirmation within 30 working days of receipt of the request.
28. Based on discussions with authorities and comparison with similar processes, Arup with Addison & Associates suggest that levying such fees will help to ensure that adequate resources can be devoted to these cases. It will also give the applicant (and any subsequent purchaser of the land) confidence that the local planning authority is content with what has been done and – if the relevant condition had a phasing effect – the next phase of development can therefore start, or that the property could be sold on without fear of argument, delay or enforcement action. The fee would pay for only one request, covering any number of conditions. If other conditions remain to be discharged, a further request, and a further fee, would be necessary. Incidentally, this Sub-option does not involve requests to prove compliance with conditions imposed on other consents, such as listed building consent.

Preferred Option

29. On balance we believe that Option 3 is the appropriate way forward. It would provide an overall increase in fee income of approximately £65 million, which would meet the lower-end estimate of the cost of the development management service. The overall increase of Option 3 amounts to 23% across the board. Fees have not increased since April 2005 and would not come into effect until April 2008; therefore the increase represents an annual percentage increase of 9%. The Government remains committed to the continuing improvement of planning performance to ensure delivery of a good quality service. As part of the package of increased fees we will expect local planning authorities to continue improving so that they at least meet the existing targets while others go beyond them so that decision times are brought down even further while maintaining quality.

'Premium service' pilot project

30. Kate Barker recommended that a local planning authority should be able to offer a premium service to applicants. Accordingly, we propose to carry out a pilot study in due course. The idea is that local planning authorities could offer an applicant, for an additional fee, the guaranteed issue of a decision on the application in less than the standard thirteen weeks for major applications, or the eight weeks allowed for minor and other applications. For such a service, we are considering the option for an enhanced fee to be charged, of up to twenty per cent on top of the usual fee for applications for that category and size of development. If experience with a pilot project indicates that this scheme, with any necessary modification, would be a success, the Government would aim to bring the premium service into effect throughout England.

Future longer-term option

31. Finally, and looking to the much longer-term future, we would like your views on another idea:

Locally-set planning fees – Some have suggested that the Government should allow local authorities to set their own fees, within a framework set by regulations. Any such proposal would need to be linked to the performance of the local authority. Specifically one could perhaps consider allowing a local planning authority to set fees locally where it can:

- set out the full, detailed cost of its planning services – a basic requirement as fees are not allowed to generate income above that cost;
- demonstrate that it has an effective planning service – that is, it meets all the requirements on planning in the local government performance framework; and
- prove it has an efficient planning service – achieving the top rating in terms of its CPA rating for 'use of resources'.

This does not necessarily mean that fees would increase. We are aware of several authorities already offering, *ex gratia* from their own funds, discounts to applicants who, for instance, helpfully make their planning applications on-line.

At this stage we are discussing the idea in principle. If it is decided to take the matter further, there would be a full consultation later on detailed proposals. Respondents who support the idea may also have suggestions as to how these might be framed. Since these are very early soundings, it would not be sensible to attempt Regulatory Impact Assessment at this stage, and this last proposal is not discussed in Annex B.

Invitation to Comment

32. We welcome your comments on this document. When you have read it, you may wish to look at *Planning Costs and Fees*, the latest report by Arup with Addison & Associates, before responding; it is a digest of evidence which has been a significant contributor to these proposals. It will be on our website at [www.communities.gov.uk/http:// \[insert link\] www.communities.gov.uk/index.asp?id=1141801](http://www.communities.gov.uk/http://[insert link] www.communities.gov.uk/index.asp?id=1141801) research and statistics. If interested in the way that major planning applications are handled, you may also wish to read the consultation paper, *Planning Performance Agreements: a new way to manage large-scale major planning applications*, accessible at www.communities.gov.uk/consultations.

33. For convenience, here is the essence of what we now propose:

- **rise in fee amounts, above current level: 25%;**
- **the total additional amount to be raised: approx £65 million a year;**
- **to increase householder application fees by only 7.5% (inflation rate since the last rise), bringing the fee from £135 up to £145;**
- **to remove the maximum fee cap (currently £50,000);**
- **to introduce a new fee category for certification that planning conditions have been carried out.**

In addition, we propose for the future:

- **to pilot a ‘premium service’, whereby local authorities could charge a 20% premium if they guarantee to reach a decision in less than the current 13- or 8-week target periods; and**
- **to make provision, subject to fuller consultation later, for local planning authorities to set their own fees where they meet eligibility criteria.**

34. The **Options** are explained on pages 7 – 9. Some more general **Questions** are below. If responding, please make clear to which Option, Question or other element of the consultation paper each comment relates. Ideally, comments should be supported with evidence or data, though even ‘anecdotal’ evidence can serve to illustrate a wider point or identify a risk.

