

Planning Committee

2.00pm, Wednesday, 26 February 2020

Scottish Government Consultation on Planning Performance and Fees – proposed response

Executive/routine Wards Council Commitments	Routine All
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1. Recommendations

- 1.1 It is recommended that the Committee:
 - 1.1.1 approves the content of the consultation response attached at Appendix 1; and
 - 1.1.2 agrees that this will be sent to Scottish Government as the City of Edinburgh Council's formal response to the Consultation on Planning Performance and Fees 2019.

Paul Lawrence

Executive Director of Place

Contact: David Leslie, Chief Planning Officer

E-mail: david.leslie@edinburgh.gov.uk | Tel: 0131 529 3948



Report

Scottish Government Consultation on Planning Performance and Fees – proposed response

2. Executive Summary

- 2.1 This report seeks approval of the Council's response to the Scottish Government's consultation on Planning Performance and Fees 2019.
- 2.2 Scottish Ministers have consistently linked increases in planning fees to improved performance. To support authorities moving closer to full cost recovery, the Scottish Government must recognise the need to increase fees across all application types to reflect the level of work involved. In addition, this authority supports the provision of a suite of discretionary charges at a national level that the Planning Service can draw upon to resource the services it provides. This consultation response supports this position and will help inform the Scottish Government's amendments to the planning fees.

3. Background

- 3.1 The [Planning \(Scotland\) Act 2019](#) was passed by the Scottish Parliament in June 2019. This will determine the future structure of the modernised planning system.
- 3.2 The detail of how the new Act's provisions will work in practice will be contained within secondary legislation and guidance, which will be developed over the coming months.
- 3.3 This key consultation presents options for how the planning system can be resourced to address the ambitions of the Scottish Government's transformation programme.
- 3.4 Scottish Ministers have consistently linked increases in planning application fees to the need to demonstrate improved performance. This consultation considers how the new performance reporting requirements contained in the 2019 Act could be implemented.
- 3.5 The Planning Improvement Plan 2018/21 was approved by Planning Committee in [December 2018](#). It sets out a series of key actions in relation to Leadership and Management, Customer, Continuous Improvement and Performance. The latest progress report was considered by Planning Committee in [January 2020](#).

- 3.6 Scottish Government's feedback on the Council's Planning Performance Framework (PPF) 2017/18 highlighted the need to speed up the implementation of improvements on decision making timescales, timescales for legal agreements and clearing legacy cases. The Scottish Government's feedback on the Council's 2018-19 PPF report was received in February 2020 and is addressed in the Business Bulletin for this Committee meeting.
- 3.7 The consultation draws on findings from previous consultation exercises over the last 10 years and on research undertaken to establish the impact of previous fee increases.
- 3.8 Planning application fees are set nationally by Scottish Ministers. The last increase to the scale of fees was in June 2017.
- 3.9 The principle of full cost recovery is proposed, whereby the fees for planning applications should cover the cost of processing an application, from validation to the issuing of the decision letter. However Scottish Ministers have not committed to full cost recovery through the proposed fee increases but rather as a step towards that aim.
- 3.10 Research has shown that on average, across local authorities in Scotland, planning fees only cover 63% of the cost of processing an application, and only 26.5% of the overall cost of running the planning service, which shows that Local Authorities are heavily subsidising the planning process. The comparable Edinburgh figures are 88% cost recovery for the handling of planning applications (largely due to an increase in fees for major applications in 2017) and 51.8% of overall costs.
- 3.11 This consultation seeks views on the use of the enabling powers in the 2019 Act which provide additional scope of cost recovery by planning authorities by the use of discretionary charges for a range of other services.
- 3.12 The Council's revenue budget framework up to 2023 sets out the requirement to identify and deliver significant savings. Planning for Change explores how these savings can be achieved and is centred around three key principles of:
- 3.12.1.1 driving improvements to deliver the high-quality services that citizens both expect and deserve;
 - 3.12.2 targeting investment on prevention and early intervention to reduce long term reliance on our services and enable citizens to lead active, independent lives; and
 - 3.12.3 delivering growth within the city that is sustainable and inclusive.
- 3.13 In its revenue budget preparation, this Council has adopted the aim of full cost recovery for Planning services. The first stage in the use of discretionary charges was implemented in July 2019 in relation to the reformed pre-application advice service.

4. Main report

- 4.1 This Scottish Government consultation on Planning Performance and Fees is welcomed as a further step towards full cost recovery of development management costs in the Planning Service as currently defined. The proposed response to the consultation is attached in Appendix 1. The Appendix contains extracts from the consultation paper to set the context for the Scottish Government's questions. The key questions and the proposed Council response are highlighted in **bold text**. The key issues are grouped and highlighted below.
- 4.2 However, the consultation paper does not address the wider issue of resourcing the development plan preparation and implementation nor the associated planning guidance and development briefs which support the development management process. The definition of "full cost recovery" used by the Scottish Government is narrowly focused on the processing of a planning application. The Planning Service supports a widening of this definition and thus the scope of planning application fees to reflect not only the direct costs of development management activity but also the costs resulting from the preparation of plans and guidance upon which development management decisions will be taken. Similarly, this would apply to heritage consents (see below) in respect of general duties to designate conservation areas and maintain up to date character appraisals and supporting guidance.
- 4.3 Planning service managers continue to seek to identify potential means of bridging this gap. Failure to find additional income would result in the Council continuing to subsidise Planning Service costs from general revenue with potential negative implications for performance and customer service.

Planning Fee Income

- 4.4 The resourcing of planning services has been a consistent priority during the review of the planning system, and it is recognised that this is an essential element if the reforms proposed are to be successful. In general, the consultation proposes to increase current planning fees, which is welcomed.
- 4.5 In 2019 the Planning Service handled 5,838 applications. 2,990 of those applications generated a fee income of £3,135,000. However, 2,848 (49%) applications incurred no fee (listed building consent, permission not required, tree works and a number of other applications do not have an associated fee).
- 4.6 On the basis of the fee increases proposed in the consultation, this income could rise by approximately 20-25%. This will assist in bringing the Planning Service closer to full cost recovery for the handling of fee-earning planning applications, but still falls short, and does not take into account other statutory and non-statutory functions carried out by the Planning Service, such as the production of the Local Development Plan (LDP) and preparation of site briefs. The cost of running the whole Planning Service in 2019 was £5,326,000.

