

Planning Fees and Performance Consultation Team
Planning – Development Management
Department for Levelling Up, Housing and Communities
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Response submitted by email only to:
PlanningFeesPerformanceConsultation2023@levellingup.gov.uk

25th April 2023

Dear Sir / Madam,

LPDF response to the Technical Consultation: Stronger performance of local planning authorities supported through an increase in planning fees.

I am writing on behalf of the Land Promoters and Developers' Federation (LPDF) to respond to the current technical consultation: stronger performance of local planning authorities supported through an increase in planning fees. This response starts by providing a brief introduction to the LPDF and then moves on to cover the proposals regarding planning fees, local planning authority capacity and capability and local planning authority performance in turn.

About the LPDF

The LPDF was set up in April 2018 and represents land promoters and housebuilders, of all sizes, who due to their land interests interact with the planning system across England to establish the principle of development, normally for a residential use. As a consequence of these multiple daily interactions with Local Planning Authorities (LPAs) and consultees throughout the country we are uniquely placed to comment on both the plan making and decision taking components of our planning system. It has been estimated that the land promotion sector is responsible for over half of the outline planning consents for residential development on an annual basis.

Our members perform a vital service, firstly, to the government in helping to achieve their housing targets, secondly to the housebuilding industry who rely on a constant supply of developable land and thirdly, to local communities and homebuyers and occupiers who need housing. Sites promoted by developers and land promoters can range in size from 20-30 dwellings to major schemes with many thousands of homes. The LPDF now also includes a number of small housebuilder members who also

play a critical role in the delivery of housing. LPDF members supply both the major housebuilders and smaller SME companies who are essential to securing diversity of delivery within the industry to meet the wide range of housing needs within the market.

Our role is to represent our members best interests, to encourage good practice and to disseminate information and advice so that they can perform their role better, more efficiently and more sustainably in the future.

The LPDF members are direct users of the planning system and know first-hand the difficulties and challenges of navigating through the system and achieving planning consents. Our members agree with the statement in the introduction to this consultation highlighting that the core planning application service is not consistently performing at the level which it should, and as such strongly support the rationale behind this consultation. These proposals directly impact on our members businesses, particularly the SME housebuilders, and as such, as a Federation, we are keen to see improvements made to the system and would, in principle, be supportive of increases in fees to achieve this.

Fees Increase

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

The LPDF recognise the need to reduce the funding shortfall for planning application services and therefore welcome this consultation and the opportunity to provide the comments on the proposals. The LPDF do however question whether a full analysis of costs has been undertaken in terms of the planning system, both development management and plan making. Without this cost analysis there is limited justification for the percentage fee increases proposed.

Notwithstanding the above, in principle the LPDF would be supportive of an increase in fees for major applications. However, this support is on the provision that the service received by applicants is substantially improved and reflects this increase in costs. The development industry would be expecting to see enhanced performance of the planning departments if they are to pay a significantly increased fee as is proposed. The performance improvements that the LPDF are seeking is for planning departments to actually meet the existing targets as this would, in reality, represent a substantially improved service.

As noted above the Federation do question how the 35% increase for major applications has been determined, as there does not appear to be any evidence that the costs of major applications are not being recovered. The LPDF note that there remains an element of cross subsidisation of householder application costs and query whether further emphasising this cross subsidisation through the proposed fee increases is appropriate.

A further question the LPDF raise is how LPAs will be held accountable for poor performance and specifically what sanctions would be put in place for erroneous decisions by LPAs / planning committee members. A key part of performance by the LPA will be whether planning applications are dealt with in a timely manner. Significant delays with planning applications are unfortunately an issue faced by our members on a regular basis, with many applications dragging on for many months or even years. If applicants are expected to pay an increased fee for the service, then it is fundamental that suitable

timeframes are met. Planning delays can result in significant financial implications for developers and as such ensuring suitable timeframes are met is of critical importance.

