

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 03 April 2023

Portfolio:	Planning and Development
Subject:	Stronger Performance of Local Planning Authorities supported through an increase in Planning Fees – Planning Consultation
Report of:	Director of Planning and Regeneration
Corporate Priorities:	Dynamic, prudent and progressive Council Protect and Enhance the Environment

Purpose:

To provide the Executive with an overview of the proposals contained within the consultation on the stronger performance of local planning authorities through an increase in planning fees, and to seek approval for the submission of the consultation response, at Appendix A.

Executive summary:

The Government has launched a consultation entitled ‘Stronger Performance of Local Planning Authorities supported through an increase in Planning Fees’. The consultation invites comments on proposals to increase planning application fees; how Local Authority capacity and capability in Development Management can be made more robust; future measures for assessing the performance of the Development Management service within Councils.

The consultation closes on 25th April 2023 and this report considers the implications of the proposals for this Council.

Recommendation:

It is recommended that the Executive:

- (a) considers the content of the report and approves the suggested approach to the Council’s response set out at Appendix A to the report; and
- (b) delegates authority for the final consultation response to the Director of Planning and Regeneration, following consultation with the Executive Member for Planning and Development.

Reason:

To respond to the Government's consultation on Stronger Performance of Local Planning Authorities supported through an increase in Planning Fees, expressing the views of the Council.

Cost of proposals:

There are no direct financial implications related to responding to this consultation.

Appendices: **A: Draft response to the consultation**

Background papers: **None**

Reference papers: **Consultation document:** [Increasing planning fees and performance: technical consultation - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/increasing-planning-fees-and-performance-technical-consultation)

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Executive Briefing Paper

Date:	03 April 2023
Subject:	Stronger Performance of Local Planning Authorities supported through an increase in Planning Fees – Planning Consultation
Briefing by:	Director of Planning and Regeneration
Portfolio:	Planning and Development

INTRODUCTION

1. When planning applications are submitted to this Council to carry out development, an application fee must be paid in the large majority of cases. The fee that is payable for each type of planning application is set nationally by parliament. The last time parliament increased planning application fees was in January 2018.
2. The Government recognises that the overall cost of delivering the planning application (Development Management) service nationally is approximately £675 million per annum, whilst the income received from planning application fees is approximately £393 million. Local planning authorities therefore rely mainly on taxpayers, or through additional paid-for discretionary services, to fund the difference. The Government also acknowledges that householders and businesses contribute towards local planning authority services through the payment of council tax and business rates.
3. The Government believes that all users of the planning system, whether they are local communities or homeowners, small builders or large developers should experience a quality and timely planning service. They believe it is essential that planning authorities have the resources they need to deliver a service that people expect as well as meeting the Government's ambitions for planning reform.
4. The government has heard consistent feedback from all sectors that the core planning application service is not consistently performing at the level it should and one of the root causes is, for many local planning authorities, an absence of adequate resources and capability. Planning profession, local government and development industry representatives including The Royal Town Planning Institute (RTPI), Local Government Association (LGA) and the British Property Federation (BPF) are amongst many organisations calling for an increase in resources for local planning authorities. The government recognises that this needs to be addressed in order to maximise the benefits of the planned changes in the Levelling Up and Regeneration Bill and elsewhere.
5. The government accepts that local planning authorities need more resource in order to

perform their critical social, economic and environmental functions on planning effectively. Given that Parliament has decided that planning fees should be regulated nationally, the consultation seeks views on proposed increases in planning application fees.

6. The consultation acknowledges that money alone is not enough and that many local planning authorities are struggling to recruit and retain enough staff to deliver the planning service. The consultation outlines how the Government is working with representatives across the planning and development sector to design and deliver a programme of support for building planning capacity and capability within local planning authorities. Views are sought on how capacity and capability can be increased in the planning system as quickly as possible.
7. Lastly, the government state it is only prepared to introduce fee increases if planning performance also improves. The Government wants to ensure that all applicants experience a high-quality and timely service. This consultation therefore also proposes a new approach to how the performance of local planning authorities is measured across a broader set of quantitative and qualitative measures.

