

Chichester District Council

Planning Committee

5 April 2023

Response to Government technical consultation: Stronger performance of local planning authorities supported through an increase in planning fees

1. Contacts

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2. Recommendation

- 2.1 That the Planning Committee consider and agree the attached responses to the consultation questions for submission in response to the government technical consultation 'Stronger performance of local planning authorities supported through an increase in planning fees'.

3. Background

- 3.1 The Government is running a public consultation from 28 February 2023 to 25 April 2023 on the proposal to support changes 'to ensure that local planning authorities are sustainable and resilient and have the skills, capacity and capability to deliver a high performing service for applicants and local communities'.
- 3.2 The consultation be found here [Technical consultation: Stronger performance of local planning authorities supported through an increase in planning fees - GOV.UK \(www.gov.uk\)](https://www.gov.uk/consult/technical-consultation-stronger-performance-of-local-planning-authorities-supported-through-an-increase-in-planning-fees)
- 3.3 The consultation covers:
- Proposals to better resource local planning authorities by increasing the planning fees for major applications by 35% and for all other applications by 25%, with annual adjustments in line with inflation thereafter
 - Measures to increase capacity and capability in the planning system
 - New approaches measure performance, including quantitative and qualitative measures

Planning Fees

- 3.4 The consultation recognises that most planning fees do not cover the costs to the local planning authority of processing the application, and there are a number of application types for which no fee is currently charged. The consultation also

recognises that local planning authorities undertake other work that is not charged a fee such as enforcement activity and assessing local plan allocations which is a burden to local authorities.

- 3.5 The Planning fees have not been increased since January 2018 and local planning authorities rely on taxpayers, or additional paid-for discretionary services, to fund the difference between the fee income and the cost of service delivery. The objective of the Government proposals is to ensure the planning application service is principally funded by those who benefit from development, such as landowners and developers.
- 3.6 The proposal includes increasing planning fees for major development by 35%, and all other types of development by 25%. This would mean for example, that an application for an extension to a house would increase in cost from £206 to £258, whilst an application for prior approval would increase from £96 to £120. For residential developments, the cost per dwelling on a scheme of less than 10 units would rise from £462 to 578, and the cost per dwelling on a scheme of 10 units and over would increase from £462 to £624 per dwelling.
- 3.7 The consultation document suggests the new fees would be introduced during Summer 2023. Whilst the document acknowledges that the increase to fees would not cover the cost of delivering a planning service, the level of increase has been balanced with the current cost of living pressures.

Local planning authority capacity and capability

- 3.8 The consultation document recognises that recruiting and retaining experienced planners is difficult, in a 2021 survey by the Royal Town Planning Institute (RTPI), the Planning Officers Society (POS) and the Association of Directors of Environment, Economy, Planning and Transport (ADEPT), over 50% of respondents identified this as a significant issue. In addition, concerns about diversity and inclusivity were apparent in a 2019 survey by the RTPI. The document indicates that the Government wishes to raise the value of planners and the planning system with a culture of proactive delivery, pride in performance and high quality customer service.

Local planning authority performance

- 3.9 The consultation proposed a number of ways to improve performance, and a key area of questioning relates to what performance is monitored. At present LPA's can secure extensions of time to determine planning applications, and if an application is determined within either the statutory time period or within an agreed extended period of time, this is recorded positively. The use of extensions of time mask issues with performance and levels of work that a LPA is handling, and therefore the proposal is to monitor performance against the statutory timeframes for the determination of applications. The document recognises that extensions of time can be useful in exceptional circumstances, however the reasons should be legitimate and used to address unforeseen issues to the benefit of all parties.

