

REGULATORY APPRAISAL

TOWN AND COUNTRY PLANNING, WALES

THE TOWN AND COUNTRY PLANNING (FEES FOR APPLICATIONS AND DEEMED APPLICATIONS) (AMENDMENT) (WALES) REGULATIONS 2006

Background

1. Fees for planning applications and development control matters are currently as set out in The Town and Country Planning (Fees for applications and Deemed Applications) (Amendment) (Wales) Regulations 2004 (S.I. 2004/2736) (W.243).
2. Section 303 of the Town and Country Planning Act 1990 (as amended by section 53 of the Planning and Compulsory Purchase Act 2004) enables the National Assembly for Wales to prescribe a fee or charge or a means of calculating a fee or charge, including setting performance-related fees or charges and allowing authorities to set their own fees or charges, and prescribing that no fee or charge be paid for a service.
3. *'Planning: delivering for Wales'* contained a commitment to undertake a review of the fee regime, and to improve resources for local planning authorities. Research carried out for the Welsh Assembly Government by Arup in 2004 ("Resources for Planning in Wales") found a shortfall in funding from income from planning fees estimated to be £44m annually, and that fees for the largest applications and the maximum fees fell furthest short of cost recovery. The report recommended that the fees system should be broadened in scope to maximise cost recovery and improve planning resources.
4. The research also found that the cost of the planning service delivered by local planning authorities in Wales is estimated to be £56m per annum. Around £12.4m was estimated to be the cost of the development control service, including overheads chargeable for central services (legal, administration, office accommodation etc). The total estimated income from fees was £7.9m in 2003/04 and £8.67m in 2004/05. The research found that, for fees to meet cost recovery, fees needed to increase by 43-75% and recommended regular monitoring to inform future reviews of planning fee levels.
5. Planning fees were last increased in Wales by 10% across the board on 8 November 2004. The Office of the Deputy Prime Minister increased planning fees in England (The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2005 (SI 2005 No 843) by approximately 30% across the Board in April 2005.

Purpose and intended effect of measure

6. These Regulations provide, in relation to Wales, for a 20% across-the-board increase in planning application fee levels from 1 April 2006 and a further 10% increase from 1 April 2007 in Wales. Further, the proposed legislation also provides a simplified fee structure and the removal of the 'free go' on re-

application to regularise works undertaken in breach of conditions or in variation from the approved plans.

7. These Regulations further amend, in relation to Wales, the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 (the 1989 Regulations). The proposals for a new fee regime are intended to increase the fee income for local planning authorities. There will be an expected increase in quality of services linked to increases by the introduction, for the first time, of a performance relationship. The target date for implementation of the revised fee regime is April 2006.
8. The proposed fee structure is designed to simplify the structure. Fees for the following categories have been combined, and a single fee proposed:
 - Buildings (other than dwellings, agricultural buildings, plant or glasshouses etc.) where no floor area is created, or the floor area is less than 40 sq m;
 - Advertisements on business premises or other land within the business curtilage relating to nature of business, goods sold, services provided, or name of persons undertaking business/ Advertisements for the purpose of directing members of the public to that site;
 - In planning categories 1, 2, 4, 5, 6, 12, 13 and 15 the detail of the category has been refined to take into account the size of development within Wales (categories shown in Annex 1);
 - The planning application fee would be an inclusive charge, and would still enable applicants who reapply within 12 months of submitting the original application to do so without paying a fee; and
 - Reflecting responses from the business community maximum fees and thresholds are to be set at a similar level to England. For example, in 2006 the fee for a single housing unit is £288, for 50 it is £14,400 with a fee of £80 for each additional unit up to a maximum of £50,000.
9. The current position is that any application for development, which is broadly similar to/of the same character as, a previous submission, by the same applicant, if submitted within 12 months of the previous application, can have a 'free go'. The removal of the 'free go' on re-application to regularise works undertaken in breach of conditions or in variations from the approved plans would discourage anyone carrying out work, which is different from the approved plans. In the same vein the 'free go' removed on re-application to amend schemes in advance of start of work on previously approved schemes would encourage applicants to ensure that the scheme built is the one in the application.

Risk Assessment

10. If planning fees are not increased, local planning authorities will continue to fall short of cost recovery on planning functions. Research has indicated that

against a 2003/04 fees income of £7.8, total costs of fee-related activities were £12.4m (gross overheads) a shortfall of £4.8m.

11. There is a risk that not as much fee income as expected would be generated, if numbers and types of developments fall as a result of changing economic and other factors. However, this is perceived as a minor risk.

