

Consultation on Raising Planning Fees

Analysis of Consultation Responses

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Report prepared by: Chris Thornton, Associate Director, Craigforth

The opinions expressed in this report are those of the author.

Report commissioned by:
Planning and Architecture Division
Victoria Quay
Leith
Edinburgh
EH6 5QQ

Tel: 0131 244 7845
e-mail: DMprocedures@gov.scot
web: <http://www.gov.scot/Topics/Built-Environment/planning>

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Planning and Architecture Division, Victoria Quay, Leith, Edinburgh, EH6 5QQ

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1 EXECUTIVE SUMMARY

The consultation

- 1.1 The Scottish Government consulted on proposals to raise planning fees. The consultation follows an independent review of planning fees which recommended a substantial increase in fees for major applications to support a move towards full cost recovery. The consultation document sets out proposals for fee maxima across most categories, and asks a single question – “As a first stage, do you agree with the proposed maximum fee level?” – including a closed Yes/No element and also inviting written comment.
- 1.2 The final number of submissions received was 124, including 96 from group respondents and 28 from individual members of the public. The group respondents included businesses and developers, business/developer membership organisations, planning authorities/other public sector bodies, professional firms & consultants, professional bodies & academics, and third sector organisations.

Views on proposed maximum planning fees

- 1.3 Respondents were somewhat divided on proposals; 54 respondents (44% of all respondents) supported the proposed maximum fee level, and 65 (52%) were opposed.
- 1.4 Support for the proposals was most widespread amongst planning authorities and other public bodies, third sector organisations, and professional bodies/academics. The respondent groups most likely to be opposed to proposals were businesses and developers, and professional firms and consultants.
- 1.5 Those who supported the proposed maximum fee referred to a range of **positive considerations that had influenced their view**. The most common was support for the principle of ensuring planning fees better reflect costs associated with determining applications. Ensuring the quality of planning services was also a common motivation for those supporting the proposed maximum fee, including specific reference to increased fee income enabling performance improvements for planning services.
- 1.6 Those who objected to the proposed maximum fee level, and a substantial proportion of those broadly in favour, raised a range of **concerns or points for consideration** for the proposals.
- 1.7 Objection to the scale of the proposed fee increase was a commonly cited issue, including a number of respondents querying the lack of detail provided on how the proposed fee maxima have been calculated. Some of these respondents also objected to proposals on the basis that they are disproportionate in their impact on specific types of development. This included reference to the impact of proposals on sites in excess of 50 units and on renewable energy development.

- 1.8 Concern that higher fee maxima will not deliver improvements to the planning system also appeared to be a significant motivating factor for those opposed to the proposals - more than half of those who objected to proposals referred to this issue. Some suggested that the consultation should have included detail on how additional fee income would support improved performance across the planning system.
- 1.9 Respondents also raised some concerns around the potential impact of proposals. This included suggestions that any proposed increase in planning fees needs to be considered in the context of the range of other burdens which add to the cost of development. Several respondents also suggested that proposals could have an adverse impact on the viability of specific types of development, including large housing development, renewable energy developments, and mineral sites.

Comments on the proposed fee structure and its implementation

- 1.10 In addition to views on the proposed fee maxima, respondents also referred to the implementation approach. This included suggested amendments or additions to proposals for the planning fee structure, and comments relating more specifically to implementation. Specific concerns included that unchanged fees for smaller developments are not sufficient to meet costs associated with determining these applications, and that proposed fee maxima for planning permission in principle applications does not reflect the resources required. Several respondents also suggested changes to the fee structure, including an increased in the per hectare or per unit fee such that proposals reach the fee maxima more quickly, and that calculation of planning fees for commercial scale renewable energy developments is based on MW capacity rather than per hectare.
- 1.11 Views were mixed on the timescale for implementation. A small number of planning authorities/other public bodies expressed a preference for proposals to be introduced as quickly as possible. Others suggesting a delayed or phased introduction of the increased fee maxima, including some suggesting that proposals are not introduced until the wider planning review is completed.

Improving performance in the planning system

- 1.12 The link between increased planning fees and improved planning performance appeared to be a significant factor in respondents' support for or opposition to the proposals. Nearly half of all respondents included specific reference to this. This included a substantial number expressing a view that planning system performance must be improved to justify increased planning fees. Some of those in favour of proposals also stated that their support was contingent on performance improvements being delivered.
- 1.13 Respondents recommended a number of approaches to ensure the proposed increase in planning fees delivers performance improvements. These included measures to ensure additional fee income is reinvested in planning services, linking fee payment with planning performance, reference to other specific approaches including ongoing work.

2 INTRODUCTION

2.1 This report presents an overview of findings from an analysis of responses to the Scottish Government’s consultation on raising planning fees.

The Consultation process

2.2 The consultation follows an independent review of planning fees, which recommended a substantial increase in fees for major applications to support a move towards full cost recovery. The consultation document sets out proposals for a new maximum fee for major applications across most categories of development of £125,000, and a maximum of £62,000 for applications for permission in principle. It is also proposed that a reduced per unit or per hectare charge is introduced for developments over a size threshold, to ensure that applicants in Scotland do not pay more than they would in other administrations.

2.3 The consultation asks a single question – “As a first stage, do you agree with the proposed maximum fee level?” – including a closed Yes/No element and also inviting written comment. The consultation ran to 27 February 2017.