Heritage Consents

- 4.7 There is no fee for a listed building application, nor for some applications within conservation areas, under the current fee schedule. The planning authority bears the costs of statutory requirements for listed building applications and conservation area consents to be advertised in the press, the placing of site notices and the extra handling of representations on such applications which can often be more contentious or complex requiring specialist knowledge and additional time to determine them. The 2019 Act introduces requirements for neighbour notification which will add to the planning authority's costs.
- 4.8 Edinburgh has in excess of 30,000 listed buildings, the highest of any Scottish authority, and 50 individual conservation areas. Listed building applications account for 20% of the Planning Service's total planning application caseload. The proposal to introduce a fee for listed building and conservation area consent applications is therefore welcomed. However, it is recognised that this is a longer-term objective and further consultation is required on detail such as criteria and scale of fees.
- 4.9 As an illustration, in 2018/19 the estimated cost of handling 1,145 listed building consents was £360,000 (costs inclusive of advertisement fee. If the proposed neighbour notification for listed building applications was added, this would result in an additional cost of £50 per application and raise the estimated costs to £417,250. An indicative fee of £364 per listed building application would be required to achieve full cost recovery.

Appeals

- 4.10 There is currently no fee for appeals to the Directorate of Planning and Environmental Appeals (DPEA), nor for reviews to the Local Review Body (LRB). The cost of handling and processing an appeal is not included in the current application fee.
- 4.11 In the calendar year 2019 the Planning Service handled 66 appeals to the DPEA and 78 reviews to the LRB.
- 4.12 While the concept of charging fees for appeals and reviews, both at a Scottish Government and local level, is welcomed as a contribution to achieving full cost recovery, it is recognised that this is a longer-term objective and further consultation is required on detail such as criteria and scale of fees.

Major Applications

- 4.13 In the calendar year 2019 the Planning Service handled 26 major applications, with an income of £756,781.
- 4.14 With the proposed increase in income this could give a comparable figure of £885,450. This is not a significant uplift in fees for major applications, which by their nature are complex and require substantial resource to determine. The fees and associated threshold for major applications were increased significantly in 2017, but even with the proposed increase, will be short of a full cost recovery outcome.

4.15 Major applications are often submitted in two phases; Planning Permission in Principle (PPP) followed by Approval of Matters Specified in Conditions (AMSC). Assessing each of these types of application is generally resource intensive due to the level of detail required. Specialist advice is likely to be required and these applications generate significant third party interest. Applications may be phased over a number of years in the form of multiple applications.

4.16 The current fee structure of AMSC applications is overly complicated and inconsistent with the Scottish Government's objective that the cost of the Planning system is fully funded via proportionate planning fees relative to each application.

A more fundamental review of these fees would be welcomed to ensure they are transparent and proportionate to support the level of resource required to determine them.

Processing Agreements

4.18 In 2019, only 30% of applicants for major applications agreed to signing a processing agreement. Processing agreements are a discretionary, but useful tool for programming the processing of an application and confirming that both the Planning Service and the developer understand their roles in ensuring an application is handled timeously.

4.19 The consultation proposes to charge the developer for entering into a processing agreement to reflect the additional resource required to draft and agree timescales.

This proposal is not supported because Processing Agreements are part of pre-application discussions and application management and charging for them is likely to result in reduced motivation from developers to agree to them.

Enhanced Project Managed Applications

4.20 The consultation paper, under discretionary charging, explores ways to improve the processing of major applications. It refers to a corporate approach to project management, whereby an authority and the developer would agree on a timescale and level of resource to determine an application, alongside other consents and licences that the authority is responsible for. This is compatible with the Edinburgh Planning Concordat.

4.21 Whilst in principle this approach to handling significant development investments is welcomed, the approach makes the assumption that resources will be available across all services within the authority. In reality, there are often competing priorities between services and it will require dedicated resources to be identified by all relevant services and resourced through this discretionary charging, with a clear definition of the service provided to ensure that the expectations of the developer are managed.

Masterplan Consent Areas

4.22 The Planning (Scotland) Act 2019 introduces a new power for local authorities to designate Masterplan Consent Areas (MCA). The authority would analyse the site, consult and prepare a masterplan setting out the type of appropriate development,

design criteria and conditions. Development brought forward in line with the MCA would not require the benefit of a planning application.

- 4.23 Due to the historic nature of Edinburgh it is unlikely that MCA could be used widely in and around the central areas of the city, as the impact on listed buildings and the character and appearance of conservation areas needs to be carefully considered. However, there could be potential to use MCAs for sites identified in the emerging City Plan 2030 for urban expansion or regeneration.
- 4.24 The Planning Service currently prepares a small number of Place Briefs for significant or contentious sites, to help guide development. This is already a resource intensive process involving substantial research and consultation and preparing a masterplan would incur significant costs. Under the Full Cost Recovery principle, it is important that the costs incurred in establishing a MCA are recovered from developers through subsequent processes.
- 4.25 Further clarification as to how this process would work in practice and where the use of a MCA may be acceptable is required.

Discretionary Charging

- 4.26 The Planning (Scotland) Act 2019 contains provision that enables local authorities to charge for carrying out their functions. The Planning Service has already made use of discretionary charging through the introduction of charges for the Pre-application Advice Service (PAAS).
- 4.27 Although a PAAS is not a statutory planning requirement, in line with Scottish Government guidance the Council provides this service to support the efficient operation of the planning process. The annual cost to the Council of providing this service in terms of Planning officers only is around £231,000 (at 2018 cost levels).
- 4.28 With Scottish Government's proposal to introduce a suite of discretionary charges for authorities to implement, the Planning Service will explore the potential to expand the PAAS to include other types of development, such as non-material variations (NMV) and conditions discharging.