- 3.10 The most significant impact of removing the ability to extend the time to determine applications, other than by exception, would likely be upon applicants who wish to extend the time to determine application to resolve issues. Following the introduction of the extensions of time to determine applications workloads for officers have increased significantly as officers deal with a range of long-running issues under a single application, whilst in the past this would have required additional applications, and therefore this is not reflected in our performance data. It is considered positive that if a proposal is not acceptable a decision shall be made, and applicants will need to adjust to resolving issues prior to submission or being realistic in their objectives and submitting a policy compliant scheme in the first instance. Whilst LPAs are dependent on extensions of time to determine applications to meet targets, applicants and their agents are also dependent on them to amend schemes once the officer has assessed the proposal, when they could engage in pre-application discussions prior to submission.
- 3.11 A firmer line on determining applications within the statutory timeframes would benefit the Council's planning officers who will be in a better position to determine unacceptable applications without protracted negotiations. Applicants would instead be encouraged to engage with the Council's pre-application advice service and to overcome issues prior to submission, leading to the submission of more policy compliant schemes in the first instance. Since 2019 planning applications have taken far longer to determine than they should due to issues such as nutrient neutrality and water neutrality. These issues have led to a substantial amount of officer time negotiating with applicants and considering potential solutions, and it is considered that if this work were to take place outside of the application process, ideally through the Council's pre-application advice charging scheme, officers would have more time available to deliver swifter decisions and a better customer service to a larger number of applications, without reducing the quality of decision making.
- 3.11 The consultation document indicates that any changes to the performance framework would not be immediate, and that they would be introduced after increases in planning fees and after the Government has invested in supporting the capacity and capability of planning departments.
- 3.12 One of the key proposals is to shorten the 'Planning Guarantee', this refers to the ability of applicants to seek a refund on their planning fee if a decision is not made within 26 weeks of submission (unless an extension of time has been agreed). The timeframe for the 'Planning Guarantee' would be reduced for non-major applications only, to a period of 16 weeks post submission. Without the ability to agree extensions of time to determine applications, this would be a challenge for the Council, however it is considered necessary to ensure a step change in the performance of the LPA.
- 3.13 Another key proposal is the broadening of the planning performance framework, to go beyond the performance figures for the time of determination and appeal performance, as is the case at present. Proposals include monitoring the use of extensions of time agreements, time taken to validate planning applications, the number of applications that remain on hand beyond the time periods as required by the 'Planning Guarantee', time taken to deal with enforcement complaints, and how applications are determined (delegated vs committee), including how frequently decisions that members overturn at committee are subsequently allowed at appeal.

Many of these would be positive and are matters that the Council already monitors for performance purposes.

Conclusion

3.14 Many of the proposed measures to improve resourcing, capacity and performance are welcomed, however it is considered that the proposed fee increases do not go far enough to ensure that LPAs are sufficiently resourced to improve performance and customer care. In addition, the proposals to speed up decision making are welcomed.

4. Outcomes to be Achieved

4.1 To influence the future resourcing and performance of Local Planning Authorities.

5. Alternatives Considered

6.1 The alternatives are not to respond to this consultation, or to provide different consultation responses.

7. Resource and Legal Implications

7.1 The legal implications connected with responding to this consultation for this Council, and impact upon resources is likely to be a positive implication.

8. Consultation

8.1 This is a public consultation being run by the government.

9. Community Impact and Corporate Risks

9.1 There are no community impacts or risks to this council of responding to this consultation.

10. Other Implications

	Yes	No
Crime and Disorder	✓	
Climate Change and Biodiversity		✓
Human Rights and Equality Impact Q22 of the consultation seeks views on the potential impacts under the Public Sector Equality Duty	✓	
Safeguarding and Early Help		✓
General Data Protection Regulations (GDPR)		✓
Health and Wellbeing Increasing the value of planners and the planning service on a national stage ,and resourcing it effectively, would benefit the wellbeing of the staff within the Council's Planning Service	✓	

11. Appendices

APPENDIX 1: PROPOSED RESPONSES TO CONSULTATION

Q1. Do you agree that fees for planning applications should be increased by 35% for major applications? Yes/no/don't know. Please give your reasons.

Yes. The delivery of a quality planning service is dependent on it being properly resourced in terms of workforce and systems, and at present the fees do not cover the cost of service delivery.

Q2. Do you agree that the fee for householder planning applications should be increased by 25%? Yes/no/don't know. Please give your reasons.

Yes. The delivery of a quality planning service is dependent on it being properly resourced in terms of workforce and systems, and at present the fees do not cover the cost of service delivery.