- Q1** *Would a fee level increase of 25% be reasonable? Should householder applications be largely shielded from that increase?*
- Q2** *Would you prefer that fees go up by the full 40% to provide more resources for planning?*
- Q3** *What are the likely effects of any of the changes on you, or the group or business or local authority you represent? Will there be unintended consequences, do you think?*
- Q4** *Performance on development control is currently measured against targets to turn around 60% of major applications within 13 weeks, 65% of minor applications and 80% of other applications within 8 weeks. Given the desire for further service improvements flowing from any fee increase – without perverse incentives – what do you think would be the best form of performance measurement for development control and what should be an appropriate benchmark?*
- Q5** *Are current fee maximums serving any useful purpose?*
- Q6** *Do you welcome the proposed fees for discharge of conditions? Do you agree this should not apply to conditions imposed on, say, listed building consents?*
- Q7** *Will it be useful if the local planning authority can offer a 'premium service'?*
- Q8** *Currently, Government sets planning fee levels. How do you feel in principle about the idea that each local authority should be able to fix its own (non-profit-making) planning charges in future?*
- Q9** *Do you have any comment on the outcomes predicted in the partial RIA, in particular the costs and benefits (see Annex B)?*

35. This consultation document is available on the Communities and Local Government website at www.communities.gov.uk/consultations. If necessary, paper copies can be obtained from Janet Amery (see below). Your representations, by e-mail or in writing, should be sent – for receipt by the closing date of 17 August 2007 – to:

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36. This consultation document has been produced in accordance with the Government's Code of Practice on Consultation. There is more about that in **Annex C**. When commenting, please say if you represent an organisation or group, and in what capacity you are responding. A summary of responses will be published on the website within 3 months of the end of the consultation period. Hard copies of the summary can also be obtained thereafter, by contacting Janet Amery at the above address.
37. All responses will be made public on request, unless confidentiality is requested. The automatic confidentiality disclaimer generated by your IT system will not be respected unless you include a request to the contrary in the main text of your response. In any event, the substance of responses may be included in our summary of comments received.

Annex A

Present and Proposed Planning Fee Arrangements

Current fee arrangements are set out in the 1989 Regulations as amended. The table below has been compiled for the convenience of the reader; it has no status in law. Proposed changes are interpolated in bold, in square brackets, alongside the present arrangements which have been in force since April 2005 or earlier. If adopted, the changes could take effect from 1 April 2008.

Category	Fee payable
<i>I. Operations</i>	
1. The erection of dwellinghouses (other than development within category 6 below)	<p>(a) Where the application is for outline planning permission and –</p> <p>(i) the site area does not exceed 2.5 hectares, £265 [Option 2: £370, Option 3:£330] for each 0.1 hectare of the site area;</p> <p>(ii) the site area exceeds 2.5 hectares, £6,625 [Option 2: £9,275, Option 3: £8,280]; and an additional £80 [Option 2: £110, Option 3 £100] for each 0.1 hectare in excess of 2.5 hectares, subject to a maximum in total of £25,000 [Options 2 & 3 abolish upper limits].</p> <p>(b) in other cases –</p> <p>(i) where the number of dwellinghouses to be created by the development is 50 or fewer, £265 [Option 2: £370, Option 3: £330] for each dwellinghouse;</p> <p>(ii) where the number of dwellinghouses to be created by the development exceeds 50, £13,250 [Option 2: £18,550, Option 3: £16,560], and an additional £80 [Option 2: £110, Option 3: £100] for each dwellinghouse in excess of 50 dwellinghouses, subject to a maximum in total of £50,000 [Options 2 and 3 abolish upper limits].</p>
2. The erection of buildings (other than buildings in categories 1,3,4,5 or 7).	<p>(a) Where the application is for outline planning permission and –</p> <p>(i) the site area does not exceed 2.5 hectares, £265 [Option 2: £370, Option 3: £330] for each 0.1 hectare of the site area;</p> <p>(ii) the site area exceeds 2.5 hectares, £6,625 [Option 2: £9,275, Option 3: £8,280], and an additional £80 [Option 2: £110, Option 3: £100] for each 0.1 hectare in excess of 2.5 hectares, subject to a maximum in total of £25,000 [Options 2 and 3 abolish upper limits].</p> <p>(b) in other cases –</p> <p>(i) where no floor space is to be created by the development, £135 [Option 2: £190, Option 3: £170];</p> <p>(ii) where the area of gross floor space to be created by the development does not exceed 40 square metres, £135 [Option 2: £190, Option 3: £170];</p> <p>(iii) where the area of the gross floor space to be created by the development exceeds 40 square metres, but does not exceed 75 square metres, £265 [Option 2: £370, Option 3: £330];</p> <p>(iv) where the area of the gross floor space to be created by the development exceeds 75 square metres, but does not exceed 3750 square metres, £265 [Option 2: £370, Option 3: £330] for each 75 square metres of that area;</p> <p>(v) where the area of gross floor space to be created by the development exceeds 3750 square metres, £13,250 [Option 2: £18,550, Option 3: £16,560], and an additional £80 [Option 2: £110, Option 3: £100] for each 75 square metres in excess of 3750 square metres, subject to a maximum in total of £50,000 [Options 2 and 3 abolish upper limits].</p>

