



CONSULTATION ON PROPOSALS FOR CHANGES TO PLANNING APPLICATION FEES IN ENGLAND RESPONSE FROM SITA UK

SITA UK are pleased to respond to this consultation proposing that local authorities be given the powers to set their own fees for planning applications. As a waste management company operating across 300 sites in the UK, contemplating an ambitious programme of expansion to provide the UK with the treatment infrastructure it requires, securing planning permission is the greatest hurdle we face. Planning has also been identified by the National Audit Office as the most significant bottleneck in delivering local authority waste management infrastructure.

We believe that the proposals of the Department for Communities and Local Government (CLG) to decentralise responsibility for setting planning fees will lead to a less efficient delivery system, imposing an added financial burden on the applicant without a commensurate improvement in efficiency. We urge CLG to carry out a more thorough assessment of why some authorities should spend more in processing an application than the allotted fee, when other authorities appear to be underspending. CLG should focus on getting poorly performing authorities up to the standard of the better performers, rather than adopting a system that will merely further ingrain inefficiencies within an overspending local authority.

It is also noted that local authorities themselves rejected the proposal by a margin of 2 to 1, when asked the question by CLG's consultants Ove Arup. There are nationally-set fee structures for most other public services. In the environmental sector, set fee bands apply for Environment Agency permits, regardless of where they are determined in the country. With assessment and consultation procedures very similar to those pertaining to planning applications, there is no reason why fees for planning application determinations should also not be set on a national basis.



With planning application fees increasing by 23 per cent as recently as 2008, it is incumbent upon CLG to exercise greater vigour in raising the performance of poorly performing local authorities, rather than taking the soft option of increasing fees and adding to the cost burden of developers.

Our detailed response is set out below.

Q1.

Do you agree that each local planning authority should be able to set its own (non-profit-making) planning application fee charges?

SITA UK does not agree with this proposition. There are a number of reasons why local authorities might spend more than the allotted fee on a planning application - poor technical knowledge of the proposal, poor coordination between the local authority and statutory consultees, inefficient consultation procedures that duplicate effort, etc. A further source of inefficiency arises when local authorities encroach on the responsibilities of other competent authorities – an all too common occurrence with applications in the waste sector when the planning function often overlaps with and duplicates the remit of the Environment Agency.

The quid pro quo to cost recovery by overspending authorities is cost pass-back to the applicant by under-spending local authorities. To retain fees in excess of what it has cost the authority to administer their planning applications is in effect allowing local authorities to profit at the expense of developers. There is no indication in the consultation document that CLG intend to balance out revenues received through fees in this manner.

Furthermore, as Ove Arup pointed out in their 2007 report on planning fees, “there are no overall trends that would enable fees to be better tailored to cover the marginal costs of individual applications”. From an administrative standpoint, both their 2007 and 2010 reports point to problems in assessing accurate costs incurred by the local authority in managing planning applications – disparate accounting procedures, internal cross-subsidies, the lack of a “trading account” for each application, etc.

A robust baseline against which each local authority can assess where it is over-or under-spending, and what additional fee it should charge for “reasonable” costs is simply not available. Indeed, Ove Arup’s 2010 report notes the possibility of increased administrative costs in the event that each local authority set their own planning fees, owing to the need to demonstrate greater accountability and transparency in how that fee was spent.

If some planning authorities are under-spending relative to the set fee, then government’s first effort should be to assess why the over-spending authorities cannot get their costs down to the level of the better-performing authorities. In every other area of public service endeavour it has been recognised that efficiency savings (sometimes quite significant) are there to be taken.

CLG’s own research, undertaken by Ove Arup and published in November 2010, notes in Section 2.2 of their report that when asking local authorities how they “felt in principle about the idea that each local authority should be able to fix its own (non-profit making) planning charges in the future ... 36 per cent of respondents were in favour and 64 per cent were against.” It is therefore curious that CLG wishes to pursue this option in the face of a 2 to 1 rejection by local authorities themselves.

Q2.

Do you agree that local planning authorities should be allowed to decide whether to charge for applications that are resubmitted following withdrawal or refusal?

We agree with this proposal, provided these charges were proportionate and in line with the additional work (if any) required of the local authority.

Were an additional charge to be requested, a full explanation of the additional costs needs to be included, so that the applicant can challenge or appeal the charges if they seem excessive. This is particularly relevant when staff time, as opposed to materials, is being costed and charged. This requires an accurate estimate of staff overheads, an issue that Ove Arup had concerns over.

Of course the not-for-profit rationale would still apply.

Q3.

Do you agree that local planning authorities should be able to set higher fees for retrospective applications?

