



Havering
LONDON BOROUGH

Notice of Non-key Executive Decision

Subject Heading:	Response to Consultation - Stronger performance of local planning authorities supported through an increase in planning fees
Decision Maker:	Graham Williamson, Cabinet Member for Development and Regeneration
Cabinet Member:	Graham Williamson, Cabinet Member for Development and Regeneration
SLT Lead:	Neil Stubbings, Director of Regeneration Programme Delivery
Report Author and contact details:	Simon Thelwell, Head of Strategic Development simon.thelwell@havering.gov.uk
Policy context:	Places Theme – Development is managed in a way that protects the borough’s character Resources Theme – The Council is financially resilient and provides value for money services to residents
Financial summary:	There are no financial implications or risks arising from the preparation of a consultation response itself. The proposals being consulted on would likely improve the income received by the Planning Service, but with additional resource requirements likely from the proposed new performance regime.
Relevant OSC:	Places
Is this decision exempt from being called-in?	Yes

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The subject matter of this report deals with the following Council Objectives

People - Things that matter for residents

Place - A great place to live, work and enjoy

Resources - A well run Council that delivers for People and Place.

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

1.1 As part of the Government's Levelling Up and Regeneration Bill which is currently going through the House of Lords, feedback that has been received is that the core planning application service is not consistently performing at the level it should and one of the root causes is, for many local planning authorities, an absence of adequate resources and capability. In recognition of the need to address this issue in order to maximise the benefits of the planned changes in the Levelling Up and Regeneration Bill and elsewhere, the government is consulting on a threefold strategy for addressing existing future resource demands on local authorities.

1.2 The three themes set out in the consultation are:

Financial Support – increasing planning application fees

Additional Resource – support for building planning capacity and capability within local planning authorities

Improved Performance – a broader set of quantitative and qualitative performance measures

1.3 An overview of the proposals set out in the consultation in respect of each of the themes is below:

Financial Support

- Increasing of planning fees for major applications by 35% and for all other applications by 25%. For example household application fees would rise from £206 to £258; major application fees (10-50 units) rising from £462 per new dwelling to £624 per new dwelling.
- Subject to views received, supporting additional fees for discretionary and bespoke services for example Planning Performance Agreements, Fast Track services.
- Annual increases of planning fees in line with inflation.
- Ringfencing of additional resources from fee increases.
- Doubling of fee for retrospective applications, other than for householder development.
- Removal of "free-go" for repeat applications, either with reduced or full fee

Additional Resource

- Design and delivery of a programme of support to build capacity and capability strategy across local planning authorities. Further research to be undertaken, but seeking views on ideas and good practice as part of this consultation

Improved Performance

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- Tightening the Planning Guarantee (fee refunded if no decision within 26 weeks), reducing the period to 16 weeks for all non-major applications.
- Excluding exclusion of applications with Extensions of Time or Planning Performance Agreements from speed of decision reporting.
- Including discharge of condition applications in speed of decision statistics
- New performance measures:
 - Average speed of decision making
 - Quality of decision making (appeals allowed)
 - Number of Extension of Times
 - Backlog – average time to validate applications; total number of cases beyond Planning Guarantee period
 - Enforcement – time to respond to reported breaches; time to take action; cases over 6 months old
 - Committee – percentage of committee decisions vs delegated; percentage of committee decisions to refuse against officer recommendation that are subsequently allowed at appeal.
- Measuring customer experience through a standardised customer satisfaction survey.

1.4 Full details of the proposals are set out in the Government's consultation page: [Technical consultation: Stronger performance of local planning authorities supported through an increase in planning fees - GOV.UK \(www.gov.uk\)](https://www.gov.uk/consult/technical-consultation-stronger-performance-of-local-planning-authorities-supported-through-an-increase-in-planning-fees)

1.5 The consultation opened on 28th February 2023 and will close on 25th April 2023. The consultation response takes the form of 22 questions, covering all the proposed changes.

1.6 This Executive Decision sets out a proposed response to the consultation comprising (Appendix A) with individual answers to the consultation questions.

Recommendation

1.7 This report recommends the proposals set out in the consultation on changes to planning fees, resources and performance are noted and that the proposed consultation response set out in Appendix A is approved for submission to DLUHC.

AUTHORITY UNDER WHICH DECISION IS MADE

Authority for this decision is contained within Part 3, Section 2.5 of the Constitution which delegates the following responsibility to individual Cabinet members

- b) Where there are implications for policies of the Council, to agree members of staff's responses to consultation papers from:
- (i) the Government (including White and Green papers)

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STATEMENT OF THE REASONS FOR THE DECISION

To provide the Council's response to the Government's consultation on proposed increases in planning fees and changes to performance measures.

OTHER OPTIONS CONSIDERED AND REJECTED

The option of not responding to the consultation was considered and rejected. It is important that the interests of Havering's residents and businesses are represented at national level when changes to the planning system are being considered.

PRE-DECISION CONSULTATION

None

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Simon Thelwell

Designation: Head of Strategic Development

Signature:



Date: 24th April 2023

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Department for Levelling Up, Housing and Communities (DLUHC) is consulting on changes to planning fees and additional performance measures. There are no legal implications or risks arising from the preparation of a consultation response to the consultation.

