

EXPLANATORY MEMORANDUM TO
THE TOWN AND COUNTRY PLANNING (FEES FOR APPLICATIONS AND DEEMED APPLICATIONS) (AMENDMENT) (ENGLAND) REGULATIONS 2008

2008 No. 958

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

The memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1. This instrument makes amendments to the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 (SI 1989/193) (“the 1989 Regulations”). It increases the level of fees payable to local planning authorities in England for planning applications, deemed planning applications, and applications for consent to display advertisements, made on or after 6 April 2008. It creates a new fee for a Request for confirmation of compliance with conditions. It also removes the obsolete fee for an application to renew a planning permission, which is no longer possible.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. The 1989 Regulations were made under powers in section 87 of the Local Government, Planning and Land Act 1980 and related to applications made or deemed to have been made under provisions of the Town and Country Planning Act 1971. That section and those provisions were repealed as part of the consolidation of the planning legislation in 1990.

3.2. By virtue of section 2 of the Planning (Consequential Provisions) Act 1990, the 1989 Regulations have effect as if they had been made under section 303 of the Town and Country Planning Act 1990 and relate to applications made or deemed to have been made under provisions of that Act. The current draft Regulations are made under section 303, which was amended by section 53 of the Planning and Compulsory Purchase Act 2004.

3.3. Revocation of the redundant paragraph 7B of Part 1 of Schedule 1 to the 1989 Regulations is also proposed. That is because, with effect from 24 August 2005, Statutory Instrument 2005 No. 2081 brought into force section 51 of the Planning and Compulsory Purchase Act 2004. Subsection (3) of that section amended section 73 of the Town and Country Planning Act 1990 by inserting a new subsection (5), with the effect of bringing to an end to the ability of a developer to extend the duration of an unimplemented planning permission by means of the renewal procedure formerly available under section 73.

3.4. The Government acknowledges that the 1989 Regulations are in need of consolidation, but work on other more urgent reforms to the planning system has meant that consolidation has not been practicable in the last few years. If the present proposed fee increases are approved, it is hoped to schedule the task of consolidation to coincide with a review of the impact of the increases in 2009. The Government is in any event committed to holding discussions in 2008/09 with the Local Government Association and other stakeholders on how the planning system should be resourced in future. Meanwhile, there would be serious consequences (discussed below) for local planning authorities if they do not achieve greater recovery of their costs with effect from the next common commencement date, 6 April 2008. It is vital to sustain the many improvements to processes,

staffing and IT which local planning authorities have shown, as well as maintaining their day-to-day performance on application-handling and decision-making.

4. Legislative Background

- 4.1. Section 303 of the Town and Country Planning Act 1990 empowers the Secretary of State to make regulations to prescribe planning fees for applications made to local planning authorities under that Act by means of regulations subject to draft affirmative resolution.
- 4.2. The 1989 Regulations provide for the payment of fees to local planning authorities in respect of applications made under the Town and Country Planning Act 1990 for planning permission for development or for approval of matters reserved by an outline planning permission; for lawful development certificates; for consent for the display of advertisements; for prior approval where required under the Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418); and for applications for planning permission which are deemed to have been made in connection with an appeal against an enforcement notice.
- 4.3. The draft Regulations increase fee levels prescribed by the 1989 Regulations as amended, raise the maximum fees payable in certain circumstances, and introduce a new fee of £85 (or £25 for householder applicants) for a Request to a local planning authority for confirmation of compliance with one or more conditions imposed on a planning permission.
- 4.4. With the exception of applications for alterations to dwellings or their curtilage, it is proposed to raise application fees by 25%. Thus, an outline proposal to build a factory or shop would go up from £265 to £335 for each 0.1 hectares of the site. For householder applications in Fee Category 6 or 7a, the increase would be 11%; that is, from £135 up to £150. It is not considered appropriate that homeowners should have to face the full 25% increase when applying to improve their dwellings.
- 4.5. The Regulations would, however, introduce a much larger increase for the maximum fees stipulated in certain Fee Categories. The consultation proposal in 2007 to abolish the fee ‘caps’ altogether was dropped. Instead, the intention is to raise these maxima, as follows. For an application for outline planning permission within Fee Category 1, 2, or 3, the maximum fee would be £125,000; for an application for full permission for development in Fee Category 1, 2, 3, 5, 8, 9(b) or 10, the maximum fee would be £250,000; and for an application in Fee Category 9(a) or 11 the maximum fee would be £65,000. The maximum in total which is provided for in Regulation 10A, paragraph 6(b) – in respect of applications for change of use to use as more than fifty dwellinghouses - would rise to £250,000. In Part I of Schedule 1 to the Regulations, the fee cap specified at paragraph 15(2)(b) – that is, for applications for outline permission for mixed category development - would be increased to £125,000.
- 4.6. The draft Regulations substitute new scales of fees in Part II of Schedule 1 and Schedule 2 to the 1989 Regulations.
- 4.7. No change is proposed, however, to the fees for monitoring mining and landfill sites, which were set in 2006.