Whilst the consultation document refers to the fee increase representing a proportionate approach that provides additional income for LPAs whilst not unfairly introducing disproportionately high fee increases for householders and small businesses, the LPDF argue that many SME housebuilders will be developing schemes of 10 or more dwellings and will therefore fall within the major applications category and be subject to the higher percentage increase in planning fees. The impact on SME housebuilders is something that should be given due consideration as they are already facing a range of regulatory and legislative barriers which are impacting on the financial viability of schemes and their businesses as a whole.

With reference to the impacts on SME housebuilders, the LPDF have commissioned Lichfields to prepare a report on the changing nature of the planning application process for small sites over time including; what an outline application consists of, what supporting information is required, how long it takes (on average) to process an application and rough costs to submit a valid application. We believe that this will demonstrate the significant cost and information requirement of an outline planning application today, compared with 20 years ago, and how this is a significant barrier to SME house builders. Unfortunately, this report will not be available by the close of this current consultation, however we will happily share this with you once it is available.

The LPDF question whether a system of tiers, with different rates applicable to each would be more appropriate, rather than just major and non-major applications. For example, these could be set at up to 10 units, 10-50 units, 50-200 units and 200+ units and the fee be set accordingly. This option would assist SME housebuilders considerably and would ensure that the barriers being faced by SME builders are not added to in a disproportionate way.

Notwithstanding the comments made above, we do recognise that there are instances where delays are outside of the LPAs control, for example delays with responses from statutory consultees. The LPDF believe that it would be prudent to introduce some form of regulation to ensure the statutory consultees do not unnecessarily delay and clog up the planning application system.

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

Yes, the householder planning application fees should also be increased, however the LPDF would question why this increase is of a lesser extent to that for major planning applications, when the major applications already act to cross subsidise the householder applications. As noted above, we believe a detailed cost analysis is required to help determine the appropriate scale of all of the fee increases proposed.

We note that the consultation document outlines that householder application costs for processing an application can often be double their fee, therefore we question why the increase in fee for householder applications is proposed to be just 25%. The LPDF believe that the increase for householder application fees should be higher to reflect the actual level of work required on these applications and to limit the need for further cross-subsidisation that currently occurs through the fees obtained via major applications.

Question 3. Do you agree that fees for all other planning applications should be increased by 25%? If not, please include 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.

As outlined above, the LPDF believe that a full costs analysis of planning application fees should have been undertaken in order to determine the appropriate scale of increase for the different types of applications. Without this information it is hard to comment on the scale of the proposed increases.

The LPDF believe that all applications should be subject to a fee including prior approvals, as you are paying for a service, albeit you would not pay for both planning and Listed Building, if submitted together. This would help planning departments to become self-financing.

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?

A concern highlighted by LPDF members, is that if the planning fee increase of 35% goes ahead that this could be seen as a precursor for LPAs to increase their pre-application fees by a similar extent. As the fees for pre-application advice are at the discretion of the LPA, this could be seen as an opportunity by planning departments to bring in additional funds when resources are limited. Given that these fees are discretionary, the worry is that this could easily be exploited by some LPAs. The LPDF believe that pre-application advice fees should be set at a national level rather than through the Local Government Act, as at present there is too much variation across the country and the quality of the advice received is not necessarily reflective of the cost.

The LPDF would also recommend introducing a charge for submitting an appeal. The purpose of this would be to disincentivise appellants from submitting unsubstantiated appeals with limited chances of success (particularly householder appeals) which are unnecessarily clogging up the appeal system and taking up limited LPA time and resources. PINS statistics show that in 2021/22 only 36% of householder appeals were allowed and over the 10-year period 2012/13 – 2021/22 the average annual percentage allowed was just 37.5%.¹ This demonstrates that the majority of householder appeals are dismissed. The fee for submitting an appeal would need to be sufficient to defer unsubstantiated appeals but not such a cost that it would be a disadvantage for SME housebuilders.

