



Department for
Communities and
Local Government

Planning Act 2008

The Infrastructure Planning (Fees) Regulations 2010
guidance

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Introduction

1. The 2008 Planning Act (“the Planning Act”) created a new development consent regime for nationally significant infrastructure projects in the fields of energy, transport, water, waste water, and waste. These projects are commonly referred to as major infrastructure projects and will be throughout this document. Through the Localism Act 2011 the Government made significant changes to the regime by abolishing the Infrastructure Planning Commission and transferring responsibility for decision making to the Secretary of State¹.
2. This guidance is to provide project applicants with advice on the fees payable to the Secretary of State for the costs of processing an application for a Development Consent Order under the Planning Act. Fees are only payable in respect of the specific matters set out in the Infrastructure Planning (Fees) Regulations 2010.

Summary of fees

4. Fees are charged at different stages:
 - At the time of submitting an application for development consent.
 - When an application is accepted for examination. The fee amount is based on whether the Examining Authority consists of a single inspector, a panel of three inspectors, or a panel of more than three inspectors.
 - Following commencement of the examination, based on a system of worked day-rates, the level of which depends whether the Examining Authority is a single inspector, a panel of three inspectors, or a panel of more than three inspectors. The amount to be paid will be 50% of the estimated examination fee, with the estimate based on the number of days that are expected to be needed for the examination of that particular application.
 - Following completion of the examination.
 - There may also be a fee for any venue costs, i.e. where one is not provided by the applicant.
5. Where applicants are unable to acquire information about interests in land, or access land for the purposes of surveying, taking levels or in order to facilitate compliance with the Environmental Impact Assessment or Habitats Directives², they may request authorisation from the Secretary of State to serve a notice requiring such information to be provided, or access

¹ ‘Secretary of State’ in this document should be read as ‘the Secretary of State with responsibility for the relevant policy area’. Applications relating to energy projects will be decided by the Secretary of State for Energy and Climate Change; those relating to transport by the Secretary of State for Transport, hazardous waste by the Secretary of State for Communities and Local Government and those for waste water and water supply will be a joint decision by the Secretary of State for Communities and Local Government and the Secretary of State for the Environment, Food and Rural Affairs.

² Council Directive 85/337/EEC of 27 June 1985, and Council Directive 92/43/EC of 21 May 1992.

granted³. A fee is charged for this service.

6. The fees are summarised in the following table:

Application stage		Fees		
		Single Inspector cases	Three Member Panel cases	Three Member or more Panel
Request for authority to serve a notice requiring information to be provided on interests in land (section 52 of the Planning Act)		£1,000 per request		
Request to authorise right of entry to land (section 53 of the Planning Act)		£1,000 per request		
Fee when submitting an application		£4,500 per application		
Pre-examination fee		£13,000	£30,000	£43,000
Initial handling fee	<i>Daily fee (per working day)</i> ⁴	£615	£1,340	£2,040
Final handling fee	<i>Daily fee (per working day)</i>	£1,230	£2,680	£4,080

7. The methodology and underpinning assumptions used to generate the above fees (including what costs they recover) are set out in the impact assessment that accompanied the regulations⁵.

³ Sections 52 and 53 in the Planning Act (obtaining information about interests in land, and rights of entry) were amended by the Localism Act 2011.

⁴ In summary, every day in the period from the start of the examination to its end, normally excluding weekends and public holidays (see the Infrastructure Planning (Fees) (Amendment) Regulations 2013 and the commentary to Regulation 9 below for excluded days).

⁵ The impact assessment is at the end of the Explanatory Memorandum which can be found at <http://www.legislation.gov.uk/ukxi/2010/106/memorandum/contents>

Interpretation of the regulations

8. Annex A contains a table setting out the policy intention and interpretation of each regulation. While there is a general presumption that payment of fees should be fully enforced, most of the regulations have been drafted to permit the Secretary of State some discretion when unforeseen circumstances arise e.g. where they are assured that non-payment is simply due to an administrative error.

