



This response was submitted online.

Planning Performance

1 Should we set out a vision for the Planning Service in Scotland?

Yes

1.b. Do you have any comments about the proposed vision?:

The vision could also include “accessibility” or “transparency”, thus reflecting a service which can be accessed and understood by the general public.

We have concerns about the use of the terminology 'planning service' as this terminology redefines the role that the general public and communities play to that of consumers and moves away from democratic to more market based terminology. Planning should be in the long term public interest, not consumer or customer interest.

2 Is the proposed approach to the content correct?

No

3 Do you have any comments on the Proposed content of Planning Performance Reports?

Please explain your view.:

Space has not been given in the online consultation to comments on question 2, 'approach to content', so comments are made here.

Although we have no objection to monitoring outcomes based on the National Performance Framework, monitored should also be against as the 2019 Planning Act outcomes which are more specific and up to date. There is a danger that the specific outcomes set out in the Planning Act will not be delivered if planning authorities are not required to report on these issues. For example, these outcomes include meeting any targets relating to the reduction of emissions of greenhouse gases and securing positive effects for biodiversity. Given the transformative changes needed to address the Scottish and Global nature and climate crises, it would seem amiss not to include these outcomes, which would also contribute to the National Performance Framework outcomes. We therefore strongly recommend that the Planning Performance Report outcomes are based on the Planning Act outcomes, as these are more specific to planning and contained in the primary legislation.

3.a. Do you have any comments or suggestions as to how reports should be prepared?:

The inclusion of Outcomes and Case Studies could help to shift more of the emphasis onto the quality of the outcomes. The fact that planning authorities are effectively assessing themselves in this qualitative way could be seen as problematic and so it would be useful to incorporate feedback from stakeholders as part of the reporting measures.

3.b. What statistical information would be useful/valuable to include and monitor?:

- How many decisions were made by elected members against officer recommendation
- How many decisions were made as a departure from the Development Plan
- Number of applications overturned/ upheld by the Local Review Body and at appeal
- Number of public engagement events/ consultations held Number of LDP action plan aims met
- Number of SPGs/ SG consulted on or adopted How many years since SPG/SG were reviewed
- Whether there is an up to date local biodiversity action plan (LBAP)
- Number of applications overlapping sites designated for wildlife
- Number of application sites where biodiversity net gain was achieved, where it was a requirement.



3.c. What are the key indicators which you think the performance of the system and authorities should be measured against?:

The performance evaluation should include some indication of the level of monitoring carried out by local authorities to check compliance with the delivery of planning conditions/obligations and also some idea of the extent to which planning authorities have used enforcement procedures and any appropriate data around that.

3.d. Do you have any other comments to make with regards to how the Performance of the Planning System and Authorities is measured and reported?:

Not specifically on the performance of the planning system but in relation to planning applications, planning authorities should give feedback to objectors. For example, grouping the main issues raised by objectors and provide generic responses which consider the considered issues raised and explain their decision and how this fits in with the overall application and its evaluation. Many objectors provide careful and very informed and knowledgeable responses and as a democratic process is important that there is some degree of accountability to show how these responses have been considered.

3.e. Do you have any suggestions about how we could measure the outcomes from planning such as: Placemaking; Sustainable Development; Quality of decisions?:

It would be good to include some community monitoring or citizen led monitoring projects incorporated as part of the performance monitoring reports, it would be good to see some collaboration between communities and planners on monitoring. It would be important to ensure there is diversity in the feedback from different groups, including children, older people, disabled people, etc so that different needs are included.

Given the climate and nature crises and national commitments to tackling these, it is important that some measurement of the level of contribution to blue /green infrastructure (natural assets) is included.

With regard to economic outcomes, it is important to include actual outcomes, not just estimated jobs and economic benefits etc by developers at the application stage. It is critical that there is some follow up and reporting on whether these estimates have actually been delivered so this can feedback into future planning decisions.

