



Department for
Communities and
Local Government

Proposals for changes to planning application fees in England: Consultation

Summary of responses

© Crown copyright, 2012

Copyright in the typographical arrangement rests with the Crown.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk.

This document/publication is also available on our website at www.communities.gov.uk

Any enquiries regarding this document/publication should be sent to us at:

Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000

August, 2012

ISBN: 978-1-4098- 3588-2

Contents

Introduction	2
About the consultation	3
Consultation questions	3-9
Question 1	3
Question 2	4
Question 3	5
Question 4	6
Question 5	7
Question 6	8
Question 7	8
Question 8	9

Introduction

1. Local authorities are able to charge fees in order to recover the costs of processing most types of planning applications, as they are in other areas of public service.
2. On the 15 November 2010 the Government consulted on its proposals for changes to the planning application fees regime which if implemented would decentralise responsibility for setting fees to local authorities. The Government also proposed allowing authorities to charge for some of those applications which are currently free. The consultation on the Government's plans closed on the 7 January 2011.
3. In addition to the formal consultation responses the Department held 6 events around England in November and December 2010; over 250 people attended these events.

About the consultation

Proposals for changes to planning application fees in England - summary of consultation responses

Overview of responses

4. 425 submissions were received in response to the consultation; 51 per cent (219) from local authorities; 32 per cent (137) from the private sector in the form of businesses, consultants or developers (including a common response on behalf of 43 private planning consultants) and 6 per cent (25) from voluntary / community or other third sector organisations, including Registered Social Landlords; 10 per cent (44) were from other types of organisation or responses from individuals.

Detailed responses

5. This section summarises responses to the individual questions posed in the consultation document.

Q1. Do you agree that each local planning authority should be able to set its own (non-profit-making) planning application fee charges?

6. This question invited views on the proposal that local authorities would have the discretion to set both the level of fee for fee chargeable applications and the fee categories to which they apply. Local authorities would have to establish a fee schedule which reflects full cost recovery and the principle that the user should pay for the actual service they receive.
7. 258 respondents (62 per cent) supported local authorities being able to set their own fees, whilst 129 (30 per cent) disagreed.
8. Those who supported the change noted that local fee setting, at full cost recovery, would benefit applicants by enabling authorities to continue to provide an effective and timely service.
9. More detailed feedback from authorities focussed on the practicalities of establishing fee levels and what costs should be included in order to calculate charges that fully recover the costs of the chargeable service; a number of respondents wished to see guidance from the Chartered Institute of Public Finance and Administration (CIPFA) on this.
10. Some respondents from the private sector were concerned that the decentralisation of fee setting would result in a significant increase in fee

levels and an increase in the costs to business. They also expressed concern about the cumulative impact of regulation, and of other proposed reforms to the planning system on the cost, and therefore the viability, of development.

11. Some business respondents responded that they would have been more supportive of the changes if they were confident that they would lead to an improved service; if fee categories remained comparable; and if there was a consistent methodology for calculating the costs of processing planning applications. Respondents believed the latter would provide transparency and also highlight instances of inefficient practice.
12. Whilst a number of local authorities wished to introduce the changes at the earliest opportunity, others expressed concern at the tight timetable for introducing the change. Some responses from the private sector also questioned whether local authorities were in a position to do the work necessary to justify their own planning application fees at the present time.
13. The Government has looked at the case for decentralisation of planning fees, in light of the responses to the consultation, and notes the range of views put forward. Local authorities incur different costs and have to handle very different profiles of applications, and the Government wants to ensure that adequate resources are available to meet expectations of an effective planning system that supports delivery of development.
14. New evidence from ongoing work with local authorities indicates that decentralisation of fees is a complex proposal which would need further working through. The Government has therefore decided on a one-off national increase in planning fees of 15 per cent. This will relieve inflationary pressure on authorities and help them to provide a good planning service essential for strong and sustainable economic growth. It will do so without burdening businesses and householders with significant increases in planning application costs that may have resulted from decentralisation immediately. In the majority of cases, a householder making an application would see their fee increase by around £22 from £150 to £172; while the average increase on other applications would be around £65.
15. The Government will continue to work with the Local Government Association to further understand the implications of decentralisation across all authorities.

Q2. Do you agree that local authorities should be allowed to decide whether to charge for applications that are resubmitted following withdrawal or refusal?

16. Currently no fee is payable for applications that are resubmitted following withdrawal before determination or refusal (this is known as the “free go”).