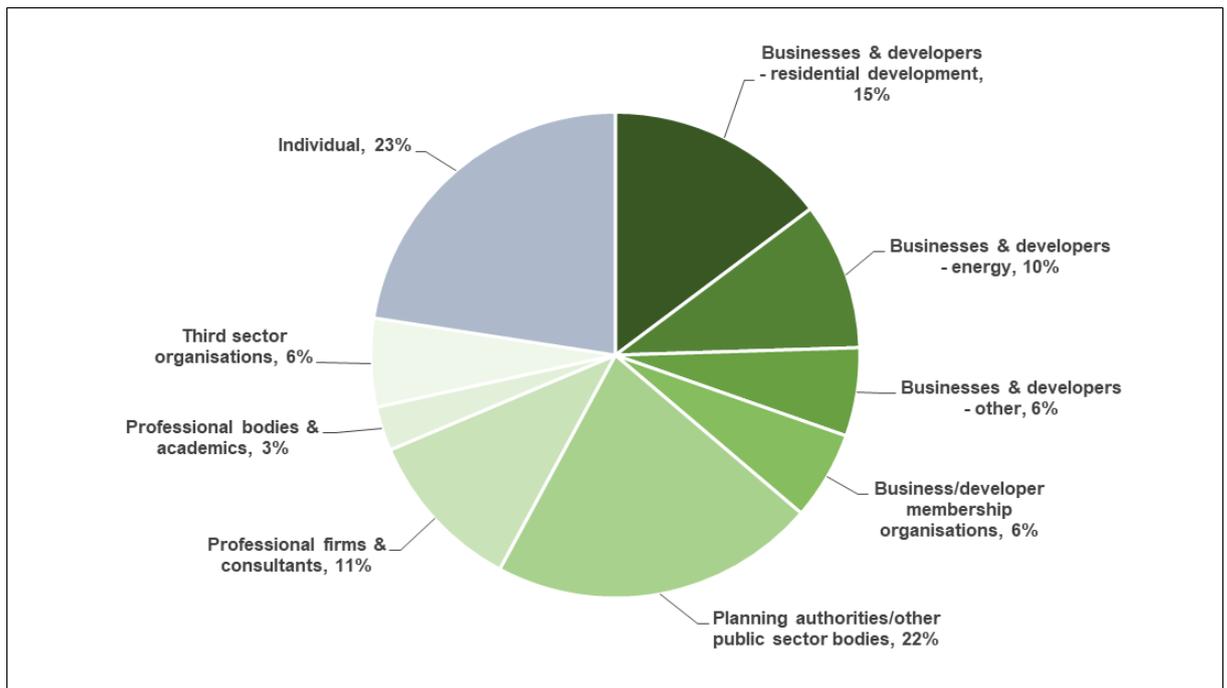
Overview of written submissions

2.4 The final number of submissions received was 124. Of these, 96 were submitted by group respondents (77% of all respondents) and 28 by individual members of the public including some who appeared to have a detailed understanding of the planning system. A profile of respondents by type is provided below.

Table 1: Overview of Consultation Respondents

Group Type	Number	Percentage
Businesses & developers, including...	37	30%
<i>Residential development</i>	18	15%
<i>Energy</i>	12	10%
<i>Other</i>	7	6%
Business/developer membership organisations	7	6%
Planning authorities/other public sector bodies	27	22%
Professional firms & consultants	14	11%
Professional bodies & academics	4	3%
Third sector organisations	7	6%
Group respondents (total)	96	77%
Individual	28	23%
Total	124	100%

Figure 1: Breakdown of Consultation Respondents



2.5 Respondents were grouped into nine broad respondent types based on their role – eight types for group respondents, and one for individuals. A full list of group respondents is provided as an Annex to this report, and the main points to note about the composition of the groups are:

- **Businesses and developers** – 37 respondents across the 3 business sub-groups and representing a diverse range of organisation sizes and type. The largest group was comprised of developers and other businesses with a focus on residential housing development (18 responses). In addition, responses were received from businesses linked the energy industry (12 responses). The 7 ‘Other’ business respondents varied in terms of the sector in which they operate and included 4 with a focus on construction materials and aggregates.
- **Business/developer membership organisations** – 7 respondents including representative bodies for specific industries or sectors, and bodies with a broader focus such as chambers of commerce.
- **Planning authorities and other public bodies** – 27 respondents including 24 planning authorities and 3 other organisations (COSLA, Heads of Planning Scotland, Historic Environment Scotland).
- **Professional firms and consultants** – 14 respondents including a mix of planning professions, law firms and property agents.
- **Professional bodies and academics** – 4 respondents, namely the Chartered Institute for Archaeologists, Royal Institution of Chartered Surveyors, Royal Town Planning Institute Scotland, and the University of Glasgow

- **Third sector organisations** – 7 respondents including a mix of national and local/regional bodies, and some with a specific conservation or environmental focus.
- **Individuals** – 28 responses from members of the public.

Analysis approach

- 2.6 Scottish Government required an independent analysis of the consultation responses and Craigforth were commissioned. We were passed full copies of all the responses and have undertaken the analysis work. The main role of the Scottish Government's Building Standards Division has been to give feedback on the breakdown of the groups and on factual issues.
- 2.7 The remainder of this report presents an analysis of all submissions. This includes the balance of views on the "closed" Yes/No question by respondent group, and a summary of key issues raised by written responses. Our analysis has sought to identify key motivations for Yes/No responses, views on specific elements of proposals for increased in planning fees, and any modification or alternatives suggested by respondents. The report also highlights where views or suggestions are specific to one or more respondent types.
- 2.8 It should be noted that the purpose of the report is to reflect the balance and range of views expressed through the consultation. It does not seek to provide any policy recommendations.

