

Report To: Environment and Regeneration Committee **Date:** 30th August 2012

Report By: Corporate Director Environment, Regeneration and Resources **Report No:** E+R/12/08/06/SJ/NMcL

Contact Officer: N.McLaren, Development and Building Standards Manager **Contact No:** 01475 712420

Subject: Scottish Government Consultation on Fees for Planning Applications

1.0 PURPOSE

- 1.1 The purpose of this report is to approve a draft response to the Scottish Government's consultation on Fees for Planning Applications.
- 1.2 Audit Scotland in their report, Modernising the Planning System, concluded "the funding model for processing planning applications is becoming unsustainable as the gap between income from fees and expenditure increases, putting greater pressure on already constrained council budgets." Nationally, in 2009/10 50% of expenditure on processing planning fees was offset by income from fees; in 2004/5 the figure was 81%. The current planning application fee structure and fee levels are no longer fit for purpose, so the consultation seeks views on their replacement.

2.0 SUMMARY

- 2.1 The consultation poses 11 questions, which were responded to as detailed in paragraphs 5.2 to 5.31.

3.0 RECOMMENDATION

- 3.1 It is recommended that the Committee agrees to the consultation response submitted to the Scottish Government.

4.0 BACKGROUND

- 4.1 The Scottish Ministers are seeking to ensure that fees associated with processing planning applications reflect more closely the resources required to provide the service. It is not the Government's intention that the fee levels exceed the costs of service delivery or that authorities make financial gain from processing planning applications.
- 4.2 The fees scheme will apply to applications for planning permission including "retrospective" applications, advertisement applications and Certificates of Lawful Use or Development. The fees scheme will not apply to applications for listed building consent, local authority applications, applications for certificates of appropriate alternative development and applications to lop or fell trees subject to tree preservation orders.
- 4.3 The fee will cover the range of functions surrounding a planning application including pre-application discussions, preparing Section 75 agreements, enforcement and any costs associated with administering Local Review Bodies. Local authorities may not develop separate charges to recover these costs.
- 4.4 Certain developments will continue to be exempt from fees, including access for disabled persons and discounts will continue to apply to applications by community councils, applications by non-profit organisations providing facilities for sport or recreation, applications arising from a condition of a planning permission in principle, applications to vary or not comply with a condition of a previous planning permission, applications relating to 2 or more proposals for development of the same land and applications for prior notification and approval.

5.0 CONSULTATION QUESTIONS

- 5.1 This consultation sought views by 22 June 2012. The consultation poses 11 questions:
- 5.2 A partial Business Regulatory Impact Assessment (BRIA) setting out in more detail the costs, benefits and risks of the proposed changes and a partial Equality Impact Assessment (EQIA) are included as part of the consultation.

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

Response: No.

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

Response: The sample survey of authorities provides a reasonable range of local authority experiences. While application numbers in Inverclyde are lower than the national average, there is no over dominance of application type.

Question 3: We would appreciate your assessment of the potential equalities impact our proposals may have on different sectors of the population.

Response: There is no identifiable impact.

- 5.3 The Scottish Government is keen to introduce opportunities for developers to spread the payment of fees associated with major applications, specifically those that have signed a processing agreement. This would allow developers to pay a percentage both at the very start and at an appropriate point later in the process.

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

payment be?

Response: The upfront payment of a planning fee indicates a commitment to the development and process. It is a concern that staged payments may result in applications stalling as developers change priority, either as a consequence of difficulties faced in the application process or non planning business matters. The early stages of an application are often the most business intensive. Registering the application, making information publicly accessible, advertising, neighbour notifying, consulting, handling public queries and making an initial assessment, so if the fee is to be staged, the significant proportion should be lodged prior to registration. The second trigger should be on completion of the regulatory requirements detailed above, and most certainly not towards the latter stages of the determination process.

- 5.4 Many planning authorities, including Inverclyde Council, have removed permitted development rights within conservation areas. As a result of the amendments to householder permitted development rights introduced in February 2012 householders in conservation areas will continue to submit a planning application but will now have to pay a fee. Given this, the Government propose that where applications are submitted for alterations to residential properties in conservation areas which are required because of the restriction on permitted development, then only half the fee would be payable.

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

Response: Agree. It is acknowledged that householders should not be unreasonably burdened only because of living in a conservation area, but there is, after all, a cost to the Council in administering applications. The proposed fees represent a reasonable compromise.

- 5.5 With the changes made to the planning system in 2009, the duration of planning permission is no longer specified as a condition. Recognising that there are costs in dealing with such applications and given the current economic climate the Scottish Government have decided to introduce a new fee for renewals of existing permissions. Fees for renewals will be 50% of the fee that would be payable if it were a new consent. An application to renew a lapsed consent will continue to attract a full fee.