Category	Fee payable
<p>3. The erection, on land used for the purposes of agriculture, of buildings to be used for agricultural purposes (other than buildings in category 4).</p>	<p>(a) Where the application is for outline planning permission and –</p> <ul style="list-style-type: none"> (i) the site area does not exceed 2.5 hectares, £265 [Option 2: £370, Option 3: £330] for each 0.1 hectare of the site area; (ii) the site area exceeds 2.5 hectares, £6,625 [Option 2: £9,275, Option 3: £8,280], and an additional £80 [Option 2: £110, Option 3: £100] for each additional 0.1 hectare in excess of 2.5 hectares, subject to a maximum in total of £25,000 [Options 2 and 3 abolish upper limits]. <p>(b) in other cases –</p> <ul style="list-style-type: none"> (i) where the area of gross floor space to be created by the development does not exceed 465 square metres, £50 [Option 2: £70, Option 3: £65]; (ii) where the area of gross floor space to be created by the development exceeds 465 square metres but does not exceed 540 square metres, £265 [Option 2: £370, Option 3: £330]; (iii) where the area of the gross floor space to be created by the development exceeds 540 square metres but does not exceed 4215 square metres, £265 [Option 2: £370, Option 3: £330] for the first 540 square metres, and an additional £265 [Option 2: £370, Option 3: £330] for each 75 square metres in excess of 540 square metres; and (iv) where the area of gross floor space to be created by the development exceeds 4215 square metres, £13,250 [Option 2: £18,550, Option 3: £16,560], and an additional £80 [Option 2: £110, Option 3: £100] for each 75 square metres in excess of 4215 square metres, subject to a maximum in total of £50,000 [Options 2 and 3 abolish upper limits].
<p>4. The erection of glasshouses on land used for the purposes of agriculture.</p>	<p>(a) Where the gross floor space to be created by the development does not exceed 465 square metres, £50 [Option 2: £70, Option 3: £65]</p> <p>(b) where the gross floor space to be created by the development exceeds 465 square metres, £1,495 [Option 2: £2,090, Option 3: £1,870].</p>
<p>5. The erection, alteration or replacement of plant or machinery.</p>	<p>(a) Where the site area does not exceed 5 hectares, £265 [Option 2: £370, Option 3: £330] for each 0.1 hectare of the site area</p> <p>(b) where the site area exceeds 5 hectares, £13,250 [Option 2: £18,550, Option 3: £16,560], and an additional £80 [Option 2: £110, Option 3: £100] for each 0.1 hectare in excess of 5 hectares, subject to a maximum in total of £50,000 [Options 2 and 3 abolish upper limits].</p>
<p>6. The enlargement, improvement or other alteration of existing dwellinghouses.</p>	<p>(a) Where the application relates to one dwellinghouse, £135 [Options 2 and 3: £145];</p> <p>(b) where the application relates to 2 or more dwellinghouses, £265 [Options 2 and 3: £290].</p>

