

NORTH LINCOLNSHIRE COUNCIL

PLANNING COMMITTEE

**GOVERNMENT PROPOSALS FOR CHANGES TO
PLANNING APPLICATION FEES IN ENGLAND**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To advise Members of proposals issued by the Secretary of State for Communities and Local Government in a consultation paper of proposed changes to the planning application fees regime which would decentralise responsibility for the setting of fees to local planning authorities. The paper also proposes to allow authorities to charge for some types of applications which are currently free.
- 1.2 To seek approval for comments to be made to the Secretary of State on the proposed consultation paper for him to take into account before any decision is taken at national level.

2. BACKGROUND INFORMATION

- 2.1 On 15 November 2010 the Secretary of State for Communities and Local Government (Mr Pickles) launched a consultation paper on proposed changes to the planning application fees regime which would decentralise responsibility for the setting of fees to local planning authorities. The consultation paper also proposes changes to allow local planning authorities to charge for certain types of applications which are currently free.
- 2.2 Fees are currently set nationally, which means that they do not take account of differing local circumstances and market conditions. In the view of Central Government, this is contrary to the spirit of localism and the principle that decisions should be taken at the lowest possible level, by people who are accountable to the public.
- 2.3 Government research indicates that the majority of local planning authorities are failing to recover costs from fee income, whilst some authorities are actually generating more income through charging fees than it actually costs the council to process and run the development control/management service. Central Government therefore considers that, to overcome this, each local planning authority should be enabled to set their own fees regime which reflects local costs and would also encourage them to run a fair and efficient system.
- 2.4 The consultation document asks for responses by 7 January 2011 and, if accepted and approved by Parliament, it is hoped that any changes would be

implemented from April 2011 with a six-month transition period until October 2011.

- 2.5 Planning fees were originally introduced by Government in 1980 and are supposed to reflect the possible private benefit implicit in the granting of planning permission on any given site. Fees are supposed to be based on the overall cost of handling, administering and determining applications, including related overheads. In the last full financial year (2009/10) some 466,000 planning applications were submitted to local planning authorities which generated £209 million in fee income. However, this still did not fully recover the total cost of administering the service. The Local Government Association (LGA) has said that allowing councils to charge the full cost of processing planning applications will help plug a £230 million black hole in the funding regime. The LGA has indicated that, in its opinion, last year town halls had to 'subsidise developers by more than £500 for every planning application submitted because rules set in Whitehall prevented them from charging the full cost.'
- 2.6 The last time national planning fees were revised was in April 2008 when they were increased by 23% to help authorities recover more of their costs. It is therefore now nearly three years since the last fees increase.

3. OPTIONS FOR CONSIDERATION

- 3.1 Section 303 (10) of the Town and Country Planning Act 1990 states that the income from a fee must not exceed the cost of performing the fee-related function (handling, processing and determining planning applications in this instance). This means that any planning fees regime cannot be used to make a profit.
- 3.2 It is accepted by all in the planning profession, at both local and national level, that local authorities should pay for activities that are purely or largely for the wider public good. However, in relation to planning decisions, they often bring private benefit to the applicant as a result of enhanced property and land value. Therefore the power granted to authorities to charge planning application fees reflects this possible private benefit which is implicit in the granting of planning permission. As the Government paper acknowledges, an applicant should, therefore, expect to pay a fee for an application that could bring a measure of gain.
- 3.3 In February 2009 research was carried out for Government relating to planning application fees recovery and it was confirmed that authorities are generally receiving about 90% of the monies to cover operating costs. Furthermore, between April 2006 and March 2010 the average cost of handling and determining a planning application was £619 whereas the average fee received was only £569. A further part of the research indicated that around 35% of development control (management) resources are being allocated or used to deal with planning applications which do not currently incur any sort of planning fee.
- 3.4 Central Government now believes that, wherever possible, decisions should be taken at the local level by people who are accountable to the public and

that there is no reason why charges for planning applications should be an exception to this policy. In putting forward the suggestion that fees should be set at a local level, Central Government has indicated that by doing so there would be a stronger incentive for local planning authorities to run a more efficient service since it would be a more transparent system directly accountable to local residents.