9. The Infrastructure Planning (Fees) Regulations 2010 have been amended by the Infrastructure Planning (Fees) Regulations 2013⁶. The amendments are intended to provide clarity about the days that can be counted in calculating the final payment for the handling of an application for development consent. The amendments were not intended or expected to require any change to the current practice of the Planning Inspectorate in relation to application fees.

⁶ http://www.legislation.gov.uk/uksi/2013/498/pdfs/uksi_20130498_en.pdf

Annex A

Interpretation of Infrastructure Planning (Fees) Regulations 2010

Regulation	Policy intention and commentary
1. Citation and commencement	<p>This provides that the regulations come into force on 1 March 2010.</p> <p>The regulations have the same extent of the Planning Act and apply to England, Wales and Scotland (section 240 of the Planning Act). They also apply in territorial waters adjacent to England and Wales, and any Renewable Energy Zone (except those where Scottish Ministers have functions).</p>
2. Interpretation	<p>This provides for interpretation of various terms used throughout the regulations.</p>
3. Fee in respect of authorisation under sections 52 and 53 of the Planning Act	<p><i>Policy intention</i></p> <p>Sections 52 and 53 relate to obtaining information about interests in land or entering it for the purposes of surveying or taking levels or in order to facilitate compliance with the Environmental Impact Assessment or Habitats Directives⁷.</p> <p>Where an applicant is refused information and / or access, and in relation to section 53 is considering a distinct project of real substance genuinely requiring entry onto the land in question⁸, they can submit a request to the Secretary of State who can require that the information or access is to be provided. A fee of £1,000 must be paid at the same time as any request is made.</p> <p>However the Government wishes to ensure that the use of these powers (and the applicable fees) is proportionate, such that:</p>

⁷ Council Directive 85/337/EEC of 27 June 1985, and Council Directive 92/43/EC of 21 May 1992. Sections 52 and 53 in the Planning Act have been amended by the Localism Act 2011.

⁸ This test is set out in section 53(2)(a) of the Planning Act.

<p><i>Continued</i></p>	<ul style="list-style-type: none">• the ability to enter / acquire information about land cannot be unduly frustrated e.g. by objectors buying up plots of land and then selling small amounts on to different people, with the aim of requiring an applicant to submit potentially hundreds of requests for each 'parcel' of land (each costing £1,000);• applicants do not submit a single request for the whole project (or large sections of it) e.g. the entire length of a proposed 100 mile pipeline. <p>Applicants are expected to act reasonably, first seeking to obtain relevant information or permission to access land directly before seeking authorisation under these provisions. Specifically, applicants should only submit requests for those aspects of information, or access to parcels of land, where they consider they have been unreasonably refused that information or access.</p> <p><i>Interpretation</i></p> <p>The regulation has been specifically drafted widely enough to allow the Secretary of State to decide whether, in each particular case, one or several requests for authorisation under section 52 or 53 of the Planning Act are required. This will also ensure that the £1,000 fee per authorisation request approximately covers the resource cost involved⁹.</p>
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⁹ Applicants may wish to refer to the Inspectorate's Advice Notes 4 and 5 for further information:

http://infrastructure.planningportal.gov.uk/wp-content/uploads/2013/04/Advice-note-4_v2.pdf

<http://infrastructure.planningportal.gov.uk/wp-content/uploads/2013/04/Advice-note-5v2.pdf>

