

Respondent Information Form and Questions

Consultation on Fees for Planning Applications 2012

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Homes for Scotland

Title Mr Ms Mrs Miss Dr *Please tick as appropriate*

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3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate Yes No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No

Consultation on Fees for Planning Applications 2012

CONSULTATION QUESTIONS

Question 1: Are there any costs or benefits not identified in the draft BRIA?

Homes for Scotland does not oppose higher fees **provided** (a) they are accompanied by a reduction in the costs applicants must incur when commissioning impact assessments and (b) that the promised improvements and benefits are delivered.

Planning fees are only one of a number of possible regulatory fees and associated costs involved in the development process. Other consents such as Building Warrant, Road Construction Consent and many others also incur fees. In addition, planning applications, particularly major applications, are routinely accompanied by a range of technical studies and impact statements. Homes for Scotland members have reported a range of costs for such studies, depending on the requirements of the planning authority. It is not unusual under the present system for an applicant for planning consent for a housing development to pay a planning fee of £5 – 16,000 but also incur costs of –up to £500,000 to produce supporting impact assessments to assist the Planning Authority to determine the application.

The issue of proportionate fees for the scale of application is therefore important, but proportionate costs also need to apply to other parts of the process of seeking planning consent.

Question 2: Do you have any information or can you suggest sources of relevant information on the costs and/or benefits detailed in the BRIA at Section C?

The background paper on approach and levels has been made available belatedly to consultees. It is clear from the paper that the costs of processing applications reported in the paper are only the staff costs within planning, and related overheads. The paper identifies a range of other costs that need to be considered to build a true picture of the costs e.g.

- Recharging regimes between services within authorities
- Some overheads and expenses
- other costs incurred as part of the planning process – e.g. advertising costs; pre-application consultation event costs; notification costs; legal costs
- External costs e.g. consultancy advice

It seems to Homes for Scotland that it will be an essential part of monitoring fee income and performance that planning authorities are obliged to collect this information on a uniform basis across Scotland. Such cost and management information is routinely collected in the private sector and there are no obvious

reasons why Councils cannot also collect it.

Account should also be taken of the contributions which developers make through S75 and other agreements to community infrastructure, which can exceed £20000 per unit.

Account should also be taken of the new Community Charge generated by each new home – potentially up to £2500 per home.

Question 3: We would appreciate your assessment of the potential equalities impact our proposals may have on different sectors of the population. A partial EQIA is attached to this consultation at Section D, for your comment and feedback.

No comment

Question 4: Do you consider that linking fees to stages within processing agreements is a good or bad idea? What should the second trigger payment be?

Staged payments would send a powerful signal to the private sector that the Planning Authority is committed to delivering a proportionate and predictable service to their customers and stakeholders. Homes for Scotland would like to see a customer charter introduced to provide redress in the event of a failure to deliver the expected service. Such charters are common place in the private sector and mandatory in the house building industry where homes are sold with warranty cover in place. Edinburgh Council's Concordat provides a useful model.

On the specific question of stages, Homes for Scotland suggests that fees are related to key stages in the application determination process, with a final stage payment only due when all conditions are discharged and the consent is purified. The mandatory use of Processing Agreements is the obvious method of identifying key stages/milestones. Such arrangements are standard practice in business contracts for services, such as consultancy work.

On applications which are contrary to the Development Plan there may be merit in introducing additional stages to allow an applicant to withdraw an application where it is clear the Planning Officers are reluctant to recommend a grant of planning approval. This would result in savings to both parties.

Question 5: Do you agree or disagree with the proposal that where applications are required because permitted development rights for dwellings in conservation are restricted, then a reduced fee should be payable?

Agree Disagree

Question 6: Do you agree or disagree with the proposal that there should be a separate fee for renewals of planning permission?

Agree Disagree

Question 7: Do you agree or disagree that the new fee is set at an appropriate level?

Agree Disagree

Question 8: Do you agree or disagree with the proposal that the fee should increase on an annual basis?

Agree Disagree

Question 9: Is using site area the best method of calculating fees for windfarms of more than 2 turbines? If not, could you suggest an alternative? In your response please provide any evidence that supports your view.

Yes No

No Comment

Question 10: Please list any types of developments not included within the proposed categories that you consider should be.

No Comment

Question 11: We would welcome any other views or comments you may have on the contents and provisions on the new regulations.

Homes for Scotland fully supports the statement in paragraph 1 of the planning fees consultation paper:

“An effective, efficient and proportionate planning system which is focused on outcomes will deliver benefits to the wider Scottish economy.”

