

**REPORT FROM: PLANNING, ECONOMIC DEVELOPMENT AND
REGULATORY SERVICES MANAGER**

TO: POLICY AND RESOURCES COMMITTEE

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**TO CONSIDER AND RESPOND TO THE CONSULTATION TO
IMPROVE PLANNING PERFORMANCE SUPPORTED THROUGH
AN INCREASE IN PLANNING FEES**

PURPOSE OF REPORT

- (1) To inform Policy and Resources Committee of the proposed changes to the fees arrangement and to agree the Council's response.
- (2) That the response is as set out at Appendix A.

RECOMMENDATIONS

That Committee considers the draft response to the consultation as set out in Appendix A and agrees the final response.

REASON FOR RECOMMENDATION

In order to ensure that Pendle contributes to the development of local and national policy on planning issues.

ISSUE

- 1** The Development Management function in Local Authorities is not self-financing. Fees for planning applications are set nationally with no local discretion on the level of fees. The consultation indicates that nationally Planning services cost £675m/per annum but planning fees bring in £393m. The services are heavily subsidised with the costs borne by the general financing of Councils.
- 2** Fees have in the past been put up on an ad hoc basis by Government with no published criteria for when they are raised nor any published criteria for setting out how the level of fee is set. Fees were increased in 2013, then again in January 2018. There have been no increases since.

- 3 The consultation supporting information recognises that having sufficient resources and skills in Planning services is fundamental to ensuring that applications are dealt with quickly and effectively. PBC has experienced that with a drop in performance in 2021/22 when we have had a high turnover of staff and new staff taking time to train to enable them to effectively contribute to the service. The consultation is wider than just planning fees and seeks to embed wider changes to planning performance. This would include matters such as measuring formally on levels of delegation and quantum of applications decided contrary to the recommendations made in Committee reports.
- 4 The Consultation deadline is 25th April 2023.
- 5 Full staffing was achieved in October 2022, including additional resources, identified through the transformation process, in validating applications. Performance is improving in parallel with this. In the current quarter 100% of major applications have been dealt with in time and performance on other applications is at 96%. Registration times are down to an average of a day so most applicants are now getting their application registered the day they are submitting it. Importantly, whilst still dealing with a small backlog of cases, we are significantly reducing reliance on extension of time agreements. Last year only 18% of cases were dealt with in the statutory 8 week timeframe with performance buoyed by applicants agreeing to extensions of determination periods. This figure is rapidly increasing and this year so far 49% of cases have been dealt with in the statutory period. Resources are key therefore to good performance
- 6 The fees proposal is on top of yet to be announced changes to what the Government term more digital services. Other changes will include ways to achieve greater flexibility in varying existing permissions.
- 7 The proposal is to base the reforms on three areas:

Financial Support

- 35% increase in fees for major applications
- 25% increase for other fees
- Indexation of fees for annual increases

Additional Resource

- Increase the skills base nationally for Planners
- Build capacity within Local Authority Planning teams

Improved Performance

- Improve the timeliness and quality of services

- 8 In quantitative terms the fee increases proposed in the consultation averaged out over the last 5 years would have brought in circa an extra £125,000 per annum.
- 9 In terms of improving performance the proposal is to remove reliance on extension of time agreements and to base assessments on a matrix. That matrix is reproduced in full below.

Metric	Measurement
A. Average Speed of decision-making	<ol style="list-style-type: none"> 1. Average time taken to determine majors (inc. Extension of Time (EoT) and Planning Performance Agreements (PPAs)) 2. Average time taken to determine non-majors (inc. EoT and PPAs) 3. Average time taken to determine householders (inc. EoT and PPAs) 4. Average time taken to determine discharge of conditions (inc. EoT and PPAs) 5. Average time taken to determine county matters (inc. EoT and PPAs)
B. Quality of decision-making	<ol style="list-style-type: none"> 1. Major appeals allowed by Planning Inspectorate as percentage of all appeal decisions. 2. Non-major appeals allowed by Planning Inspectorate as percentage of all appeal decisions. 3. Householder appeals allowed by the Planning Inspectorate as percentage of all appeal decisions
C. Extension of Times	<ol style="list-style-type: none"> 1. Total number of EoTs as percentage of all decisions majors 2. Total number of EoTs as percentage of all decisions non-majors 3. Total number of EoTs as percentage of all decisions householders
D. Backlog	<ol style="list-style-type: none"> 1. Average time taken to validate planning applications 2. 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)
E. Planning Enforcement	<ol style="list-style-type: none"> 1. Average number of weeks taken to respond to suspected breaches of planning and determine the appropriate course of action. 2. Average number of weeks to take action where a breach of planning has occurred, having decided it is expedient to do so. 3. Total number of cases over 6 months old as percentage of all open cases.