Regulation	Policy intention and commentary
4. Fee in respect of venue costs	<p><i>Policy intention</i></p> <p>This adopts the widely used policy of applicants providing the inquiry venue (such as for inquiries held under the Harbours Act 1964, Electricity Act 1989 and Transport and Works Act 1992). Applicants should provide the hearing venue bearing in mind what type of facilities the Examining Authority needs to undertake its examination. This approach gives the applicant greater control over venue costs.</p> <p>Where the applicant does not provide a hearing venue the Examining Authority will need to do so, and regulation 4 provides power for the Secretary of State to recover any costs reasonably incurred. When providing a venue, consideration should be given to public sector organisations in the locality that might have suitable facilities available.</p> <p><i>Interpretation</i></p> <p>(i) The power is permissive and does not require the Secretary of State to charge, but this is only expected where a venue cannot be provided free of charge.</p> <p>(ii) As set out in regulation 2, “hearing” has the same meaning as section 95(2) of the Planning Act and in this context particularly relates to:</p> <ul style="list-style-type: none"> • the “preliminary meeting” where discussion takes place on how the application should be examined • hearings to examine a specific issue • hearings to examine the compulsory acquisition aspects of an application • ‘open floor’ hearings, such as when an interested party wishes to make an oral representation on a matter; and • any other meeting or hearing that the Examining Authority causes to be held for the purposes of the Examining Authority’s examination of the application. <p>It is a decision for the Examining Authority as to how many hearings are required, bearing in mind the need to undertake an efficient but thorough examination of the issues (and the rights of interested parties to make representations orally).</p>

<i>Continued</i>	(iii) Where a fee is charged and not received within 28 days of the date of invoice, the Secretary of State has discretion to take no further steps in relation to an application until the fee has been paid. The Secretary of State is not compelled to cease work on the application, for instance he/she may decide to continue where he/she is satisfied that payment has not arrived due to an administrative error.
5. Fee to accompany an application	<p><i>Policy intention</i></p> <p>An initial fee of £4,500 must accompany all applications for an order granting development consent. This aims to recover costs of assessing whether the application meets the criteria at section 55 of the Planning Act and, as such, whether the Secretary of State will accept it for examination. Matters that the Secretary of State will need to consider include whether the application is of a standard that the Secretary of State considers is satisfactory and if the applicant has met their duty to carry out effective pre-application consultation.</p> <p><i>Interpretation</i></p> <p>Applicants must pay this fee at the same time as making the application.</p>
6. Fee in respect of the initial decision	<p><i>Policy intention</i></p> <p>Once an application has been accepted by the Secretary of State (i.e. it has met the criteria at section 55 of the Planning Act), it will in due course be referred to the Examining Authority for examination.</p> <p>Three ‘tiers’ of resource intensity are set out in the regulations:</p> <ul style="list-style-type: none"> • cases examined by a single inspector; • cases examined by a Panel of three inspectors; and • cases examined by a Panel of more than three inspectors. <p>Applicants must pay a fixed fee within 28 days of the Secretary of State appointing the Examining Authority, with the fee depending on which ‘tier’ is chosen (£13,000 / £30,000 / £43,000 respectively).</p> <p><i>Interpretation</i></p> <p>Where a fee is charged and not received within 28 days of the date of invoice, the Secretary of State has discretion to take no further steps in relation to an application until the fee has been paid. The Secretary of State is not compelled to cease work on the application, for instance he/she may decide to continue where he/she is satisfied that payment has not arrived due to an administrative error.</p>

Regulation	Policy intention and commentary
7. Fee in respect of handling an application	<p>This regulation provides that two fees will be charged in accordance with:</p> <ul style="list-style-type: none"> • regulation 8 (following the start of the examination); and • regulation 9 (following the end of the examination). <p>These fees aim to recover costs of the examination and making of the report recommendation for the Secretary of State, based on a system of day-rates applied over the examination period.</p>
8. Initial payment in respect of the handling of an application	<p>Regulations 8 and 9 relate to the charging of day-rates in relation to the Examining Authority' examination of an application (as set out in Chapter 4 of Part 6 of the Planning Act). The day-rates aim to recover the costs of examining <i>and</i> making the report and recommendation to the Secretary of State.</p> <p>As set out in the commentary on regulation 6, there are three 'tiers' of resource intensity:</p> <ul style="list-style-type: none"> • cases examined by a single inspector; • cases examined by a Panel of three inspectors; and • cases examined by a Panel of <u>more</u> than three inspectors. <p>Accordingly three tiers of day-rate have been set – £1,230 / £2,680 / £4,080 per "estimated relevant day" respectively. An "estimated relevant day" (as defined in the regulations) means a day estimated by the Examining Authority as required for examining the application. This will be each day estimated to be required in the period from the start of the examination to its end, normally excluding weekends and public holidays¹⁰.</p> <p>The intention is that, following the "preliminary meeting" (see section 88 of the Planning Act), the Examining Authority will make its procedural decision about how the application will be examined, including setting the timetable for the examination, and will charge 50% of the expected fee based on the estimated overall length of the examination period. Remaining fees will then be paid following the end of examination based on actual days taken (see commentary to regulation 9 below).</p>

