

## Annex 1

### **Response to the DLUHC technical consultation: Stronger performance of local planning authorities supported through an increase in planning fees.**

#### **Question 1. Do you agree that fees for planning applications should be increased by 35% for major applications?**

Yes

The increase in fees by 35% is supported. The cost of the planning service should be largely funded by those who benefit from the new development and not the general taxpayer.

In the consultation literature, the government states that the funding shortfall for the planning application service is 33% across England and that it wishes to reduce this. For TMBC the shortfall is actually higher, at around 50%. So the borough has a long way to go just to get down to even the current shortfall.

#### **Question 2. Do you agree that the fee for householder planning applications should be increased by 25%?**

Yes

The increase 25% is supported. The fee increase only equates to £52 increase, which is still a nominal amount compared to the cost of the majority of householder developments. The fee should cover the cost of processing the planning application.

#### **Question 3. Do you agree that fees for all other planning applications should be increased by 25%? If not, please include in the comments box the particular application types where you believe the proposed increase is too high or too low. Your comments should be accompanied with evidence/costs if possible.**

Yes- support the increase in general. Examples below of where increase is too low.

The prior approvals increase is too low. These applications are often in depth and take up a considerable amount time to assess. The current fee is £96, the proposed fee is £120. Prior approvals will often take longer than a simple householder to assess. The fee should cover the cost of covering the processing the application.

The discharge of conditions fee structure should be looked at and conditions should be charged individually rather than per application. The householder current condition fee is only £34 and all other discharge of conditions are charged at £116. This does not cover the cost of processing the application and often requires the input for specialists / external consultees. The incentive at the moment is to submit a large number of conditions under one application which often causes delays as some conditions are ready to be issued while others are not.

**Question 4. Are there any other application types or planning services which are not currently charged for but should require a fee or for which the current fee level or structure is inadequate?**

Yes – Listed buildings consent should be charged for. Although it is acknowledged that buildings are listed to preserve their historic nature this should not exempt them from charges. Listed building applications often need input from conservation officers. This cost should be covered as part of a fee for the listed building consent.

**Question 5. Please can you provide examples of bespoke or ‘fast track’ services which have worked well or you think could be introduced for an additional fee? Are there any schemes that have been particularly effective?**

N/A to TMBC.

Fast track schemes which have been used include charging an additional fee to determine householder applications, 5 days after consultation expiry. For example, £150. This type of scheme though will only work if the department has capacity and validation of householder applications is swift.

**Question 6. Do you agree with the proposal for all planning fees to be adjusted annually in line with inflation?**

Yes

Fees have not risen since 2018. Over this intervening period inflation has been in excess of 20% (CPI) and 30% (RPI). Inflation rises will put less of a burden on the general taxpayer. If fees are subject to an annual inflation uplift, it would be helpful if the specific reference point, for example December CPI in the preceding financial year.

**Question 7. Do you consider that the additional income arising from the proposed fee increase should be ringfenced for spending within the local authority planning department?**

Yes

Planning departments including TMBC are currently struggling to recruit and retain staff. Staff have left the public sector and have been attracted to private sector roles as well as contracting roles. Currently TMBC has several vacancies at planner, senior and principal level and are facing strong competition from both London and other Kent authorities.

From a planning perspective ringfencing the additional fees to be spent within the department is a positive move to enable improvements as well as hopefully creating an environment which will attract much needed talent.

From a wider financial perspective, it should be noted that TMBC has concerns about ringfencing. Income from planning fees do not cover the cost of the development management function at TMBC, which is likely the case in many authorities. The proposed increase(s) would contribute towards reducing the net cost of the development management planning service, but a significant net cost would remain.

**Question 8. Do you agree that the fee for retrospective applications should be doubled, i.e. increased by 100%, for all applications except for householder applications?**

Yes

Doubling the application fee may act as a deterrent, especially when it would involve a substantial sum. As explained in the consultation literature, double fees are already charged for Ground A enforcement appeals. Building without consent is an emotive issue and causes a number of complaints from both members of the public and Councillors. The majority of complaints in TMBC stem from householders. As enforcement is a discretionary service and many developments require a planning application to regularise, it is not considered that householders should be excluded from this proposal. Double fees should be applied across the board to all retrospective developments as they are to ground A enforcement appeals.