Metric	Measurement
F. Planning Committee	1. Percentage of delegated decisions and committee decisions 2. Percentage of committee decisions to refuse against officer recommendation that are subsequently allowed at appeal

- 10 The matrix would have potential implications for Pendle in two areas. We have the third lowest rate of delegation in England. We would be penalised for this in the proposed performance analysis.
- 11 There is a significant level of overturning officer recommendations, particularly at Nelson Area Committee around the issue of house extensions, design and installation of dormer windows. It would be difficult to change the position on design as there is an increasing national emphasis on good design. The turnovers at Nelson since the start of 2023 have been 75% of decisions overturned. 18.75% of decision have been taken in accordance with the recommendation. In the proposed regime this would act against Pendle.
- 12 There is also a general point that is emerging in different reviews of how services are operated. There are major changes proposed in Building Control and changes in Planning coming in with biodiversity net change. The parameters of these have not yet been set in detail. So for example in Building Control officers need to be competent to different levels depending on the nature of the work they do. That training takes time. The qualifications needed are not yet known yet the Building Regulator is to start in autumn 2023. The issue this highlights is that it is very difficult to gear up to changes when the parameters of them are not yet known.
- 13 For this process when Councils will be assessed against timescales the assessment of biodiversity net gains will take consultants much longer to deal with that within the 3 weeks given to consultees. It is likely that this will see determination times nationally increase. Such issues need to be acknowledged in proposals but unfortunately have not been within the proposed consultation.
- 14 It also needs to be recognised that even if resources are increased gearing up to take advantage of those will not be done overnight, particularly if every Council gears up to secure similar services and resources become even scarcer, at least scarcer in the short term.
- 15 The suggested comments to the consultation are set out in Appendix A.

IMPLICATIONS

Policy: The policy implications are as set out in the report.

Financial:	The proposal would bring additional finances to the service. The additional income would be ring-fenced to be spent on planning services. It would also bring statistical return burdens and a need to potentially re-align how decisions are taken.
Legal:	None
Risk Management:	None
Health and Safety:	None
Sustainability:	None
Community Safety:	None
Equality and Diversity:	None

Background Papers

Link to all consultation documents: <https://www.gov.uk/government/consultations/increasing-planning-fees-and-performance-technical-consultation/technical-consultation-stronger-performance-of-local-planning-authorities-supported-through-an-increase-in-planning-fees>

Appendix A

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

Yes. Developers who have discussed this with us do not consider the application fees to be prohibitive in terms of their overall costs. They would prefer to have a speedier and more efficient service and pay extra.

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

Yes. The planning fees are a small proportion of the costs for smaller applications. Having the ability, expertise and resources to deal with them quickly and effectively would outweigh the costs to the applicant.

Question 3. Do you agree that fees for all other planning applications should be increased by 25%? If not, please include in the comments box the particular application types where you believe the proposed increase is too high or too low. Your comments should be accompanied with evidence/costs if possible.

Yes. The planning fees are a small proportion of the costs for smaller applications. Having the ability, expertise and resources to deal with them quickly and effectively would outweigh the costs to the applicant.

Question 4. Are there any other application types or planning services which are not currently charged for but should require a fee or for which the current fee level or structure is inadequate?

Yes. Listed Building applications are often time consuming and complex in nature involving high levels of skills. They also often take time. They are more costly to deal with than most other applications and should be charged for.

Question 5. Please can you provide examples of bespoke or 'fast track' services which have worked well or you think could be introduced for an additional fee? Are there any schemes that have been particularly effective?

Pre-application services are common place. Whenever resources to deal with planning applications become stretched, for example when staff leave, those services which are important suffer. Charging for them at rates which cover costs is important to a holistic Planning service.

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

Yes. Costs go up regardless of fee income due to normal budgetary pressures. That often places strains on continuing the other discretionary services. Having a sound platform on which to plan for funding a service including cost increases will help provide a more stable Planning service.

Question 7. Do you consider that the additional income arising from the proposed fee increase should be ringfenced for spending within the local authority planning department?

Yes.

Question 8. Do you agree that the fee for retrospective applications should be doubled, i.e. increased by 100%, for all applications except for householder applications?

Yes. There are two elements to this. First is that it will discourage the number of purposeful transgressions that we see in our communities every day.

Secondly the costs of dealing with such applications are higher than with non-retrospective applications. For example they are normally preceded with a complaint of some form. Staff time is taken administering that, going to site and investigating, then negotiating with an applicant for an application to be submitted.

Consideration could also be given for reducing the ability to appeal enforcement notices where applicants have refused to submit a retrospective application for development.

Question 9. Do you consider that the ability for a ‘free-go’ for repeat applications should be either:

- (a) removed**
- (b) reduced for re-applications within 12 months**
- (c) retained**
- (d) none of the above**
- (e) don’t know**

Please give your reasons.