Non Material Variations

- 4.29 There is currently no fee identified in the fee schedule for NMVs. NMVs relate to minor alterations to drawings that do not significantly alter the overall design of the development, for example lowering the cill on a window, or widening a gateway.
- 4.30 However, NMVs can range significantly in their content from one minor alteration to a single drawing for a householder development, to hundreds of minor alterations across multiple plans for a major application. The level of work to determine NMVs is therefore dependent on the content.
- 4.31 In 2019, the Planning Service handled 331 NMVs, for which no fee was payable. The ability to introduce a fee on a sliding scale commensurate with the level of work involved in determining the NMV would therefore be supported but local discretion should be allowed in terms of the fee applied, with reference to full cost recovery principles.

Discharge of Conditions

- 4.32 The Planning Service currently discharges conditions by letter in response to requests from developers. No fee is applicable.
- 4.33 In England fees associated with the discharge of conditions attached to planning permissions are charged at £85 per request, rather than by condition, allowing developers to group conditions together to be discharged. This is refundable if the planning authority has not responded within 12 weeks.
- 4.34 Charging for the discharge of conditions particularly associated with Noise Impact Assessments, contaminated Land Reports or Archaeological work, where specialist input is provided would be welcomed.
- 4.35 However, the associated timescales could be difficult to achieve where we are relying on specialists outside the Planning Service to provide confirmation that the requirements of the condition are met.

Performance Reporting

- 4.36 The performance of the Planning Service is reported to the Scottish Government annually through the Planning Performance Framework (PPF). The PPF assesses performance in the round in terms of both qualitative and quantitative measures. When assessing the PPFs, Scottish Ministers expect planning authorities to demonstrate a culture of continuous improvement.
- 4.37 The consultation considers the way in which performance is reported through the PPF and the introduction of a National Planning Improvement Co-ordinator.
- 4.38 The Planning Service supports the current approach of locally defined performance indicators to assess how Planning performance aligns with Council strategies and priorities.
- 4.39 The Planning Service also supports a culture of continuous improvement as referred to in the Service Improvement Plan progress report, which was considered by Planning Committee in January 2020.
- 4.40 This authority supports the role of a National Planning Improvement Co-ordinator to promote improvements and facilitate learning from good practice, alongside the role of digital planning to enhance participation and drive efficiencies.

Conclusion

- 4.41 To support authorities moving towards full cost recovery, a wider scope of planning activity should be used as a basis for funding from planning applications to reflect the supporting development plan and policy basis which is required for decision making. Also, the Scottish Government must recognise the need to increase fees across all application types to reflect the work involved and to annually increase the scale of fees in line with a suitable inflationary index.
- 4.42 A clear framework for discretionary charges is welcomed and the Scottish Government is urged to implement this in parallel with the proposed increase in planning application fees. Maximum discretion should be provided for authorities to set their own discretionary fees to reflect local service levels and priorities.

5. Next Steps

- 5.1 Scottish Government has been notified of this proposed consultation response and advised that the finalised version will be submitted once it has been approved by Committee.
- 5.2 The consultation closes on 14 February 2020 and the responses received will inform the amendments to planning fees.
- 5.3 It is anticipated that the amendments to fees will be laid before the Scottish Parliament in April 2020 and will come into force in June 2020.

6. Financial impact

- 6.1 The new rates for nationally set fees will be at a level which it is estimated would cover the cost of determination for the category of application. The expected impact of these changes on income recovery levels for the Planning Service cannot be fully quantified until the final fee structure is agreed and has been viewed in conjunction with anticipated activity levels across all relevant fee categories.
- 6.2 Whilst intended to move closer to full cost recovery, the expectation of improved service must be recognised and the potential increase in resources required to achieve this should be considered alongside any increase in income.
- 6.3 No profit will be derived from the Scottish Government's proposed fee changes.
- 6.4 Proposals for discretionary charging will be explored on a phased basis alongside the Council's budgetary framework and these charges will be set at a cost recovery basis.

7. Stakeholder/Community Impact

- 7.1 Proposed changes to extend discretionary charging will be consulted on. This will include using the Consultation Hub alongside discussions with stakeholders, including the Edinburgh Civic Forum and the Edinburgh Development Forum.

8. Background reading/external references

- 8.1 [Planning Improvement Plan - Progress Update 15 May 2019](#)

9. Appendices

- 9.1 Appendix 1 – Consultation on Planning Performance and Fees – 2019 Response by the City of Edinburgh Council.

Consultation on Planning Performance and Fees - 2019



Planning Performance Reporting

Purpose of Planning

The Planning (Scotland) Act 2019 states that the purpose of planning is “to manage the development and use of land in the long term public interest”.

The Scottish Government considers that there is merit in developing an accompanying statement about the performance of the system, a vision of a system we all want to see. There is clear consensus around the key components which all users of the system believe contribute to good performance. Taking these into account the vision could be:

The Planning System must provide certainty, consistency and clarity to all those who participate in it, through effective engagement, policy, decision making and communication.

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

- **Yes**

Do you agree with the vision proposed in this consultation paper?

- **No**

Do you have any comments about the proposed vision?

- **The vision should be the foundation of the performance management of the whole Scottish planning system. It should have an outcome focus to which all stakeholders can measure their contribution towards and not be a process-based statement.**

The 2019 Act sets out that the NPF should include a statement about how Scottish Ministers’ consider that development will contribute to each of the outcomes listed below:

- (a) meeting the housing needs of people living in Scotland including, in particular, the housing needs for older people and disabled people,
- (b) improving the health and wellbeing of people living in Scotland,
- (c) increasing the population of rural areas of Scotland,
- (d) improving equality and eliminating discrimination,
- (e) meeting any targets relating to the reduction of emissions of greenhouse gases, within the meaning of the Climate Change (Scotland) Act 2009, contained in or set by virtue of that Act, and
- (f) securing positive effects for biodiversity.