Options

Option 1: Do Nothing

12. The planning service requires additional resources if it is to improve. Not providing them would, at best, maintain the status quo, at worst, see further reduction in the standard of the service received by customers.

Option 2: Make the Legislation

13. Increasing planning application fees will provide local planning authorities with additional resources with which to begin to improve the planning service. This planning system would be monitored to ensure a continuing improvement to the planning service.

Benefits

Developers

14. An increase in planning application fee payments would be balanced by a continuing improvement in planning services.

Society

15. An increase in resources would enable an improvement in the quality of services received by stakeholders

Business Sectors affected

16. An increase in planning application fee payments would be balanced by a continuing improvement in planning services received by stakeholders.

Equity and fairness

17. All sections of the community would benefit from improved delivery of the planning services. Those submitting larger applications would be charged a higher fee proportionate to the size of the application.

Costs

18. Planning application fees have to be paid by anyone (whether an individual, company or voluntary body), who submits a planning application to a local planning authority. The increased cost of making applications would fall on applicants. Examples of individual fee increases are given below:

- Most householder development, e.g. domestic extensions/outbuildings, is likely to fall within fee category 7 of the Fee Categories set out in Schedule 1 to the 1989 Regulations. The current fee is £120 and this would increase to £144 in 2006 and to £159 in 2007; and

- Category 3 covers the erection on agricultural land, of buildings to be used for agricultural purposes. For an outline planning applications, the current fee is £240 for each 0.1 hectare of the site area and this would increase to £288 from 1 April 2006 and £317 from 1 April 2007.

19. The increase in fees are detailed at Annex 1.

20. The cost of preparing the Regulations can be met from within the existing Planning Division's and Directorate of Legal Services' administration costs budgets. There are no additional financial implications for the Assembly.

21. An increase in planning fees will generate extra income for local planning and National Park planning authorities. This extra funding is intended to be utilised by local planning authorities to improve the planning service.

22. The income received by local planning authorities depends on the number of planning applications made to them. Planning Division Statistics (Survey of Welsh Local Planning Authorities April 2003 to March 2004) show that a total of 36,742 planning applications were made during 2003/04 giving an income of £7.9m across Wales in 2003/04 from the associated planning fees.

23. The increases proposed in this legislation, together with the 10% fee increase introduced in November 2004 by The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (Wales) Regulations 2004 (SI 2004/2736) (W.243), will generate a 45% recovery for local planning authorities over the three years (2004 – 2007).

Environmental and social

24. No significant social impacts are expected to arise from these Regulations.

Consultation

With Stakeholders

25. A public consultation took place from 13 June 2005 to 5 September 2005. Views were sought from a range of business organisations, professional bodies, the Welsh Local Government Association (WLGA), social partners and voluntary sector groups and local planning authorities on proposals to increase planning application fee levels in Wales. A list of consultees is attached at Annex 2. The consultation paper was also posted onto the Welsh Assembly Government website at: www.countryside.wales.gov.uk/consultations, therefore, giving the public the opportunity to comment.

26. Twenty-nine responses were received:

- nine from business organisations (the Cardiff Chamber of Commerce, the Welsh Development Agency, the Home Builders Federation, The Law Society, Redrow, Arquiva, the Quarry Products Association, Persimmon and the Confederation of British Industry);

- three from professional bodies (the Planning Officers Society for Wales, the Royal Town Planning Institute in Wales, the Royal Institute of Chartered Surveyors Wales);
- fourteen from local planning authorities; and
- others from the Royal Society for the Protection of Birds Cymru, the Countryside Council for Wales and the WLGA.

27. A summary of the consultation responses is attached at Annex 3. All the organisations recognised the need to increase planning fees so that additional funding could be made available to improve the planning service. However, business requested that a robust evaluation framework be put in place to ensure that the increased funding would lead to an improved planning service. The Welsh Assembly Government and other planning stakeholders are currently working together to develop this.

With Subject Committee

28. The consultation letter of 13 June 2005 was copied to all Environment, Planning and Countryside (EPC) Committee Members. The Regulations were also notified to the EPC Committee, via the list of forthcoming legislation, on 1 February 2006 (EPC(2) 02-06(p3), item no: 37(69PE)), but were not identified for detailed scrutiny.

Consultation with Small Business

29. The CBI and the Federation of Small Businesses were consulted. The CBI commented on the consultation paper details of which are included in the summary of responses at Annex 4. No comments were received from the Federation of Small Businesses.

Competition Assessment

30. It is not envisaged that the proposed changes would have a disproportionate impact on any particular sector. Therefore, it is considered unlikely that there would be appreciable competition impact arising from increased fees.