Category	Fee payable
II. Uses of land	
<p>10. The change of use of a building to use as one or more separate dwellinghouses.</p>	<p>(a) Where the change of use is from a previous use as a single dwellinghouse to use as two or more single dwellinghouses –</p> <p>(i) where the change of use is to use as 50 or fewer dwellinghouses, £265 [Option 2: £370, Option 3: £330] for each additional dwellinghouse;</p> <p>(ii) where the change of use is to use as more than 50 dwellinghouses, £13,250 [Option 2: £18,550, Option 3: £16,560], and an additional £80 [Option 2: £110, Option 3: £100] for each dwellinghouse in excess of 50 dwellinghouses, subject to a maximum in total of £50,000 [Options 2 and 3 abolish upper limits];</p> <p>(b) in all other cases –</p> <p>(i) where the change of use is to use as 50 or fewer dwellinghouses, £265 [Option 2: £370, Option 3: £330] for each dwellinghouses;</p> <p>(ii) where the change of use is to use as more than 50 dwellinghouses, £13,250 [Option 2: £18,550, Option 3: £16,560], and an additional £80 [Option 2: £110, Option 3: £100] for each dwellinghouse in excess of 50 dwellinghouses, subject to a maximum in total of £50,000 [Options 2 and 3 abolish upper limits].</p>
<p>11(a) The use of land for the disposal of refuse or waste materials or for the deposit of material remaining after minerals have been extracted from land; or</p> <p>(b) for use of land for the storage of minerals in the open.</p>	<p>(i) Where the site area does not exceed 15 hectares, £135 [Option 2: £190, Option 3: £170] for each 0.1 hectare of the site area;</p> <p>(ii) where the site area exceeds 15 hectares, £20,250 [Option 2: £29,000, Option 3: £26,000], and an additional £80 [Option 2: £110, Option 3: £100] for each 0.1 hectare in excess of 15 hectares, subject to a maximum in total of £50,000 [Options 2 and 3 abolish upper limits].</p>
<p>12. The making of a material change in the use of a building or land (other than a material change of use coming within any of the above categories).</p>	<p>£265 [Option 2: £370, Option 3: £330]</p>

Category	Fee payable
Lawful development certificates	
<p>16(a) An application (under section 191(1)(a) or (b)) for a certificate to establish the lawfulness of an existing land-use, or of development already carried out (other than in respect of dwellinghouses)⁵.</p> <p>(b) An application (under section 191(1)(a)) for a certificate to establish the lawfulness of an existing land-use for one or more separate dwellings.</p> <p>(c) An application (under section 191(1)(c)) for a certificate to establish that it was lawful not to comply with a particular condition or other limitation imposed on a planning permission.</p> <p>(d) An application (under section 192) for a certificate to state that some future development would be lawful.</p>	<p>The same as for a planning application for a new permission for that use or operation⁶.</p> <p>Where the use is for 50 or fewer dwellings, £265 [Option 2: £370, Option 3: £330] for each dwelling;</p> <p>Where the use is for more than 50 dwellings, £13,250 [Option 2: £18,550, Option 3: £16,560], and an additional £80 [Option 2: £110, Option 3: £100] for each dwelling in excess of 50, subject to a maximum in total of £50,000 [Options 2 and 3 abolish upper limits].</p> <p>£135 [Option 2: £190, Option 3: £170]</p> <p>50% of what would be payable for a planning application for the same development.</p>
Monitoring landfill and minerals permissions	
<p>17. Per site visit by the local planning authority to monitor landfill or mineral permission:</p> <p>(a) where the site is active, or partly active;</p> <p>(b) where the site is wholly inactive.</p>	<p>£288</p> <p>£96</p>

⁵ Where an application is made both under section 191 (1)(a) and/or (b) and under section 191(1)(c), the fee to be paid is the sum of the fees that would have been paid if there had been separate applications.

⁶ Where a lawful development certificate application fee is based on the equivalent planning application fee, advantage may be taken of any exemption or concession that would be available for that 'equivalent' application.

Category	Fee payable
Prior approval	
<p>18(a). Application for prior approval under Schedule 2 Part 6 (<i>Agricultural buildings & operations</i>), Part 7 (<i>Forestry buildings & operations</i>) or Part 31 (<i>Demolition of buildings</i>) of the Town and Country Planning (General Permitted Development) Order 1995</p> <p>(b) Application for prior approval under Part 24 (<i>Development by Electronic Communications Code Operators</i>) of the Town and Country Planning (General Permitted Development) Order 1995, for masts, antennas, public call boxes and other electronic communications apparatus or its housing.</p>	<p>£50 [Option 2: £70, Option 3: £65]</p> <p>£265 [Option 2: £370, Option 3: £330]</p>
Reserved matters	
<p>19. Where outline permission has been granted, for an application for approval of up to five reserved matters.</p>	<p>The same as for an application for full permission for the type and scale of development proposed in the outline application, regardless of how many reserved matters are being submitted at the same time for approval⁷.</p>
Variation of permission	
<p>20. Application to vary or remove one or more conditions imposed on an existing planning permission.</p>	<p>The same fee as would be charged for any application to carry out the type of development authorised in the existing permission. Only one fee is payable for such an application, no matter how many of the conditions imposed on the original permission are to be varied or removed.</p>

⁷ However, once the equivalent amount to that payable for full planning permission has been paid for reserved matter applications, any further application for approval of a reserved matter would be charged each time at the flat rate, currently £265 [Fees Regulations, Schedule 1 Part I para.6(2)].