Our preferred approach is to use the outcomes in the National Performance Framework. We believe that reporting in this way can play a key role in expressing the contribution of the planning system to wider outcomes within local authorities and with stakeholders and communities.

Preparation and Content of reports

Our current expectation is that reports should cover the following areas:

Statistics

Customer Service

Engagement

Case Studies

Outcomes

Improvement

Resources

Is the proposed approach to the content correct?

- **Yes**

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

- **Reports should present a balanced summary of quantitative and qualitative performance measures to reflect both service delivery and service outcomes**

Do you have any comments or suggestions as to how reports should be prepared?

- **Report preparation should not require resource intensive work and should draw on local and national performance information which drawn from existing sources**

What statistical information would be useful/valuable to include and monitor?

- **It would be appropriate to discuss this in detail once the proposed National Planning Improvement Coordinator is in post.**

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

- **It would be appropriate to discuss this in detail once the proposed National Planning Improvement Coordinator is in post.**

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

- **It is important to consider how the performance of all stakeholders in the planning system is measured and reported.**

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 appropriate to discuss this in detail once the proposed National Planning Improvement Coordinator is in post.**

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?

- **It would be appropriate to discuss this in detail once the proposed National Planning Improvement Coordinator is in post.**

National Planning Improvement Co-ordinator

The Planning (Scotland) Act 2019 includes a power for Ministers to appoint a National Planning Improvement Co-ordinator to monitor and provide advice to planning authorities and others on the performance of general or specific functions.

Do you have any comments/suggestions about the role and responsibilities of the National Planning Improvement Co-ordinator?

- **This authority supports the role of a National Planning Improvement Co-ordinator to promote improvements and facilitate learning from good practice, alongside the role of digital planning to enhance participation and drive efficiencies. It should be an independent role, considering the system as a whole and focusing on supporting improved performance for all stakeholders.**

PLANNING FEES

Background

The Planning (Scotland) Act 2019 includes enabling powers that provide additional scope for the range of services for which fees can be charged, as well as introducing the ability for Scottish Ministers to charge fees, the ability for fees to be waived or reduced and an increased fee for retrospective applications.

Linking fees to performance

The fees proposed in this paper are intended to provide additional resources to planning authorities to help support performance improvement.

[Proposed Changes to Fee Structure](#)

Category 1 – Residential Development

We propose that the fee for a single house should more accurately reflect the processing and advertising costs associated with making a determination on the suitability of the site.

For applications for planning permission in principle (PPP) the fee for one residential unit will be £300 and where the application is based on site size the fee will rise on a £300 per 0.1 ha incremental basis until the maximum for PPP (£75,000) is reached.

Number of Dwellings	Current	New	% Increase
1	£401	£600	50%
10	£4,100	£6,000	50%
49	£19,649	£23,550	20%
100	£30,050	£36,300	20%
200	£50,050	£61,300	22%
400	£90,050	£111,300	24%
563	Max – £124,850	£150,000	20%
2,058	Max – £124,850	Max – £150,000	20%

Do you agree with the proposed planning fees?

- In general yes, but specific points below.

Is the proposed method for calculating the planning fee correct?

- In general yes, but specific points below.

Do you have any comments on the proposed fees and for calculating the planning fee?

- **City of Edinburgh Council welcomes the increase in fees proposed for residential developments. It is recognised that due to the varying nature and character of each authority the fees must be set to ensure all authorities benefit from the potential uplift. However, the proposed fees will not deliver full cost recovery and the maximum fee threshold should be higher.**
- **Edinburgh had nine major residential developments in 2019, which, based on the proposed fee increase, would have given this authority an additional £72,040.00 for the 1451 units, which equates to less than £50 per unit.**
- **In terms of local residential developments (1-49 units) for 2019, based on the proposed fee increase this would have given the authority an additional £129,000 for 1,648 units, which equates to £78 per unit.**
- **Whilst the administrative process, site visit, neighbour notification and level of assessment required to consider the principle of development may be similar, major applications often require substantial amounts of supporting information and specialist input around infrastructure, Traffic Impact Assessments, Environmental issues, Flooding and surface water management and legal agreements and the potential for significant levels of objection. The fees for major residential developments do not reflect the level of resource required to assess these applications.**

Categories 2, 3, 4 and 5 – Extensions and Alterations to Existing Dwellings

The fee for an application to enlarge an existing dwelling will increase to £300. Enlargement should be considered to be, any development that alters the internal volume of a dwelling. This would usually be through the addition of extensions or dormer windows. An application relating to two or more dwellings within this category will attract a maximum fee of £600.

The fee for an application for alterations to dwellings, as well as operations within the curtilage of an existing dwelling will be £300 per dwelling subject to a maximum of £600. This includes a

range of developments that improve or alter a dwelling along with other developments within the curtilage of the dwelling which are for purposes ancillary to the enjoyment of the dwelling.

The replacement of windows, sheds, gates, fences and other enclosures, garages and micro-generation equipment will carry a fee of £150 for one single dwelling. For 2 or more dwellings or building containing one or more flats, the fee will be £300.

Applications for PPP for the erection of buildings under these categories will incur the same fees.

Do you agree with the proposed planning fees?

- **No.**

Is the proposed method for calculating the planning fee correct?

- **No, the proposed method is contrary to the principle of simplicity in applying fees.**

Do you have any comments on the proposed fees and for calculating the planning fee?

- **City of Edinburgh Council would welcome the uplift in fees for alterations to dwellings, but would not support the decrease in application fees for other works.**
- **Regardless of the type of application in this category it is still necessary to carry out administrative processes to register, validate and check the content of the application. A site visit will be required and a full assessment against policy will be undertaken. It is often these smaller applications that result in multiple objections or are retrospective applications due to an enforcement enquiry. If the aspiration remains that the fees are to bring the development management process closer to full cost recovery, then a reduction in fees for these applications is inconsistent with this aim.**
- **If the above proposal is to be implemented, clarity will be required as to what works would fall under each category. For example, CEC receive a number of applications for garden buildings that in effect extend the volume of the house in terms of providing ancillary accommodation i.e. office space, visitor accommodation. Would this attract a fee of £300 or £150?**

Category 6 – Retail and Leisure including extensions

Applications for full permission for buildings (other than dwellinghouses) are charged according to the gross floor space to be created.