Enforcement and Sanctions

31. Failure to submit the correct fee with an application may mean that the local planning authority will not consider it. The remedy in cases of dispute about the fee payable is by appeal to the Welsh Assembly Government.

Monitoring and review

32. The Welsh Assembly Government's Planning Department will review the scale of fees and costs of the planning service to ensure that the appropriate levels of fees have been set to facilitate cost recovery.

Summary

33. Respondents to the 'Resources for Planning in Wales' consultation paper generally agreed that increased funding above current baselines, achieved through higher planning application fees, would be acceptable, provided that the additional resources were used to improve planning services. Views differed on

the appropriate option to achieve this. It was clear that any increase in fee income needs to be a component of a package of measures designed to support continued improvement in the performance of the planning service. Regular reviews of the impact of the fees scale and level will be needed to ensure a reliable and up-to-date evidence-base.

34. In view of the results of the analysis of comments received, a new 'consensus option' has been developed involving a 20% increase in fees in 2006/07 followed by 10% increase in 2007/08. Taken together with the 10% fee increase introduced in 2005/06 this would give a 45% increase over three years. It was clear that, in order to achieve a balance between increasing fees and reassurance on improved delivery full cost recovery should be achievable within five years.
35. The proposed fee structure took account of the research project and consultation responses. The key changes proposed are designed to simplify the structure of fees for certain categories, which have been combined, and a single fee proposed, and includes the removal of the 'free go' in certain circumstances.

ANNEX 2

Standard Consultation letter sent to the following :

All Wales Ethnic Minority Association (AWEMA)
Association of Larger Local Councils
Association of National Park Authorities
Association of National Parks
Bartlett School of Planning
Blaenau Gwent County Borough Council
Brecon Beacons National Park Authority
Bridgend County Borough Council
Bwrdd yr Iaith
Cadw
Caerphilly County Borough Council
Campaign for the Protection of Rural Wales
Carmarthenshire County Council
Centre for Environment and Planning, UWE
Ceredigion County Council
Children's Commissioner for Wales
Chief Planning Officers
Citizens Advice Bureaux
City and County of Cardiff
City and County of Swansea
Commission for Local Administration in Wales
Commission for Racial Equality Wales Office
Community Enterprise Wales
Conwy County Borough Council
Council for National Parks
Countryside Council for Wales
CPRW
Crown Estate
Crown Estate Commissioners
Denbighshire County Council
Department of City and Regional Planning, Cardiff University
Department of Law, University of Wales, Aberystwyth
Development Planning Partnership
Disability Wales
Encyclopaedia of Planning Law and Practice
Environment Agency Wales
Equal Opportunities Commission
Federation of Small Businesses
Flintshire County Council
GMB
Greenpeace UK
Gwent CPRW
Gwent Wildlife Trust
Gwynedd Archaeological Trust
Gwynedd County Council
Health and Safety Executive
House Builders Federation
Institute of Geography & Earth Sciences
Isle of Anglesey County Council
Land Registry Wales Office
Land Use Consultants
Landscape Institute Wales
Law Society Wales

Members for Aberavon
Members for Alyn & Deeside
Members for Blaenau Gwent
Members for Brecon & Radnorshire
Members for Bridgend
Members for Caernarfon
Members for Caerphilly
Members for Cardiff Central
Members for Cardiff North
Members for Cardiff South & Penarth
Members for Cardiff West
Members for Carmarthen East & Dinefwr
Members for Carmarthen West & Pembroke South
Member for Carmarthen West and South Pembrokeshire
Members for Ceredigion
Members for Clwyd South
Members for Clwyd West
Members for Conwy
Members for Cynon Valley
Members for Delyn
Members for Gower
Members for Islwyn
Members for Llanelli
Members for Merionnydd Nant Conwy
Members for Merthyr Tydfil & Rhymney
Member for Mid and North Wales
Members for Mid and West Wales
Members for Monmouth
Members for Montgomeryshire
Members for Neath
Members for Newport East
Members for Newport West
Members for North Wales
Members for Ogmore
Members for Pontypridd
Members for Preseli Pembrokeshire
Members for Rhondda
Members for South Wales Central
Members for South Wales East
Members for South Wales West
Members for Swansea East
Members for Swansea West
Members for Torfaen
Members for Vale of Clwyd
Members for Vale of Glamorgan
Members of Wales Planning Forum
Members for Wrexham
Members for Ynys Mon
Montgomeryshire Wildlife Trust
National Farmers Union (Wales)
National Small Woods Association
National Trust (South Wales)
National Trust (South Wales)
Neath Port Talbot County Borough Council
Newport City Council
NFU CYMRU
North Wales Wildlife Trust
One Voice Wales
Pembroke Civic Trust
Pembrokeshire Coast National Park Authority