Discretionary and bespoke planning services

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?

The LPDF refer to Greater Cambridge with regards to their pre-application services. This example, which was provided by one of our members, is an example of an LPA where they have a clear process which involves a Quality Review Panel, Councillor engagement and a traffic light system for their pre-application responses (green = resolved, red= still an issue). This clear system enables applicants to move through the process ticking things off as they go.

A further example, specifically of a fast-track process would be in London, where the GLA have various stages where they get involved in major applications. This involves them assessing the scheme and

¹ <https://www.gov.uk/government/statistics/planning-inspectorate-statistics>

providing comments. The Fasttrack approach exists where the scheme is policy compliant for affordable housing and not challenging viability. You can then proceed on a faster / more certain timescale.

Indexation

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

Providing the fees are initially set at an appropriate level then the LPDF do not see a problem with planning fees being adjusted in line with inflation on an annual basis. This will hopefully reduce the need for further ad hoc increases and provide greater certainty for both LPAs and applicants.

Ringfencing of additional fee Income

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, it is fundamental that the additional income arising from the increased fees is ringfenced for spending within the local planning department, and the LPDF's in principle support for the proposed planning fee increase is subject to this being the case.

The additional fees need to be used by local planning departments to ensure that a better service is provided to applicants and that that this is done in a timely manner. If this income were to be directed elsewhere within the LPAs, then this would defeat the purpose of the increase which is intended to result in the stronger performance of local planning authorities.

Whilst the LPDF strongly support the additional fees being ring fenced, without the control of the base budget you cannot guarantee that the extra money is spent on the planning departments. We believe that in many instances, it is likely that finance departments will simply give the planning department less base budget which will then be topped up with the uplift in planning fees (resulting from this consultation), therefore resulting in no extra resources for the planning department.

The LPDF recommend that like Building Control Budgets, Planning Department budgets should be set as a 3-year rolling budget with flexibility built in. It is very difficult to predict fee income from planning departments (as this depends on the applications, pre-app advice, PPAs etc), therefore a 3-year rolling budget would help planning departments to manage their budgets better.

Fees for retrospective applications

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, the LPDF would be supportive of the doubling of retrospective planning fees.

Removal of the 'free go' for repeat applications

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 LPDF are strongly of the opinion that the 'free go' for repeat applications should be retained.

If this were to be removed, it is likely to drive behavioural changes by local planning departments. The likelihood is that you would see an increase in applications being determined quickly, however these would be refusals and would result in the applicant having to pay for a second application fee, rather than working through the issues with the case officer through the determination period. It would be in LPAs interest to get refusals issued quickly and then receive more money via a second go application.

The Federation are concerned that the removal of the 'free go' might also, as noted in the consultation document, result in an increased number of applications being taken to appeal and resulting in significant additional costs for both the applicant and the LPAs.

Prior Approval fee for the permitted development right allowing development by the Crown on a closed defence site.

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?

Whilst the LPDF would be supportive of a fee being charged for prior approval applications for development by the Crown on a closed defence site as this would be consistent with other prior approval application fees, we would question whether this fee should be more. However, as noted previously in this response, given that no cost analysis has been provided with this consultation it is impossible to assess what level of fee would be appropriate.

Local Planning Authority capacity and capability

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

The LPDF note that LPA planning departments are lacking in resources in general and are facing real difficulties in recruiting new planners. This lack of resource and backlog within the system can be clearly seen through the fact that a number of LPA's (for example Tandridge and Arun) have recently temporarily closed their planning departments (or specific planning officers) to phone calls and emails, in an attempt to address the vast backlog in planning applications. In addition to the existing resource issues, LPAs are concerned about their ability to resource the many changes that the Government are seeking to introduce to the planning system.

Given the current proposals regarding the Infrastructure Levy, if this is introduced as proposed then there will be a need for more skills on development finance within local planning authorities.