Annex B

PARTIAL REGULATORY IMPACT ASSESSMENT (RIA) PLANNING FEES IN ENGLAND: PROPOSALS FOR CHANGE

Purpose and intended effects of measure

Objective

1. The proposals for a new fee régime are intended to increase the fee income for local planning authorities, in order to more closely reflect the costs of the development control service. The scope of fees will be slightly broader so that more services offered by authorities are paid for by those who benefit. We expect an increase in quality of services as a result of the increase in resources, and this will be monitored by Communities and Local Government. The target date for implementation of legislation revising the fees régime is 1 April 2008.

Background

2. Fees for planning applications are currently set out in the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 as amended. Most current fee levels date from 1 April 2005, when SI 2005 No.843, *The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2005*, came into effect.
3. Section 53 of the Planning & Compulsory Purchase Act 2004 amended Section 303 of the Town and Country Planning Act 1990 to widen its scope. It allows for a local planning authority to charge in respect of any of its functions or matters ancillary to them. The section provides for the Secretary of State by regulations to prescribe a fee or charge or the means of calculating a fee or charge.
4. Research carried out as part of a review of fees (being published in 2007) found that costs associated with fee-related development control were higher than the fee income for such applications by between £58 million and £135 million and that fees for the largest applications and the maximum fees fell furthest short of intended cost recovery⁸. The report recommended that fee increases of at least 25 per cent be introduced to achieve cost recovery and improve planning resources.
5. The present shortfall has two causes. First, current fee levels are based on a cost assessment undertaken in 2003, and they now need to reflect cost inflation over the 4 subsequent years. Second, in 2003, resource shortfalls affected local authority performance and Government responded to this by introducing Planning Delivery Grant worth £600m over a period of five years. This was awarded on a performance basis to help restore resources to adequate levels. Given the objectives of costs recovery, the need to maintain recent improvements and the fact that Planning Delivery Grant is in its final year, we must alter fees now to reflect current costs.

⁸ Arup with Addison & Associates: *Planning Costs and Fees* (Communities and Local Government, 2007). Figures in this RIA are based on the findings of this research.

6. Local planning authority workload has risen sharply, with significant increases in both fee-paying application numbers and the work required on individual applications. As a consequence there has been an increase in the absolute level of costs that have not been recovered.
7. Over the last 5 years there has been a significant improvement with 70% of major applications now being handled within 13 weeks, and 75% of minor and 87% of other applications within 8 weeks. This is a substantial improvement in efficiency compared to 2001/02 (when the proportions were 43%, 53% and 70% respectively) and has been achieved despite a 13% increase in the number of applications over that period.
8. Furthermore, there are now 277 authorities – 75% of all councils – meeting all three national targets for deciding planning applications on time, in comparison to 6% in the year-ending December 2002.
9. Fee increases are integral to the package of resource improvement for planning. The fee régime provides a longterm mechanism to ensure that authorities continue to receive proper resource for fee-related development management.
10. Separate powers for authorities to make charges to help recover costs on non-fee-related activities, such as pre-application discussion and advice, are available under section 93 of the Local Government Act 2003. These allow a charge to be made for any ‘discretionary activity’. A small number of authorities use this power to charge for aspects of pre-application discussion and advice⁹. None of the options presented here affects this flexibility.

Rationale for Government Intervention

11. If planning fees are not increased, authorities will continue to fall short of cost recovery on fee related planning functions. Research has indicated that against a projected 2006/07 fee income of £232m, total costs of fee-related activities were £290 to £356, a shortfall of between £58m and £133m.
12. For some years there has been reluctance to increase fee levels fully to meet the cost of the fee related service because of the perceived poor standard of local authority performance. However, without the necessary resources, local authorities have been unable to attract and retain suitably qualified staff and improve delivery.
13. For the last five years, Planning Delivery Grant has partly bridged the gap between fee income and cost of service. Planning Delivery Grant has brought significant improvements in service delivery, as set out in paragraphs 7 and 8 above, but this grant régime is now in its final year. The issue of planning fees needs to be addressed soon if the reported improvements are to be maintained.

⁹ Proposals for Planning Performance Agreements are in a separate consultation paper, subject to separate RIA.