5. Territorial Extent and Application

- 5.1. This instrument applies in relation to England only.

6. European Convention on Human Rights

- 6.1. Iain Wright MP (Parliamentary Under-Secretary in the Department for Communities and Local Government) has made the following statement regarding Human Rights:
- 6.2. “In my view the provisions of the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2008 are compatible with the Convention rights.”

7. Policy background

- 7.1. Kate Barker in her *Review of Land Use Planning* of 2005 included a recommendation that the £50,000 threshold for fee payments be raised on a tapered basis; that applicants be allowed to pay for a premium service or to pay for additional resource/consultants to advance the consideration of their applications; and that some form of Planning Delivery Grant be retained. Communities and Local Government commissioned from Ove Arup & Partners Ltd (with Addison Associates) the research that was published in May 2007 on the website www.communities.gov.uk as *The Planning Service: Costs and Fees*.
- 7.2. The implications of that report led to the issue, also in May 2007, and as a daughter document to the Planning White Paper *Planning for a Sustainable Future*, of the consultation document *Planning Fees in England: Proposals for Change*. Consultation ended on 17 August. As well as local planning authorities in England, the consultation involved key stakeholders in industry, planning professionals and amenity groups. A summary of responses to the consultation, including statements of the Government’s intentions, was published on the website www.communities.gov.uk¹ on 27 November.
- 7.3. For example, of the 251 respondents, 129 were in favour of a general increase in fees of at least 25%, which was one of the proposals. These were mainly planning authorities. The figure of 25% was at the lower end of the income the authorities considered viable. They also generally supported the notion of a new fee for confirming in writing that a developer had complied with conditions imposed on a planning permission.
- 7.4. Business respondents, on the other hand, were generally opposed to any increase beyond that required to match inflation since the last increase in 2005. However, it has long been the Government’s policy to move towards full cost recovery from planning fee income, so that the developer, not the council tax payer, funds the operation of the planning system. The Government’s intention is therefore that fees rise gradually to a level at which income from them can provide sufficient recovery of costs to resource the planning service adequately², enabling planning applications to be processed effectively and efficiently and existing improvements in performance by most local planning authorities to be sustained. That aim of assisting local planning authorities to achieve full cost recovery is the reason the increases need to do more than catch up with costs inflation in the period 2005-2008.
- 7.5. As a consequence of the research findings, analysis of the responses to the consultation, and further reflection, the Government is now seeking approval for some of its original consultation proposals, and not others.
- 7.6. Approval is sought for:

- a general fee increase of 25%;

¹ *Planning Fees in England: Proposals for Change - Government response to consultation replies* is accessible at www.communities.gov.uk/documents/planningandbuilding/pdf/564596

² though not, as yet, planning enforcement activities, which local authorities must continue to fund from their own resources.

- a much smaller rise of 11% for householder applications;
- a new maximum fee of £65,000 for minerals and waste development applications;
- a new maximum fee of £250,000 for any other application for full permission; and
- a new fee for a Request for confirmation of compliance with planning conditions.