Applications for development creating no new floor space, or not more than 50m² of new floor space will be charged a fee of £300.

For developments above 50m the fee is £1,500 for the first 50-100m of the development followed by £800 per 100m thereafter up to 2,500m, then the fee reduces to £500 per 100m or part thereof subject to a maximum of £150,000. For example the following fees would be payable:

Floor Space	Current	Proposed	Increase
1,500m ²	£8,020	£12,700	58%
5,000m ²	£23,450	£33,200	42%
10,000m ²	£36,850	£58,200	58%
20,000m ²	£63,650	£108,200	70%
50,000m²	£125,000	£150,000	20%

Applications for Planning Permission in Principle shall be charged at £500 for each 0.1 hectare of the site subject to a maximum of £75,000.

Do you agree with the proposed planning fees?

- Yes

Is the proposed method for calculating the planning fee correct?

- Yes

Do you have any comments on the proposed fees and for calculating the planning fee?

- Larger applications may require either a Transport Impact Assessment or a Retail Impact Assessment, which needs additional specialist resource in terms of assessing the information. The uplift in fees is welcomed to move towards full cost recovery.

Retail and leisure applications as at 31/12/18			
sq.m.	old £	new £	Increase £
5,439	2,406	3,000	598
4,776	2,005	2,500	495
302	2,005	3,200	1,195
858	4,812	7,200	2,388
500	2,807	4,000	1,193
1,286	7,218	10,400	3,182
11,347	40,450	57,000	16,550
47,000	125,000	150,000	25,000
	186,703	237,300	50,597

Category 7 – Business and Commercial including extensions

Applications for full permission for buildings (other than dwellinghouses) are charged according to the gross floor space to be created. Applications for development creating no new floor space, or not more than 50m² of new floor space, are charged a fee of £300. For buildings above that size the fee is £800 for the first 100m² of floorspace with this falling to £400 per additional 100m² or part thereof subject to a maximum of £150,000.

Floor Space	Current	Proposed	Increase
1,500m ²	£8,020	£6,400	-20%
5,000m ²	£23,450	£20,200	-14%
10,000m ²	£36,850	£40,200	10%
20,000m ²	£63,650	£80,200	26%
50,000m²	£125,000	£150,000	20%

Applications for Planning Permission in Principle shall be charged at £400 for each 0.1 hectare of the site subject to a maximum of £75,000.

Do you agree with the proposed planning fees?

- Yes

Is the proposed method for calculating the planning fee correct?

- Yes

Do you have any comments on the proposed fees and for calculating the planning fee?

- Although the fees for the smaller scale developments would decrease, the increase in fees for the larger scale business and commercial premises is significantly higher and this better reflects the level of work involved in assessing this type of application, which could include Transport Impact Assessments and/or legal agreements.

Office applications as at 31/12/18

sq.m.	old £	new £
4,465	22,050	18,260
122,158	19,728	48,800
1,000	5,614	4,400
	47,392	71,460

Industry applications as at 31/12/18

sq.m.	old £	new £
23,190	9,223	9,600
4,452	22,050	18,400
2,639	14,436	11,200
1,486	401	800
	46,110	40,000

Category 8 – Agricultural Buildings

- No comment

Category 9 – Glasshouses

- No comment

Category 10 – Polytunnels

- No comment

Category 11 – Windfarms – access tracks and calculation

- No comment

Category 12 – Hydro Schemes

- No comment

Category 13 – Other energy generation projects

- No comment

Category 14 – Exploratory Drilling for Oil and Natural Gas

- No comment

Category 15 – Fish Farming

- No comment

Category 16 – Shellfish Farming

- **No comment**

Category 17 – Plant and Machinery

Applications for the installation of plant and machinery WILL BE charged according to the area of the site at a rate of £500 per 0.1 hectare or part thereof, subject to a maximum of £150,000.

- **No comment**

Category 18 – Access, Car Parks etc. for Existing Uses

Applications for the construction of service roads, other accesses, or car parks serving an existing use on a site will be subject to a flat rate fee of £600.

Do you agree with the proposed planning fees?

- **No**

Is the proposed method for calculating the planning fee correct?

- **No**

Do you have any comments on the proposed fees and for calculating the planning fee?

- **Need additional information to clarify the extent of development envisaged.**
- **Further clarification is required regarding this category. City of Edinburgh Council has in recent years taken significant applications for extensions to park and ride facilities, a PAN for a major new road to the Airport (which is likely to require an EIA) and a major carpark for an existing bank at South Gyle. These applications are likely to require Traffic Impact Assessments and specialist input. The flat rate fee of £600 would not be representative of the level of resource required to determine these applications. A scale of fees would be more appropriate.**

Category 19 – Winning and Working of Minerals

- **No comment**

Category 20 – Peat

- **No comment**

Category 21 – other operations

Operations for any other purpose will be charged at the rate of £400 for each 0.1 hectare of the site area, subject to a maximum of £4,000.

- **No comment**

Categories 22 and 23 – Waste Disposal and Minerals Stocking – does not cover waste management (recycling)

- **No comment**

Category 24 – Conversion of Flats and Houses

Applications for the change of use of any building to use as one or more separate dwellinghouses will be charged at the same rate as residential units. £600 per house for the first 10 houses and then £400 for each new dwellinghouse created between 11 and 49 units and thereafter £250 per house, subject to a maximum of £150,000.

Do you agree with the proposed planning fees?

- **Yes**

Is the proposed method for calculating the planning fee correct?

- **Yes**

Do you have any comments on the proposed fees and for calculating the planning fee?

- **No comment**

Category 25

Change of use of a building will be charged at £600 per application.

Do you agree with the proposed planning fees?

- **No**

Is the proposed method for calculating the planning fee correct?