3 VIEWS ON PROPOSED CHANGES TO PLANNING FEES

3.1 This section provides a summary of views on the proposed changes to planning fees. This included views on the proposed maximum fee level, issues raised by those in favour of or opposed to the proposed maxima, comments and alternative suggestions for the proposed fee structure and its implementation, and views on improving performance in the planning system.

Extent of agreement/disagreement with proposed maximum fee level

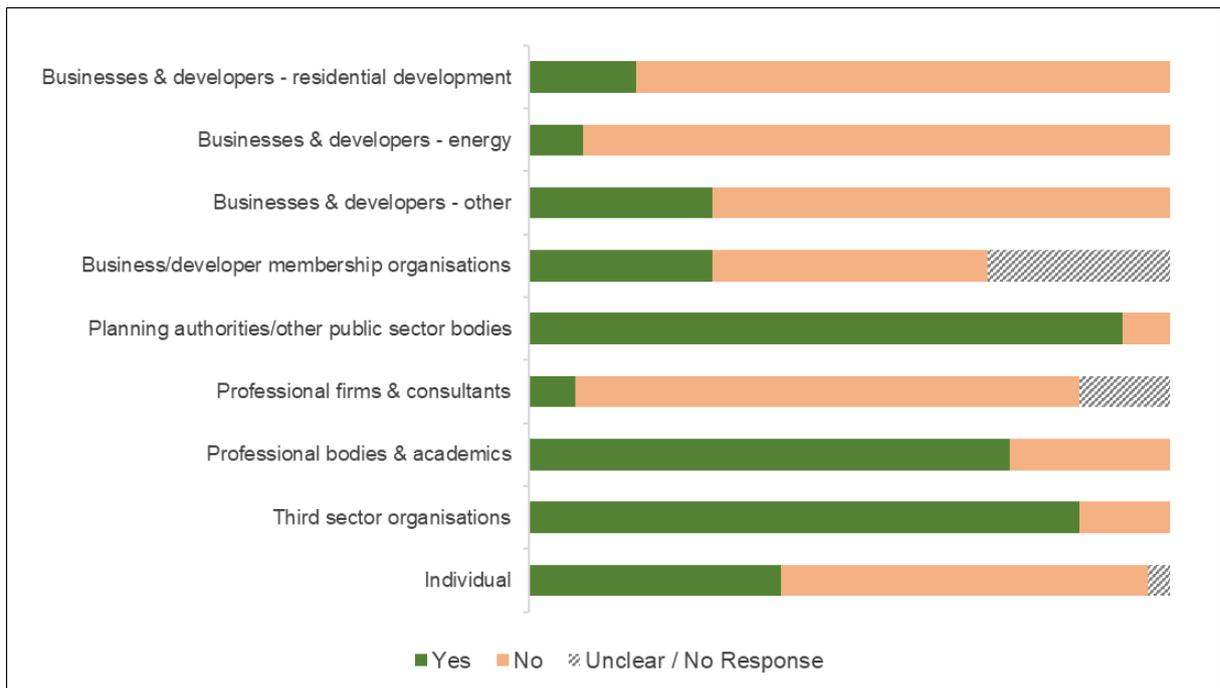
3.2 A total of 119 (of 124) respondents answered the “closed” consultation question on the proposed maximum fee level (see Table 2). Views were somewhat divided with 54 (44% of all respondents) indicating their support for the proposed maximum fee level, and 65 (52% of all respondents) opposed. However, there was significant variation in views across respondent types:

- The respondents showing most widespread **support for proposals** were planning authorities/other public bodies, third sector organisations, and professional bodies/academics. The great majority of these respondents supported the proposed fee maxima.
- The respondents showing most widespread **opposition to proposals** were businesses and developers (particularly residential development and energy respondents) and professional firms and consultants. The great majority of these respondents were opposed to the proposed fee maxima.
- Views were more divided amongst business/developer membership organisations (2 in favour, 3 opposed), and individuals (11 in favour, 16 opposed).

Table 2: As a first stage, do you agree with the proposed maximum fee level?

Groups	Yes	No	Unclear / No Response	Total
Businesses & developers, including...	6	31		37
<i>Residential development</i>	3	15		18
<i>Energy</i>	1	11		12
<i>Other</i>	2	5		7
Business/developer membership organisations	2	3	2	7
Planning authorities/other public sector bodies	25	2		27
Professional firms & consultants	1	11	2	14
Professional bodies & academics	3	1		4
Third sector organisations	6	1		7
Group respondents (total)	43	49	4	96
Individual	11	16	1	28
Overall Total	54	65	5	124
Overall Percentage	44%	52%	4%	100%

Figure 2: As a first stage, do you agree with the proposed maximum fee level?



3.3 All 124 respondents provided further written comment as part of their consultation response. Respondents made a broad range of points relating to the proposed increase in planning fees, and in some cases relating to the wider approach to planning fees and charges. This included some respondents providing significant detail on perceived issues for the planning system at present, and on suggested amendments or alternatives to the proposals.

3.4 Below we provide a summary of the points raised by respondents. This includes specific issues cited as reasons for those in favour of or opposed to the proposed maximum fee, and other common issues raised by those in favour of and those opposed to proposals. These include suggestions for the proposed fee structure and its implementation, and approaches to improve performance in the planning system.