**Question 9. Do you consider that the ability for a 'free-go' for repeat applications should either be:**

- (a) removed**
- (b) reduced for re-applications within 12 months**
- (c) retained**
- (d) none of the above**
- (e) don't know**

Removed

Although it is acknowledged that a free go may mean a better-quality submission on the second attempt, this does not outweigh the costs incurred by the LPA for processing the application for the second time. Removing the free go should be an incentive for some, to go down the pre application route. Pre application is the right time to get advice and should produce better quality schemes overall. Early engagement is essential and should be promoted at all levels. The consultation mentions that there are concerns regarding the fact that more applications may go to

appeal. This concern is valid however, the benefits of removing the free go outweigh this.

**Question 10. Do you agree that a fee of £96 (or £120 if the proposed fee increase comes forward) should be charged for any prior approval application for development by the Crown on a closed defence site?**

No comment

**Question 11. What do you consider to be the greatest skills and expertise gaps within local planning authorities?**

The consultation literature asks to hear about the specific challenges in recruiting and retaining planning professionals with the right skills and experience. In TMBC attracting planners especially at senior and principal level has been extremely challenging. The authority has been through numerous recruitment drives for planners, senior and principal level. Each time the vacancies do not get filled. Posts are being filled by contractors which not only is placing a greater financial burden on the Council but also gives the department little resilience.

Over time many qualified planners have moved into the private sector or sought more contractor roles which pay more and are more flexible. The challenge is keeping people within local government especially in the smaller boroughs /districts.

Planners are expected to do more today. Legislation is constantly being expanded to cover more areas and the planning remit widens. Planners need to upskill and this needs to be recognised and reflected in salary packages.

**Question 12. In addition to increasing planning fees, in what other ways could the Government support greater capacity and capability within local planning departments and pathways into the profession?**

Wages for public sector planners need to reflect their importance in the planning system as a whole. Without whom development will halt. People leave public sector because the pay and conditions do not match the private sector or the financial rewards of the contractor market. Rewarding and recognising those who stay is imperative, as surveys show the morale in LPAs is currently low.

Separate training budgets for local authorities to use to train / send candidates to university could be introduced. These posts should be additional, above establishment. Councils like TMBC have structures which will not allow more than one junior planner because of the level of applications a trainee can do. Management must be mindful of the overall service delivery so cannot use all planner posts for those who are starting out.

Financial packages (like those offered for teacher training could be offered to incentive's uptake in planning accredited courses. Similarly financial incentives to retrain existing graduates into post graduate courses.

**Question 13. How do you suggest we encourage people from under-represented groups, including women and ethnic minority groups, to become planning professionals?**

LPA's already offer flexible working which attracts some under-represented groups.

The planning profession needs a perception change. The profession should be promoted in schools and highlight how planning will play an important role in climate and biodiversity crisis. These issues will impact the younger generation and are important to them. This aspect of planning should be focused on more when the profession is being promoted. Illustrating that planning is a wide field with so many opportunities, needs to be publicised.

**Question 14. Do you agree that the Planning Guarantee should better mirror the statutory determination period for a planning application and be set at 16 weeks for non-major applications and retained at 26 weeks for major applications?**

No

This will increase the burden on an already stretched local authority department. Some of the gains in fees would be loss if the 16-week deadline is put in place. This also would increase admin time in processing refunds if introduced. The unintended consequences could be poorer quality decisions if the time frames of the planning guarantee are reduced. The consultation acknowledges that even the fee increases do not cover the cost of processing the application so Councils will still be stretched to deliver principally minor applications within the proposed timescale. Often minor applications are very controversial and raise complex planning issues. There could also be a rise in appeals.

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The capacity issues of the planning need to be resolved first before this is introduced. Increasing fees won't solve the problem immediately. This measure could potentially be introduced at a later stage.

**Question 15. Do you agree that the performance of local planning authorities for speed of decision-making should be assessed on the percentage of applications that are determined within the statutory determination period i.e. excluding extension of times and Planning Performance Agreements?**

No

The consultation literature considers that EOTs and Planning Performance Agreements are sometimes used to mask the poor performance of the LPA. The consultation document also acknowledges that there are capacity, capability and resilience issues within LPA's. These two acknowledgments appear contradictory.

Excluding PPAs and EOTs will immediately impact the performance statistics of most LPAs. Just increasing fees will not solve capacity and capability issues.

Getting an EOT should not be seen as a failure if the right result is achieved. It might be more appropriate to allow a percentage of applications to have an EOT or PPA which count towards the overall performance. For example, 15% of these could cover those instances where section 106 agreements are being processed and the EOT has added value and improvement of the overall process.

A further consideration is that are committee cases being included. Applications which go to committee will always take longer due to committee timetables. It might not be possible to get to a case to committee within the statutory timeframe. In TMBC where there are area committees approximately every six weeks would mean it would be almost impossible to get a case to committee within the 8 or 13 week deadline and a Section 106 agreement completed without using an EOT.