Homes for Scotland also supports the aims and principles underlying the amendments to the fee regime as set out in paragraph 4.

New development will drive sustainable economic growth. Public value will be achieved if additional resources applied to planning through higher fees results in more sustainable economic growth. That requires the whole package of planning reforms to work together to secure a more efficient and effective planning system which promotes growth. The new National Planning Policy Framework in England and Wales is very clear that planning authorities must step up their performance and deliver, through the planning system, the growth which will support economic recovery. The Scottish planning system cannot afford to perform less effectively than south of the border, as that would put Scotland at a competitive disadvantage.

Homes for Scotland accepts that planning authorities generally do not cover the costs of processing applications through fees and other revenue sources. There is no objection in principle to higher fees which would cover a higher proportion of the costs of processing applications. However, planning is a statutory function of local authorities, and has a public interest role as well as being a service for applicants, so Homes for Scotland would not wish to see the responsibility of Councils to fund a proper service replaced in its entirety by fee income. The level of increased fees must strike a balance between what is reasonable and proportionate for the applicant to pay, without deterring essential investment in the Scottish economy, and Councils' revenue funding from Community Charge and other income sources. The plan-making and policy functions also need to be properly funded by local authorities.

Homes for Scotland members have some concerns over the levels of fees proposed and their fairness. Reducing fees for straightforward applications, including variations on conditions and revised proposals, is welcomed. However, the level of fee proposed for householder and small applications seems to be less than the true cost of processing, while the maximum fees for major applications seem to be well in excess of the likely true cost of processing. There is a concern that the larger applications will in effect "subsidise" the smaller ones and disproportionately pay for the improved service.

However, the entire basis for the proposed level of fees is unclear, despite the late production of the background paper. Evidence by the Government's planners to the Scottish Parliament on 30 May conceded that the research did not produce consistent data on costs, or even the basis on which costs are assessed, and this is confirmed by a reading of the paper, It is based on a partial assessment of costs only, with the additional elements identified in Question 2 also required to produce a full cost of service.

Until all Councils collect this information a true cost of planning cannot be calculated. Clearly a single national fee in the interim could not account for differences in practice.

In that context, the proposed maximum fee of £100,000 is arbitrary. Figure 2 in the background paper shows a very wide variation in time and cost incurred in processing similar types and sizes of application. Even allowing for different policy issues affecting similar types of application, the implication of these variations is that some Councils are more efficient than others in dealing with applications. Of particular interest to Homes for Scotland is the evidence in this table that local and major applications for housing consume less time and cost than local and major applications in all other sectors, yet curiously the housing sector pays the highest maximum and average planning application fees. This appears to be another instance of housing being disproportionately targeted by the planning system, alongside the undue emphasis on housing to pay developer contributions.

Paragraph 4 of the background paper makes a key point: "The 2006 Act introduced requirements for planning authorities to ensure that the income from fees and charges does not exceed the cost of performing the related functions." Since it is clear that the cost of performing the functions is unknown, how can the Government be satisfied that a

potential six-fold increase in fees will not breach this statutory test, when the best available evidence is that 50% of the costs are recovered through charges?

Using the available evidence in Annexes A and B, a simple doubling of the fee income per authority for 2009/10 in Annex A would result in costs and income being in balance at a Scotland-wide level. At an authority level, 15 out of 32 authorities would meet or exceed their costs. Firstly, that means that some Councils would be in breach of the 2006 Act. Secondly, it would suggest that 17 Councils would be performing less efficiently than the others.

It is accepted that knowing the full costs of the service would change this analysis. However, it is impossible to see how a fee of up to £100,000 can be justified when the extra costs of service provision to be factored in would never raise the time and cost expended to the likely income generated. To use another simple illustration, in Figure 2 the maximum time expended on any major housing application was 160 hours. The maximum fee would pay for at least 1000 hours of time, or a combination of time plus administrative costs. That is a six-fold increase in time/cost input which is clearly unnecessary on the evidence in Figure 2.

It should also be borne in mind that, on a large strategic site, there are likely to be several substantial applications including possibly PPP on the entire site then a series of detailed applications by different developers. That will simply widen the gap between the actual work required of the planning authority and the fees collected.

There is, on the contrary, a clear message from the data available that the priority is to make poorly-performing Councils more efficient before introducing huge and unjustified fee increases.