- **No**

Do you have any comments on the proposed fees and for calculating the planning fee?

- **Larger sites may require additional supporting information and/or legal agreements, which require additional resource to determine. A scale of fees may be more appropriate.**

Category 26

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 £300 for each 0.1 ha or part thereof up to a maximum of £150,000.

Do you agree with the proposed planning fees?

- **Yes**

Is the proposed method for calculating the planning fee correct?

- **Yes**

Do you have any comments on the proposed fees and for calculating the planning fee? Please list any types of developments not included within the proposed categories that you consider should be.

- **No comment.**

OTHER FEES

AMSC Applications

We do not intend to change the principle that Planning Permission in Principle and AMSC applications ultimately leads to 150% of the planning fee being paid. What we are seeking views on is how the maximum fee is reached thus triggering the standard fee for AMSC applications.

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

- **The current fee structure of AMSC applications is overly complicated. Major applications are often submitted in two phases; Planning Permission in Principle (PPP) followed by Approval of Matters Specified in Conditions (AMSC). Assessing each of these types of application is generally resource intensive due to the level of detail required. Specialist advice is likely to be required and these applications generate significant third-party interest.**
- **Also, due to the sizeable nature of the sites, applications may be phased over a number of years in the form of multiple applications.**
- **The current fee structure of AMSC applications is overly complicated and inconsistent with the Scottish Government's objective that the cost of the Planning system is fully funded via proportionate planning fees relative to each application.**
- **The current fee structure is a flat fee for AMSC applications and results in a funding shortfall for assessing those applications. City of Edinburgh Council would therefore welcome a review of these fees to ensure they are transparent and proportionate to support the level of resource required to determine them.**

How should the fee for AMSC applications be calculated?

- **City of Edinburgh Council would recommend that the full fee for the development type is requested for each AMSC application submitted. This would also mean that it is in the developer's interest to discharge all AMSC applications in fewer stages.**

Should the maximum fee apply to the individual developers/applicants or applied to the whole development with applicants (if number is known) paying an equal share of the max fee?

- **See above.**

Should the granting of a Section 42 application lead to the fee calculator being reset?

- **S.42 applications can, particularly where the existing permission is old, require significant work to ensure the application remains acceptable against policy, check that all existing conditions are still relevant and review the legal agreements. Where the existing Planning Permission in Principle is a number of years old there has often already been a substantial number of resource intensive AMSC applications.**
- **Critically the grant of a S.42 application results in a new permission being granted, with a new period for all AMSC applications to be submitted. As set out above, CEC's position is that the full fee for the development type should be required for each AMSC application submitted. It is considered this should equally apply AMSC applications made following a new planning permission in principle being granted as result of a S42 applications.**
- **However, in the event that the Scottish Government broadly retains the current AMSC fee**

capped system, it is considered entirely appropriate that the fee calculator should be reset to zero, where AMSC applications are being made following a new planning permission in principle having been granted as result of a S42 application.

Cross boundary Applications – Allocation of the fee

- **No comment**

Conservation Areas

We propose that where applications are submitted under categories 2, 3, 4, and 5 for developments in conservation areas which are required because of the restriction on permitted development, then only half the fee would be payable.

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?

- **Disagree**

Please provide reasons for your answer

- **The work, and cost, involved in processing an application in a Conservation Area is actually more than a householder application, given the requirement to advertise the application, put up a site notice and assess the matter against heritage issues and context. In addition, applications in conservation area are often more onerous for a planning officer as they are more likely to attract representations and require further consideration in terms of the conservation area issues.**
- **Edinburgh has 50 conservation areas. The reduction in fee would have a significant impact on income, contrary to the principle of seeking fill cost recovery.**

Listed Building Consent

Currently when applying for listed building consent there is no fee payable however, authorities are required to process the application and therefore it is reasonable to consider whether a fee should be payable.

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

- **Yes**

How should that fee be set?

- **Edinburgh has in excess of 30,000 listed building/structures, the highest of any Scottish authority. Listed building consent (LBC) applications equate for 20% of the Planning Service's total planning application case load. In order to progress towards fill cost recovery of development management activities, a fee for LBC applications is necessary.**
- **In addition, listed building applications and conservation area consents require to be advertised in the press, a site notice must be placed on the site and, due to heritage issues, these applications can often be more contentious or complex requiring specialist**

knowledge and additional time to determine them. All of these associated costs are currently borne by the authority due to there being no fee.

- In 2018/19 the full cost of handling listed building consents was £360,000 (costs inclusive of advertisement fee). Currently no neighbour notification is carried out for listed building applications. If neighbour notification was to be introduced for listed building applications, this would result in an additional cost of £50 per application.
- No indication of the fee proposed for a listed building consent is given in the consultation paper. For 2018/19, the overall cost of handling listed building consents, with the additional fee for neighbour notification added, would give an overall figure of £417,250. Dividing this cost by the 1145 listed building consents received in that period, would give an indicative fee of £364 per listed building application to ensure full cost recovery.

Hazardous Substances Consent

- No comment

Other types of Applications

Type of Application	Current Fee		Proposed Fee
Certificate of Lawful Use or Development (CLUD)	Section 150(1)(a) – use as one or more separate dwellinghouses.	£401 for each dwellinghouse subject to a maximum of £20,055 .	£600 for each dwellinghouse subject to a maximum of £150,000
	Section 150(1)(a) or (b) – uses other than use as one or more separate dwellinghouses and any operations.	The same fee as would apply to a planning application for the same development.	
	Section 150(1)(c) Existing use	£202	£300
	Section 151(1) Proposed use	Half the fee applying to a planning application for the same development	
Advertisement	£202		£300
Prior Notification/Approval	Telecomms – £300 All others – £78		Telecomms – £500 All Others – £100

Alternative Schemes	Highest applicable fee for options and sum equal to half of the cumulative remaining options	No change
Section 42 application	£202	£300

Are the proposed increases in fees for the categories above appropriate?