The Consultation Proposals

Increasing Local Planning Authority Fee Income

8. The consultation proposes to raise planning fees for major applications by 35%, and fees for all other applications by 25% (major applications are those for residential schemes where 10 or more dwellings are proposed or the application site is 0.5 hectares or more; and for non-residential schemes, where 1,000 sqm or more gross floor space is proposed, or the application site is 1 hectare or more). A proposal for planning application fees to be adjusted annually in-line with inflation is also proposed.
9. The proposed increase in planning fees would apply to all applicants unless other existing exemptions apply. The proposed fee increase is considered by the Government to represent a proportionate approach that provides additional income for local planning authorities, whilst not unfairly introducing disproportionately high fee increases for householders and small businesses who may be more sensitive to charges than other groups. The consultation recognises that any remaining shortfall will, in effect, continue to be subsidised by the general taxpayer. For all planning applications the increased fee levels represent a small proportion, less than 1%, of overall development costs.
10. If application fees for major applications were increased by 35%, the application fee per each dwelling proposed would increase from the current £462 to £624 per dwelling. Similarly, the application fee for every 75 sqm of floor space of non-residential development would increase from £462 to £624.
11. If increased by 25%, householder planning applications fees would increase by £52, from £206 to £258. The Government judges that this is still less than the estimated cost to local planning authorities to process these applications. The fee for the application represents a one-off cost to the applicant and represents a very small proportion of overall development costs. The Government considers that a fee increase of 25% is therefore justified.
12. The Government recognises that many households are currently experiencing cost of living pressures and already contribute to the services provided by their local authority through payment of council tax and are therefore interested in views on whether the

proposed 25% increase for householder planning application fees is appropriate.

13. There are also two other specific areas of application fees where the Government is seeking views. These relate to 'retrospective planning applications' and 'free goes'.
14. Where someone has deliberately or inadvertently carried out development without first obtaining the necessary planning permission, they are able to submit a retrospective planning application. At present, the fee for such an application is the same as it would have been if the application had been submitted before the development had taken place. However, local planning authorities may incur additional costs in respect of these types of application. This is because in many cases they are likely to have started down the route of investigating the suspected breach of planning control and considering the need for enforcement action.
15. Where a local planning authority serves an enforcement notice in respect of unauthorised development a fee is charged if the notice is subsequently appealed on the ground that planning permission ought to be granted (known as a ground a) appeal). The fee is currently double that which would apply for a corresponding planning application. The Government proposes to double the fee payable for retrospective applications and believes this should discourage unauthorised development and would reflect the additional work carried out by local planning authorities in respect of such applications. It would also bring the fee for retrospective planning applications into line with the fee charged where there is a ground a) appeal against an enforcement notice.
16. It is recognised that the retrospective planning application process is there to give those who have made a genuine mistake the opportunity to rectify the situation. This is often in relation to householder development, where the householder can take immediate action to regularise development that has occurred. For this reason, it is proposed that householders do not have to pay double the fee where the application relates to householder development but would still be expected to pay the standard planning application fee.
17. Currently where applicants reapply within 12 months of the refusal of planning permission, the granting of planning permission or the withdrawal of a planning application, they can normally do so without paying an application fee. In some cases, the Government considers the existence of the 'free-go' is a useful quality driver as there is a greater incentive for the applicant to act on the authority's advice and resubmit an improved application. However, there remain instances where a free-go is used as a substitute for pre-application discussions, as a first attempt to get an application through with limited information or as an attempt to test lower quality or larger proposals. This is cost burden for local planning authorities who still incur costs for processing revised applications but receive no fee.
18. In order to encourage applicants to engage in pre-application discussions and support the submission of high-quality applications first time round, the Government is considering whether there would be any scope for increasing cost-recovery in this area by a partial or full removal of the 'free go' for repeat applications. This would have to balance carefully the costs and benefits of the free-go to applicants and local planning authorities as well as consider any potential adverse consequences, for example an increase in the number of applications that might go to appeal. Options that the Government may explore include charging the full fee for all applications, regardless of when they are submitted, or charging a reduced fee for re-applications within 12 months.