17. The majority of local authorities who responded commented on the costs they face arising from 'free-gos', particularly in repeating the notification and consultation process and in further administration. However local authorities and the development industry recognised that there were instances where the costs of determining re-submitted applications are reduced because of prior work and thus costs should reduce proportionally. A number of respondents raised concerns about the fairness of charging for re-submissions where the authority had requested an application be withdrawn.
18. The Government recognises that whilst the majority of respondents answering this question supported the proposals, others expressed clear and specific concerns about achieving a proportionate fee for this purpose. On balance, the Government has decided not to allow fees to be charged for resubmitted applications at this time, but will continue to consider this issue as part of our ongoing work with the Local Government Association on appropriate charging for planning services.
19. **Q3. Do you agree that local authorities should be able to set higher fees for retrospective applications?**
20. Currently no distinction is made between fees for routine applications and applications which are made retrospectively (after development has begun). Retrospective applications are sometimes made as a result of investigation by a local authority. In these instances, they impose a greater cost on authorities than routine applications. Views were sought on allowing (but not compelling) local authorities to charge an additional fee for retrospective applications to cover these costs. 61 per cent of respondents supported the charging of higher fees to cover any additional costs arising from retrospective applications.
21. Those who did not support the change were concerned that the higher charge could penalise those who made a genuine mistake. Some business respondents did not think a higher charge appropriate where the retrospective application related to action to address urgent issues such as health and safety. Many who did not support the change were concerned that the intention behind the charge could be seen as punitive action against those making retrospective applications, rather than genuinely seeking to recover additional costs.
22. Amongst those who supported the change a minority wished to see recovery of costs through fees widened to take in all costs associated with enforcement action.
23. Unauthorised development can blight neighbourhoods and neighbours' lives. A wide range of enforcement powers already exist and this has been enhanced by new measures in the Localism Act. These cover a number of areas, including the deliberate concealment of unauthorised development, the use of retrospective planning applications during the enforcement appeal process, and illegal advertisements and fly-posting. The Government recognises concern that enforcement is a complex field,

and it is important that local authorities take steps to ensure that applicants and others know what is required of them. However, there may well be instances where as a result of investigations following complaints, a local authority can clearly demonstrate additional administrative costs associated with a retrospective application. Therefore as part of the Government's ongoing examination of the option of decentralisation of fees, we will consider whether local authorities should have the choice of whether or not to seek to recover these costs. However, as is the case for all fee charges, it is clear that in accordance with the legislation, authorities would need to justify the cost and must not over-recover.

Q4. Are there any other development management services which are not currently charged for but should require a fee?

24. The consultation paper sought views on whether there were elements of the development management service which were not currently charged for but ought to require a fee and whether the current exemptions and concession should remain in place. Of those respondents who answered this question the overwhelming majority (71 per cent) were in favour of expanding the scope of fee chargeable activities.
25. The activities raised most frequently by the 281 respondents were: Listed Building consents (212) and Conservation Area consents (196). Both local authorities and some of those representing the development industry recognised that local authorities with a number of Listed Buildings or Conservation Areas could not recover costs for a significant part of their service, and in many cases had additional costs associated with employing or commissioning specific expertise in order to determine applications. Those who supported extending fee charging for heritage applications argued that charging would allow authorities to recover the costs of offering specialist conservation advice, enabling authorities to provide a timely, quality and expert service to the benefit of applicants.
26. 123 respondents raised other types of application or consent not listed in Annex A of the consultation document, common amongst these are: Ecclesiastical Exemptions; Environmental Impact Assessment, screening and scoping opinions; Regulation 7 Advertisements; applications for certificates of alternative appropriate development; and the Review of Older Mineral Permissions.
27. The current fee regulations contain a number of concessions. Those who commented on this generally wished to see local discretion only with a concession for people with disabilities set nationally.
28. The majority of responses to question 4 related to charging for types of application or consent that are exempt in the current regulations, however, a number of respondents wished to see the scope of the regulations widened to allow full or partial cost recovery for plan making and appeals, and the full recovery of the costs of the enforcement service.

29. The Government welcomes the comments on expanding the scope of fee chargeable activity and has carefully considered all views. In some instances, applicants are financially benefiting from a planning consent without having to pay a fee to cover the costs of determining the application.
30. As part of the Government's ongoing examination of the option of decentralisation of fees, we will consider whether the scope of fee chargeable applications should be widened. This would allow, (but not compel) local authorities to charge for services on a cost recovery basis which do not currently require a fee.
31. The Government will also carefully consider the arguments put forward both in favour of charging for applications for Listed Building consent, and for continued exemption for such designations due to the burdens associated with preservation and maintenance that are clearly in the public interest.
32. The Government has considered the views of those who sought to further extend the scope of fee chargeable activity to accommodate wider plan making. The planning service exists above all to promote the public good. The planning system is vital for economic growth, a sustainable environment and strong and vibrant communities. Planning reconciles competing economic, social and environmental priorities to deliver development that improves and shapes localities. It is an established principle that local authorities should pay for activities that are purely or largely for the wider public good. It is therefore proposed that fees are not extended to cover the costs of plan-making.

