

ABERDEEN CITY COUNCIL

COMMITTEE	Enterprise, Planning and Infrastructure
DATE	7 September 2010
DIRECTOR	Gordon McIntosh
TITLE OF REPORT	Resourcing a High Quality Planning System
REPORT NUMBER	EPI/10/205

1. PURPOSE OF REPORT

- 1.1 The Scottish Government has recently published a consultation document - Resourcing a High Quality Planning System. The consultation looks at how planning can be resourced more effectively in the context of public sector constraints and slower rates of development. It explores alternative delivery options and proposes fee structures that are more proportionate in the longer term. This report sets out a proposed response to the consultation paper.

2. RECOMMENDATION(S)

It is recommended that the Committee:

- 2.1 Agrees the response contained in this report and refer it to the Finance and Resources Committee for approval for submission, along with any further comments made by this committee and following the Heads of Planning Scotland workshop, to the Scottish Government.

3. FINANCIAL IMPLICATIONS

- 3.1 The report relates to the future resourcing of the planning service. The consultation paper states that the overall resourcing of the planning service is the responsibility of local authorities. Whilst the consultation focuses mainly on planning application fees, it also states that authorities require to look at the resourcing of the whole planning service in the context of budgets and the role its planning service should play in supporting economic recovery, delivering quality developments as part of longer term sustainable growth. While the modernised planning system has taken some duties away from some planning authorities, this has been outweighed by the introduction of additional duties with no additional allocation of resources. The consultation includes seeking views on options for amending the planning application fee structure and whilst it is anticipated that this will result in an increase in fee levels, it is not yet clear exactly what the implications will be. As a result of the economic downturn there has been a large reduction in the income generated through planning application fees. The reduction in fee income has been proportionally significantly greater than the reduction in the number of applications received. Therefore ways of increasing

income would be something which should be encouraged. It should be noted that these issues are also being looked at by the Service through the current Priority Based Budgeting exercise.

4. SERVICE & COMMUNITY IMPACT

4.1 The Scottish Government has stated that an effective planning service is fundamental to achieving its central purpose of sustainable economic growth. As such the proposals in this report relate to a number of Single Outcome Agreement Outcomes:

1- We live in a Scotland that is the most attractive place for doing business in Europe;

2- We realise our full economic potential with more and better employment opportunities for our people;

10- We live in well-designed, sustainable places where we are able to access the amenities and services we need;

12- We value and enjoy our built and natural environment and protect it and enhance it for future generations;

13- We take pride in a strong, fair and inclusive national identity; and

15- Our public services are high quality, continually improving, efficient and responsive to local people's needs.

5. OTHER IMPLICATIONS

5.1 There are no property, legal and equipment implications arising from this report.

6. REPORT

Introduction

6.1 The Scottish Government recognises the importance of planning as a key driver to building economic success and to achieving its central purpose of increasing sustainable economic growth. Over the past two years the planning system in Scotland has undergone significant change with the implementation of the new Planning Act and the introduction of e-planning. The Scottish Government is working with CoSLA, local authorities, key agencies and the development industry to ensure there is a modern, future-facing planning system which is properly resourced to deliver quality outcomes. As part of that process the Scottish Government has recently published a consultation paper - Resourcing a High Quality Planning System and is looking for views on how the planning system should be best resourced to deliver a quality service that supports the delivery of sustainable economic growth.

6.2 The consultation paper stresses the Government's commitment to ensuring that issues relating to resources and quality are linked and emphasises the expectation that planning authorities will continue to improve beyond their existing performance level (although it does not specify what this means).

Policy and legislative background

- 6.3 Planning application fees are set by Scottish Ministers and approved by the Scottish Parliament. Fees were raised by 10% in April 2010 for the first time since April 2007. Scottish Ministers have said that they may consider a further increase in fees if planning authorities can continue to demonstrate convincing and sustained improvements in performance. The fee maxima is considerably higher in England and Wales than in Scotland. In addition, some applications are exempt from fees or are charged at a reduced rate.