19. Subject to the outcome of this consultation and Parliamentary approval, the Government intends to introduce all of these fee increases in summer 2023. The Government intends to review fee levels no later than three years following implementation. This would allow an assessment of the effectiveness and impact of the fees increase to be undertaken and ensure that a reliable and up-to-date evidence base for costs of the planning system is available that also considers the outcome of planning reform measures including greater digitisation of the planning system.
20. The Government also intends to introduce a new fee structure for the variation of planning permissions to take account of the proposed new route to make minor variations to permissions in the Levelling Up and Regeneration Bill once the provisions come into force. The Government advises that it will consult separately on the detail of this measure following the passage of the Bill.

Local Authority Capacity and Capability

21. In a survey of local planning authorities in 2021 by Planning Resource with the Planning Officers Society (POS) and the Association of Directors of Environment, Economy, Planning and Transport (ADEPT), more than half of respondents identified difficulties in recruiting principal planners. In addition, the survey identified a significant shortfall in specialist skills particularly in viability, digital, design, conservation and heritage, climate change and ecology.
22. As part of the work to address future intake of planners, the Government also wishes to consider how it can create a more diverse and inclusive planning profession. The Royal Town Planning Institute's 2019 report on the size and makeup of the planning profession workforce estimated that around 40% of planners are women. It also estimated that only 3-4% of planners were from ethnic minority backgrounds (compared to 12% in society). The Government wants the planning profession to become more representative of the communities it is seeking to enhance.
23. While the Government recognises that there are many dedicated and expert roles in local government planning departments, they also recognise that there are significant challenges in recruiting and retaining planning professionals and other technical experts with the right skills and experience most acutely at senior and principal planner level. As a result, many local planning authorities are looking at alternative ways of working, such as through shared service models or external consultants, or to retain and grow expertise in-house through planning apprenticeship or graduate training programmes. In addition, many local authorities do not have a recognised chief planner who can promote planning at a senior strategic level.
24. The Government wants to support and work with local planning authorities to make sure that planners and the planning system are valued, and that there is a culture of proactive delivery, pride in performance and a clear understanding of high-quality customer service; as well as being ready to adapt to the new measures and ways of working methods proposed in the Levelling Up and Regeneration Bill.
25. The Government has created a cross-sector working group with representatives from local government, the private sector and professional bodies to design and deliver a programme of support to build capacity and capability strategy across local planning authorities. This programme will seek to provide the direct support that is needed now, deliver upskilling opportunities and further develop the future pipeline into the profession in order to continually improve the quality of service delivered and resilience of local planning authorities.

26. To support the development of the national planning capacity and capability strategy and programme the Government would like to hear views and experiences of the specific challenges in recruiting and retaining planning professionals with the right skills and experience and the best ways in which government, working with professional bodies, can boost the capacity and capability of local planning authorities. It is the Government's intention to carry out numerical research in the coming months to support this important strand of work, but in the meantime, they would welcome any data and insight that the Council would like to provide.

Local Planning Authority Performance

27. The Government considers that increasing planning fees will bring additional resources to planning services and should bring with it continued improvements to the performance of local planning authorities. Many reports by industry representatives, such as the Home Builders Federation and the Federation of Master Builders, as well as feedback from past consultations, suggest that the time taken to get a planning application decided consistently takes much longer than the statutory period.
28. As the Government proposes to introduce measures to increase fee income relating to planning services specifically, it also wants to amend the existing metrics that measure performance of local planning authorities. The metrics proposed in the Government's consultation are set out in detail at paragraph 36 of this report.
29. The time period within which planning applications should be determined are set out nationally. For the majority of planning applications, the time within which planning applications should be decided is 8 weeks from receipt. For major planning applications, the period within which planning applications should be decided is 13 weeks. For major applications which are also subject to an Environmental Impact Assessment, the period within which the application should be decided is 16 weeks. For the avoidance of any doubt, to be 'decided' a planning application must have gone through all the necessary statutory and non-statutory processes (including the drafting, completion and signing of any required legal agreements) and a formal decision notice issued.
30. The Council and applicants can agree to extend the period for deciding any planning application. If no extension of time for deciding an application is agreed between the parties, and the Council does not make a decision within the required period, a right of appeal (against non-determination) exists for the applicant.
31. The Government considers that extension of time agreements are useful in exceptional circumstances to allow additional time for unforeseen issues to be resolved to the benefit of all parties. However, the reasons should be legitimate. Currently, extension of time agreements do not count against a local planning authority's performance figures for speed of decision-making and therefore can mask instances where local planning authorities are not determining applications within the required statutory periods.
32. The Government understands that the existing metrics and the use of extension of time agreements do not adequately reflect performance of planning departments or the experience of customers. Asking local planning authorities to account for performance on a wider range of metrics would aim to encourage improvements to the overall quality of the service being provided. It would also allow the Government to identify authorities that are most in need of additional targeted support to ensure improvement where necessary.
33. The Government also proposes to tighten the Planning Guarantee period for non-major

