



31 May 2024

SPF Response to Investing in Planning: a consultation on resourcing Scotland's planning system

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Working smarter

1 Which assessments might benefit most from improved proportionality?

Please explain your view:

Most – Habitats and heritage in particular. There is also an issue with flooding assessments whereby there has been a tendency to object to proposals as this is the easiest option. However, it is important to consider attenuation measures – the vast majority of human habitation is located close to major water courses and unless other policies are to be amended then we risk stalling any new communities or wider development projects.

2 To what extent do you agree that processing agreements are an effective tool for creating certainty in planning decision making timescales? Please explain your view.

Strongly agree

Please explain your view:

Our members agree with use of processing agreements (PA) as they do speed up delivery and help to create certainty on the expectations from applicants and timescales. The form of processing agreements vary between authorities – whilst some have a set template others are content to rely on an email. The key thing is flexibility and if a looser email format works for some authorities then this should be allowed to remain.

3 Do you consider that current resourcing issues are impacting on the use of processing agreements? Please explain your view.

Strongly agree

Please explain your view:

Resourcing is impacting on the use of Processing Agreements particularly for those authorities that use a template format as this has to be populated prior to issue and we appreciate that this is yet another requirement on an already stretched planning officer. If there was a digital solution

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(using AI etc) to have the template pre-populated with the application information and current status on consultation responses etc, our members believe that this could help.

4 Would you be prepared to pay a discretionary fee to enter into a processing agreement?
Please explain your view.

No

Please explain your view:

We do not consider that discretionary fees would be appropriate. This could inadvertently result in a two-tier system with those applicants prepared to pay an additional fee for a processing agreement having the benefit of a more timely planning application decision.

5 What additional actions can we take to improve certainty in the planning process?

Please explain your view:

Our members have reported that one of the most frustrating issues in the planning application process is not knowing at what stage a planning application is at. With planning officers being uncontactable by phone or email, applicants are having to resort to submitting Post Submission Application Forms via the e-planning portal to make contact with a case officer – sometimes on very simple issues that could be easily resolved by a 5 minute phone call or exchange of emails. Some authorities such as City of Edinburgh provide a useful timeline at the top of the application page – which provides a very basic update on progress - and perhaps this could be expanded to provide a greater amount of detail – thereby improving the certainty of decision making timescales. Communication is a vital part of the process. Positive engagement with major applicants and certainty of when decisions will be made is key.

6 Do you have further ideas on opportunities for streamlining, alignment or standardisation?

Please explain your view:

We strongly agree that schemes of delegation are standardised across all authorities. Proposal of Application Notices should also have a standardised form which is aligned across all Local Planning Authorities – there is too much variance across planning authorities. In the assessment of planning applications – particularly local and householder applications there should be a standard form that is used to provide the assessment of an application. Some authorities such as Dundee City Council already use these. Where applications have to be presented to Committee for determination an additional planning report should be provided.

7 Are there any skills actions which you think should be prioritised?

Please explain your view:

We agree that planners need to be equipped with a whole array of skill sets to address the requirements of NPF4 but we believe an approach based on upskilling technical adroitness - meaning awareness and speedy action to engage appropriate expertise - should be prioritised, which may be helpful in utilising limited resources and delivering timely results. We also believe green skills are essential to include consideration of issues on environment and climate change, health impact, biodiversity net gain assessments, whole-life carbon assessments, socio-economic impacts etc – as a result of NPF4 policies. The priority has to be to attract more young people into the profession. The Future Planners group should also speak to organisations such as

the Association of Women in Property (WiP) in connection with ‘further promotion of planning in secondary schools and further education colleges, and at universities and career fairs, and raising awareness of planning amongst students on related degree courses’. WiP has a very successful Outreach Programme (click for website link) which is a great exemplar of first hand action to raise awareness of different careers in property including town planning. Planning schools need much stronger linkages with LPAs – for example could there be an automatic placement in a local planning authority for all planning graduates?

8 Are there any skills actions not identified which you think would make a significant impact?

Please explain your view:

Yes, we need to broaden the appeal of the planning profession to younger people, including those from non-planning specialism such as geography, energy, technical, economics etc to come into this profession. The skill sets required of planning professionals is widening to include consideration of issues on environment and climate change, health impact, biodiversity net gain assessments, whole-life carbon assessments, socio-economic impacts etc – as a result of NPF4 policies. Planning schools need to be tailoring their courses to ensure that graduates are equipped with the broad skill base needed. We believe a national skill strategy for planning can be useful for all local authorities, this can be supported by the National Planning Improvement Champion.