Consultation questions

- 6.4 The consultation document is presented in three sections relating to effective use of resources, reviewing performance and a review of the fee structure with a number of specific questions asked in relation to each of these. The following sections of this report provide a brief summary of the consultation issues and a proposed response to the questions raised. It should be noted that the Heads of Planning Scotland have organised a meeting to help planning authorities formulate their responses to the consultation. This meeting does not take place until after the EP&I Committee date so it is proposed that any amendments to our responses are reported to the Finance and Resources Committee along with this report.

Effective Use of Resources

This section explores how to make the most effective use of resources with the aim of improving the quality of service offered and considers issues relating to proportionality, quality and new ways of working. It includes issues such as simplifying requests for information to support a planning application, improving the quality of applications, charging for pre-application discussions, the use of processing agreements, the potential of shared services, joint commissioning and accreditation, out sourcing and the use of peer review and sharing best practice.

Q1. What measures could be implemented that would improve the quality of application and supporting information?

An element missing from this section in terms of the quality of applications is that developers should submit applications that comply with the development plan. Developers should be made aware that this would be the most effective means of facilitating faster decisions and high quality outcomes. There should be more scope for planning authorities to refuse to register applications that do not contain full information. This may require a review of the Development Management Regulations. Consideration could be given to providing an incentive for planning authorities to enter into processing agreements (there had previously been a suggestion of an enhanced fee). An accreditation scheme for agents, similar to that which exists for engineers in building standards or contractors for works in the public highway could be considered.

Q2. Would you be in favour of the introduction of a charge for pre-application discussions? In considering your response, should this be a one-off payment or should it be discounted against the subsequent submission of a planning application?

It is not clear if this relates to national and major applications or local applications or both. However, the principle of charging for pre-application discussions should be welcomed on the understanding that this could be discounted against the fee for a subsequent planning application. It should be recognised that there are different procedures for different types of application and that the fees *could* be set accordingly. There are potential consequences of introducing a charge for voluntary/discretionary pre-application discussions where a charge may discourage engagement and result in poorer quality applications. A further issue is that it is presently unclear whether the introduction of pre-application charges would be legally competent under the current legislation. This is, however, an option currently being considered by the Council.

There may also be scope for charging for pre application work in relation to delivering supplementary guidance in the form of masterplans or development frameworks. These would have to be subject of an agreement on programme and resources. The parties that enter into this arrangement would need a substantial incentive that this provides benefits in the determination of a subsequent planning application, for instance, in speed of decision making. This is being considered as part of our Priority Based Budgeting exercise.

Q3. Are you supportive of the ways of working identified above? If so, is there a particular approach that you consider could make a difference to the performance of the planning system? If yes, which one and why?

Aberdeen City Council has already established shared services with Aberdeenshire Council for planning gain, Strategic Environmental Assessment and the Design Review Panel. The Council already benchmarks and shares best practise with other authorities, which has been a very useful exercise for a number of years. Other options, including outsourcing and shared services are currently being considered as part of the Council's Priority Based Budgeting exercise. These options are not, however, without risks. For example, for a potential shared service it may not be possible to agree the principle and details, there could be blurred lines of accountability and governance and the costs of restructuring could be greater than any cost savings. Outsourcing of the planning service could result in the loss of local knowledge, create potential conflicts of interest and diminish public perception of the democratic process. The costs of the outsourcing process also mean that it is unlikely to achieve efficiencies in the short term, if ever.

Performance

This section stresses the importance of regular monitoring and assessment of the quality of service being provided by planning authorities. It recognises that the success of the planning service should not be judged only on the speed of decisions but that there are also qualitative aspects of the process. It states that the Scottish Government will work with authorities to promote a framework of self assessment which reflects the new relationship with local government, the new approach to audit and inspection and a culture of

continuous improvement. It also raises the potential of the reintroduction of planning audits.