7.7. The effect of the increase in basic fees, if approved, would be an overall increase of some 23%. That, it is estimated, would raise an additional £65M in revenue for local planning authorities in 2008/9, which is the amount the research team forecast would be the deficit if the increases are not approved. (There are too many variables to allow inclusion in this percentage estimate of the effect of increasing the maxima (see 4.5, above). Only a small minority of proposals attract a maximum fee.)

7.8. Several ideas consulted on in 2007 have been amended, dropped or postponed:

- as noted above, a proposal to abolish fee maxima altogether was abandoned;
- following representations from the minerals industry and the CBI, which emphasised the low return obtainable from mining and quarrying products in relation to likely site area, a different maximum fee for an application for minerals or waste development in Fee Category 9a or 11 is now proposed, rising to £65,000 instead of the £250,000 otherwise proposed;
- the proposal to widen the scope of fees to cover a ‘premium’ service is not being pursued because of widespread objections; and
- the possibility that local planning authorities could set fee levels themselves in future is not being taken further, but the Government has agreed to discuss that and other future resourcing arrangements with the Local Government Association and other stakeholders when a review of the effects of the present increases is carried out.

7.9. If the draft Regulations are approved, Communities and Local Government will publish an explanatory Circular, *Planning-related fees*, to accompany the changes. Existing DoE Circular 31 of 1992 is obsolete.

8. Impact

8.1. A Regulatory Impact Assessment accompanies this memorandum. In essence, the impact on the public sector is to raise an additional £65m in planning fees (to avoid a deficit) and to increase levels of fees such that they largely achieve recovery of costs.

9. Contact

Alan Scott at the Department for Communities and Local Government (tel: 020 7944 3943; alan.scott@communities.gsi.gov.uk) can answer queries regarding the Regulations.

Summary: Intervention & Options

Department /Agency: Communities and Local Government	Title: Impact Assessment of Amending Planning Fee Regulations by Statutory Instrument, 2008	
Stage: Final	Version: 2	Date: 22 January 2008
Related Publications: Planning Fees in England: Proposals for Change - Government response to consultation replies		

Available to view or download at:

<http://www.communities.gov.uk>

Contact for enquiries: Alan Cornock

Telephone: (3533) 3938

What is the problem under consideration? Why is government intervention necessary?

Need to increase the planning fee income of local planning authorities in England, to avoid forecast deficit and sustain recent improvements in handling applications.

What are the policy objectives and the intended effects?

To take a further step towards full cost recovery in the planning system, and remove the current shortfall between income from planning application fees and the costs of operating development control. Government policy is that developers rather than local taxpayers should meet the cost of processing planning applications.

What policy options have been considered? Please justify any preferred option.

In the public consultation 'Planning Fees in England: Proposals for Change' (May to August 2007), a number of proposals for changes to the 1989 Planning Fees Regulations were put forward, from a 40% increase to a 25% increase. It was also proposed to shield householders from the full increase. Because of objections, the maximum fee chargeable for certain types of application will not now be abolished (another option), but will be raised instead. The option preferred (see Summary cited above) is for an overall 23% increase, with an 11% increase for household applications.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? early 2009

Ministerial Sign-off For SELECT STAGE Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Iain Wright

.....Date: 30th January 2008

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' If planning applicants are to cover the direct costs of the planning service, they need to pay £290 Million per year, an increase of 25% on 2005 when fees were last fixed. Because of reduced householder fees, actual overall increase will be 23%, providing an additional £65M pa in fees.			
	One-off (Transition) Yrs		£ 0		
	Average Annual Cost (excluding one-off)		£ 65M	Total Cost (PV)	£ 65M
	Other key non-monetised costs by 'main affected groups'				

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' An efficient, adequately resourced local planning service will help applicants cut costs by reducing delay and increasing the predictability of decisions and timing, with monetary benefit especially for business developers.			
	One-off Yrs		£ 0		
	Average Annual Benefit (excluding one-off)		£ n/k	Total Benefit (PV)	£ nyk
	Other key non-monetised benefits by 'main affected groups' Continuing improvements to efficiency and range of planning services offered by local authorities				