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

Response: Agree. This proposal is considered a reasonable balance between the desire to encourage development in a difficult economic climate and acknowledge the costs associated with determining such applications.

- 5.6 There are costs associated with dealing with any planning application including processing, registration, validation and neighbour notification. The proposed regulations introduce a new charge for any subsequent application made within 12 months of being granted, refused or withdrawn. The cost of resubmitting such an application will be 50% of the fee that would be payable if it were a new application.

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

Response: Agree. This is considered reasonable.

- 5.7 It is Ministers' intention to make provision within the regulations for fees to increase on an annual basis in line with the retail price index (RPI). This increase would be automatic and the uplift would take place on 1 April each year.

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

Response: Agree.

- 5.8 Given the rise in numbers of applications for wind turbines, wind farms, energy from waste plants etc., the Scottish Government has concluded that there should be a separate fee category for these. The fee category is split into two parts, one of which covers turbines and windfarms, the other covering all other generation.
- 5.9 A distinction has been made between single wind turbines under 15 m to hub height and those over 15m and 50m. This is because any turbine with a hub height over 15m is required to be screened for EIA purposes and those over 50m require significant resource input by authorities. Otherwise the fees for windfarms will be based on their site size.
- 5.10 A single wind turbine smaller than 15m will attract a fee of £500; a single wind turbine taller than 15m but shorter than or 50m tall will attract a fee of £1,500; a single wind turbine taller than 50m will attract a fee of £5,000. Windfarms totalling 2 or more turbines will be charged at £500 per ha up to a maximum of £100,000. Applications for Planning Permission in Principle will rise on an incremental basis until £50,000 is reached.

Question 9: Is using site area the best method of calculating fees for windfarms of more than 2 turbines? If not, could you suggest an alternative?

Response: Site area is not the most appropriate method of fee calculation. The definition of an application site is at the discretion of the applicant, and a site area based fee can result in convoluted site boundaries aimed at limiting the application fee. The impact of the development is most appropriately measured by the level of energy generated, as the greater it is, the higher and more in number the turbines are likely to be.

- 5.11 The proposed fees categories are 1. Residential; 2-5. Extensions and alterations to existing dwellings; 6. Retail and leisure; 7. Business and commercial; 8. Agricultural Buildings and glasshouses; 9. Windfarms; 10. Other electricity generation; 11. Exploratory Drilling for oil and natural gas; 11. Fish farming; 13. Plant and Machinery; 14. Access and car parks for existing uses; 15-17. Winning and working of minerals and peat; 18-19. Waste disposal and stocking; 20-22. Changes of use;

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

Response: None.

- 5.12 The consultation also indicates a variety of changes that are not the subject of a specific question.
- 5.13 The Government acknowledges that in the majority, applications for large, complicated developments require significant resources to understand their impact on the community, economy and environment. The fee maximum is being increased for all development types to £100,000. It is anticipated that only the largest developments will pay £100,000, and it is not expected that this fee will be achieved in Inverclyde. Irrespective of the size of the development a high proportion of costs relate to processing, validation and notification of an application. Given this the fixed cost of the first unit or 100 square metres of floor space is, in most cases, increasing.
- 5.14 Most planning permissions are conditional and it is open for an applicant to seek permission not to comply with any condition. For such applications, the Government propose fees of £50 for householder applications, £250 for local applications and £500 for major applications. The Government recognise that this new fee may still

not address all concerns but given the nature and possible scope of conditions it considers it unlikely that one single fee would cover every eventuality.

- 5.15 The proposed regulations amend the incremental increase of floor space from 75 square metres to 100 square metres. For example, under the current regulations, a 400 square metre office development would be charged $6 \times \text{£}319 = \text{£}1,914$. Under the draft regulations the same development would be charged $\text{£}(1 \times 600) + (3 \times 300) = \text{£}1,500$. Under these changes certain business and commercial developments will see planning fees decrease; the Government consider that this will support more affordable expansion and development.
- 5.16 The Government recognises that, whether a planning application is for a single residential unit or 10, a large proportion of the work that goes into making a decision on the application is dependent on the initial decision on the suitability of the site for housing. With this in mind the fee for a single house is changed to reflect the processing and advertising costs associated with making a determination on the suitability of the site. The cost of a single house development, or the first unit of a larger development will be £800. The planning fee per unit will be £500 for developments between 2 and 49 units (inclusive). Housing developments containing 50 residential units would pay £24,800 and any additional unit will be charged at £200 per unit until the fee maximum of £100,000 is reached. For applications for planning permission in principle the fee for one residential unit will be £800 and where the application is based on site size the fee will rise on a £500 per 0.1 ha incremental basis until the maximum £50,000 is reached.
- 5.17 Development relating to the alteration and extension of dwellings has been split into two different types. There is also a distinction between the work involved in building a house extension and other smaller works such as replacement windows, fences and garden huts.
- 5.18 The fee for an application to enlarge an existing dwelling will increase to £300. An application relating to two or more dwellings will attract a maximum fee of £600. The fee for an application for alterations to dwellings and for works within the garden will be £100 per dwelling subject to a maximum of £200. This will include replacement windows, sheds, gates, fences, garages and micro-generation equipment.
- 5.19 The Government accepts that retail and leisure developments can have significant impacts and require careful consideration, often including retail and traffic impact assessments. Applications for full permission for buildings are charged according to the gross floor space to be created. Applications for development creating no new floor space, or not more than 50 square metres of new floor space will be charged a fee of £200. For developments above 50 square metres the fee is £1,000 for the first 50-100 square metres of the development followed by £500 per 100 square metres thereafter up to 2,500 square metres, then the fee rises to £800 per 100 square metres or part subject to a maximum of £100,000.