Q4. What do you consider constitutes a high performing planning system? In considering your response, please reflect on the roles and responsibilities of the various parties in the planning system including developers, planning authorities, key agencies as well as other stakeholders.

Are you aware of any existing appropriate frameworks currently being used that could be used? If not, are there any themes or indicators that could be considered as part of a framework to monitor the planning system? In considering your response we would also welcome views on the introduction of such a framework as well as who is best placed to carry out this assessment.

Whilst the aspiration to improve performance is supported in principle, there is no indication in the document as to what “a measurable step change in quality of service” or “convincing and sustained improvements in performance” would look like. There will be different actions required in different authorities and reflected in their Service Improvement Plans depending on what that change is - again it is the speed versus quality issue; faster does not necessarily mean good quality sustainable places. A high performing planning system should be recognised by the public as such and should be open and responsive, whilst making quick decisions that lead to quality development on the ground.

Any new assessment framework should be integrated and consistent with those already in use by Councils. Aberdeen City Council has adopted the “How Good is Your Council” framework.

It should also be recognised that the quality of the planning service is not dependent solely on the planning authority but rather it requires quality and timely input from other stakeholders, including key agencies, developers, community groups and other Council services. It is, therefore, important that any assessment framework incorporates a mechanism for assessing their performance too.

The benefit of relying only on the current Statutory Performance Indicators, which measure only the speed of decision making and not the quality of those decisions or of the outcomes, and measuring performance between authorities with very different issues, development pressures, budget and priorities is questionable. Consideration should be given to using a balanced score card approach to judge performance against the five perspectives of public interest, private customer, internal business, continuous improvement and finance and the targets set by individual planning authorities appropriate to their own circumstances. This would demonstrate, for example, the high levels of customer satisfaction with the Council’s planning service, as demonstrated through our customer satisfaction survey.

Review of Fee Structure

It is widely recognised that there is a need for a change in the fee structure for planning applications and this section of the consultation document focuses on options for reviewing the existing fee structure. The consultation has been developed using the principles that fees should cover costs and be relevant, appropriate, fair, evidence based and aid service improvements. It presents five options:

Option 1: Value based approach - where the fee is linked to the value of the development.

Option 2: Time based charging model - where the fee is linked directly to the time spent processing each planning application.

Option 3: Allowing planning authorities to set their own fees - this would require a change in the primary legislation, or for fees for each authority to be included within the regulations.

Option 4: Linking fees to hierarchy of developments.

Option 5: Maintain but adjust the current model - with adjustments made to reflect the hierarchy and specific sectoral developments.

Fees should at least cover costs, although it is accepted that they should not *necessarily* be used to aid service improvements, although it is difficult to identify the true cost of providing a planning service because of the way the service integrates with the wider organisation and outside bodies. It would be easier to cover the cost of case officer and administration costs

It is important to acknowledge some of the downsides relating to the options presented as well as the potential benefits. The fact that the RICS data is often an area for dispute in building standards suggests that this approach is not always simple and transparent. There is also a question as to whether something based on value encourages developers to try and cut costs (and thereby quality).

There is a risk that a fee based on time charging may lead to pressure to cut corners to minimise time and cost. The amount of time spent processing an application does not necessarily relate to the type or complexity of the application. For instance there may be a well organised campaign of opposition or one particular persistent objector so this approach may be seen as unfair to applicants. A time based charging system appears to be fraught with difficulty, for example would charging be based on a single rate or would it relate to the seniority of the staff involved process an application?

Q5. Do you think the Scottish Government should amend the current fee structure?

Which is your preferred option (1, 2, 3, 4 or 5)? (Please give any comments on why these are you preferred/least favoured options)

Which is your least preferred option (1, 2, 3, 4 or 5)?

What alternative approaches do you feel the Scottish Government should consider, if any? In considering your response please give any comments on why the option you identified above are you preferred/least favoured.