Key Assumptions/Sensitivities/Risks The Statutory Instrument to amend the current Fees Regulations requires approval by both Houses under affirmative resolution. If the increases do not go ahead, local planning authorities would have an overall deficit in 2008-09 of some £65 Million, leading to a decline in service and staffing, and more delay for developers

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?	England			
On what date will the policy be implemented?	6 April 2008			
Which organisation(s) will enforce the policy?	Local councils			
What is the total annual cost of enforcement for these organisations?	£ 0			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	No			
What is the value of the proposed offsetting measure per year?	£ 0			
What is the value of changes in greenhouse gas emissions?	£ N/A			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of	£ 0	Decrease of	£
		Net Impact	£ 0

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

1) The documents

The figures used in last year's consultation exercise were based on the research report 'Planning Costs and Fees' [DCLG, May 2007] by Ove Arup & Partners with Addison & Associates, which may be found at:

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/564596>

The consultation document, now archived but still accessible on the DCLG website, was 'Planning Fees in England: Proposals for Change' [DCLG, May 2007]

The analysis and statement of the Government's intentions is 'Planning Fees in England: Proposals for Change - Government response to consultation replies' [DCLG, November 2007], published on the DCLG website.

2) The narrative

PLANNING FEES IN ENGLAND: PROPOSALS FOR CHANGE

Objective

1. The proposal to amend the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 by means of a statutory instrument is intended to increase the fee income for local planning authorities, in order to more closely reflect the costs of the development control service. The scope of fees would be slightly broader in that one additional service – written confirmation of compliance with planning conditions – could in future be offered by authorities for a fee. We expect an increase in quality of services as a result of the increase in resources, and this will be monitored by Communities and Local Government.

Background

2. Fees for planning applications are currently set out in the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 as amended. Most current fee levels date from 1 April 2005, when SI 2005 No.843, *The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2005*, came into effect.
3. Section 53 of the Planning & Compulsory Purchase Act 2004 amended Section 303 of the Town and Country Planning Act 1990 to widen its scope. It allows for a local planning authority to charge in respect of any of its functions or matters ancillary to them. The section provides for the Secretary of State by regulations to prescribe a fee or charge or the means of calculating a fee or charge.
4. Research carried out as part of a review of fees (published in May 2007) found that costs associated with fee-related development control were higher than the fee income for such applications by between £58 million and £135 million. It also found that fees for the largest

applications fell furthest short of intended cost recovery³. The report recommended that fee increases of at least 25 per cent be introduced to achieve cost recovery and improve planning resources.

5. The present shortfall has two causes. First, current fee levels are based on a cost assessment undertaken in 2003, and they now need to reflect cost inflation over the subsequent years. Second, local planning authority workload has risen sharply, with significant increases in both fee-paying application numbers and the work required on individual applications. As a consequence there has been an increase in the absolute level of costs that have not been recovered.
6. Over the last 5 years there has been a significant improvement in performance. 70% of major applications are now handled within 13 weeks, and 75% of minor and 87% of other applications within 8 weeks. This is a substantial improvement in efficiency compared to 2001/02 (when the proportions were 43%, 53% and 70% respectively) and has been achieved despite a 13% increase in the number of applications over that period.
7. Furthermore, there are now 277 authorities – 75% of all councils – meeting all three national targets for deciding planning applications on time, in comparison to 6% in the year-ending December 2002.
8. Fee increases are integral to the package of resource improvement for planning. The fee régime provides a long-term mechanism to ensure that authorities continue to receive proper resource for fee-related development management.
9. Separate powers for authorities to make charges to help recover costs on non-fee related activities, such as pre-application discussion and advice, are available under section 93 of the Local Government Act 2003. These allow a charge to be made for any ‘discretionary activity’. A number of authorities use this power to charge for pre-application advice, and this will be further encouraged in the context of Planning Performance Agreements in respect of large-scale major applications⁴.