3.f. Do you have any suggestions about how planning's contribution to the National Outcomes contained in the National Performance Framework should be measured and presented?:

As above, there should also be some reference to the outcomes set out in the Planning Act.

4 Do you agree with the proposed responsibilities of the planning improvement co-ordinator?

Yes

Do you have any comments/suggestions about the role?:

It would be useful to have a nationwide, external overview to share good practice and improve consistency across planning authorities.



Planning Fees

5 Do you agree with the proposed planning fees for Category 1 - Residential Development?

Not Answered

5.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

We support the increased fees to better reflect the cost of processing and determining planning applications.

6 Do you agree with the proposed planning fees for Categories 2, 3, 4 and 5 - Extensions and Alterations to Existing Dwellings?

Not Answered

6.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

We suggest that lower fees could be incorporated for the reuse of buildings rather than new build to reduce the carbon impact, thus supporting measures to tackle the climate emergency.

7 Do you agree with the proposed planning fees for Category 6 – Retail and Leisure including extensions?

Not Answered

7.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

We support the increased fees to better reflect the cost of processing and determining planning applications.

8 Do you agree with the proposed planning fees for Category 7 - Business and Commercial including extensions?

Not Answered

8.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

We support the increased fees to better reflect the cost of processing and determining planning applications.

9 Do you agree with the proposed planning fees for Category 8 - Agricultural Buildings?

Not Answered

9.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

10 Do you agree with the proposed planning fees for Category 9 - Glasshouses?

Not Answered

10.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

A reduced fee for applications that support local food production would seem appropriate given the Scottish Governments commitments with regard to creating a sustainable food system.



11 Do you agree with the proposed planning fees for Category 10 - Polytunnels?

Not Answered

11.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

Not Answered

Please provide reasons for your answer:

A reduced fee for applications that support local food production would seem appropriate given the Scottish Governments commitments with regard to creating a sustainable food system.

12 Do you agree with the proposed planning fees for Category 11 – Windfarms – access tracks and calculation?

Not Answered

12.b. If not, could you suggest an alternative? In your response please provide any evidence that supports your view.:

We agree that a separate category for windfarms and turbines is needed and generally support fees covering a greater percentage of the cost of determining applications.

We strongly disagree that using the site area is the best method of calculating fees for windfarms of more than 3 turbines.

The fee would be better calculated using the area of actual development or the size and/ or generating capacity of the turbines. The site area of an application may include land which is not to be developed but will form part of a habitat management plan. Developers should not be disincentivised from including large areas of land for such uses.

12.c. Do you have any comments on the proposed fees and for calculating the planning fee?:

Given the complexity of issues and the need for detailed information to assess impacts, Planning Permission in Principle should not be available for windfarms.

13 Do you agree with the proposed planning fees for Category 12 - Hydro Schemes?

Not Answered

13.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

There needs to be some consideration of not only pipework length but also the complexity of the conditions required to monitor and enforce the restoration of ground once construction is complete. For example, access tracks [for both construction and maintenance] can be particularly problematic affecting drainage and features such as Ground Water Dependent Terrestrial Ecosystems (GWDTEs) and so some increased fee for cost recovery to allow monitoring of any agreed post construction restoration of the site would seem appropriate. The increased fee could either be based on the level of monitoring required or could be increased to reflect the level of environmental sensitivity.

13.c. Could the planning fee be set using site area for the generating station and equipment with a separate calculation used for pipework? This could be similar to the fee for Fish Farms where the surface area is subject to a different fee to the seabed.:



14 Is the definition and the proposed method for calculating the planning fee correct for Category 13 - Other energy generation projects?

14.a. Do you have any comments on the proposed fees for calculating the planning fee?:

14.c. Do you have any suggestions for how the fee should be calculated?:

14.e. Do you have any suggestions for how the fee should be calculated?:

14.g. Do you have any suggestions for how the fee should be calculated?:

15 Do you agree with the proposed planning fees for Category 14 – Exploratory Drilling for Oil and Natural Gas?

Not Answered

15.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

We would welcome a significant increase in the fees for this type of development which contributes negatively to the climate emergency.