Respondents in favour of the proposed maximum fee

3.5 Comments from those who supported the proposed maximum fee indicate a number of key considerations that influenced this view. The most common was support for the principle of **ensuring planning fees better reflect costs** associated with determining applications. This was referenced by planning authorities, professional firms/consultants, professional bodies/academics, and third sector organisations - including a substantial number of planning authorities and other public bodies expressing support for the move towards full cost recovery. In the context of ensuring fees better reflect costs, respondents noted the recent Independent Review Report and other evidence on the size of the disparity between planning fees and service costs, and to ongoing financial pressures on planning authority budgets. Several

respondents also specifically referred to the cost of determining major applications in terms of their complexity, the time required to engage with key stakeholders, the high number of major applications requiring detailed assessment of related materials (particularly where Environmental Impact Assessment is required), and the additional processing work required to deal with objections and other correspondents prompted by controversial major applications such as windfarms.

- 3.6 **Ensuring the quality of planning services** was also a common motivation for those supporting the proposed maximum fee - including for planning authorities/other public bodies, professional firms/consultants, business/developer membership organisations, and professional bodies/academics. This included a planning authority respondent referring to a need for additional fee income to maintain current levels of service, and another respondent suggesting that improved performance in recent years justifies the proposed increase in the fee maxima. However, most of these respondents referred specifically to increased planning fees enabling an improvement in the quality of service. This included a suggestion from a professional body that feedback indicates willingness for applicants to pay higher fees for a better quality planning service.
- 3.7 Respondents also cited other **specific elements of the proposals** as factors in their support for the proposed maximum fee. This included:
- Retaining the current fee maxima for smaller developments including residential and other developments. This included reference to these classes of development being particularly important for rural communities.
 - The proposed increase in the maximum for Planning Permission in Principle (PPP) fees.
 - Retaining the current fee maxima for category 10(c) applications, including specific reference to habitat creation and restoration.
 - Recognition of the specific challenges faced by the agriculture and aquaculture sectors.
 - Ensuring planning fees in Scotland remain competitive with other parts of the UK, including the reduced charge per unit or hectare.
 - Potential benefits of the of the fee increase including supporting improvement in planning performance in relation to smaller sites, encouraging developers to submit applications for the whole application rather than splitting development applications, and the potential to discourage “spurious” submissions for non-allocated sites that can cause considerable abortive work.

3.8 While those in support of the increased maximum fee cited a range of positive aspects of the proposals, a substantial proportion of these respondents also raised **concerns or points for consideration**, and comments on the potential impact of proposals. The main points raised by these respondents were:

- The need for the increase in fees to be accompanied by improvement in performance was the most common issue raised by these respondents. This issue was raised by a number of businesses and developers and their membership organisations who supported proposals and included views that users of planning services cannot be expected to accept a substantial increase in fees without a concurrent improvement in quality, and concerns that proposals set out in the consultation document do not include sufficient detail on how the increase will be linked to improved performance. A small number of these respondents referred to specific elements of the planning system seen by respondents as priorities for improvement including timescales relative to statutory consultees, and the service provided to smaller developers and in relation to smaller sites. A business/developer membership organisation also raised concerns that substantial increase in planning fees could be obstructive to development if a demonstrable improvement in performance is not delivered.
- A number of businesses and developers, their membership organisations and professional firms/consultants wished to see a clearer commitment to ensure increases in planning fees go to directly resource planning services. This included a particular interest in 'ring-fencing' of planning fees to ensure they are re-invested in planning services. A small number of these respondents indicated that it was difficult to comment on proposals without further detail on how increases will support improved performance.
- A number of planning authorities and other public bodies expressed concerns that the proposed increases will not be sufficient for full cost recovery, or to alleviate resource pressures for planning authorities - particularly for those who receive few major planning applications. This included reference to the proposed fee maxima being only half the maximum in England and Wales, and to the Housing White Paper proposing further 20% increases in fees for England and Wales. A small number of these respondents specifically queried how the proposed maxima had been calculated.
- The potential impact of proposed changes was referenced by a range of respondents, particularly in relation to the proportion of planning applications likely to be affected. This included a suggestion from a public body that the consultation paper would have benefited from the inclusion of analysis of the distribution of major planning applications across planning authorities. A number of authorities, particularly planning authorities and other public bodies, suggested that for some planning authorities (including rural areas) the proposed increase in the maximum planning fee is likely to generate limited additional fee income. This

included a suggestion that the number of applications in rural areas attracting the higher fee level may reduce further if site boundaries to windfarm applications are modified to avoid the higher fee maxima. A small number of these respondents suggested that variation in number of major planning applications would mean that additional fee income is unlikely to be of a level or a consistency to support performance improvements for many planning authorities.

- A small number of those in favour of the proposed fee maximum suggested a need to balance increases in fees to support cost recovery, with potentially negative impact on development. This included reference to types of development (more challenging brownfield sites where additional charges are likely to be higher, development in regeneration areas) and applicants (SME developers) as likely to be particularly significantly impacted. A third sector respondent cautioned that increasing the maximum fee only for larger developments could be seen by applicants as effectively subsidising determination of smaller developments.
- Respondents highlighted the extent to which applicants are also asked to finance specific elements of the planning system through additional charges – for example charges for pre-application advice, S75 legal fees, Environmental Impact Assessments, flood risk assessments, transport assessments, and retail impact assessments. It was suggested that any proposed increase in fees should take account of this wider context.
- A small number of respondents suggested that the proposed maximum fee could change the volume and profile of planning applications, including a risk that developers may reduce the scale of developments to avoid fees, and that proposals might lead to a surge in applicants prior to introduction of the higher fee maxima.