Q3. Do you agree that fees for all other planning applications should be increased by 25%? If not, please include in the comments box 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. Yes/no/don't know. Please give your reasons

No. It is agreed that an increase of 25% is a proportionate increase for many other planning applications. However, as explained in the response to question 4 there are a number of application types that require a greater increase. These include applications for prior approval, applications to vary conditions (often known as minor material amendments or S.73 applications), and approval of details pursuant to conditions.

Q 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?

Yes - please explain / No.

Yes. There are several application types that do not currently command an adequate fee for the amount of work involved. These include applications for prior approval, applications to vary conditions (often known as minor material amendments or S.73 applications), and approval of details pursuant to conditions.

Assessing an application for prior approval for residential development or commercial uses takes no less time than assessing a planning application for the same development. In fact, frequently it takes more time due to the need to assess the proposal against the lengthy and complex requirements of the Town and Country

Planning (General Permitted Development) Order 2015, as amended (GPDO) prior to considering the merits of the proposal against the relevant criteria as stated within the GPDO. The existing fees for prior approval applications are therefore not proportionate to the amount of time and work that the planning service provide as part of these applications, and the fee should be equal to the fee for a planning application of the same description.

When an application is submitted to vary a condition, the matters to be considered may be restricted, however the local planning authority must assess the impacts of the proposed changes alongside any other changes in circumstances since the application was originally approved. Given an application to vary a condition can take place at any time following approval, it is not uncommon for there to be a significant change in national and/or local planning policy, the characteristics of the site, and what surroundings it. Therefore, the relevant considerations can be similar to those when the application was originally determined. Furthermore, when a variation of condition is submitted for a major development or complex proposal, the amount of time and resource required to process and the assess the merits of the proposal is no less than the original application. The fee for a variation of condition should be based on the nature of the proposal and the scale of the development, not a fixed fee. It is proposed that a fee of 50% of the equivalent planning application would be an appropriate level to reflect the amount of time and resource these applications the LPA puts into these applications.

Applications for approval of details submitted in connection to planning conditions, also require considerable levels of work, which is not reflected in the fee. An application seeking approval of details required by condition costs the applicant £28 (non-major scheme) and £97 for all other types. A single application can be submitted to discharge numerous conditions that frequently involve consultation with a range of specialists and therefore takes a considerable amount of time. The fee structure should include a sliding scale of fees depending on the number of conditions submitted in an application.

In addition, applications that are free, such as applications for listed building consent use considerable resource given the often detailed nature of the assessment. Fees should be introduced for applications for listed building consent. Since these applications concern themselves with a single issue, albeit it an important and often complex one, it is considered that the fee should be 50% of the equivalent planning application for the same proposal. A fee reduction could be applied if the application for listed building consent accompanies a planning application, as there can be some sharing of work when an application for planning permission and listed building consent for the same proposal are considered together.

Applications for works to trees are also currently free, yet they too require time and resources, including the input of a suitably qualified officer to assess the impacts of works upon a tree. At times these applications are also complex and time consuming, including assessment as to whether trees the subject of the proposed work is causing damage to buildings and infrastructure. Applications for works to trees in a

conservation area are also subject to a time restriction of 6 weeks, and therefore they must be managed efficiently in order to deliver the level of service required. In order to resource this service, a fee should be introduced.

Q5. 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 Council has not implemented any 'fast track' services.

Q 6. Do you agree with the proposal for all planning fees to be adjusted annually in line with inflation? Yes/no/don't know. Please give your reasons.

Yes, this is necessary to ensure that planning fees do not return to being so far behind the cost of delivering a planning service.

Q7. 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/no/don't know. Please give your reasons.

No. As fee income does not cover the cost of the service, the service is subsidised by taxpayers. This question is only relevant at a point where income reaches a level that it generates a surplus. If this level was reached we consider surplus income should be subject to local determination.

Q8. 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/no/don't know. Please give your reasons.

Yes, for two reasons. An increased fee for a retrospective planning application may act as a deterrent for some developers, and more importantly retrospective applications can take more resources than speculative applications and the increased fee would cover the additional costs.

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.