The reason why an application is resubmitted is key to this. Applications are often resubmitted to deal with issues that emerge out of a planning application, often related to design. A free go could be given to those applicants that have submitted a pre-application request but have still had to resubmit to overcome an issue encountered during the formal processing of an application.

Question 10. Do you agree that a fee of £96 (or £120 if the proposed fee increase comes forward) should be charged for any prior approval application for development by the Crown on a closed defence site?

Yes.

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

In response to the budgetary restraints on Councils the majority of Councils have cut back on the non-statutory roles they have. Many Councils have cut back on staff with ecological skills and in the area of conservation. Design and production of design codes is an area that is requiring greater direct input.

Notwithstanding that Building Control is likely to be the biggest area of skills deficiencies in the short term. The main areas of skills shortages are in three areas:

Biodiversity net gain is fast approaching and ecologists are in very short supply. Whilst planning officers will have generic skills on ecology they will not have the skills or knowledge to deal effectively with the metrics.

Many conservation staff have been lost over the last 10 years with Councils often relying on outside assistance to deal with that on the basis of providing advice only when necessary.

Design skills is an area where there is generic skills available through staff but where specialist officers with good levels of skill would be helpful.

Question 12. In addition to increasing planning fees, in what other ways could the Government support greater capacity and capability within local planning departments and pathways into the profession?

There is no simple answer to this. Working in Local Government is becoming less attractive to people generally with Councils and their staff being perceived as not to have sufficient resources to do their work without undue individual pressures. That is added to perceptions of lower wages compared to the private sector and fewer career opportunities is making Local Government generally less attractive to potential employees.

Having career paths allowing progression through from trainees to qualified and trained professionals is one avenue, and giving more resources through fee increases may lead to that being able to be provided better in Councils.

Competitive salaries with the private sector is regularly quoted by people not wanting to join Local Government planning terms as a major issue.

Graduate recruitment and having an adequate supply of courses is also important with the number of planning courses offered by higher education institutions having reduced over the last 10 years.

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

Question 14. Do you agree that the Planning Guarantee should better mirror the statutory determination period for a planning application and be set at 16 weeks for non-major applications and retained at 26 weeks for major applications?

The guarantee should relate to applications that are not held up or put in abeyance by developers. The biggest reason for hold ups in dealing with planning applications is not normally dealing with an application that has all of the relevant details (some issues emerge part way through an application) or waiting for responses from consultees to technical documents. Flooding issues are a major cause for delays.

The implementation of biodiversity net gains will also affect this. There is a scarcity of ecologists who can deal with this. Recruitment of ecologists is extremely difficult and existing providers do not have the capacity to take on more work.

Added to this is that assessing the matrix is universally accepted as going to take longer than 3 weeks and will affect performance on determining applications nationally.

It is imperative that this issue is specifically addressed before any alterations to performance standards are considered as they have not, in the current consultation, been dealt with in any way.

Question 15. Do you agree that the performance of local planning authorities for speed of decision-making should be assessed on the percentage of applications that are determined within the statutory determination period i.e. excluding extension of times and Planning Performance Agreements?

No. As stated in the previous answer dealing with BNG is likely to elongate the time periods for determining applications so as things stand LPAs would be set up to fail as no account has been taken of this in the proposals.

If the ability to agree EOTs and for them to be counted against the target is removed LPAs will start to deal with applications by refusing many more and expecting applicants then to resubmit to deal with any deficiencies.

This consultation also recognises that planning services have been under resourced and need additional resources. It also recognises that there is a deficiency in people and skills in the market place. If the planning system is to produce a better service it needs time to upskill and assimilate those extra resources. At best the proposal should be re-looked at 12-18 months after the fee increase has been implemented.

Question 16. Do you agree that performance should be assessed separately for

- (a) Major applications - Yes**
- (b) Non-Major applications (excluding householder applications) - No**
- (c) Householder applications - Yes**
- (d) Discharge of conditions - No**
- (e) County matters applications - No**

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

We would welcome a broader basis for measuring performance based on a more holistic view of the services Councils provide. How this would operate and the parameters of measurement should be clearly set out though for further comment.

If that is to be the basis of assessment it should be averaged out across all of the parameters and the tendency to focus on every measure should be avoided.

As detailed in our previous comments there are significant concerns about the time that BNG applications will take to assess and complete and other factors over and above EOTs should be weighted to avoid EOTs being the dominant factor in determining performance.

We also have concerns about enforcement cases and how these would be assessed in terms of weight. Enforcement cases are significantly different to planning applications in both how they arise, how it is possible to investigate, the co-operation or not of transgressors and the options open to take action.

Also there is a general concern that the compilation of the information will create an industry in itself. Many Councils are tied into national providers of systems who are slow and unresponsive to statistical changes and which take time to change to accommodate national statistical changes. It would be prudent for Government to discuss the statistical requirements with major providers to ensure timely integration of system changes to statistical returns.

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

No.