- 3.5 Central Government have put forward in the consultation paper three separate options as follows:
- (a) Option 1 would decentralise responsibility for setting fees for planning applications to local planning authorities.
 - (b) Option 2 would maintain the current fees system.
 - (c) Option 3 would maintain the current fees system but with changes to the detail, particularly as to the type of applications which would incur a fee and exemptions that would apply.
- 3.6 Government's preferred option is Option 1 which would give planning authorities the flexibility to charge fees that properly recover the costs they incur in determining planning applications and is consistent with the Government's commitment to localise and decentralise power. Furthermore, Government believes that the existing fee schedule is both highly complex and lacking in consistency with 13 categories of development and 46 sub-categories, with different parameters for different types of development. For example, for the erection of a single dwelling the fee would be £335, but where the development exceeds 50 dwellings the fee is £16,565 with an additional £100 for each dwelling in excess of 50, subject to a maximum fee of £250,000. Similar complicated detail exists for commercial development. Householder development (for example, a house extension) is currently charged at £150.
- 3.7 Central Government sees that there are problems with nationally set fees because they fail to take account of local variation in application profiles and costs, and are regularly insufficient to recover costs, on average there being between a 10 to 15% shortfall each year. The tax payer is perceived, therefore, as subsidising the processing of planning applications, although Government accepts that in some areas local authorities recoup more in fees than the actual cost of the service.
- 3.8 If the Government proposals (Option 1) are accepted, each local authority would have the ability to set its own local planning application fees, including fee categories. Furthermore, authorities would be able to charge for some applications which do not require a fee at present. Examples of this might be to charge a higher fee for retrospective applications or to remove the current opportunity for a 'free go' following refusal or withdrawal. Government is not minded to change the current exemptions for listed buildings, development in conservation areas or tree preservation orders.
- 3.9 If the proposal to decentralise the setting of fees is carried through, local planning authorities need to have a clear understanding of costs and establish

a fees regime which is clearly based on those costs. Fees at a local level should reflect a local full-cost recovery and there will be a requirement to consult on the fee schedule before adoption. Local planning authorities would not, however, be able to make a profit to subsidise other parts of planning or local government services. Furthermore, the council would not be allowed to cross-subsidise, in other words to reduce the cost of a householder-type application by increasing the cost on major development. Each category would have to be justified on the basis of the actual work input and administrative costs incurred in determining that category of development. Any local scheme therefore needs to have stringent safeguards imposed and must ensure that it is both transparent and accountable at all times.

3.10 Option 2 would retain the setting of fees at a national level. This, historically, has been how planning fees have been operated since 1980. Fees have been revised at intervals over the last thirty years. The main problem associated with the setting of fees nationally is that Central Government has failed to revise fees on a regular and consistent basis as evidenced by the fact that it is now nearly three years since the last fees increase. It is hardly surprising, therefore, that local authorities are now struggling to recover costs of the service through planning fees. Any planning fees regime needs to be revised and reviewed on an annual basis. If such an annual review had been undertaken, much of the criticism that Central Government is now levelling about the recovery of fees income could and would have been avoided.

3.11 Option 3 is a variation of Option 2 whereby fees would still be set nationally but the categories of fee and current exemptions would be reviewed nationally.

4. ANALYSIS OF OPTIONS

4.1 To support Central Government in the choice of Option 1 would transfer to the individual local planning authority full responsibility for setting its own planning fees regime to recover its own local administrative and processing costs. Whilst this may sound an ideal solution to the shortfall in income, it is potentially fraught with a number of issues that need to be assessed, namely:

- (a) the setting up of a local fees regime would incur a significant amount of administrative work to prepare, publicise, consult upon and revise;
- (b) any local fees regime would have to be reviewed on an annual basis to take account of local circumstances and the level of local economic activity;
- (c) a local fees regime would need to be transparent and accountable and would necessitate a whole new financial and audit backup to ensure transparency at all stages;
- (d) there is the possibility of 'cross-border' disparity, in other words adjacent authorities could charge significantly different fees for exactly the same type or scale of development;
- (e) North Lincolnshire Council could see this as an opportunity to raise extra income to cover the costs of planning but such a local fee regime

cannot be used to subsidise other local government services or even other parts of the planning service.