CLUDS

- Yes

Advertisement

- Yes

Prior Approval

- Yes

Should the fee for Alternative Schemes remain as it is?

- Yes

DISCRETIONARY CHARGING

The Planning (Scotland) Act 2019 contains provisions which can enable extension of the scope of services planning authorities can charge for in carrying out their functions. We do not intend to make it compulsory for authorities to charge for delivering these services but leave it up to their discretion.

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

- Yes

Please provide reasons for your answer

- **The range of discretionary charges should be set out nationally to provide certainty and consistency and to provide authorities with the tool kit within which to choose how they fund their wider planning service.**

Pre-application Discussions

We are aware that some authorities have started to charge for entering into pre-application discussions with applicants and we understand that more authorities are investigating the potential of introducing this.

The fees for each service are set out below for comparison.

Local Authority	Major	Local – Non-householder	Householder
Highland	5% of planning application fee but a minimum fee of £3000 and maximum fee of £6250	35% of application fee – various max fees ranging from £750 up to £43,750 (exploratory drilling for oil and gas)	35% of application fee – Max £2000
Fife	£1200	£500	£55
West Lothian	50% of application fee up to £800 with additional £200 if meeting or site visit requested.	50% of application fee up to £500 with additional £200 if meeting or site visit requested.	£50 with additional £50 for meeting or site visit.
Edinburgh	Pre-position discussion – £1200. Standard service – £5,880 Additional Services Further one hour meeting – £600 Detailed advice on information required to accompany application – £600	Local Medium development Standard Service – £1020 with additional Additional Services £600 for a further one hour meeting with case officer. £240 for meeting with officer on site. Detailed advice on information required to accompany application – £600	Local – Small Development Standard Service – £240 Additional Services £120 for one hour meeting with case officer.

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

- See above table for CEC pricing structure.

Should the fees for pre-application discussions be subtracted from the full fee payable on submission of an application?

- No this would be contrary to the principle of full-cost recovery because the application fee does not include any proportion of cost attributed to pre-application advice.

Please provide reasons for your answer

- CEC has adopted the aim of full cost recovery for Planning services. The first stage in the use of discretionary charges was implemented in July 2019 in relation to the reformed pre-application advice service (PAAS). The annual costs to the Planning service of providing the PAAS are estimated at £231,000.

- In response to customer feedback on the quality of the PAAS, coupled with challenges with resourcing the service, CEC introduced charging on a cost recovery basis. These proposals were approved by the Planning Committee on 15 May 2019 and subsequently enacted on 1 July 2019.

Processing Agreements

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?

- **No**
 - In 2019, only 30% of applicants for major applications agreed to signing a processing agreement.
 - Processing agreements are a discretionary, but useful tool for programming the processing of an application and confirming that both the Planning Service and the developer understand their roles in ensuring an application is handled timeously.
 - The consultation proposes to charge the developer for entering into a processing agreement to reflect the additional resource required to draft and agree timescales.
 - City of Edinburgh Council does not support this suggestion. Take up rates for Processing Agreements are already low and charging for them is likely to result in even more reluctance from developers. It is also considered that project management and programming of an application are an integral part of the process and should therefore not levy an additional charge.

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

- **See above**

Non-material variations

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

- **No charge**
- **No**
- **Per Change**
- **No**
- **Per Request**
- **Yes, in 2019 Non Material Variations (NMV) accounted for 331 of our total applications. These NMVs range from a single change to multiple minor changes to a major application (i.e. St. James application where over 100 plans were submitted and required to be cross reference with the approved drawings). Some schemes attract multiple submissions too. This can be a time consuming and resource intensive process.**

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

- **The fees should be a percentage of the original application or a sliding scale dependent on the number of changes involved.**

Monitoring Conditions

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

- **Yes**

Should a fee for monitoring be limited to certain types of monitoring requirements?

- **Yes**

What should this be limited to?

- **Monitoring conditions could be significant in terms of the staffing resource required. Whilst conditions must meet the statutory tests there could be a backlash from developers who see this as a way of planning services making additional money by applying unnecessary conditions.**
- **Where a legal agreement currently exists, monitoring of conditions is carried out through the discharge of S.75 obligations.**

Discharge of Conditions

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

- **Yes**

Please provide reasons for your answer

- **Charging for the discharge of conditions particularly associated with Noise Impact Assessments, contaminated Land Report or Archaeological work, where specialist input is provided would be helpful. However, the associated timescales could be difficult to achieve where we are relying on specialists outside the Planning Service. A flat rate fee per request could be a simple way of resourcing this service.**

Planning Agreements

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

- **Yes**

Please give reasons for your answer If so how should this be calculated?

- **City of Edinburgh Council already charges the legal fees on a cost recovery basis for the drawing up of a legal agreement.**

Masterplan Consent Areas

The Planning (Scotland) Act 2019 introduces new powers for local authorities to designate

Masterplan Consent Areas (MCA). Development that is in line with the MCA scheme could be brought forward without the need for a planning application.

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

Should we set the fee or an upper limit in the regulations? Please provide reasons for your answer

- The Planning Service currently prepares a small number of Place Briefs for significant or contentious sites, to help guide development. This is a resource intensive process involving substantial research and consultation. While the MCA methodology needs to be developed in much more detail, the Place Brief approach highlights some of the resource implications .
- Further clarification as to how this process would work in practice, and where the use of a MCA may be acceptable is required.
- Due to the historic nature of Edinburgh it is unlikely that MCA could be used widely in and around the central areas of the city, as the impact on listed buildings and the character and appearance of conservation areas needs to be carefully considered.

Enhanced Project Managed Applications

We are seeking views on the introduction of a new mechanism and fee category for applications which will be subject to an Enhanced Project Managed Service.

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

- Yes

How should this process work?

Please provide reasons for your answer

What, if anything, should happen in the event of failure to meet timescales?