The proposed changes to the performance measures, if introduced, would increase risks of Council's being designated for poor performance with consequent result that developers can choose to apply to the Planning Inspectorate and the local planning authority not involved in the decision making.

FINANCIAL IMPLICATIONS AND RISKS

There are no financial implications or risks arising from the preparation of a consultation response.

The proposed increases in fees should result in increased income if application numbers remain as existing. Maintaining satisfactory performance against any new measures may have resource implications, the financial impact of which will be considered as part of further decision papers.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

There are no direct HR implications in respect of responding to the consultation.

Should the performance measures as outlined be implemented, there may be future needs to assess existing staff resource and structures.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- 1.The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- 2.The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- 3.Foster good relations between those who have protected characteristics and those who do not.

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Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, sexual orientation.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

An Equalities Assessment is not considered necessary as there are no equalities and social inclusion implications arising directly from the Council's response to the Government's consultation on changes to planning fees, resourcing and performance.

The proposals within the consultation document do have potential implications for equalities and social inclusion and appropriate responses have been included in the Council's comments (see Appendix A). The consultation document does not appear to be accompanied by an Equalities Assessment, although Q13 asks for suggestions on ways of encouraging people from under-represented groups, including women and ethnic minority groups, to become planning professionals. Q22 also touches on potential impacts that may arise under the public sector Equality Duty. The Council's response to the consultation includes commentary on under-representation in the planning profession. The response also states that a full EQIA of the proposals should be undertaken

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

There are no environmental or climate change impacts from this decision. The recommendations made in this report do not appear to conflict with the Council's policy on Environmental and Climate implications.

BACKGROUND PAPERS

None

APPENDICIES

Appendix A London Borough of Havering response to the Consultation Questions

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

Signed



Name: **Councillor Graham Williamson**

Cabinet Portfolio held: Development and Regeneration

CMT Member title:

Head of Service title

Other manager title:

Date: 24th April 2023

Lodging this notice

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____

APPENDIX A

Response to Fees and Performance Consultation

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

Yes/no/don't know. Please give your reasons.

No

This should be the minimum fee increase. The suggested £624 per dwelling would only be slightly more than CPI increase from the fees set in 2018 (£462, CPI increases to £558) and therefore the additional income (compared to 5 years ago) to resource the improvements to the planning service would be limited.

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

Yes/no/don't know. Please give your reasons.

No

This should be the minimum fee increase. The suggested £258 fee would only be slightly more than the CPI increase from the fees set in 2018 (£208, CPI increases to £251) and therefore the additional income (compared to 5 years ago) to resource the improvements to the planning service would be limited.

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/no/don't know. Please give your reasons.

No

This should be the minimum fee increase. The suggested fees would only be slightly more than the CPI increase from the fees set in 2018 and therefore the additional income (compared to 5 years ago) to resource the improvements to the planning service would be limited.

Certain application types are very resource intensive and a 25% increase would not reflect the work involved. Of particular concern are:

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Outline and Reserved Matters Applications: Currently the fee is based on site area, but this does not reflect the complexity or intensity of the development being proposed. The amount of work involved in an outline application is not significantly less than an application for full planning permission. Where all or most matters are reserved, the outline application is the only opportunity to apply relevant conditions, legal agreements and have sufficient information to adequately influence the reserved matters application(s) should permission be granted – this takes a significant amount of work. Applicants often submit applications with only one matter reserved (e.g. landscaping) such that all the information submitted is equivalent to a full planning application – it is assumed that the reason for this is that if permission is refused, the initial outlay through the fee paid for the determination is significantly less. It is therefore suggested that the outline fees should be amended to more closely reflect the quantum of development being sought and reserved matters can be a lower per dwelling/floorspace fee.

S73 Applications: The amount of work involved in these applications can vary enormously. Where major development has not commenced or completed, applications to make changes to the proposal can raise significant issues that need detailed consideration, including review of legal agreements and all conditions which often need significant rewording due to having been fully or partly discharged previously. £116 (or +25% of £145) does not come close to the work involved. It is suggested, that where the development granted planning permission has not been commenced or completed, that the fee be increased significantly, also linked to the size of the development.

Material Changes of Use of Buildings/Land: For large buildings or sites, the fee of £462 does not reflect the work required to assess the application. Examples where such low fee has been paid includes, change of use of land to open storage; change of use of buildings to HMO; change of use of building to place of worship. It is suggested that the fees for changes of use of land or buildings over a specified size be based on the site or floor area.

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 - please explain / No.

Yes

Prior Approval – Part 16 Telecommunications – Such applications can often prove to be controversial and difficult to deal with effectively in the limited timescale for determination. Meaningful pre-application discussions would be beneficial to achieving the best outcome for proposals for new or amended masts, however the operators and/or their agents seem to be unwilling to pay for such services. It is suggested that the fee be increased significantly to resource applications where no use of a pre-application service has been made.

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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?

Apart from Planning Performance Agreements, due to resourcing issues, we have not been able to introduce any other bespoke or fast track services.