9 Do you think that the concept of a ‘planning hub’, modelled on the Building Standards Hub would support authorities and deliver improvement in the system? Please explain your view.

Partially agree

Please explain your view:

Our members consider the idea of a Planning Hub to be good and is strongly supported. The Hub could be a centralised pool of expertise on all of these more specialist areas and skill sets. This central resource would need to be comprised of ‘new’ staff (or bring back experience retired staff on need basis) as opposed to taking current staff out of local authorities or central government to populate this. Strongly agree that the Hub should be co-designed with Local Planning Authorities rather than centrally designed. Our member's frequently express concern at the lack of ease in engaging with the planning authorities. We understand that a ‘planning hub’ may help to improve communication between stakeholders and planning authorities particularly early on in development proposals or when more complex issues may arise. However, ultimately the extent to which the hub can effect change and deliver improvements in the planning system will be dependent on how well resourced it is.

10 Are there other ways a hub could add value and provide support in the short and longer term?

Please explain your view:

It is considered that the formation of the Hub would be best placed within a ‘host authority’ – allowing for interaction with between a live and functioning planning department. Many of our members often express frustration due to their inability to meet planning authorities in person. Because some proposals can be complex, guidance or recommendations are best communicated in face-to-face meetings. Therefore, we suggest that stakeholders have the ability to physically meet the staff at the hub, but we would re-assert not removing current staff from local authority.

11 Which of the options do you think is most suitable, and why?

iii. Within a host authority Please explain:

12 How do you think a Planning Hub could be resourced?

Please explain your view:

We often advocate that many of our members would be willing to pay increased planning fees provided it translates into an improved standard of service. We understand that public sector budgets are constrained and therefore the private sector may be required to contribute. However, our concern lies in the fact that fees cannot be ringfenced and as a result no guarantee that the increased costs would be spent on delivering an effective hub.

Therefore if a hub were formed and had the result of improving the decision making process for applications, then to take a small percentage slice (e.g. 20%) off an application fee (following any increase in application fees) to fund its formation is supported.

Planning fees

13 Do you agree that planning fees should increase annually in line with inflation? Please explain your view.

Strongly agree

Please explain your view:

Annual fee increases in line with inflation (linked to 12 month CPI) would be acceptable but this is also contingent on there being an improvement in the decision making process. Our members do have concerns on the monthly variances on both inflation rates (CPI) and at what point in the year the rate would be fixed – year end or mid-year for example?

14 Is a calculation based on the 12 month Consumer Price Index the most appropriate mechanism? Please explain your view.

Partially agree

Please explain your view:

We believe that there should be a cap based after a certain percentage, given the recent experience of very sudden and high inflation.

15 Should an annual inflationary increase apply to:

iii. No view

16 What would be your preferred approach to how planning fees are set in the future?

Please explain your view:

We do not agree with Local Planning Authorities (LPAs) being able to set their own planning fees in the future. There are already huge variances in the fees and services provided by LPAs for pre-application services and if this was extended to planning application fees this could have the result that investment is deterred from one local authority area - due to higher fees being charged, in preference to another which has lower fees structure.

Consistency and alignment on fees across LPAs is important. There are other tools and mechanisms available (SPZs and the new MCAs) which would allow authorities to potentially set fees in a way which allows them to act as an economic development tool, for instance reducing or waiving the fee for certain types of development in order to act as an incentive and attract development and investment in that area.

17 Are there key principles which should be set out in the event that fee setting powers are devolved to planning authorities?

Please explain your view:

There should be standardisation of fees across all local authorities and having a rationale presented to set fees.

18 What other processes that support the determination of a planning application could authorities be given powers to charge at their discretion?

Please explain your view:

Discretionary charging adds another layer of administration and complexity into the planning process. Charging for the discharge of planning conditions for example is already fraught with issues in some local authorities with decisions varying as to whether charges are levied for each planning condition, or whether it is per email – if you group information relating to the discharge of conditions in a single email. The key ask is to keep it simple. If additional charges are levied – then perhaps there should be list of standard charges (set centrally) for areas such as in person meetings with a planning officer, a site visit meeting, discharging for planning conditions etc. So, the discretionary element is on whether or not a Local Planning Authority can charge an extra fee, not, on the level of fee itself. Experience on securing a refund for planning application fees in England (under the 2012 English Regs) is so time consuming and complex and should be avoided in Scotland. We need to focus efforts and resource on trying to expedite the validation process and smooth out the assessment and determination periods for applications to secure swifter decision making, not put additional pressure on LPAs to determine applications by a fixed timescale for fear of losing potentially £ 1000s in refunded fees.