Respondents opposed to the proposed maximum fee

- 3.9 Comments from those who objected to the proposed maximum fee referred to a range of issues and concerns that had influenced their view. Few respondents were specifically opposed to the principle of an increase in planning fees, and this is evident in the specific concerns expressed by these respondents – these were focused primarily around the level and distribution of proposed fee increases, and extent to which proposals will support performance improvement, rather than objections to a fee increase *per se*.
- 3.10 Objection to the **scale of the proposed increase in fees** was a commonly cited reason for respondents' opposing proposals. This included a number of respondents describing this as 'unreasonable', and querying the lack of detail provided on how the proposed fee maxima have been calculated. Several respondents referred to the proposed maximum fee in terms of equivalent staff days, and on this basis suggested that proposals seemed excessive. This included a specific suggestion that fees should reflect the time required to determine applications if planning services were run efficiently, rather than

meeting current actual time costs. In contrast, a small number of planning authority and individual respondents objected to proposals on the basis that they wished to see higher fee maxima.

- 3.11 In addition to the scale of fee increases, a number of respondents also objected to proposals on the basis that they are **disproportionate in terms of their focus on specific types of development**. This included particular reference to the extent to which proposals will have a significant impact on developers who pursue proposals in excess of 50 units, and renewable energy development. A planning authority respondent also referred to the extent to which proposals will most benefit authorities in areas that received more major applications.
- 3.12 Alongside the scale and profile of proposed fee increases, the key motivating factor for objections to proposals appeared to be significant concerns that higher fee maxima **will not deliver improvements to the planning system**. These concerns were expressed by more than half of those who objected to proposals. This included specific concerns that without a mechanism to ensure additional fee income will be allocated to planning services – ring-fencing of planning fees for example - proposals cannot ensure the required performance improvements. Several respondents felt that the recommendations of the Independent Review implied that proposals for increased fees would include new performance criteria, and suggested that the consultation document should have included this detail. The extent to which additional fees will primarily accrue to those planning authorities receiving larger numbers of major planning applications was also highlighted in relation to improving performance, with several respondents suggesting that this distribution of fee income would undermine the ability of some authorities to invest in services.
- 3.13 Also in relation to resourcing, several respondents noted that the planning system is intended to support the public good, and as such should benefit from adequate public funding. These respondents suggested that proposals represented an over-reliance on funding via fees.
- 3.14 A professional firm/consultant suggested that the examples of how new fees would work in practice set out in the consultation document would all incur a higher fee than the equivalent development elsewhere in the UK.
- 3.15 Linked to the concerns noted above around the extent to which proposals will deliver improved planning performance, a substantial number of respondents referred to what were seen as significant **planning performance issues to be addressed**. Timescales was the most common theme across the performance issues referenced by respondents, including a range of respondents describing to determination times as ‘poor and worsening’, with a number of respondents citing recent published statistics on decision times. Respondents cited a range of quite specific performance issues which were seen as contributing to delays in the planning system:

- Very long decision times of a year or more for housing developments where a section 75 agreement is required – including some noting that this applies to a large majority of housing applications.
- Unnecessary delays in registration of applications, seen by some respondents as being used to mask performance.
- Use of Committee to determine AMSC applications (and associated delays) where this could be managed through delegated powers.
- Delays in final determination of applications linked to a lack of suitable brief to Legal Officers in relation to section 75, or unwillingness to allow developers' representatives to draft agreements.
- Delays in consultation responses from other Council departments and external stakeholders.
- A lack of processing agreements, or lack of sanctions if timescales specified by an agreement are not met.
- Delays in the time taken to purify submissions made pursuant to pre-commencement planning conditions.

3.16 Respondents also highlighted a range of issues relating to wider planning system performance:

- A lack of continuity of Case Officers within planning authorities.
- Charges for pre-application meetings, but without a willingness to ensure attendance by other relevant departments.
- Unreasonable growth in supplementary guidance, and in the quantity and scope of additional information required to support an application.
- Officers' unwillingness to decide whether planning obligations sought by Council departments or external parties meet the terms of Circular 3/2012. Several respondents suggested that this is a significant contributing factor to the increase in section 75A applications and appeals.
- Variations in planning authorities' understanding of development finance, including an unwillingness amongst officers to accept development viability as a material consideration.
- Concerns around the potential for Elected Members to impede development on the basis of 'unsubstantiated objection', and planning officers' unwillingness to highlight the implications of this approach.