¹⁰ See the Infrastructure Planning (Fees) (Amendment) Regulations 2013 for commentary to Regulation 9 for details of exclusions.

<p><i>Continued</i></p>	<p><i>Interpretation</i></p> <p>(i) Where a fee is charged and not received within 28 days of the date of invoice, the Secretary of State has discretion to take no further steps in relation to an application until the fee has been paid. The Secretary of State is not compelled to cease work on the application, for instance he/she may decide to continue where he/she is satisfied that payment has not arrived due to an administrative error.</p> <p>(ii) The regulations have been drafted such that they are triggered whenever the Examining Authority begins an examination i.e. after holding a preliminary meeting under section 88 of the Planning Act (which is when the proposed timetable for the examination is discussed with interested parties).</p> <p>(iii) Regulation 8(2) defines “estimated relevant day” as a day estimated by the Examining Authority as required for examining the application. The fee will normally be expected to be charged for every working or “relevant” day in the period from the start of the examination until its end (normally excluding weekends and public holidays). There is discretion not to charge for certain days where there are good reasons to do so; any reduction in fees would be reflected in the final payment at the end of examination (see commentary to regulation 9).</p>
<p>9. Final payment in respect of the handling of an application</p>	<p><i>Policy intention</i></p> <p>See the commentary under regulation 8. Regulation 9 relates to the final payment after the end of the examination.</p> <p>This fee is calculated by determining the total number of ‘relevant days that were needed for the examination, which will normally be every working day in the period from the start of the examination to its end, multiplied against the full day-rate in regulation 9 and deducting the fee paid under regulation 8.</p> <p>Where payment is not made within 28 days, the duty on the Examining Authority for making a report and recommendation to the Secretary of State within three months (as set out in section 98 of the Planning Act) is extended by the number of days in which payment has been delayed e.g. if payment is one month late, the Examining Authority has four (instead of three) months from the end of examination to make the report and recommendation to the Secretary of State.</p>

<p><i>Continued</i></p>	<p><i>Interpretation</i></p> <p>(i) Under Regulation 9(3) (as amended by the Infrastructure Planning (Fees) (Amendment) Regulations 2013) a “relevant day” excludes weekends and public holidays, unless they are required for the handling of the examination, and any day on which consideration of the application is formally suspended (i.e. due to the review of the national policy statement, or the absence of adequate environmental information).</p> <p>There is also discretion not to charge for certain days where there are good reasons to do so e.g. where the person that is examining a single appointed person case falls ill and progress on the case is delayed. In such circumstances the number of “relevant days” counted can be reduced accordingly, thus reducing the final fee paid by the applicant.</p> <p>(ii) Where a fee is charged and not received within 28 days of the date of invoice, submission of the Examining Authority report and recommendation to the Secretary of State can be delayed until payment has been made. The statutory deadline to make the report and recommendation within three months (see section 98) is extended in such circumstances by the number of days delay in the payment.</p>
<p>10. Direction made under section 35 of the Planning Act</p>	<p><i>Policy intention</i></p> <p>The Planning Act includes a power at section 35 for the Secretary of State to direct an application(s) that has already been made to a “relevant authority”, to be determined under the Planning Act¹¹.</p> <p>In order to offset fees that would have already been paid to the relevant authority alongside the initial application(s), applicants will not need to pay the following fees to the Secretary of State:</p> <ul style="list-style-type: none"> • the fee normally paid when submitting an application to the Secretary of State (£4,500); and • the fee normally paid when the application had been accepted for examination (£13,000 or £30,000 or £43,000). <p>Other fees paid to the Secretary of State will continue to apply as normal.</p> <p><i>Interpretation</i></p> <p>This regulation provides that regulations 5 and 6 do not apply in the case of applications that are transferred to the Secretary of State pursuant to a direction made by the Secretary of State under section 35 of the Planning Act. However, those regulations will apply in the case of proposed applications that are transferred under section 35 of the Planning Act, i.e. where a person proposes to make, but has yet to make, an application to a relevant authority and a direction is made by the Secretary of State under section 35.</p>