Properly resourced, and not at the expense of the efficient and timely handling of other applications, the offer of fast track application determination for a higher fee would be beneficial for applicants. The additional fees could be used by LPAs to establish a dedicated fast track team. Examples would include faster determinations in respect of Certificate of Lawfulness of Proposed Developments, Householder applications, Applications for Advertisement Consent relating to business premises.

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

Yes/no/don't know. Please give your reasons.

Yes

The costs of the planning service increase due to inflation and it is only right that fees similarly increase.

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/no/don't know. Please give your reasons.

Yes

Ring-fenced fees will enable better resource planning based on forecasting.

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/no/don't know. Please give your reasons.

Yes

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It is not clear whether this will act as a disincentive to those who carry out development without the requisite consents in place. However, the additional fee will help with resourcing the Planning Enforcement function.

The proposal does raise the issue of where applications are submitted, but it is not declared on the form that the application is retrospective. In such cases, it is suggested that the LPA can make the application invalid based on incorrect fee being paid.

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

- (a) removed**
 - (b) reduced for re-applications within 12 months**
 - (c) retained**
 - (d) none of the above**
 - (e) don’t know**
- Please give your reasons.**

(b) reduced

There is an observed tendency for applicants to submit applications rather than engage with pre-application discussions with the knowledge that any issues raised by a refusal can be addressed by resubmitting without a fee. It could be argued that the amount of work required by the LPA in dealing with a resubmission is less and therefore a reduced fee would appear to be appropriate.

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?

Yes/no/don’t know

Don’t know. We do not have any of these sites.

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

The greatest skills gaps are:

Senior/principal level in development management (including enforcement) with experience of complex and/or major proposals; representing the Council at appeal, particularly public inquiries and mentoring more junior planners.

Sustainability/Energy expertise

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Viability expertise

Biodiversity expertise

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?

Please provide examples of existing good practice or initiatives if possible.

Grant funded positions for certain specialists within planning departments

Due to the limited number of complex issues, it may not always be necessary to have establishment posts to provide particular expert advice. However, this creates issues when advice is required. It would be good to have a national register of specialists either in public or private sector who can be engaged via a framework, rather than traditional procurement, to call upon for specific applications or provide training to officers dealing with applications.

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

Encourage uptake in apprenticeships.

Promotion by PAS of planning as a career, reaching out to schools, FE colleges and universities.

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?

Yes/no/don't know. Please give your reasons.

No

This would have an unintended consequence that planning applications would be refused before the guarantee deadline when some negotiation could lead to amendments being made and approval. Often, amendments need to be re-notified to neighbours and/or consultees and this adds to the determination period.

The length of time that a planning application takes to determination is not solely in the gift of the LPA. Applicants/agents are often slow to respond to

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requests for further information or correction of errors in plans/statements. Where there is a need for a S106 legal agreement, often it can take weeks or months for the applicant to respond to draft agreements – it is often not in the applicant's interest to complete as they are content for the 3-year life of a planning permission to start at a later date.

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?

Yes/no/don't know. Please give your reasons.

No

Extensions of time and PPA's, when used properly, allow for a proposal to be made acceptable and planning permission granted. The effect of excluding will be a refusal in many cases, leading to increases in appeals and delays to the development process. It would be better to set expectations on the percentage of EFA's, above which further investigation into the performance record of the LPA and possible sanctions could be instigated.

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

- (a) Major applications - Yes / no / don't know**
- (b) Non-Major applications (excluding householder applications) - Yes / no / don't know**
- (c) Householder applications - Yes / no / don't know**
- (d) Discharge of conditions - Yes / no / don't know**
- (e) County matters applications - Yes / no / don't know.**

(a) Yes

(b) Yes

(c) Yes

(d) Yes

(e) No – except for County Council's. In most Unitary authorities the number of county matter applications determined is so low that separating out this performance is in most cases a statistical anomaly. County matters in unitary authorities should be categorised within the Major or non-major application category as appropriate.

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

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Yes/no/don't know. Please give your reasons and, if appropriate, state the metric letter(s) and number(s) that you believe should not be included.

Yes

A.5. – For reasons stated at question 16 (e), County matters should only be considered separately in County Councils.

D.2 – A total number is meaningless unless it is compared to the total number of cases undetermined.

E.2 – A decision that it is expedient to take action may not mean that action is inevitable – it would be reasonable to request that the unauthorised development is ceased or removed in a certain period before serving formal notices. Such period would depend on the nature of the case. If adopted, there would need to be a clear definition of what “having decided it is expedient to do so” and how this is recorded – there may not be such a facility on many planning enforcement back office systems.

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

Yes / no / don't know. Please indicate what additional quantitative metrics you consider should be included.

Yes

It would be useful, at least as a comparative tool, to have the following:

- Average case load per DM officer
- Average response time of statutory consultees

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

Yes/no/don't know. Please give your reasons.

Yes – provided the questions are standard and can be categorised as to whether the customer was an applicant/agent/made representation for a refused or approved application.

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

No comment

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

No comment

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?

The consultation should be subject to an equality impact assessment – there does not seem to be one undertaken.