Option five would be the most attractive in terms of understanding and applying in practice. A time based approach should not be supported as the time spent on an application can often be outwith the applicant's control, for example if a lot of objections are raised. Trying to get extra money at a later date from applicants for the current requirement for publicity for applications has raised a number of practical difficulties and staged payments is considered to be undesirable.

This section of the document also considers issues relating to a potential fee structure, the use of incentives to improve performance, staged/phased payments, the application of a one off single fee and regional variations in the number and type of applications. It also looks at a range of other changes which could be made to the existing fee structure, including new charges for specific elements of the service and particular types of applications.

There is an argument that enhanced fees should be required for retrospective planning permission. In practice, this might impact more severely on smaller, domestic type of work and it is unlikely to produce significant additional income, but it may provide a disincentive to undertake unauthorised works. Consideration should also be given to charging the developer for any enforcement action that planning authorities are required to take against unauthorised development. This should cover the costs incurred by the authority.

The application fee should cover the cost of neighbour notification, responsibility for which has transferred from the developer to the planning authority with no additional resources allocated to Councils, despite the significant additional burden it places on them.

Fee Maximum

Q6. Do you consider that the maximum fee level should be raised? If so, what would you consider to be an appropriate maximum level and should this higher fee be dependent on a defined service and timescales being delivered by the planning authority?

Yes. This should be informed by the English system and by the hierarchy of developments. The possibility of larger/enhanced fees for applications that are significant departures from the development plan should also be examined.

Allocation of the fee

Q7. Do you consider that other consultees should charge the relevant planning authority for their input on planning applications?

It is not clear how this would be implemented. There is also an issue about how planning authorities could resource the potential gap being left by agencies stepping back from the system. Fee calculation and method of payment could be potentially so complicated that this option should not be pursued. Consultees also benefit from the planning service as it is a source of information to help them in their service delivery and can minimise problems which might arise in the future.

Incentives

Q8. Do you consider the use of rebates, discounts or other incentives a useful tool in delivering a more efficient service? If so what would be an effective discount, rebate or other incentive?

No. Delays to planning applications are not always caused by planning authorities or services that in the control of the planning service, for example where there are significant numbers of objections, or where a developer does not respond timeously to requests for further information. Incentives could have the opposite effect and lead to more refusals. Sometimes applicants do not want a quick decision for contractual reasons.

Staged / phased payments

Q9. Do you think the introduction of staged payments would encourage more efficient service and be helpful to developers? If so, are there any particular stages within the process that should trigger a payment?

No. There are potential difficulties of recovering payments if they are staged. An example would be the difficulties encountered even with something as simple as Neighbour Notification Adverts where it is difficult to get payments especially if it looks like an application is going for refusal.

One off single fee

Q10. Do you consider there should be a single fee?

Yes. This would have significant benefits – applicants would know the size of the fee at the outset and the payment system would be much easier to administer.

Regional variances

Q11. Should the charging scheme take into account the regional variations in types of applications and the varying nature of local authorities? If so, what factors should be considered?

No. There should be a single national fee. It should perhaps be recognised that some authorities have different burdens, for example, neighbour notification has placed a greater burden on compact urban authorities such as Aberdeen.

Change of use

Q12. Do you consider it appropriate to amend the fees for changes of use? If so, how should this be calculated?

Yes. Consideration should be given relating it to the site area or amount of floorspace involved.

Environmental Impact Assessments

Q13. Do you consider that submission of an EIA should warrant an additional fee? If so what might an appropriate charge be?

Yes. Processing an EIA application involves a great deal of work. The fee should be set at the same level as the related planning application.

Fees for application for planning permission in principle

Q14. Do you agree that applications for planning permission in principle should continue to be charged at half the standard fee?

No. There is little justification for this. Applications for planning permission in principle can create as much work as full applications. The full fee should be paid.

Hazardous Substances Consent

Q15. Do you agree that the fees for Hazardous Substances Consent should be increased inline with inflation?

Yes. This has very little impact in Aberdeen.