**Question 16. Do you agree that performance should be assessed separately for**

(a) Major applications – Yes

(b) Non-Major applications (excluding householder applications) – No

Householder applications are generally going to be easier to determine than a 9-unit scheme. The complexity of cases needs to be reflected in the target. Some larger minor applications are particularly challenging as they are usually windfall sites and predominantly speculative, usually raising several local concerns. There are concerns with non-majors and householders being assessed separately.

(c) Householder applications – No

See above

(d) Discharge of conditions – No

Conditions often rely on external consultees where the timeframes for responses may be outside the LPA control. Additional information is often needed. The refusal rates for conditions are likely to increase dramatically which may increase the number of appeals. Resubmissions of conditions will also place a further burden on the local authority. Conditions are often submitted in large batches under one fee. One condition could potentially hold up the discharge of the number which will give a disadvantage the local authority.

(e) County matters applications -

No comment (would refer to Kent County Council comments)

**Question 17. Do you consider that any of the proposed quantitative metrics should not be included?**

Please give your reasons and, if appropriate, state the metric letter(s) and number(s) that you believe should not be included.

A. Average Speed of decision-making

*Council responses in italics*

1. Average time taken to determine majors (inc. Extension of Time (EoT) and Planning Performance Agreements (PPAs))
2. Average time taken to determine non-majors (inc. EoT and PPAs)
3. Average time taken to determine householders (inc. EoT and PPAs)
4. Average time taken to determine discharge of conditions (inc. EoT and PPAs)
5. Average time taken to determine county matters (inc. EoT and PPAs)

*On all of the above, average time could be skewed by a small number of applications and give an artificial impression of performance especially on major schemes. Significant majors should be defined as these are likely to need much longer and will likely be subject to PPA.*

B. Quality of decision-making

1. Major appeals allowed by Planning Inspectorate as percentage of all appeal decisions.
2. Non-major appeals allowed by Planning Inspectorate as percentage of all appeal decisions.
3. Householder appeals allowed by the Planning Inspectorate as percentage of all appeal decisions

*Yes – measuring quality of decisions is important agree to the above measures.*

### C. Extension of Times

1. Total number of EoTs as percentage of all decisions majors
2. Total number of EoTs as percentage of all decisions non-majors
3. Total number of EoTs as percentage of all decisions householders

*For reasons such as committee timetables and section 106 negotiation mean that the majority of majors which are approved will require an EOT or are subject to a PPA. This indicator will have little merit.*

*Householders would be the most see the most benefit from measuring without EOTs.*

### D. Backlog

1. Average time taken to validate planning applications
2. Total number of cases beyond the Planning Guarantee period (currently 26 weeks for all applications but proposed to change to 16 weeks for non-major applications)

*The capacity and resource that face LPAs, need to be solved before backlogs can be monitored.*

### E. Planning Enforcement

1. Average number of weeks taken to respond to suspected breaches of planning and determine the appropriate course of action.
2. Average number of weeks to take action where a breach of planning has occurred, having decided it is expedient to do so.
3. Total number of cases over 6 months old as percentage of all open cases.

*Enforcement is a discretionary service and enforcement is usually subject to an enforcement plan. Enforcement plans have defined priorities which have usually been agreed by Members. The measures above do not take into account these priorities and introducing these targets could be that the simple cases are focused on, rather than the LPA's priorities.*

### F. Planning Committee

1. Percentage of delegated decisions and committee decisions
2. Percentage of committee decisions to refuse against officer recommendation that are subsequently allowed at appeal

*Yes- measuring quality of decisions is important, agree to the above measures.*

**Question 18. Are there any quantitative metrics that have not been included that should be?**

No

**Question 19. Do you support the introduction of a qualitative metric that measures customer experience?**

Yes

Measuring customer satisfaction is as important as looking at pure statistics. However, we need to be mindful of where LPAs are currently under resourced / have large number of vacancies. Introducing this immediately without solving the capacity issues could further reduce morale in LPAs. Capturing the data electronically is essential.

**Question 20. What do you consider would be the best metric(s) for measuring customer experience?**

Online survey. Links could be provided on the bottom of decision notices and pre application letters.

**Question 21. Are there any other ways in which the performance of local planning authorities or level of community engagement could be improved?**

Positive messaging around the profession is essential. Technology and social media for community engagement needs to be optimised.

**Question 22. Do you have any views on the implications of the proposals in this consultation for you, or the group or business you represent, and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how. Is there anything that could be done to mitigate any impact identified?**

Customer online surveys / customer experience matrix may not reach all groups. Sending to agents or applicants may offer different results.