Options

Option 1 – Do nothing

14. Do nothing: that is, leave the fee régime and fee levels as at present.

Option 2 – Uniform fee increase (40%) (excluding householder applications)

15. The option here is to revise the current fees system and increase fees by 40 per cent whilst maintaining the current fee structure, though with restraint to ensure that an application to extend or alter a dwellinghouse, or carry out other development within the curtilage of a dwellinghouse¹⁰, will not go up by more than £10.

Option 3 – Uniform fee increase (25%) (excluding householder applications)

16. The option here is to revise the current fees system and increase fees by 25 per cent whilst maintaining the current fee structure.

Common elements to Options 2 and 3

17. There are a number of elements common to Options 2 and 3. With both, we are proposing to:

- keep the increase for householder applications down to 7.5% (i.e. inflation only since the last rise) increasing the fee from £135 to £145;
- remove the maximum fee cap (currently £50,000);
- introduce a new fee category for when the local planning authority has to certify that planning conditions have been carried out; and
- trial a 'Premium Service' to allow local planning authorities to charge a 20% premium if they guarantee to reach a decision in less than the current 13/8 week targets.

Sub Option (a) Householder applications

18. Both Options 2 and 3 propose that the increase for householder applications will only be 7.5% increasing the fee from £135 to £145. Fees for householder applications largely cover the cost of determining the application (above 90% of costs in aggregate) and that existing shortfalls on cost relate mainly to inflation since the last fee increase. This is relevant to fee categories 6 and 7a only.

¹⁰ In other words, for works in fee categories 6 or 7a.

Sub Option (b) Removal of Fee Cap

19. Removing the fee cap (currently £50,000). In both Options 2 and 3, our preferred Sub-option is to abolish all the maxima, as they no longer serve any public good. It is thought that less than 0.5 per cent of all applications currently attract the maximum fee. Removing the cap would affect only a small number of applications, but it is precisely those applications which are thought to have the lowest level of fee recovery compared to the amount of work they generate for local planning authorities. It is not possible to accurately calculate the additional income as it will depend on the nature and type of application. However an estimate of £25 million has been assumed based on the number and type of major applications. It should be noted that developers are already making voluntary contributions specifically on major applications and therefore this figure should not be seen as a whole new burden and so only 50% has been applied.

Sub Option (c) Fee for discharge of conditions

20. For Options 2 and 3 we propose the creation of a new fee category: 'Discharge of conditions'. When a condition has been imposed on a planning permission, the developer in a particular case may wish for confirmation in writing, and in reasonable time, that the condition has been fulfilled to the satisfaction of the local planning authority. The fee would be payable on submission of a request for the authority to discharge any number of conditions imposed on the same permission within 30 working days of receipt of the request. Arup with Addison Associates suggest that levying such fees will help to ensure that adequate resources can be devoted to these cases, and that applicants can have more confidence that they will be able to implement their permission within a reasonable time if they have complied with the authority's requirements.
21. The fee amounts proposed would be: a) in respect of conditions imposed on a specific planning permission to extend or alter a dwellinghouse, or to carry out other development within the curtilage of a dwellinghouse, £25; or b) in respect of any other conditions imposed on a specific permission, £85. It is estimated that this will raise approximately £10 million.

Note: the Sub-options above may be adopted individually or in any combination.

'Premium service' pilot project

22. This proposal would enable local planning authorities to offer a premium service to applicants, in which, for extra money, the authority guarantees that a decision notice will be issued in less than the standard 13 weeks for major applications or 8 weeks for minor and other applications. Where a local planning authority offers this service, we propose that an enhanced fee may be charged of any sum up to 20 per cent on top of the relevant planning application fee. Though we are consulting now, this proposal is as yet only an intention to set up a pilot scheme or schemes at a convenient point in the future.

Benefits

Planning authorities

23. Option 1 yields no additional benefits and indeed increasing costs would be borne by authorities. The planning system would thus face declining levels of resources, likely to affect the quality of service. The most probable effect would be that fewer applications could be determined in a timely manner and to current quality standards, an effect that would be accelerated over time as the number of planning applications is also likely to increase.
24. Option 2 and Sub-options (a) – (c) have been estimated to raise an additional £95 million, compared to current fee income of around £232 million and estimated fee-related development control costs of £290-£365 million. Overall, this option would achieve 90% cost recovery of the upper end of the cost of fee related development control. It would improve efficiency by reducing the cross-subsidy between larger and smaller applications by increasing the cost-recovery on larger applications.
25. Option 3 and Sub-options (a) – (c) have been estimated to raise an additional £66 million, compared to current fee income of around £232 million and estimated fee-related development control costs of £290-£365 million. Overall, this option would achieve 80% cost recovery of the upper end of the cost of fee related development control.