Q5. Are there any other development management services which currently require a fee but should be exempt from charging?

33. 349 respondents answered this question; 255 (63 per cent) indicated that there were no areas which currently require a fee that should be exempted from charging. 94 (23 per cent) respondents identified specific areas that should be exempted; the most frequently cited area for exemption (raised by 23 respondents) related to charging for pre-application discussion and advice. Specific comments related to concerns about the quality and consistency of the service received.
34. As part of the Government's ongoing examination of the option of decentralisation of fees, we will consider whether any development management services which currently require a fee should be exempt.
35. Pre-application charging has been raised in the consultation process. Pre-application discussion and advice is a discretionary service which local authorities can charge for under Section 93 of the Local Government Act 2003 and does not fall within the scope of the planning fees regulations. Where local authorities set charges for any pre-application service the Government would encourage them to clearly set out their scale of fees and charges alongside the level of service that an applicant

will receive for that charge and ensure that such fees are proportionate and meet cost recovery. Local authorities must also ensure that taking one year with another, the income from charges for such services must not exceed the costs of providing them.

Q6. What are the likely effects of any of the changes on you, or the group or business or local authority you represent?

36. 371 (87 per cent) respondents answered this question. Local authorities noted that local fee setting, that allowed full cost recovery, would benefit applicants by enabling authorities to continue to provide an effective and timely service. Respondents from voluntary / community organisations made a similar point as did a small number of private sector respondents. Respondents from the private sector were concerned that the decentralisation of fee setting (with no cap on the level of fee increase) would result in a significant increase in fee levels and an increase in the costs to business. Industry respondents also feared that that some authorities might use the fee structure to restrict certain types of development.
37. The Government understands the concerns about excessive fee increases. However, primary legislation prevents local authorities from setting fees that exceed the cost of providing a service by processing planning applications. Fees cannot be used to make a profit or to subsidise other parts of the planning service. Local authorities that seek to over-recover fees will be open to legal challenge.
38. In taking forward a national increase in planning fees of 15 per cent, the Government has sought to strike a balance between allowing local authorities to make up some of the identified shortfall in fees revenue, without asking applicants to make up the full shortfall at this time. This increase will relieve inflationary pressure for authorities and help them to provide a good service at a time when they are being asked to create the conditions for strong and sustainable economic growth, while asking applicants to pay a modest and manageable increase.

Q7. Do you think there will be unintended consequences arising from these proposals?

39. 354 (83 per cent) respondents answered this question of which 263 (66 per cent) believed that there would be unintended consequences arising from the proposed changes.
40. Respondents from the private sector reiterated concerns that the fee increase would add to business costs and deter planning applications.
41. A number of respondents suggested that the changes might lead to an increased number of planning appeals being submitted where a fees dispute between the local authority and the appellant would lead to non-determination.

42. Both local authorities and private sector respondents expressed concern at the possibility of increased administrative costs associated with establishing and maintaining a fee schedule. The resource implications for authorities faced with a rise in the number of applicants seeking advice was also raised.
43. The Government welcomes the views of respondents on this issue and has considered their views carefully. The Government will continue to consider the implications of decentralisation, including the impact upon the viability of development, while being aware that planning application fees constitute a small portion of development costs. Evidence from previous increases in fee levels has shown no discernable impact upon development viability. Any increase in fees charged to applicants needs to be balanced against the benefit to applicants of suitably resourced local authorities able to provide an effective and timely service.
44. The Government will also continue to consider the risk that any fee increases will encourage people to circumvent planning permission. However, again there is no evidence that fee increases over the last twenty years have had a discernable effect on encouraging unlawful development.

Q8. Do you have any comment on the outcomes predicted in the Impact Assessment, in particular the costs and benefits?

45. 212 (53 per cent) respondents commented on the Impact Assessment. Many of the comments reiterated points made in response to the other consultation questions.
46. A number of private sector respondents commented that the Impact Assessment has underestimated the impact of the changes on applicants. Both private sector and local authority respondents questioned the average fee increase of 10 per cent - 15 per cent as set out in the Impact Assessment; many anticipated a far higher increase.
47. Primary legislation prevents local authorities from setting fees that exceed the cost of processing planning applications, to ensure that authorities develop a robust and transparent methodology for calculating fees, the Local Government Association through the Planning Advisory Service has been working with a Benchmarking group of authorities.