- 3.17 Finally, in relation to respondents opposed to the proposed maximum fee, comments reflected several concerns around the **potential impact of proposals**.
- 3.18 This included a number of respondents referring to the range of other burdens which add to the cost of development - including infrastructure levies, preparation of s75 agreements, supporting evidence for applications, and the cost of flood risk and environmental impact assessments. These respondents suggested that any proposed increase in planning fees, and judgements of the reasonableness of fees, needs to be considered in the context of these wider costs.
- 3.19 A number of respondents were also concerned that proposals appear targeted towards large housing development. These respondents suggested that proposed fee increases are of a scale that could impact on the viability of delivering additional homes at volume – or otherwise could see costs passed on to consumers in increased house prices. Several respondents suggested that this could also have the effect of ‘narrowing’ the range of planning applications to sites supported by major development companies, or those in city regions where markets are seen as more viable, and potentially excluding small landowners and smaller developers.
- 3.20 Respondents also referred to what was seen as a disproportionate effect of proposals on other sectors, including renewable energy developments and mineral sites:
- For renewable energy development, it was suggested that the scale of the proposed increase in fees could be sufficient to undermine the viability of development. This included suggestions that proposed fee increases for small and medium sized developments are disproportionate relative to the revenue potential of these developments, and reference to pressures on the industry following removal of subsidies. An energy respondent also specifically referred to a significant difference between application costs under the Electricity Act and the Planning Acts.
 - For mineral sites, several respondents suggested that proposals could lead to a ‘2 tier’ fee structure linked to natural geology. These respondents noted that the fee structure would effectively favour deep deposits with a smaller footprint, and disadvantage sand and gravel deposits which are typically shallower and therefore require a larger surface area. It was also suggested that the proposed fee increase would mean that the fee maximum for mineral excavation projects is higher than elsewhere in the UK. Again, respondents referred to the potential for proposals to undermine the viability of some mineral extraction projects.

Comments on the proposed fee structure and its implementation

- 3.21 Reflecting some of the concerns discussed above, respondents made a range of comments relating to the implementation of increased planning fees. This included suggested amendments or additions to proposals for the planning fee structure, and comments relating more specifically to the approach to implementing proposals.
- 3.22 Respondents made a range of often quite specific suggestions for **changes to planning fees**. The key points of note are:
- Several respondents, including those in favour of and those opposed to proposals, wished to see a higher fee maxima introduced. This included reference to the significant differential between the proposed maxima and the maximum payable elsewhere in the UK.
 - A range of comments (including from a planning authority, professional firm/ consultant and third sector respondent) reflected concerns that unchanged fees for smaller developments are not sufficient to meet costs associated with determining these applications. This included suggestions that the £401 per dwelling fee is increased. A number of planning authorities also expressed a preference for across the board fee increases as a fairer approach in the context of geographic variation in numbers of major planning applications, and as being required to achieve cost recovery. A small number of respondents suggested that substantial increases are required to achieve cost recovery (including one suggestion of a 20-30% increase), and that inflationary increases should be the minimum.
 - A number of respondents referred to fees for planning permission in principle (PPP) applications, including some concerns that the lower maximum fee proposed for this class of applications does not reflect the resources required. This included reference to challenging matters such as EIA issues being resolved at the PPP stage, and to the resources required for PPP applications involving long-running or complex matters specified by condition (MSC) submissions. Some respondents wished to see the differential between PPP and full planning application fees reduced or removed. Several businesses/developers and a professional firm/consultant who were opposed to consultation proposals, suggested a reduced fee for PPP applications where few issues are being considered, and an increased fee for MSC submissions.
 - A small number of respondents suggested that the per hectare or unit fee beyond the major threshold should be higher, such that proposals reach the fee maxima more quickly. This was associated with concerns that there is little difference in the resources required to determine, for example, 100 or 500 unit developments.

- Several energy sector businesses/developers suggested that an alternative basis for calculation of planning fees is required for commercial scale renewable energy developments – and for windfarm development in particular. The calculation of fees on the basis of MW capacity rather than per hectare was the most common suggestion, although an energy sector respondent also suggested an option to calculate fees on the basis of the area of permanent development rather than the site boundary, and another that a base fee for smaller developments (e.g. up to 5MW) is introduced with scaled increases thereafter. One business/developer also suggested that renewable development should be assigned its own category for planning fees.
- Several energy sector, professional firms/consultants and individuals suggested staged payment of fees linked to delivery of key stages.
- A third sector organisation suggested that no justification is given for proposals to retain the current fee maxima in relation to category 10b (winning and working of peat) and category 9 (fish farming) applications. This included reference to the environmental impacts of these applications, and the resources required to assess these.
- A business/developer suggested an exemption from proposed fee increases for the minerals sector, consistent with the approach to agriculture and aquaculture sectors.
- A planning authority suggested the introduction of a discounted fee for applications submitted electronically via the planning portal.
- An academic respondent suggested an exemption or discount to the planning fee is introduced for not for profit organisations.
- An individual respondent suggested that a higher fee maximum is charged, but on a ‘no win no fee’ basis such that planning fees are only payable for successful applications.
- Several respondents referred to specific types of application where it was suggested that the disparity between fees and costs incurred can be substantial. This included where Economic Impact Assessment (EIA) is required, even for smaller developments; householder applications; and where development and countryside employment justifications for new houses require input from external consultants.
- A business/developer respondent requested clarity in relation to multi-development fees, including ‘renewable energy park’ schemes such as a joint wind/solar and storage development.
- A business/developer respondent requested clarity on planning fees for developments that cross local authority boundaries.