Rationale for Government Intervention

10. If planning fees are not increased, authorities will continue to fall short of cost recovery on fee-related planning functions. Research has indicated that the shortfall between the planning fee income and local planning authority costs would be in the region of £65 million in 2008-09.
11. For some years there has been reluctance to increase fee levels fully to meet the cost of the fee related service because of the perceived poor standard of local authority performance. However, without the necessary resources, local authorities have been unable to attract and retain suitably qualified staff and improve delivery.
12. For the last five years, Planning Delivery Grant has partly bridged the gap between fee income and cost of service. Planning Delivery Grant has brought significant improvements in service delivery, as set out in paragraphs 7 and 8 above, but this grant régime is now in its final year. The issue of planning fees needs to be addressed soon if the reported improvements are to be maintained.

³ Arup with Addison & Associates: *Planning Costs and Fees* (Communities and Local Government, 2007). Figures in this RIA are based on the findings of this research.

⁴ Good practice guidance on Planning Performance Agreements is to be published in February 2008 on atlasplanning.com, the website of the Advisory Team for Large-Scale Applications.

Consultation

Within Government

13. All Government Bodies have been consulted on the proposals.

Public consultation

14. A full public consultation was carried out between 17 May 2007 and 17 August 2007. Meetings about the consultation proposals have also been held with specific groups and representatives, for example the Local Government Association, the CBI and small businesses.
15. Overall there were a total of 251 responses, of which 146 were from local planning authorities, 6 were from governmental agencies, and 100 were from others including businesses, organisations of planning professionals and individuals.
16. Only 27% of respondents agreed with the proposal that fees should be increased by 25%, compared to 51% who opposed it. However, out of that 51% registering opposition, 39% opposed inasmuch as they felt the 40% increase was a more appropriate response to the gap in local planning authority resources. Almost all local planning authorities felt that 25% was not enough to cover the cost of handling applications.
17. Many businesses, on the other hand, felt that any above-inflation increase was unjustified, being unlikely (in their contention) to be accompanied by improvements in the quality of service provided by local authority planning departments. 13% of respondents opined that 25% would be an excessive increase.
18. A summary, *Planning Fees in England: Proposals for Change - Government response to consultation replies*, was published on 27 November and is on the web at www.communities.gov.uk/documents/planningandbuilding/pdf/564596

The Proposal

19. The proposed amendment to the Fees Regulations would maintain the current fee structure, increase most fees by 25 per cent, raise the maxima imposed on certain fee categories, but limit the increase in respect of householder applications. In sum, the proposals would:
- keep the increase for householder applications down to 11%, increasing the fee from £135 to £150;
 - increase the maximum fee cap for minerals and waste applications (currently £50,000) to £65,000;
 - increase the maximum fee cap for other types of development (currently £50,000) to £250,000; and
 - introduce a new fee for a Request for confirmation of compliance with planning conditions.
20. Increasing the fee cap (currently £50,000) to £250,000 would affect only a small number of applications, but it is precisely those applications which are thought to have the lowest level of fee recovery compared to the amount of work they generate for local planning authorities. It is not possible to accurately calculate the additional income as it will depend on the nature and type of application. However an estimate of £25 million has been

assumed based on the number and type of major applications. It should be noted that developers are already making voluntary contributions specifically on major applications and therefore this figure should not be seen as a whole new burden and so only 50% has been applied.

21. One entirely new fee is proposed: for a 'Request for confirmation of compliance with conditions'. When a condition has been imposed on a planning permission, the developer in a particular case may wish for confirmation in writing, and within six weeks, that certain conditions have been fulfilled to the satisfaction of the local planning authority. The fee would be payable on submission of the request which could cover any number of conditions on the same permission. Fee amounts would be: a) in respect of conditions imposed on a planning permission to extend or alter a dwellinghouse, or to carry out other development in the curtilage of a dwellinghouse, £25; or b) in respect of any other conditions imposed on a permission, £85. The fee would be payable on submission of a request for the authority to discharge any number of conditions imposed on the same permission within six weeks of receipt of the request.