applications. The Planning Guarantee allows for an applicant to secure a refund of their planning fee where a planning decision has not been made within 26 weeks of submitting a valid application if an extension of time has not been agreed between the Council and an applicant.

34. The Government recognises that there are applications where there are good reasons why an extension to the statutory determination period may be required. As such the Government would retain existing exemptions from the Planning Guarantee. However, it is proposed to introduce new metrics that more closely monitor local authority performance against statutory determination periods, as well as those including extension of time agreements, in order to drive improved performance.
35. Given that there are differences in the statutory timeframes for deciding planning applications, the Government now proposes that the Planning Guarantee should better reflect these differences. It is now proposed that where the statutory determination period is 8 weeks the Planning Guarantee should be set at 16 weeks and where the statutory determination period is 13 weeks (or 16 weeks for Environmental Impact Assessment developments) the Planning Guarantee should be retained at 26 weeks.
36. It is proposed that a broadened planning performance framework would continue to focus on development management activity only and would exist alongside other performance monitoring regimes, for example in relation to local plan progress. The Government's consultation proposes the following performance metrics:
 - The average speed of decision making (including where extensions of time have been agreed) to determine:
 - (i) Major applications;
 - (ii) Non major applications;
 - (iii) Householder applications; and
 - (iv) Discharge of condition applications
 - Quality of decision making:
 - (i) Major appeals allowed by Planning Inspectorate as percentage of all appeal decisions;
 - (ii) Non-major appeals allowed by Planning Inspectorate as percentage of all appeal decisions;
 - (iii) Householder appeals allowed by Planning Inspectorate as percentage of all appeal decisions
 - Extension of times:
 - (i) Total number of extension of times as percentage of all decisions on majors;
 - (ii) Total number of extension of times as percentage of all decisions on non-majors;
 - (iii) Total number of extension of times as percentage of all decisions on householders;

- Backlog:

- (i) Average time taken to validate applications;
- (ii) Total number of cases beyond the Planning Guarantee period (currently 26 weeks for all applications but proposed to change to 16 weeks for non-major applications)

- Planning Enforcement

- (i) Average number of weeks taken to respond to suspected breaches of planning and determine the appropriate course of action
- (ii) Average number of weeks to take action where breach of planning has occurred, having decided it is expedient to do so;
- (iii) Total number of cases over 6 months old as percentage of all open cases

- Planning Committee

- (i) Percentage of delegated decisions and committee decisions
- (ii) Percentage of Committee decisions to refuse against officer recommendation that are subsequently allowed at appeal

37. Subject to the responses received to this consultation the Government will consider further the specific performance thresholds for each metric, appropriate assessment periods, the process for data collection and transitional arrangements from the current performance regime. The Government will consult on these details, as they further develop the planning performance framework following the comments received through this consultation.

38. The Government recognises that local authorities will need time and resources to adjust to any new planning performance framework, and that sufficient advance notice will need to be given before any relevant assessment period is applied. It is not the Government's intention to introduce a new planning performance framework until such time as they have introduced an increase in planning fees and invested in supporting the capacity and capability of planning departments. The timescales for introducing any new planning performance framework will be considered further following the comments received through this consultation.

Summary and next steps

39. This consultation seeks views on proposed increases to planning application fees, how further capacity and capability can be built into the Development Management service and proposed performance measures.

40. Many of the proposals relating to performance measures within the government consultation are not detailed and will be subject to further consultation, which are likely to be the subject of further reports to this Executive.

41. The draft consultation response is provided as Appendix A for Members' consideration. Comments are invited on that draft, in order for the Council to submit its response before the closing date of 25th April 2023.

Enquiries:

For further information on this report please contact Lee Smith, Head of Development Management (01329) 824427 (lsmith@fareham.gov.uk)