Pembrokeshire County Council
Planning Aid Wales
Planning Inspectorate
Planning Officers' Society Wales
Pontypool Park Estate Office
Powys County Council
Race Equality First
Radnorshire Wildlife Trust
Rambler's Association
Rhondda Cynon Taff County Borough Council
Royal Institution of Chartered Surveyors Wales
Royal Society for the Protection of Birds
Royal Society of Architects in Wales
Royal Town Planning Institute in Wales
Snowdonia National Park Authority
Sustainable Development Commission
Sustainable Wales
Taff Ely Friends of the Earth
TGWU
The Civic Trust for Wales
The Garden History Society
Torfaen County Borough Council
Town and Country Planning Association
Vale of Glamorgan Council
Voluntary Sector Assembly Centre
Wales Association of Community and Town Councils
Wales Association of Community Councils
Wales Conservancy
Wales Council for the Blind
Wales Council for the Deaf
Wales Council for Voluntary Action
Wales Disability Rights Commission
Wales Environment Link
Wales Planning Policy Panel
Wales Tourist Board
Wales TUC
Wales Wildlife and Countryside Link
Welsh Association of Community and Town Councils
Welsh Development Agency
Welsh Language Board
Welsh Local Government Association
Welsh School of Architecture
Welsh Wildlife Centre
Welsh Wildlife Trusts
Wrexham County Borough Council
WWF Cymru
YHA England & Wales
YHA National Countryside Committee

ANNEX 3

Summary of Consultation Responses

Consultation Options

1. The wide-ranging consultation exercise invited comment on the following 5 options:

Option 1 - 44% across-the-board increase in 2 years (20% in 2006/20% in 2007)

Option 2 - 32% across-the-board increase in 2 years (15% in 2006/15% in 2007)

Option 3 - 27% across-the-board increase in 2 years (15% in 2006/10% in 2007)

Option 4 - 21% across-the-board increase in 2 years (10% in 2006/10% in 2007)

Option 5 - 43% across-the-board increase in 1 year (43% in 2006)

Consultation Responses

2. The responses indicated general agreement to increasing planning fees, provided the increases could be accompanied by an improvement in performance. There were differing views on the level of increase. The WLGA argued strongly for increases as soon as possible designed to ensure full cost recovery. The Association favoured Option 1 (20% in 2006/7 followed by 20% in 2007/8). The business sector did not express a preference for any of the options.
3. Most respondents agreed that any increase in fees income needed to be a component of a package of measures designed to support continued improvement in the performance of the planning service. Regular reviews of the impact of the fees scale and level will be needed to ensure a reliable and up-to-date evidence base.
4. Maximum fees and thresholds at a similar level to England were preferred by the business sector to removing the thresholds. Whilst WLGA supported removal of thresholds, the number of planning applications above the English thresholds are likely to be small in number. In view of this it is concluded that to meet both sets of comments, the maxima could be retained at the same level for both years.
5. The proposed new simplified fee scale did not in itself attract many comments, and so this is suggested as an appropriate scale for the new Regulations.
6. Informed by the results of the analysis of responses a consensus option has been developed involving a 20% increase in fees in 2006/07 followed by 10% increase in 2007/08. Taken together with the 10% fee increase introduced in 2004/05 this would give an overall 45% increase (not allowing for inflation) over three years.
7. Monitoring of both costs and performance over this period would inform decisions on whether flat line or tapered increases would be appropriate thereafter. This would allow full recovery of costs over five years.

8. The *Planning:delivering for Wales* evaluation framework is currently being developed with stakeholders to assess progress in improving the delivery of the planning service as a whole against a range of indicators, both qualitative and quantitative. This will cover resources, performance and outcomes. It will include Local Government Performance Indicators, progress on embedding *Planning:delivering for Wales* and provide reassurance that planning fee income is additional to baseline resources. The information from this framework will be used as a basis to inform decisions on the level of fees from 2008 onwards.
9. Cabinet accepted a paper at its meeting on 7 November 2005 outlining the proposed planning application fees including the levels of thresholds and maximum fees.
10. The proposed package of changes includes the withdrawal of the 'free go' for re-application, within 12 months, where this is:
 - a) to regularise works undertaken in breach of conditions, and
 - b) to regularise variation from the approved plan, and
 - c) to amend plans in advance of a start of work on approved applications