19 Do think the circumstances where a refund can be requested is set out as part of any published information regarding the introduction of a discretionary charge?

Please explain your view:

We agree, there should be a provision for refund clearly set out. As members have reported the current system not really transparent and difficult to get refund especially for section 75 applications.

20 Do you agree with the principle that authorities should have discretionary powers to increase fees for a proposal on an unallocated site within the development plan? Please explain your view.

Strongly disagree

Please explain your view:

Absolutely not - the planning system must have the flexibility for unallocated sites to come forward for development at any time – notwithstanding the development plan system. For a number of reasons, not all development proposals can be brought forward at the time of plan preparation. The onus is on an applicant to ensure that their proposal addresses all salient policy issues and is supported by the relevant documentation to assist the planning authority in appraising the application. We do not agree with the blanket statement that ‘an authority is likely to have greater costs in determining unallocated sites due to the additional work required to identify what information is required to be submitted to support the application’. The pre-application process (which incurs a fee) is also available to applicants to seek advice from a Local Planning Authority – and perhaps if an unallocated site is put forward for development, then a pre-application enquiry could be a suggestion – which would enable the LPA to recoup costs for its pre-application planning advice.

21 Do you agree that planning authorities should be able to recoup the costs of preparing a Masterplan Consent Area through discretionary charging? Please explain your view.

Partially disagree

Please explain your view:

We need further clarity on what is being proposed in this question. The issue here is who is charged for preparing an MCA? Is it the landowner or a future developer? Are MCAs only going to come forward where they have been suggested by the private sector?

Resourcing other parts of the system

22 Do you agree with the types of appeals that should incur a fee? Please explain your view.

No

Please explain your view:

If a fee for an appeal is to be charged, then absolutely there should be no variance between fees for a local review body or those payable to Scottish Ministers. If the principle of appeal fees is accepted, then the types of applications listed in paragraph 105 is agreed. However, on the list of exemptions, we agree that no fees should be payable for Listed Building Consent and Conservation Area Consent applications as these typically mirror a planning application (for

which, if appealing – an appeal fee would already have been paid). We also agree that applicants shouldn't have to pay a fee for an appeal following non-determination, but consider that this could inadvertently result in more applications being appealed instantly after statutory time limits, or agreed extensions have expired, and is one area of appeal charging that would need to be monitored to see whether it resulted in an increase in non-determination appeals. Another exemption from an appeal fee could be where a Planning Committee decision is taken to refuse an application against planning officer advice and recommendations. Whilst recognising that planning is a politically democratic process, where this happens, it is an area of concern for the development industry and the additional costs and time to have to go through an appeal process should be reflected in the waiver of an appeal fee.

23 Do you agree that setting the fee for applying to appeal the refusal of planning permission (to either DPEA or the planning authority) is set as a percentage of the original planning application fee? Please explain your view.

Strongly disagree

Please explain your view:

We do not agree with any flat rate universal fee which if in excess of £ 13,000, would simply be unviable to the industry. Agree that a fee based on 10% of the application fee is the fairest approach to reflect the differences between small and large proposals. Whilst at the lower end of the scale, even a 10% fee allows for partial cost recovery, given that applicants are also going to be faced with increased application fees and other discretionary charges to progress their planning applications.

24 If a percentage of fee approach to appeal charging was considered most appropriate, what level do you consider would be most appropriate to reflect volume of work by Directorate for Planning and Environment (DPEA) or the Local Review Body (LRB)? Please explain your view.

10%

Please explain your view:

See our reply to question 24.

25 Do you agree that an authority should consider waiving or reducing an appeal fee where they have offered such a waiver on the related planning application? Please explain your view.

Strongly agree

Please explain your view:

Yes, we agree that an authority should waive the appeal fee if no fee had been charged for the application. However, in the interests of parity, there should be no difference between an appeal to the DPEA or the LRB in waiving an appeal fee. If there were slight differences in the level of appeal fees payable for an appeal to the DPEA or LRB, then this would sit more comfortably.

26 Do you have views on how a service charge for applying for planning permission or a building warrant online could be applied?

Please explain your view:

Any additional fee for a digital service charge for e-Development should be a marginal flat low fee (of say maximum of £ 50) which is automatically added on to the fee calculator at the time of making an application submission. It is an admin cost. Whilst recognising that the digital transformation of planning also has to be funded, the fact that the Scottish Government severely cut the funding for planning in last year's budget cannot be fully recompensed through charging additional admin fees for using the e-Development platform. Whilst a small admin fee to cover operational costs is accepted, we need to move towards a comprehensively digitised planning system but unfortunately the private sector simply cannot be the ones to fund this.