- 4.2 In view of the above, Option 1 (the Government's preferred option), is not one that should be supported as it will substantially increase the administrative burden on local government services.
- 4.3 Option 2, which would be to retain fees set at a national level, would be the preferred option providing Government accept that there is a clear necessity for such fees to be reviewed annually and at worse every other year to ensure that local authorities continue to recover as much of the overall cost of the service as possible. Furthermore, Option 2 retains the principle that, irrespective of where your development is within England, the cost to the developer is the same.
- 4.4 Option 3 would retain the principle of a national fees regime but at the same time would allow for a review of exceptions and exemptions to be carried out.
- 4.5 In recommending that Option 3 be the favoured way forward, it would be an opportunity for Central Government to review the detail of the planning fees regime and to start or to at least allow local planning authorities to charge for certain types of development which are currently exempt. In particular, the exemption which allows applications to be resubmitted with a free go should be removed. The cost of determining a second application for the same site following refusal or withdrawal is equally as costly to the local authority as the initial proposal. Furthermore, applications for the felling or pruning of trees incurs a considerable cost burden on the council and, together with applications for listed building consent, should be charged for. At present the local authority, in other words the public purse, picks up the full cost of processing and determining such applications.
- 4.6 The recommended option is therefore to choose Option 3 as put forward by Central Government that fees be set at a national rather than local level but with changes to current exceptions and exemptions.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 Financial

5.1.1 The development control service within North Lincolnshire currently under-recovers fee income to match the costs of the service. Historically since 1996 the development control service has usually over-recovered income and it is only since the downturn in both the national and local economic activity rate that the service has failed to cover costs. As the consultation paper clearly makes out, any locally set planning regime would not be or should not be seen as a locally created financial generating regime. Any local fees regime must be reasonable and reflect as closely as possible the overall cost of the development control service. The setting of fees at a local level would, however, ensure that the development control (management) service should always at least break even. It is unclear, but it is presumed from the way the consultation paper has been phrased, that if a local

authority over-recovers in one year then that should be a possible justification for reducing costs the following year or alternatively such excess would be held in reserve to cover for any losses incurred in subsequent years.

5.2 **Staffing**

5.2.1 From the development control service perspective, there are no real staffing implications, although, as highlighted, to set up the local regime would incur significant staff time, presumably both professional planning staff as well as financial staff.

5.3 **Property**

5.3.1 There are no property implications arising from this report.

5.4 **IT**

5.4.1 There are no additional IT implications arising from this report.

6. **OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 – CRIME AND DISORDER, RISK AND OTHER)**

6.1 **Statutory**

6.1.1 There are no statutory implications arising from this report.

6.2 **Environmental**

6.2.1 There are no environmental implications arising from this report.

6.3 **Diversity**

6.3.1 The setting of fees at a local level would allow the local planning authority to decide if there are any local groups or service areas which should be exempt from a planning fee. From a diversity perspective, this may give some scope to give greater freedom from fees for local charities and other specialist groups. This could, however, cause some aggravation and anxiety at a local level if one charity or organisation feels that it has been unfairly excluded from the exemptions list.

6.4 **Section 17 – Crime and Disorder**

6.4.1 There are no Section 17 implications arising from this report.

6.5 **Risk**

There are no risk implications arising from this report.

6.6 **Other**

6.6.1 There are no other implications arising from this report.

7. OUTCOMES OF CONSULTATION

- 7.1 Consultation on this report has been undertaken with Finance, and Legal and Democratic, and their views reflected, where appropriate in the report.

8. RECOMMENDATIONS

- 8.1 That Central Government be advised that North Lincolnshire Council would prefer the planning fees regime to continue to be set at a national rather than local level; and
- 8.2 that the existing national fees regime be reviewed annually to reflect changes in costs rather than the historically extensive and lengthy intervals between review which places undue pressure on local development control/planning services; and
- 8.3 that Central Government be advised that the national fees regime should be altered to include fee charging for the determination of applications for the felling and pruning of trees, listed building consents and development in conservation areas which are a significant burden on the local authority.

HEAD OF PLANNING

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Background papers used in the preparation of this report

Letter dated 15 November 2010 from the Secretary of State for Communities and Local Government relating to 'Proposals for changes to planning application fees in England'