Non-Business planning applicants

26. For Options 2 and 3, the increases in costs would be felt evenly across all fee categories by applicants, as the proportionate increase in fees would be uniform. The cost to householder applicants would be less significant as the proposed increase is in line with inflation.

Business sector applicants

27. Planning fees represents 0.25% of the total cost of construction, with the projected fee increase this would still only rise to 0.32% based on the cost of construction in 2006. Therefore planning fees would remain low relative to the value of development and the costs of professional advisers used particularly on major development projects.

Year	Cost of construction	Fee income	%
2006	£93,506,960,000	£232,000,000	0.25%
	£93,506,960,000	£298,000,000	0.32%

28. Many major developers already fund staff time in local planning authorities, in order to achieve the quality outputs they need. The shortages of resources are widely acknowledged by the private sector¹¹, so there is a recognised need for extra resources to deal with handling planning applications.

¹¹ Arup with Addison & Associates: *The Private Sector Perspective on Development Control in the context of Planning Delivery Grant 2005-06: Supplementary Report* (September 2006), on the web at http://www.communities.gov.uk/pub/898/ThePrivateSectorPerspectiveonDevelopmentControlinthecontextofPlanningDeliveryGrt_id1502898.pdf

29. Under Sub-option b, the increases in the costs of planning would be greater for those applicants submitting applications at the upper end of the spectrum (i.e. developers of major sites). This additional burden would be expected by Communities and Local Government to translate into further improvements in service delivery by local planning authorities.
30. The overall cost to business as a result of the fees increase net of savings from the review of house-holder consents and microgeneration applications is between £21.5 and £28.7 million per annum.

Issues of equity and fairness

31. The options do not fall differentially on any sections of the community – as all sections currently pay for planning applications except in certain cases relating to disabled people, parish councils and non-profit organisations.
32. Under option 1, small business applications would continue to cross-subsidise the larger applicants, whereas options 2 and 3 seek to begin to realise fees according to the costs incurred between fee categories. The emphasis is on increasing equity between fee categories and not between applicants. These options would increase revenue while reducing the disparity and cross-subsidy between sizes of applications and fees charged at the same time.

Race Equality Assessment

33. The race equality impacts of the proposed amendments to the Fees Regulations have been assessed and it is felt that they would not lead to a disproportionate impact on any particular racial group.

Costs

Compliance costs

Option 1

34. No additional costs. Authorities already operate a system of fees set out in the 1989 Fees Regulations as amended, notably by SI 2005 No.843.

Other Options

35. The cost implications of other Options are outlined in percentage terms above. These percentages outline the new fee level compared to the current fee level.

Implementation

36. Each of the proposals would fall broadly within the existing regulatory function of local authorities, but could require them to amend guidance material and give advice on changes to fees. Costs would be low-level.

Maximum Fee Applications

37. Removing the fee cap (currently £50,000). It is thought that less than 0.5 per cent of all applications currently attract the maximum fee. This would involve approximately 3,000 applications per annum. Although removing the cap would affect only a small number of applications, it is precisely those applications which are thought to have the lowest level of fee recovery compared to the amount of work they generate for local planning authorities. Removing the cap could result in a few very large fees for certain developments that generate substantial workload, e.g. new settlements and major sporting developments. The issue for developers is ensuring that such fees are used responsibly to address the specific application for which the fee is paid. It is not possible to accurately calculate the additional income as it will depend on the nature and type of applications. However an estimate of £25 million has been assumed based on the number and a range in type of major applications. It should be noted that developers are already making voluntary contributions specifically on major applications and therefore this figure should not be seen as a whole new burden and so only 50% has been applied.

Environmental and Social Costs

38. We foresee no significant adverse impacts on the environment, public health or the countryside associated with any of the Options. No significant negative social impacts are expected to arise from any of the Options.

Unintended consequences

39. In theory, charging higher fees could encourage applicants to undertake unauthorised development to avoid the costs of applying for planning permission. Alternatively, higher fees might deter certain low value developments coming forward.

40. However, neither is thought valid. There is no evidence that past application fees served as an incentive for unauthorised development or disincentive to development.