¹¹ This will be amended to take account of section 26 of the Growth and Infrastructure Act 2013

Annex B

Examples of how fees work in practice

Revised Worked Examples (May 2013)

Application for development consent where a single Inspector is appointed

Stage of process / applicant action	Secretary of State or Examining Authority decision or action	Fee to be paid
Application for development consent submitted to the Planning Inspectorate.	Upon receipt of application and relevant fee, the application is assessed against the criteria at section 55 (e.g. whether the applicant has met their duty to carry out effective pre-application consultation) and hence if it can be accepted for examination.	£4,500
Applicant notified of the appointment of the Examining Authority and pays relevant fee within 28 days.	A single Inspector is appointed to examine the application.	£13,000
Examination commences and applicant notified of relevant fee, which is paid within 28 days.	Single Inspector makes a decision to programme an I examination period of 115 working days.	£70,725 [115 days x £615]
Applicant notified of end of the examination and relevant fee, which is paid within 28 days.	Examination completed after 119 ¹² working days. Interested parties are notified of the completion of examination under section 99.	£75,645 [(119 days x £1,230) – £70,725]
Total Fees Paid		£163,870

¹² 119 days is the average for cases handled by single Inspectors based on completed examination to date. (Seven cases)

Application for development consent where a panel of 3 Inspectors is appointed

Stage of process / applicant action	Secretary of State or Examining Authority decision or action	Fee to be paid
Application for development consent submitted to the Planning Inspectorate.	Upon receipt of application and relevant fee, the application is assessed against the criteria at section 55 (e.g. whether the applicant has met their duty to carry out effective pre-application consultation) and hence if it can be accepted for examination.	£4,500
Applicant notified of the appointment of the Examining Authority and pays relevant fee within 28 days.	A panel of 3 Inspectors is appointed to examine the application.	£30,000
Examination commences and applicant notified of relevant fee, which is paid within 28 days.	Panel of Inspectors make a decision to programme an examination period of 130 working days.	£174,200 [130 days x £1,340]
Applicant notified of end of examination and relevant fee, which is paid within 28 days.	Examination completed after 128 ¹³ working days. Interested parties are notified of the completion of examination under section 99.	£168,840 [(128 days x £2,680) – £174,200]
Total Fees Paid		£377,540

¹³ 128 days is the average for cases handled by a panel of 3 Inspectors based on completed examinations to date. (Five cases)

Application for development consent where a panel of more than 3 Inspectors is appointed

Stage of process / applicant action	Secretary of State or Examining Authority decision or action	Fee to be paid
Application for development consent submitted to the Planning Inspectorate.	Upon receipt of application and relevant fee, the application is assessed against the criteria at section 55 (e.g. whether the applicant has met their duty to carry out effective pre-application consultation) and hence if it can be accepted for examination.	£4,500
Applicant notified of the appointment of the Examining Authority and pays relevant fee within 28 days.	A panel of more than 3 Inspectors is appointed to examine the application.	£43,000
Formal examination commences and applicant notified of relevant fee, which is paid within 28 days.	Panel of Inspectors make a decision to programme an examination period of 125 working days.	£255,000 [125 days x £2,040]
Applicant notified of end of examination and relevant fee, which is paid within 28 days.	Examination completed after 127 ¹⁴ working days. Interested parties are notified of the completion of examination under section 99.	£263,160 [(127 days x £4,080) – £255,000]
Total Fees Paid		£565,660

¹⁴ 127 days is the average for cases handled by a panel of more than 3 Inspectors based on completed examinations to date. (One case)