27 What other options are there to resource the operation and improvement of the eDevelopment service?

Please explain your view:

It will be important to coordinate disparate budgets between government agencies and other authorities which have been seeking to establish e-development initiatives. This will support an efficient approach to a holistic Scottish e-development service.

28 Should the current threshold of 50MW for applications for electricity generation which are to be determined by authorities be altered? Please explain your view.

Yes

Please explain your view:

The main concern is the volume of electricity generation applications which are above the 50MW threshold and the impact that this is having on the ECU determination timescales. Altering the threshold naturally has resource implications for LPAs which would then handle more applications and should be carefully considered in liaison and agreement with Heads of Planning Scotland.

29 Should different thresholds apply to different types of generating stations? Please explain your view.

No

Please explain your view:

Battery energy storage systems (BESS) could readily have different thresholds for LPA consideration. The surge in BESS applications across Scotland would benefit the LPAs in increasing planning application revenues and in general, they are less contentious in planning and environmental terms – (notwithstanding the need to comply with environmental assessment regulations) with very little difference in impacts between an application for 50MW and an application for say 200MW. Accordingly, there wouldn't be too much additional workload for planning authorities to determine more of these types of applications.

30 What would be the resource implications of increasing the threshold for the determination of applications for onshore electricity generating stations?

Please explain your view:

See our reply to questions 28 and 29.

31 If Scottish Government were to make a voluntary contribution equivalent to a percentage of the offshore electricity fee to authorities, what level of contribution would be appropriate to support some recovery of costs? Please provide justification for your answer.

Please explain your view:

32 Should we introduce a new category of development for applications for hydrogen projects? If so, how should these fees be set/calculated? Please explain your view.

No view

Please explain your view:

33 Are there different considerations for hydrogen production when compared with proposals which are concerned only with storage and distribution? Please explain your view.

No view

Please explain your view:

34 Do you agree that the standard £ 100 which applies to most prior notification and approval applications is appropriate? Please explain your view.

Yes

Please explain your view:

We agree that the standard £ 100 for prior notification and approval is the right level of fee.

35 Are there particular PDR classes where you think the current fee should be amended? If so, please explain why that is considered to be the case.

Please explain your view:

36 Would a reduction of the current fee (£ 200 per 0.1 hectare) be an appropriate approach to resolving this issue?

Please explain your view:

37 What would you consider to be a reasonable fee for shellfish farm applications? (Please elaborate on your answer using an average shellfish farm development (5 x 220m twin-headline longlines at 20m spacing with 30m end moorings) as an example.)

Please explain your view:

Cumulative impact

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Yes

Please explain your view:

Yes – agree that the standard £ 100 for prior notification and approval is the right level of fee.

35 Are there particular PDR classes where you think the current fee should be amended? If so, please explain why that is considered to be the case.

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Please explain your view:

38 Which proposal would you most like to see implemented? Please explain the reason for your answer.

Please explain your view:

We have major concerns regarding the potential cumulative impact of all the proposals in the consultation which, if they were all implemented, could result in no development coming forward! The development industry seeks a timely and efficient planning service which is cost effective. Certainty of fees is also needed and differences in charging levels between LPAs is not welcomed. Consistency is key. Charging more for applications in line with inflation is probably the most palatable option, given that application fees are already charged. The 'add-on' fees and 'discretionary' fees will require a more streamlined and resource efficient service, as any applicant will want to ensure value for money in paying for anything additional.

39 Do you have other comments on the cumulative impact of the proposals?

Please explain your view:

40 Do you have other ideas to help resource the planning system? Please set out how you think the proposal could be resourced.

Please explain your view:

It will be important for any additional fees to be ringfenced for the planning service. Also, under Q.41 we highlight the significant additional investment already made by the private sector towards the cost of the planning services. It is important that authorities collaborate on the use of this data and do not ask developers to constantly re-invent the wheel on such assessments.

Impact assessments

41 Please provide any information on the potential impacts of our proposals to assist with preparation of the following impact assessments:

Business and Regulatory Impact Assessment Please explain your view:

Business and Regulatory Impact Assessment : It must be remembered that the private sector already contributes to the cost of the planning service in addition to the planning application fees. For example, EIAs, HIAs, economic impacts, transport impacts, habitats, fees to Scottish Water etc. The application fee is typically much smaller than the cumulative costs of these assessments. All of this investment is made at risk of an application not progressing. For single projects, such costs can easily reach into the millions in addition to planning application fees.