A - removed. When an application is resubmitted, the LPA is required to process and assess it in the same manner as the original application. Whilst the proposed description of development will be the same as the original application, as is required to benefit from a free go, the nature of the proposal in terms of size, design, scale is often completely different and requires a new assessment. In addition, all administrative processes are the same as the original application, which is also at cost to the LPA under the 'free-go' system. The fee for a repeat application should be the same as the initial application. Applicants should better engage with pre-application advice services and the requirements of development plan and relevant guidance to submit a policy compliant scheme in the first instance. If an applicant submits an unacceptable scheme in the first instance, or indeed simply decides to amend their scheme post decision, this should not be a justification to receive a free-go to overcome the issues or amend their scheme, at cost to the LPA.

Q10. 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? Yes/no/don't know

No. A fee should be required; however, it should be the equivalent of a planning fee to reflect the amount of time and resource of dealing with the application.

Q11. What do you consider to be the greatest skills and expertise gaps within local planning authorities?

There is a significant gap in the employment market for fully qualified and experienced Development Management officers at Senior, Principal and Management level. Efforts to grow our own planners have been successful, but it will take more time to fill the gap, and it has become increasingly difficult to recruit officers to the more senior positions in the department.

**Q12. 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?
Please provide examples of existing good practice or initiatives if possible.**

Funding should be provided to organisations such as the RTPi to enable a widespread campaign to promote planning as a career choice. Such a campaign should be carried out in partnership with LPA's and education providers, to engage not only people in education, but also others who may be in work already.

Q13. How do you suggest we encourage people from under-represented groups, including women and ethnic minority groups, to become planning professionals?

By ensuring engagement campaigns are far reaching and accessible to all.

Q14. 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? Yes/no/don't know. Please give your reasons.

Yes, LPAs should be able to determine applications in a timely manner in order to provide a high level of customer service and certainty for applicants and people potentially affected by new development.

Q15. 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? Yes/no/don't know. Please give your reasons.

Yes. It is considered that performance should be assessed against applications determined within the statutory determination period in the main and excluding extensions of time. However, applications which are the subject of Planning Performance Agreements, which usually relate to the most significant proposals for an LPA and are agreements that span a number of months or years, should be excluded. In addition, where extensions of time are agreed for exceptional reasons, these should also be excluded.

Q16. Do you agree that performance should be assessed separately for

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

Q17. Do you consider that any of the proposed quantitative metrics should not be included?

Yes/no/don't know. Please give your reasons and, if appropriate, state the metric letter(s) and number(s) that you believe should not be included.

No. However, it is a concern that monitoring the number of open enforcement cases over 6 months old (E. 3) is not an intrinsic reflection of performance. Cases often remain open whilst a matter is pending court/appeal processes, which can take a considerable amount of time, and it is unclear how the proposed metric would take this into account.

Q18. Are there any quantitative metrics that have not been included that should be?

Yes / no / don't know. Please indicate what additional quantitative metrics you consider should be included.

Yes. Applications for prior approval should be recorded as a separate metric, particularly if the planning fees are not increased to reflect the level of resource these require.

Q19. Do you support the introduction of a qualitative metric that measures customer experience?

Yes/no/don't know. Please give your reasons.

Don't know. A qualitative metric for LPAs to monitor the level of customer service may be useful to understand the customer experience and engagement. However, such qualitative data should not feed into whether an LPA is performing for the purposes of the criteria for special designation because it is not possible to be sure of the level of engagement or accuracy of a customer experience survey.

Q20. What do you consider would be the best metric(s) for measuring customer experience?

Councils receive compliments and complaints for each service area, and where these are logged and reviewed this record is a useful tool to help LPA's understand where they can do well, and when they have exceeded the expectation of a customer in respect of a wide range of matters, from speed of decision making, to communication with officers, care shown by planning professionals, and the value of planners to the community. This could provide a metric for measuring customer experience, and also provides LPAs to respond swiftly to issues that arise based on recent customer experience, rather than an annual survey.

Q21. Are there any other ways in which the performance of local planning authorities or level of community engagement could be improved?

No.

Q22. Do you have any views on the implications of the proposals in this consultation for you, or the group or business you represent, and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how. Is there anything that could be done to mitigate any impact identified?

No.