- 3.23 As is discussed earlier in this section, a number of respondents referred to a perceived lack of detail provided on the implementation of proposals. This included a range of specific **suggestions for the approach to implementing increased maximum fees**.
- 3.24 Several respondents referred to the timescale for implementation, and responses indicate a mix of views on the preferred approach here. A small number of planning authority and other public body respondents expressed a specific preference for the increased fee maxima to be introduced as quickly as possible. However, others suggesting a delayed or phased introduction of the increased fee maxima, including a number of businesses/developers and professional firms/consultants. This included a small number of those opposed to consultation proposals suggesting that increases are not implemented until the wider planning review is completed, and reference to this being linked to criteria for improved performance. A professional body respondent also noted the need to provide time for planners and developers to prepare and budget in response to the new fee maxima. A small number of those who supported proposals also referred to benefits around introducing a single set of planning fee changes once all details are agreed, and the potential for phased introduction of the fee maxima easing the volume of applications being rushed through before a single fee increase.
- 3.25 A small number of planning authority and third sector respondents suggested a review of the new fee maxima within 1-3 years of its introduction to assess impact, and the extent to which the new maxima are supporting cost recovery.
- 3.26 A substantial number of those opposed to proposals saw a need for a 'clear and actionable' requirement on planning authorities to invest additional fee income to improve planning services. This was mentioned by around a third of those opposed to proposals. As is noted below in relation to improving performance, this included specific reference to what was seen as a 'compelling argument' for ring-fencing.

Improving performance in the planning system

- 3.27 As is discussed earlier in this section, the link between increased planning fees and improved planning performance appeared to be a significant factor in respondents' support for or opposition to the proposals. Nearly half of all respondents included specific reference to the relationship between proposals and improving performance in the planning system. This included a substantial number expressing a view that planning system performance must be improved to justify increased planning fees. This was evident across respondent types, but was a particular concern for businesses and developers. This included scepticism from a business/developer membership organisation around the extent to which increased planning fees would lead to performance improvements, including suggestions that this has not been the case elsewhere in the UK.

- 3.28 Some of those in favour of proposals also stated that their support was contingent on performance improvements being delivered. For other respondents, their objection to proposals appeared to be linked closely with concerns around a lack of detail provided in the consultation document on how performance improvements will be delivered. A number of businesses/developers and professional firms/consultants suggested that it is not acceptable for significant increases in planning fees to be introduced without an agreement of how additional fee income will delivery improvement in performance. This included reference to a need for clear action plans to ensure that planning authorities will deliver such improvements.
- 3.29 In terms of approaches to ensure the proposed increase in planning fees delivers, measures to **ensure additional fee income is reinvested in planning services** was the most common suggestion. This included particular reference to 'ring-fencing' of planning fees. In relation to questions around the possibility of ring-fencing fees, a small number of respondents were of the view that the recent Scottish Government consultation on building warrant fees suggested that additional fees should be reinvested into improving building warrant services, or to the recent UK Government White Paper which in their opinion suggests that planning authorities consider ring fencing of planning fee income to support the funding of planning services. This also included a suggestion from a professional firm/consultant that additional fee income from major applications is used by planning authorities to develop a dedicated resource to ensure that complex applications are dealt with as quickly as possible.
- 3.30 **Linking fee payment with planning performance** was also a common suggestion, particularly from businesses/developers and professional firms/consultants. This included, for example, suggestions for staged payment of planning fees linked to delivery of key performance targets, and of penalties for non-performance by planning authorities. Respondents mentioned a number of specific milestones such as pre-application meeting, scoping response, pre-application design meeting, application, planning committee, and condition discharge.
- 3.31 Respondents also referred to a range of **other specific approaches to deliver improved performance** across the planning system, including some providing considerable detail. Several respondents made reference to ongoing work to improve planning performance, including the Planning Performance Framework as providing a basis for further performance improvements, support for the work of Heads of Planning Scotland in relation to performance, and reference to the importance of ensuring representation of developers on the High Level Group on Planning Performance. However, most of those commenting on planning performance suggested new approaches. These are summarised below:

- Applications in accordance with the Development Plan, regardless of size, are determined under delegated powers or otherwise 'fast tracked'.
- Integrating the pre-application stage within the application process, including use of this stage to agree supporting information required by the planning authority.
- A request for clarification on how performance improvements will impact on timescales relative to statutory and non-statutory consultees. Several respondents suggested that a lack of response within 21 days from external or internal consultees is deemed as 'no objection'. Respondents also suggested that planning authorities should assist consultees' understanding of the use of conditions and legal agreements.
- Use of standard legal agreements where developer contributions are required.
- Planning authorities work more closely with developers to agree the wording of conditions. It was also suggested that conditions are deemed discharged where there is a lack of response from planning authorities within 21 days of developers submitting the required information.
- Guidance is issued to prevent planning authorities from refusing applications and retaining any enhanced fee.
- Ensuring planning authorities provide transparency on how additional fee income has been used to improve performance. Respondents also referred to the need for identification of meaningful performance targets for planning authorities, including reference to maximum timescales and tighter processing agreements – although a planning authority suggested that measurement of performance should not be exclusively based on the time taken to determine applications, but should also consider for example delivery of quality outcomes and achievement of Placemaking standards.
- A specific suggestion that a proportion of fees collected is invested in supporting engagement with historic environment services.
- The Scottish Government produces a resource strategy statement.