Consultation with small businesses

41. Consultation on this proposal with small businesses and their representatives will be undertaken in parallel with consultation with the wider public. The Small Business Service acknowledges our approach. In 2005/06, the Department commissioned Addison and Associates and Arup to investigate the private sector view of the planning service. The Confederation of British Industry, the Home Builders Federation and the British Property Federation, together with 1,000 businesses were invited to take part in a survey and invited to attend workshops. A final report, *The Private Sector Perspective on Development Control in the context of Planning Delivery Grant 2005-06: Supplementary Report* was published in September 2006. One of the key findings was that the main issue to address was planning service resources, in particular the overall shortage of planners in LPAs, especially those with experience. A copy of the report can be downloaded from [\[insert link\]](#). This consultation will be circulated to those businesses previously identified and to those who responded to the survey.

Competition assessment

42. The competition assessment filter has been applied. We do not believe that the proposed changes would have a disproportionate impact on any particular sector. Therefore it is considered unlikely that there would be appreciable competition impact arising from a rise in fees.

Enforcement and sanctions

43. Failure to submit the correct fee with an application may mean that the application will not be considered by the local planning authority. The remedy in cases of dispute about a fee is by making it a preliminary matter to an appeal to the Secretary of State.

Monitoring and review

44. We will review the scale of fees and costs of the planning service to ensure that the appropriate levels of fees have been set to optimise cost recovery. We will continue to monitor fee income on an annual basis from the statistical returns on PS1 and PS2 forms and undertake further research before the end of the 2007 Spending Review period (2008-2011) on the cost of the planning service to local planning authorities.

Consultation

45. This partial RIA forms part of the formal consultation with stakeholders of the planning system and is included for comment.

Summary and recommendation

The following table summarises the benefits and costs – local planning authorities are already responsible for collecting fees for planning applications and there are no new burdens associated with the collection of increased fees.

Option	Benefit (annual)	Cost (annual)
Option 1	Negative, approx. 5% decreasing income per annum.	Declining quality of service
Option 2	40% increase in fees in conjunction with Sub-options (a) – (d) has been estimated to yield an additional £95 million.	Increase of £95 million net of householder consents review /microgeneration applications
Option 3	25% increase in fees in conjunction with Sub-options (a) – (d) has been estimated to yield an additional £65 million	Increase of £65 million net of householder consents review /microgeneration applications
Sub-Option (a)	Householder applications Increase in fee for householder applications by 7.5% would raise the fee from £135 to £145, estimated to yield an additional £3 million. As a result of the householder consents review and microgeneration applications, the net change results in there being approximately 215,000 householder applications per annum. Therefore the actual fee increase is £2.2 million. Overall income from householder applications falls from £43 million per annum to £35 million.	Increase of £2.2 million

Option	Benefit (annual)	Cost (annual)
Sub- Option (b)	<p>Removal of Fee Cap Removing the fee cap (currently £50,000) estimated to yield up to £25 million. Developers already contribute to the delivery of planning applications on a voluntary basis so this figure has been discounted by 50%</p>	Increase of £12.5 million
Sub- Option (c)	<p>Fee for discharge of conditions For Options 2 and 3 we propose the creation of a new fee category: ‘Discharge of conditions’. When a condition has been imposed on a planning permission, the developer in a particular case may wish for confirmation in writing, and in reasonable time, that certain conditions have been fulfilled to the satisfaction of the local planning authority. The fee would be payable on submission of a request – which could be in the form of a letter – for the authority to discharge any number of conditions (on the same permission) within 30 working days. Fee amounts proposed would be: a) in respect of conditions imposed on a planning permission to extend or alter a dwellinghouse, or to carry out other development in the curtilage of a dwellinghouse, £25; or b) in respect of any other conditions imposed on a permission, £85.</p> <p>Estimated to yield up to £10 million</p>	Increase of £10 million

46. **Implementation of Option 3 and sub-options (a) – (c) in combination is recommended** as achieving the highest level of cost recovery and achieving the most equitable and efficient method of fee charging to minimise cross-subsidy between application types.

Annex C

The consultation criteria

The Government has adopted a code of practice on consultations. The criteria below apply to all UK public consultations on the basis of a document in electronic or printed form, and will often be relevant to other sorts of consultation.

Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law), the instructions below should otherwise generally be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure.

Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.

Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.

Ensure that your consultation is clear, concise and widely accessible.

Give feedback regarding the responses received and how the consultation process influenced the policy.

Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.

Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

The full consultation code may be viewed at
www.cabinet-office.gov.uk/regulation/Consultation/Introduction.htm

If not satisfied that this consultation has followed these criteria, or if you have other observations about ways of improving the consultation process, contact:

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