16 Do you agree with the proposed planning fees for Category 15 – Fish Farming?

16.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

17 Do you agree with the proposed planning fees for Category 16 – Shellfish Farming?

17.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

18 Do you agree with the proposed planning fees for Category 17 – Plant and Machinery?

18.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

19 Do you agree with the proposed planning fees for Category 18 – Access, Car Parks etc. for Existing Uses?

19.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

20 Do you agree with the proposed planning fees for Category 19 - Winning and Working of Minerals?

Not Answered

20.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

Clarification on whether the site area or extraction area is to be used and how other development elements such as buildings and roads are calculated would be welcomed.

21 Do you agree with the proposed planning fees for Category 20 - Peat?

No

21.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

The recent UK Climate Change Committee Report (Land use: Policies for a Net Zero UK, January 2020) recommends the ban of lowland peat extraction to deliver net-zero on land. Therefore, we believe that peat extraction should not be permitted. The use of site area is acceptable, however, using the proposed cubic metres of extraction proposed could also be used.

Strongly disagree with the proposed fees which seems far too low. Considering the climate emergency it is very concerning that the fees are proposed to be much lower than other minerals applications. The fees do not reflect the negative contribution that peat extraction has in terms of both climate and biodiversity. In addition, given the complexity of peat applications (which often require detailed review of historic applications, previous consents and conditions, environmental assessment etc) considerable additional resource is likely to be required to process these applications.



21.c. In light of the climate emergency do you agree that fees for applications relating to the winning and working of peat should continue to be considered separately from other mineral operations?:

Yes. This is a particularly damaging type of development in terms of the climate and biodiversity crisis. A separate category is required to ensure fees are set high enough to reflect the assessment needed and reflect the negative impact of peat extraction .

22 Do you agree with the proposed planning fees for Category 21 – other operations?

22.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

23 Do you agree with the proposed planning fees for Categories 22 and 23 – Waste Disposal and Minerals Stocking – does not cover waste management (recycling)?

23.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

24 Do you agree with the proposed planning fees for Category 24 - Conversion of Flats and Houses?

24.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

25 Do you agree with the proposed planning fees for Category 25 - Changes of Use of a Building?

25.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

26 Do you agree with the proposed planning fees for Category 26 - Changes of Use of Land?

Not Answered

26.b. Do you have any comments on the proposed fees and for calculating the planning fee?:

Lower fees could be used to encourage the re-use of brownfield sites (subject to environmental considerations), instead of greenfield sites.

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

Please explain your view.:

Other Fees

28 How should applications for planning permission in principle and Approval of Matters Specified in Conditions (AMSC) be charged in future?

Please explain your view.:

28.a. How should the fee for AMSC applications be calculated?:

Please explain your view.:

Please explain your view.:

29 Should the fee for cross boundary applications be split between the respective authorities?

Please provide reasons for your answer:

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

Please provide reasons for your answer:

31 Is the introduction of a fee for applying for Listed Building Consent appropriate?

How should that fee be set?:

32 Should the fees for Hazardous Substances Consent be increased?

not answered



What levels do you think are appropriate? :

Determining consents relating to hazardous substances can be expensive given the specialist expertise required - the fee needs to reflect cost recovery.

33 Are the proposed increases in fees for the categories below appropriate?

Not Answered

34 Are there other fees which have not been considered?

Please explain your view.:

Repeat Applications: The need for increased fees for repeat applications has not been considered. Repeat applications, where developers submit similar proposals time and time again despite refusal, can put undue burden on resources (including those of local authorities, statutory agencies, stakeholders and community groups). There should be significant additional fees, for each additional application, with the fee increasing each time.