Homes for Scotland therefore proposes that a staged approach to raising fees is adopted. Civil servants have suggested that this is difficult to encapsulate in legislation, but the legislation and circulars around fees already provide for periodic increases so this argument is not accepted. As an example, the fees could be doubled for a period of two years, in return for which planning authorities are required to put in place a consistent time/cost management system. This could be developed independently by Audit Scotland or another body, funded through a small part of the additional fee income. At the end of two years, there will then be consistent Scottish data on the cost of performing the planning application function, and an assessment can be made of the funding gap, if any. The time should also be used to roll out best practice to poorer-performing authorities. We believe, on the evidence presented, that it is unlikely that a maximum fee above £40-50000 would ever be required to meet the tests of the Act, but there must be evidence to support any rise beyond the proposed doubling of fees.

In relation to questions 6 and 7, we do not agree that a fee for a re-application should be as high as 50%, as this again will overstate the additional work involved for the planning authority. In addition, it is likely to discourage applicants from revising proposals, something which is necessary to reflect changing market conditions. The planning system

should be encouraging, not deterring, development.

There should be no automatic annual rise in fees. Under Homes for Scotland's proposals, these may rise incrementally anyway and can therefore be set at an appropriate level.

Planning fees are only one of a number of possible regulatory fees and associated costs involved in the development process. Other consents such as Building Warrant, Road Construction Consent and many others also incur fees.

Planning applications, particularly major applications, are routinely accompanied by a range of technical studies and impact statements. Many of these impact assessments are sought as a matter of course by Planning Authorities and very seldom is consideration given to the relevance of each assessment to a particular application. But their main purpose is to assist the planning authority to determine an application.

Homes for Scotland believes that impact assessments should be (a) jointly agreed on a case by case basis, (b) scoped to encompass those issues and only those issues which the Planning Authority must address in determining the application, and (c) jointly commissioned or commissioned through an agreed contractor.

The issue of proportionate fees for the scale of application is therefore important, but proportionate costs also need to apply to other parts of the process of seeking planning consent. The impact of higher fees on economic growth seems to have been overlooked also. Fee increases will be absorbed in the development appraisal, and will mean that there is less money for either land costs or developer obligations. A six-fold increase in fees would be a significant impact on the appraisal. It would also disproportionately affect different sizes of company, especially smaller companies who do not have the internal funding mechanisms to support higher up-front costs but may have to include such costs in their commercial borrowing for a project.

Homes for Scotland members have looked at how the proposed fee levels would have impacted on recent planning applications. They consider that, on average, their fees would have increased between two and three-fold. The real concern, however, is the risk involved in incurring a fee at all. Pursuing a site allocated in a development plan is less of a risk, albeit the possibility remains of refusal on relatively-minor grounds or even perverse political decisions. That then raises the possibility of a second fee for a revised application, which may be considered unacceptable by a company Board. Pursuing a site which is not allocated or with a proposal that is contrary to some policies would become a significant risk at a much higher fee. Setting fees too high will risk deterring development, an outcome contrary to the objective of the planning system facilitating more economic development.

Homes for Scotland supports the proposal that a single planning fee will cover the planning application, neighbour notification costs, pre-application discussions, preparing S 75 Agreements and the costs of Local Review Bodies. This will allow the planning service

to be identified clearly as the responsibility of the statutory planning authority, while ending the practice of arbitrary and variable additional charges imposed on these key stages of the process.

Homes for Scotland members agree that the performance of Planning Authorities in respect of delivery a service to stakeholders is the key issue related to fees. They agree that higher fees would be acceptable if accompanied by clarity of process and certainty/predictability over timescales for a decision. Progress has been made in some authorities – for instance in Edinburgh, Highland and Aberdeen where processing agreements are used as standard for major applications. The clarity over information requirements, timescales for stages of the process and lines of communication has been broadly welcomed by applicants. The Councils involved have achieved very good performances on delivering the commitments set out in processing agreements.

However, the vast majority of planning authorities do not use processing agreements as a matter of course. Performance in those authorities still varies enormously. There is scope for improved performance. Some improvements will come from resourcing the service with sufficient staff, but much of it will come from clearer and simpler processes and more proportionate information requirements.

The development by Heads of Planning Scotland of an improved Planning Performance Framework is welcomed. Some improvements are still required, notably on monitoring of the post-consent stage of discharging conditions. It is important that the outputs from the Framework are used to verify that customers are receiving the level of service expected and that, if that is not the case, then the level of fees charged is reduced accordingly. Such an incentive to the planning authority is essential to guarantee their commitment to continuous improvement of the planning service. Likewise, relating staged payments of fees to key stages in the process is a form of incentive, rather than a negative punishment as suggested in the consultation. It is essential that performance is measured not just at a Council-wide level through the HOPS framework, but also at the level of the service which is promised and delivered to individual applicants. Hence the HOPS framework and the proposals to tie fees to processing agreements are complementary.