For example

| | | |
|-------------------|-------------------|--------------------|
| Small 1,500 sq m | current = £6,300 | proposed = £8,000 |
| Medium 5,000 sq m | current = £15,950 | proposed = £33,000 |
| Large 10,000 sq m | current = £15,950 | proposed = £73,000 |

- 5.20 Business and industry developments, whilst possibly large, are considered by the Government not to have significant effect on local authority resources. The Government consider that planning fees should not be a deterrent for the expansion of small to medium enterprises; the fees are designed to encourage affordable levels of expansion for small to medium businesses.
- 5.21 Applications for full permission for buildings are charged according to the gross floor space to be created. Applications for development creating no new floor space, or not more than 50 square metres of new floor space, are charged a fee of £200. For buildings above that size the fee is £600 for the first 100 square metres of floor space

with this falling to £300 per additional 100 square metres or part thereof subject to a maximum of £100,000. Applications for Planning Permission in Principle will rise on an incremental basis until £50,000 is reached.

- 5.22 The Scottish Government considers that linking fee levels for agricultural buildings and developments to housing developments as has occurred in the past is disproportionate to the value of the development and the actual work involved in processing such applications. The current regulations provide that an application for planning permission for buildings under 465 square metres which do not have permitted development rights require no fee to be paid. This will no longer be the case and the fee will rise from the outset based on the development size. Applications for agricultural buildings other than glasshouses will be charged at the rate of £100 for every 100 square metres or part thereof subject to maximum of £100,000. Applications for the erection of glasshouses on land used for agriculture will attract a fee of £100 per 0.1 ha subject to maximum of £2,000.
- 5.23 Energy generation projects which are not windfarms will be based on their site size or floor space. The first 100 square metres of floor space to be created will be £1,000 with £500 for every 100 square metres thereafter to a maximum of £100,000. Applications for Planning Permission in Principle will rise on an incremental basis until £50,000 is reached.
- 5.24 Applications for the installation of plant and machinery are charged according to the area of the site at a rate of £500 per 0.1 hectare or part, subject to a maximum of £100,000.
- 5.25 Applications for the disposal of waste or minerals stocking will be charged according to the area of the site with the first 0.1 ha requiring a fee of £500 followed by a rate of £200 per 0.1 ha or part, subject to a maximum of £100,000.
- 5.26 Applications for the change of use of any building to use as one or more separate dwellinghouses are charged at the same rate as residential units; £800 for the first house and £500 for each new dwellinghouse created between 2 and 49 units, after which £200 per house subject to a maximum of £100,000.
- 5.27 The Government appreciate that applications for the change of use of large site areas can be resource intensive. In view of this applications for the change of use of buildings or land will now be charged separately. Change of use of a building will be charged at £500 per application. The fee for a change of use of land will be based on the site area with an initial fee of £500 for the first 0.1 ha and £200 for each 0.1 ha or part up to a maximum of £100,000.
- 5.28 While current legislation enables applicants to seek a certificate of lawfulness of proposed use, the Government believes they should also be able to request straightforward advice from the planning authority about whether or not their proposals require planning permission. Given the changes to householder permitted development rights and continuing concerns about that practice the Government propose that no fee will be payable for applications for proposed development under this category. Applications for proposed use relating to residential properties should attract no fee. Those relating to established use would continue to attract a fee.
- 5.29 Fees for advertisement applications increase to £300.
- 5.30 There are no changes in how the fee for exploratory drilling for oil and natural gas, and the winning and working of minerals and peat is calculated.
- 5.31 Scottish Ministers maintain that any increase in fees must be linked to sustained improvements in performance. The fee increases proposed are dependent on this and Ministers are prepared to take steps to reduce the fee levels in an authority where improved performance is not maintained. The Planning Performance Framework, developed by the Heads of Planning Scotland and the Scottish

Government, will provide the foundation for assessing authority performance. Ministers and the Scottish Government would work in partnership with planning authorities to ensure all avenues had been explored and every opportunity had been taken before poorly performing authorities revert back to Current fee levels.