Discharge of Conditions

Q16. Do you think there should be a fee payable for discharge of conditions? If so, should this be refundable where a decision has not been made within a set period of time?

No. This could discourage compliance with conditions and could lead to more enforcement work for which additional resources would be required. This could be factored into the initial application fee structure.

Planning agreements

Q17. Do you think there should be a fee payable on the conclusion of a planning agreement? If so, how should this be calculated?

Most authorities charge for the legal and administrative costs of preparing planning agreements. When the money is handed over is not really an incentive. It is also important to recognise that some of the delay in completing planning agreements can lie with the developer. Continuation of the present procedures would appear to be a reasonable approach.

Tailored services

Q18. Do you consider that the fee regime should include the ability to offer a tailored service for certain developments?

No. The design and structure of service to be provided should be left to the planning authority

Windfarms

Q19. Do you consider that fees for windfarms should be altered to reflect the nature of this industry? If so, do you agree with developing a scheme similar to that in operation in England, or are there alternative options?

Aberdeen City does not have any experience of dealing with planning applications for wind farms. Other authorities with more experience would be better placed to answer this question.

Mineral and Landfill Sites

Q20. Should the Scottish Government take forward previous proposals to introduce a set fee payable by the operator for each visit subject to a maximum number of visits per annum or do you consider that monitoring costs should be borne by the planning authorities?

As for question 19.

Aquaculture/ Fish Farming

Q21. Do you consider that a single level fee based only on the equipment above the surface, including feed barges and any associated equipment, is appropriate? If so, how should this be calculated?

As for question 19.

Q22. Do consider that a fee charged for the testing of areas for potential shellfish farms is appropriate?

As for question 19.

Agricultural Buildings

Q23. Where an application for an agricultural development under 465 m² is not subject to permitted development should a fee be required to be paid based on the development size? Should this be a full fee or part fee?

It is considered that there is no justification for reduced fees for agricultural buildings.

Q24. Should fees be reduced for agricultural developments above a certain size?

No.

Any other comments

Q25. We welcome any other views and comments that you might have on Resourcing a High Quality Planning System that have not already been covered within this consultation.

The emphasis on resourcing a planning system which supports economic growth is the correct way to go. At the same time it is important that response is not just about how planning can be resourced more effectively in the context of public sector constraints and slower rates of development, it should be about creating a sustainable model that works both in times of constraint and in healthier economic times. If the focus is on economic recovery there is, by implication, an expectation that developments could be approved to address a short term problem which we may then live to regret in the longer term. The emphasis must still be on quality development. It is important to recognise that what we are trying to resource is a system which achieves better outcomes, not just faster decision making, and that all sectors have to play their part in that in terms of the culture change.

The consultation document states that “An element of planning reform is to streamline the planning process and to reduce the number of planning applications being submitted in order to enable planning authorities to concentrate on more significant applications”. It is important to recognise in considering the resourcing of the planning system that this has not been implemented, the anticipated efficiencies not realised and the resources not freed up as expected. It is also becoming evident that the anticipated reduction in application numbers is unlikely to be achieved without radical changes to permitted development, some of which may be controversial.

This must all be achieved at a time of increasing constraints in the public sector when Councils are required to make very difficult decisions about their service priorities. In the case of Aberdeen City Council many of these options will be considered through the Priority Based Budgeting exercise currently being undertaken which may provide an example of best practice for other Councils.


The system must be responsive to changes in the economic position so that fluctuations in demand can be accommodated without either incurring excessive cost or imposing undue delays.

It is important that whatever charging regime is introduced it does not prejudice good will and public support for the planning system and as such is seen to be both fair and reasonable. The danger of losing goodwill might result in making it more difficult to deliver desirable outcomes.

7. REPORT AUTHOR DETAILS

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8. BACKGROUND PAPERS

Resourcing a High Quality Planning System - a Consultation Paper, Scottish Government, July 2010 available from

<http://www.scotland.gov.uk/Publications/2010/07/07154028/0>