Discretionary Charging

35 Do you think we should set out the range of services which an authority is allowed to charge for?

Please provide reasons for your answer:

36 How should the fee for pre-application discussions be set?

Not Answered

37 Do you think that there should be an additional charge for entering into a processing agreement to reflect the additional resource required to draft and agree the timescales to be included?

Yes

Should we set the fee for that or an upper limit allowing authorities the flexibility to set their fee within clear parameters? :

38 Where a non-material variation is required should an authority be able to charge for each change which is made? Or per request?

Per Request

Should regulations set the fee for that or an upper limit allowing authorities the flexibility to set their fee within clear parameters? :

A per request charge would be acceptable as this would encourage developers to group requests together, making it clearer for the public to see what changes are sought. By definition, this should be small changes and therefore applying per change may be overly onerous.

39 Should authorities be able to charge for carrying out the monitoring of conditions?

Yes

No

39.b. What should this be limited to?:

We don't suggest this should be limited as this may limit flexibility. It should definitely include fees for monitoring any potentially significant environmental impacts but also any restoration or environmental mitigation/enhancement work that is carried out over the long term.



39.c. How should the fee be set? :

Fees should be sought where monitoring is required. A significant amount of information can be required to be assessed and signed off after consent is issued, for instance a Habitat Management Plan. The emphasis should be on resolving issues before determination rather than relying on suspensive conditions. Additional fees for this may encourage developers to submit this information at the determination stage. The model of fees for monitoring of coal mines could be applied to other types of developments.

40 Do you think there should be a fee payable for the discharge of conditions?

Not Answered

Please provide reasons for your answer:

This may be appropriate; however, it is up to the planning authority whether they attached conditions and this should not be used as a way of generating income on very simple conditions. As noted above, the emphasis should be on resolving issues before determination rather than relying on pre-commencement conditions. Therefore, additional fees for this may encourage developers to submit this information at the determination stage rather than requesting information submission is deferred to later.

41 Do you think that Planning Authorities should be able charge for the drafting of planning agreements?

Yes

Please give reasons for your answer:

There are resource implications which should not be an undue burden on the public purse.

If so how should this be calculated?:

This should reflect the complexity of the planning agreement.

42 Should an authority be able to charge for development within a MCA (building, or changes or use) in order to recoup the costs involved in setting one up?

Yes

Not Answered

Please provide reasons for your answer.:

There is some concern over the way that MCAs will operate and whether full scrutiny of the issues will be facilitated in this process.

43 Should the ability to offer and charge for an enhanced project managed service be introduced?

Not Answered

Please provide reasons for your answer.:

There is concern over the establishment of a 2 tier system which only large developers will have access to. Although large developers are likely to support this approach, it could be perceived as a way of some to buy the time and resources of a public planning authorities, to the detriment of meaningful public involvement and proper scrutiny. Smaller developers with less resources and third party participants in the systems, such as community groups and local residents will not be able to buy this time in the same way. This would seem to skew the system even further towards developers over communities and 3rd party stakeholders. There is also a concern that a decision could



effectively be made too early in the process and then the planning authority feels it cannot 'go back' on this due to the involvement of different departments and the fact that a developer is paying a premium for the service. This enhanced service is likely to change the relationship between the two parties.

43.a. What, if anything, should happen in the event of failure to meet timescales?:

44 Do you think charging for being added or retained on the register of interested people should be included in the list of services which

Planning Authorities should be allowed to charge for?

Not Answered

Please provide reasons for your answer.:

45 Do you think that, in principle, fees should be charged for appeals to Planning and Environmental Appeals Division (DPEA)?

Yes

45.a. Should we limit the circumstances in which a fee can be charged for lodging an appeal?:

No, all appeals will incur costs. Appeals can result in considerable costs incurred by the DPEA, planning authorities and statutory agencies and wider stakeholders. It seems reasonable that there is a mechanism to allow fees to be charged to help contribute towards costs.