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

Response: Overall, the increase in fees is welcomed, although the linking of fee levels with performance is vague; there is no indication of what the Government considers to be performance meriting a reduction in fees and what exactly is intended by continuing improvement. The simple time taken to determine a planning application measure is, and always has been, a reflection of all parties involved in the planning application process and not solely the planning authority. The culture change in planning has to be embraced by all and Inverclyde Council will continue to commit to this process but expects legislative shortcomings and the inaction or failings of others, including government departments and agencies to be acknowledged.

Given the recognition of the costs associated with dealing with any application include processing, registration and validation; it is disappointing to note that the fees payable for certificates of lawfulness of proposed use are to be withdrawn. Such certificates are as valuable to a property owner as is a certificate of planning permission, and the issuing of such a certificate requires an assessment of the permitted development regulations and a site inspection. The costs are not to dissimilar to the most simple householder application and, as such, the fee should not be removed.

6.0 IMPLICATIONS

6.1 Finance:

The consultation has no financial implications, however if introduced it is anticipated that planning fee income will rise significantly. The fluctuating nature of the development industry and past income trends do not allow for accurate income assessments.

Financial Implications –

| Cost Centre | Budget Heading | Budget Year | Proposed Spend this Report | Virement From | Other Comments |
|-------------|----------------|-------------|----------------------------|---------------|----------------|
| n/a | n/a | n/a | n/a | n/a | n/a |

Financial Implications – Annually Recurring Costs/ (Savings)

| Cost Centre | Budget Heading | With Effect from | Annual Net Impact | Virement From | Other Comments |
|-------------|----------------|------------------|-------------------|---------------|----------------|
| n/a | n/a | n/a | n/a | n/a | n/a |

6.2 Personnel: None.

6.3 Legal: None.

7.0 LIST OF BACKGROUND PAPERS



The Scottish Government
Riaghaltas na h-Alba

Respondent Information Form and Questions

Consultation on Fees for Planning Applications 2012

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

1. Name/Organisation

Organisation Name

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Title Mr

Surname

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Nicholas

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3. Permissions - I am responding as...

/ Group/Organisation

X

(c)

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

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

Please tick as appropriate X Yes

(d)

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

Please tick as appropriate

X Yes

Consultation on Fees for Planning Applications 2012

CONSULTATION QUESTIONS

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

Comments *No.*

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

Comments *The sample survey of authorities provides a reasonable range of local authority experiences. While application numbers in Inverclyde are lower than the national average, there is no over dominance of application type.*

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

Comments *There is no identifiable impact.*

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

Comments *The upfront payment of a planning fee indicates a commitment to the development and process. It is a concern that staged payments may result in applications stalling as developers change priority, either as a consequence of difficulties faced in the application process or non planning business matters. The early stages of an application are often the most business intensive. Registering the application, making information publicly accessible, advertising, neighbour notifying, consulting, handling public queries and making an initial assessment, so if the fee is to be staged, the significant proportion should be lodged prior to registration. The second trigger should be on completion of the regulatory requirements detailed above, and most certainly not towards the latter stages of the determination process.*

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Agree. It is acknowledged that householders should not be unreasonably burdened only because of living in a conservation area, but there is, after all, a cost to the Council in administering applications. The proposed fees represent a reasonable compromise.

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Agree. This proposal is considered a reasonable balance between the desire to encourage development in a difficult economic climate and acknowledge the costs associated with determining such applications.

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

Agree. This is considered reasonable.

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

Agree.

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

No

Comments Site area is not the most appropriate method of fee calculation. The definition of an application site is at the discretion of the applicant, and a site area based fee can result in convoluted site boundaries aimed at limiting the application fee. The impact of the development is most appropriately measured by the level of energy generated, as the greater it is, the higher and more in number the turbines are likely to be.

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

Comments None.

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

Comments Overall, the increase in fees is welcomed, although the linking of fee levels with performance is vague; there is no indication of what the Government considers to be performance meriting a reduction in fees and what exactly is intended by continuing improvement. The simple time taken to determine a planning application measure is, and always has been, a reflection of all parties involved in the planning application process and not solely the planning authority. The culture change in planning has to be embraced by all and Inverclyde Council will continue to commit to this process but expects legislative shortcomings and the inaction or failings of others, including government departments and agencies to be acknowledged.

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permission, and the issuing of such a certificate requires an assessment of the permitted development regulations and a site inspection. The costs are not to dissimilar to the most simple householder application and, as such, the fee should not be removed.