4 OTHER ISSUES RAISED BY RESPONDENTS

- 4.1 In addition to issues related directly to the proposed increase in the maximum planning fee, respondents referred to a range of wider points. These were primarily related to the wider fee structure and approach to charging across the planning system, although some also referred to the Scottish Government's approach to the consultation within the planning review.
- 4.2 A number of planning authorities/other public bodies, professional firms/consultants and professional bodies suggested that there is a **need for a broad-based review that considers all planning fees**, particularly in the context of achieving full cost recovery and specific classes of development where changes are required. Several of these respondents noted that even following implementation of the higher fee maxima, there will remain a significant differential between fees charges in Scotland and the rest of the UK. It was suggested that a full comparison of fees and consideration of options to further close this gap is part of the wider review process. However, a small number of businesses and developers cautioned against a simple comparison of planning fees across administrative boundaries, without also considering differences in planning performance and measures to incentivise performance.
- 4.3 Respondents also made a number of **specific suggestions for changes to the current fee structure**, including:
- That the increased planning fees are capped and indexed to control future increases.
 - Higher fees for applications for Planning Permission in Principle, particularly for larger development proposals, Strategic Development Area proposals, and proposals involving approval of Matters Specified by Condition (MSC).
 - Additional fees where an application is accompanied by an Environmental Impact Assessment.
 - Enabling planning authorities flexibility to manage their fee income, including reference to variation in the likely benefit to specific planning authorities from increased fees for major developments.
 - Additional powers for planning authorities to charge more discretionary fees.
 - Introduction of the full planning fee for repeat applications where the first applications was refused, although a business/developer respondent specifically objected to any such change.
 - Introduction of charges associated with the submission of appeals, local reviews and other post-determination services.

- Increased fees for retrospective applications as a disincentive.
- Review current fee maxima for applications under Section 36 and Section 37.
- Reduction in fees for low value cycle sheds and similar structures, or classification of these as permitted development.

- 4.4 A small number of respondents also suggested other potential changes for consideration as part of the wider planning review. These included that all applications including Environmental Impact Assessment have a right of appeal to the Planning and Environmental Appeals Division (DPEA), provision of training in the planning system for elected members sitting on Planning Committees and Local Review Bodies, and ensuring that third party rights of appeal are not introduced.
- 4.5 Respondents also referred to how the present consultation fits within **the wider planning review**. A substantial number of respondents, primarily businesses/developers and professional firms/consultants expressed concerns regarding the multi-stage review approach, and a view that the proposed increase in planning fees has been brought forward 'prematurely'. This included suggestions that consideration of planning fee increases would best be conducted as part the wider review of fee structures, including consideration of other changes that may increase the cost burden on developers. It was suggested that the planning consultation does not provide justification for raising of planning fees being considered in isolation from wider issues such as improving performance in the planning system.
- 4.6 Several business and developer respondents expressed specific concerns that the High Level Group in Planning, having a key role in considering the link between planning fees and performance, does not include representation from developers as the most frequent users of the planning system.

APPENDIX 1 – CONSULTATION RESPONDENTS

The following organisations and individuals responded to the consultation and were willing for their responses to be made public.

Businesses & Developers – residential development

Angus Housing Association
Avant Homes
Barratt & David Wilson Homes East Scotland
Barratt Developments, Bellway Homes, Persimmon Homes and Taylor Wimpey
BARRATT HOMES & DAVID WILSON HOMES WEST SCOTLAND
Barratt North Scotland
Barratt Scotland
CALA Group
Cruden Homes
Homes for Scotland
Keepmoat Group
McCarthy & Stone Retirement Lifestyle Ltd c/o The Planning Bureau
Persimmon Homes Limited
Persimmon Homes North Scotland
Stewart Milne Homes
Taylor Wimpey UK Ltd
WALKER GROUP (SCOTLAND) LTD
West of Scotland Housing Association

Businesses & Developers – energy

ABO Wind UK Ltd
Community Windpower Ltd
EDF Energy
Falck Renewables Ltd
Green Cat Renewables Ltd
GreenPower (International) Ltd
Muirhall Energy Ltd
Natural Power on behalf of Fred. Olsen Renewables Ltd.
RES Ltd
Scottish Renewables
Scottish Water
SSE Plc.

Businesses & Developers – other

Angle Park Sand & Gravel Co Ltd
ASDA stores limited
Banks Group
Breedon Northern Limited
Gladman Developments
Lovie Ltd
Tillicoultry Quarries

Business/developer membership organisations

Accessible Retail
Edinburgh Chamber of Commerce Property Developers Group
Federation of Master Builders
Mineral Products Association Scotland
Scottish Chambers of Commerce
Scottish Land & Estates
Scottish Property Federation

Planning authorities and other public sector bodies

Aberdeen City Council
Aberdeenshire Council
Angus Council
Argyll & Bute Council
City of Edinburgh Council
Clackmannanshire Council
COSLA
Dumfries & Galloway Council
Dundee City Council
East Dunbartonshire Council
East Lothian council
East Renfrewshire Council
Falkirk Council
Fife Council
Glasgow City Council
Heads of Planning Scotland
Highland Council
Historic Environment Scotland
Inverclyde Council
Moray Council
North Ayrshire Council
North Lanarkshire Council
Perth & Kinross Council
Scottish Borders Council
South Lanarkshire Council
West Dunbartonshire Council
West Lothian Council

Professional firms and consultants

Bidwells
Burness Paull LLP
Dandara Limited
GVA Grimley Ltd.
Lippe Architects and Planners
London & Scottish Investments
Manse LLP
Mckenzie Pollock
Montagu Evens
Muir Smith Evans LLP

Savills (UK) Limited
Strutt & Parker
Wallace Land Investments
Zander Planning Ltd

Professional bodies and academics

Chartered Institute for Archaeologists (ClfA)
RICS
Royal Town Planning Institute (RTPI) Scotland
The University of Glasgow

Third sector organisations

Ardross Community Council
Friends of Glasgow West
John Muir Trust
New Town & Broughton Community Council
PAS
RSPB Scotland
Spokes

Individuals

There were also responses from 28 individuals.



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