- It refers to a corporate approach to project management, whereby an authority and the developer would agree on a timescale and level of resource to determine an application, alongside other consents and licences that the authority is responsible for. This is compatible with the Edinburgh Planning Concordat.
- It will be important to clarify the local service option so that the expectations of the developer can be managed.
- No financial penalties should be incurred because project timescales should be mutually agreed and responsibilities for information exchanges clarified.

Self/Custom Build Registers

- No Comment

Charging for Appeals

The Planning Act includes new provisions which allow Scottish Ministers to charge for carrying out

their functions under the Planning Acts. One option is the potential for charging for appeals against planning application decisions.

We consider that there are 3 main options for setting the fee:

- A percentage of original application fee – maintaining a link between original application and appeal and also ensuring that the appeal fee increases in line with any application fee increases.
- Standard fee which is set by either the type/category of application or the hierarchy.
- Flat Rate Fee for all types of appeal.

Do you think that, in principle, fees should be charged for appeals to DPEA?

- **Yes**

Should we limit the circumstances in which a fee can be charged for lodging an appeal? In what circumstances do you think a fee should be paid for lodging an appeal?

- **The fee system should be applied to all appeals for simplicity reasons.**

Do you think that the fee should be refunded in the event of a successful appeal?

- **No**

If so, should this follow the same process as is currently set out for awarding costs? What categories of appeals should be considered for charging?

- **See below**

Do you think that a fee scale should be provided in relation to appeals to Local Review Bodies (LRB) and, if so, should the arrangements differ from appeals to DPEA?

- **In 2019 the Planning Service handled 66 appeals to the DPEA and 78 reviews to the LRB.**
- **The cost of handling and processing an appeal is not included in the current application fee. The cost of dealing with appeals to either the DPEA or the LRB is borne by the authority. The cost of handling different appeal types will vary considerably from small householder extensions at the LRB to complex cases such as Steads Place or the Royal High School where considerable costs are incurred in public inquiries.**
- **The Planning Service would welcome the introduction of fees for appeals, both at a Scottish Government and Local level, as this would bring the authority closer to full cost recovery.**
- **The Planning Service would not welcome the suggestion that fees are reimbursed should the appellant be successful. Regardless of whether the appeal is upheld or dismissed the same level of resource is required to handle and process that appeal. It would be counter-productive to reimburse fees.**

Reducing And Waiving Fees

Another new provision introduced in the Planning Act is the ability for authorities to waive or reduce a planning fee.

[Do you have any suggestions as to the circumstances in which they could use this power?](#)

- **Discretion should remain to reduce or waive fees in certain circumstances as locally defined.**

OTHER ISSUES

Retrospective Applications

We consider that authorities should be able to exercise some discretion in whether a surcharge is applied or not, taking account of whether the authority believe that the applicant has made a genuine mistake in carrying out development without first seeking permission to do so.

Should the surcharge be set at 100%?

- **Yes**

If not what level should it be set at?

Authorities will need to apply discretion when applying this surcharge. Should authorities need to clearly set out the reasons why the surcharge has been applied or not in each individual case?

- **No**

Please provide reasons for your answer

- **Whilst the increase in retrospective fees is welcome in terms of discouraging applicants from failing to apply, giving discretion as to when to not apply the charge could result in significant resource spent justifying our position or seeking evidence to prove something was done in ignorance. As with listed building legislation, there are some limited defences, such as that the works were urgently required in the interests of health and safety or for the preservation of the building, but it is not a defence to claim ignorance as to the requirement for planning permission. It would be far simple and more consistent to set a higher fee for retrospective applications and for there to be no discretion regarding the charging.**

Incentives

An amendment was lodged during the Planning Bill which sought to define that an applicant would be entitled to a refund if there had been an unreasonable delay in processing their application. The amendment defined an unreasonable delay as an application which has not been determined within 26 weeks or another agreed timescale.

Do you consider the use of rebates, discounts or other incentives, a useful tool in delivering a more efficient service? If so what would you consider to be an effective discount, rebate or other incentive?

- **No, do not agree.**
- **These incentives would not be welcomed as there are times when applications are submitted without all the necessary information required, despite our guidance clearly stating what is necessary.**
- **These incentives could only be considered if the requirements for validation were expanded to the discretion of the authority, as currently only relevant drawings and fees are required. Applications are therefore deficient in EIA;s; flood risk assessment, water management plans, archaeological survey and noise assessments, ventilation details, traffic impact assessments etc**
- **Without this information consultations and the opportunity for representations are delayed or need to be re neighbour notified.**

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?

- **Yes**

Please provide reasons for your answer

- **There are additional administrative costs in handling a paper application and an admin fee should be added.**

Advertising Fee

Some planning authorities have argued that there should be a single fee to absorb all other costs and charges including recovering the costs related to publishing planning applications in local newspapers.

Do you consider there should be a single fee?

- **Yes**

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

- **The cost should be included in the application fee and should cover all adverts i.e., Bad Neighbour, Significantly Contrary to the Development Plan, No immediate neighbours, and Listed Buildings and Conservation Areas. An EIA advert can accrue a significant fee due to the number of characters involved in the advert and the pricing structure of the newspaper. This cost should not be borne by the Planning Service.**

Environmental Impact Assessments (EIA)

Do you consider that submission of an EIA should warrant a supplementary fee in all cases?

- **Yes**

Please give reasons for your answer

If so what might an appropriate charge be?

- **EIA applications contain significant and complex levels of information that require specialist input from a range of consultees. Processing this information is resource intensive and it is considered that an additional fee should be paid for applications with associated EIAs.**

Hybrid Applications

We have been aware of some circumstances where an applicant has submitted an application for planning permission in principle which provides additional detail that would normally be considered through an application for Approval of Matters specified in Conditions. This has been unofficially referred to as a hybrid application.

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

- **Yes**

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

- **Yes**

Please give reasons for your answer

- **A hybrid application contains information relevant to a full planning application and**

needs to be assessed in that context. It is recommended that hybrid applications are charged at the full fee.

Charging for SG services

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

- **This could involve top-slicing the planning application fees to support the national service. The principle needs further investigation to identify if there would be mutual efficiencies for national and local planning services.**