45.b. In what circumstances do you think a fee should be paid for lodging an appeal?:

All appeals. The 2019 Planning Act did not introduce equal rights of appeal. Fees would at least ensure that the costs for the DPEA and planning authority are partially covered.

45.d. If so, should this follow the same process as is currently set out for awarding costs?:

Fees should not be refunded. The fee is to pay for the appeal process, which is separate from the application. This should not be a free service paid for by the taxpayer, but an added option for developers; an option which is not afforded to 3rd third parties. Planning authorities have to pay the DPEA for the LDP examination process, similarly fees should be paid by the appellant for appeals. This would redress the imbalance somewhat, as only developers have the ability to appeal decisions.

45.e. What categories of appeals should be considered for charging?:

All categories of appeals should be charged as they all incur costs which should not be borne by the tax payer. There are no equal rights of appeal so this is a benefit only afforded to applicants.

45.f. Do you think that a fee scale should be provided in relation to appeals to Local Review Bodies and, if so, should the arrangements differ from appeals to DPEA?:

Local Review Bodies also take time and resources and so should be paid for by the applicant.

46 Do you have any suggestions as to the circumstances in which authorities could waive or reduce a planning fee?

Please explain your view.:

Reduced fees may be appropriate for works by charities or non-profit making organisations which have a clear environmental benefit which contributed to planning outcomes such as combating carbon emissions and biodiversity enhancement, for instance, peat bog restoration. This should only be if the



enhancement is the whole development, i.e. it is not as part of a Habitat Management Plan for a larger development which it would be covered by the original overall fee.

Please provide reasons for your answer:

Yes. This could be helpful in providing transparency and consistency

Other Issues

47 Should the surcharge be set at 100%?

Yes

Please explain your view.:

If not what level should it be set at?:

A full cost recovery approach to be applied to ensure that all the resulting costs incurred from retrospective applications are covered, or as a minimum the full planning fee required.

Please provide reasons for your answer:

48 Given the success of ePlanning, the continuing increase in its use and the savings which are made to both an applicant and authority in submitting an application electronically, do you think it is appropriate to apply an increased fee for submitting a paper application due to the additional work involved?

No

Please provide reasons for your answer:

No, not for householders. Although there may be more cost for a paper application, for small HH applications it is important that this options is still available. It is also important that planning authorities are set up to handle electronic applications and also provide the technology to make this electronic content easily available to the public.

If so what would you consider to be an effective discount, rebate or other incentive?:

If this is used it would be necessary to separate this from the determination process, there could be a perceptions that people can pay for permission.

49 Do you consider there should be a single advertising fee?

Yes

How do you think the cost of advertising should be recovered?:

This should be a set fee.

50 Do you consider that submission of an Environmental Impact Assessment (EIA) should warrant a supplementary fee in all cases?

Please give reasons for your answer:

Unsure. It will be important that this does not influence the decision on whether an EIA is needed. Applicants may try to avoid EIA due to the additional processes, although scoping should be used to ensure that it is not overly onerous. There may be a greater effort to avoid EIA if a fee is required. There is also a significant cost to producing an EIA which the applicant must pay. It is essential that this is done well and comprehensively. Therefore, additional fees for submitting may be counterproductive.

If so what might an appropriate charge be? :

51 Do you think that applications for planning permission in principle should continue to be charged at half the standard fee?

Not Answered



Should there be a different fee for 'hybrid applications' as described here?:

52 Should the Scottish Government introduce a service charge for submitting an application through eDevelopment (ePlanning and eBuilding Standards)?

Not Answered

This response represents the collective view of **LINK's Planning Group**. It was drafted by Kate Bellew, RSPB. **This response is supported by the following LINK member organisations:**

Froglife
The National Trust for Scotland
Planning Democracy
RSPB Scotland
Scottish Wild Land Group.

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with over 35 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

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