Whilst skills gaps and shortages within planning departments are of critical importance there is also the need to consider skills gaps and resource issues for statutory consultees, as these are outside of the LPAs control, but are often the cause of planning delays.

In addition, the LPDF raise the issues of nutrient and water neutrality and the need for in house experts to work through these issues and help developers to establish the necessary mitigation solutions. Given this is a relatively recent issue facing planning departments and developers we believe further expertise is required in LPAs to help ensure that solutions are found, and development is not subject to further delays.

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?

As noted above, the LPDF recognise that resourcing of planning departments is a key issue and results in challenges for the users of the planning system, we agree that this is currently a big issue that needs addressing.

The LPDF note that insufficient planning apprenticeships are available. One way to increase the provision of these would be that in order for LPAs to receive the increase in planning fees it would become mandatory for them to take on a town planner apprenticeship /s, this would act to provide a financial incentive for offering a town planning apprenticeship and consequently would help to increase the pipeline of chartered town planners. If this approach was taken across the board, it could have a significant and continual impact.

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

The LPDF have no comments to make on this question.

Local Planning Authority Performance

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 LPDF are unsure of how frequently the Planning Guarantee is actually used in practice and believe that if this is made a more rigorous sanction, then it will potentially lead to more quick refusals, particularly when linked to other proposals such as the removal of the 'free go' application.

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?

With regards to speed of decision making the LPDF believe that it is important to consider both those applications determined within the statutory determination period and also those that have been subject to extensions of time or PPAs. Whilst we agree that extensions of time and PPAs serve an important role to enable constructive negotiations to take place and for issues to be addressed it is important that these applications do not end up resulting in protracted negotiations and significant unnecessary delays. Excluding extensions of time and PPA from performance assessments may act to incentivise the wrong behaviour of LPAs.

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

- (a) Major applications***
- (b) Non-Major applications (excluding householder applications)***
- (c) Householder applications***
- (d) Discharge of conditions***
- (e) County matters applications?***

Yes, we would consider it appropriate for performance to be assessed separately for the various types of applications. This would enable any specific issues in determining certain types of applications to be identified and more targeted responses applied.

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

The LPDF agree that an assessment of performance should go beyond speed and quality of decision making and believe that in particular proposed Metric F2 “percentage of committee decisions to refuse against officer recommendation that are subsequently allowed at appeal” is an important measure to gain an understanding of overall performance and erroneous decisions by planning committees.

Whilst the LPDF are supportive of a broader performance framework such as that identified in the consultation document, of equal importance will be how this performance framework is applied and how LPAs are held accountable for poor performance. Without some form of sanction, then a performance framework is meaningless.

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

The LPDF have no comments to make on this question.

Question 19. Do you support the introduction of a qualitative metric that measures customer experience?

Yes, the LPDF would support the introduction of a qualitative metric within the performance framework, as capturing customer experience is important, could help provide a deeper understanding of the planning services from a user’s perspective and could help to identify specific areas in need of improvement.

Question 20. What do you consider would be the best metric(s) for measuring customer experience?

The LPDF have no comments to make on this question.

Question 21. Are there any other ways in which the performance of local planning authorities or level of community engagement could be improved?

The LPDF have no comments to make on this question.

Conclusions

In summary, the LPDF support the intentions of this consultation and in principle the proposed increase in planning fees. However, it is fundamental that this increase in revenue for the LPAs results in an enhanced service being delivered and that as part of this significant improvements are made

with regards to the timescales associated with gaining planning consent. It is also fundamental that any increase in fees is ringfenced for spending in the planning departments.

With reference to the title of this consultation 'Stronger performance of local planning authorities through an increase in planning fees' we reiterate the need for accountability to ensure that stronger performance results from the increase in fees.

I hope that this response is helpful and if you wish to discuss these matters in any further detail, the LPDF team would be only happy to assist.

Yours Faithfully,



Nicole Burnett

LPDF Senior Policy and Research Manager