It is not clear why retrospective applications should necessarily cost any more to administer and determine than any other type of planning application. The default position should be that the same fee as for other applications will apply. Only if the planning authority can demonstrate that higher costs will be incurred, and then itemize these higher costs to the satisfaction of the applicant, should the higher fee be levied.

Q4.

Are there any other development management services which are not currently charged for but should require a fee?

We accept that applications that currently do not attract a fee, should be charged an appropriate and proportionate fee, if only to recover basic administrative costs.

A similar argument might apply to “free-go” applications.

Q5.

Are there any other development management services which currently require a fee but should be exempt from charging?

Ove Arup’s research identified that one out of three local authority respondents charged for pre-application consultations. Turning this around, two out of three local authorities do not charge for pre-application consultations, presumably because they recognise the value of these discussions in helping to focus (and therefore prune) effort when the planning application is submitted. CLG should investigate why it is necessary for local authorities to charge for this service, a course of action that may deter developers from engaging in pre-application discussions, to the overall detriment of the planning process. If a charge is to be made, then it should be discounted from the subsequent planning application fee.

Q6.

What are the likely effects of any of the changes on you, or the group or business or local authority you represent?

We have indicated above our concern that an increase in fees will not necessarily result in an improvement in the planning service on offer, owing to the lack of any initiative from CLG to examine why some authorities are overspending, and how inefficiencies in the planning system can be removed.

In the present difficult economic climate when central funding to local authorities is under threat, our sector is likely to experience average increases at the top end of the range envisaged in the consultation document, ie 10-15 per cent, regardless of whether or not an increase is justified. Given that this is presented as an average increase, the possibility of waste management application fee increases being even higher cannot be discounted. Since this revenue stream is not ring-fenced, there is no guarantee that the additional fees will be spent on planning functions, rather than on bolstering the general coffers of the local authority.

At a time when the UK is in urgent need of capital investment to build a new generation of waste treatment facilities, and when the planning system is invariably identified as the key blocker to this investment, the UK is best served by a single fee structure that is applied nationally, is simple to understand, and is not burdensome for local authorities to administer. We again point to Ove Arup's findings that a locally set fee structure will land the local authority with higher administration costs.

Q7.

Do you think there will be unintended consequences arising from these proposals?

The underlying assumption in the question is that all local authorities are equally adept and efficient at processing their planning applications, and that any overspend (relative to the set fee) is due to local circumstances outside of the planning authority's control. This view is not justified by CLG in the consultation document, nor by the research conducted by Ove Arup, as we have outlined in our response to Question 1.

The first unintended consequence of the proposals is that allowing local authorities to set their own fees will remove any incentive to improve on inefficient practices when dealing with planning applications, and indeed inefficiency will become ingrained within the planning authority.

Other than being "encouraged" to set reasonable fees and "run a fair and efficient system", there is nothing more robust in the consultation document to ensure that fees are excessive or contain an element of profit. As a second unintended consequence, the likelihood is that complex, often politically unpopular applications will see a large increase in fees. This would be unjustified. If care is taken to ensure that the strategic planning framework is robust, there is no reason why at the site-specific planning stage, a plan-led complex application should be any more onerous to determine than for any other type of application, with costs fully recovered against a nationally set fee.

Q8.

Do you have any comment on the outcomes predicted in the impact assessment, in particular the costs and benefits?

The Policy Objective addresses the issue of recovering full and reasonable costs incurred by the local authority in determining planning applications, but does not address the case of local authorities who are currently underspending relative to the fee income received, and therefore by implication are profiting at the expense of developers.

The assertion in the impact assessment that the tax payer is "subsidising" planning applications which cost more for a local authority to administer than the fees received, is a bizarre interpretation of the role of strategic planning for economic development. Through strategic planning, developers are in effect "invited" by local authorities and their economic planners to invest in their area, bringing as they do regeneration, employment and significant secondary spin-off benefits to local businesses and the general community. Nowhere in the impact assessment is there an analysis of the benefits developers bring to a locality, relative to the so-called "subsidy" received from the tax payer via overspending local authorities.



Additional benefits brought to local communities by developers are those enshrined in S106 planning agreements, and works undertaken through the Community Infrastructure Levy. None of these benefits are acknowledged in the impact assessment and set against legitimate administrative overspends.

The impact assessment also perpetuates the underlying notion running throughout the consultation document, that overspending authorities are invariably running their planning service to the same level of efficiency and efficacy as the better-performing authorities.

This assumption is unjustified, as the underspending of many local authorities indicates, and nowhere in the consultation document is this issue examined. Indeed, in the light of the efficiency savings asked of CLG in other areas of local authority activity, this would have seemed an obvious question for the consultation document to ask, and for the impact assessment to address.