Benefits

Planning authorities

22. The proposals are expected to raise an additional £65 million, compared to current fee income of around £232 million and estimated fee-related development control costs of £290-£365 million. Overall, this would achieve around 80% cost recovery of the upper end of the cost of fee related development control.

Non-Business planning applicants

23. The cost to householder applicants would be less significant as the proposed increase is in line with inflation. An application in that category would go up from £135 to £150. The individual applying for full permission to build a house would pay £335 for each 0.1 hectare of the site instead of £265. However, this still represents only a tiny proportion – some 0.5% - of the overall cost of a construction project.

Business sector applicants

24. Planning fees represent 0.25% of the total cost of construction. With the projected fee increase this would still only rise to 0.32% based on the cost of construction in 2006. Therefore planning fees would remain low relative to the value of development and the costs of professional advisers used particularly on major development projects.
25. Many major developers already fund staff time in local planning authorities, in order to achieve the quality outputs they need. The shortages of resources are widely acknowledged by the private sector⁵, so there is a recognised need for extra resources to deal with handling planning applications.
26. It is thought that less than 0.5 per cent of all applications currently attract the maximum fee. That is about 3,000 applications per annum. But it is precisely these applications which are thought to have the lowest level of fee recovery compared to the amount of work they generate for local planning authorities. Hence the proposal that the fee cap be raised from £50,000 to £250,000 for all except minerals and waste development applications; that the maximum fee for applications for minerals and waste development increase to £65,000; and that the maximum for outline applications should go up from £25,000 to £125,000.

⁵ Arup with Addison & Associates: *The Private Sector Perspective on Development Control in the context of Planning Delivery Grant 2005-06: Supplementary Report* (September 2006), on the web at www.communities.gov.uk

Such increases in the costs of planning would be greater for those submitting applications at the upper end of the spectrum (i.e. developers of major sites). However, any additional burden would be expected by Communities and Local Government to translate into further improvements in service delivery by local planning authorities, especially if they and the proponents of large-scale major development avail themselves of the new arrangements for Planning Performance Agreements, in which charges under section 93 of the Local Government Act 2003 can be made, on top of the statutory planning fee.

27. The fees for monitoring mining and landfill sites, fixed in 2006, will not change on this occasion.

Issues of equity and fairness

28. The amendments do not fall differentially on any sections of the community – as all sections currently pay for planning applications except in certain cases relating to disabled people, parish councils and non-profit organisations.
29. Small business applications would continue to cross-subsidise the larger applicants but the proposed changes would increase revenue while reducing the disparity and cross-subsidy between sizes of applications and fees charged.
30. To meet Hampton Principle 5, a revised guidance circular is to be published in April.

Race Equality Assessment

31. The race equality impacts of the proposed amendments to the Fees Regulations have been assessed and it is felt that they would not lead to a disproportionate impact on any particular racial group.

Costs

32. No additional costs for compliance. Local planning authorities already collect the fees set out in the 1989 Fees Regulations as amended, and higher amounts will impose no new burden.

Implementation

33. Each of the proposals would fall broadly within the existing regulatory function of local authorities, but could require them to amend guidance material and give advice on changes to fees. Costs would be low-level.

Environmental and Social Costs

34. We foresee no significant adverse impacts on the environment, public health or the countryside associated with any of the Proposals. No significant negative social impacts are expected to arise from any of the Proposals.

Unintended consequences

35. In theory, charging higher fees could encourage applicants to undertake unauthorised development to avoid the costs of applying for planning permission. Alternatively, higher fees might deter certain low value developments coming forward.
36. However, neither is thought valid. There is no evidence that past application fees served as an incentive for unauthorised development or disincentive to development.

Consultation with small businesses

37. In 2005/06, the Department commissioned Arup with Addison & Associates to investigate the private sector view of the planning service, on a basis approved by the Small Business Service. The Confederation of British Industry, the Home Builders Federation and the British Property Federation, together with 1,000 businesses were invited to take part in a survey and invited to attend workshops. A final report, *The Private Sector Perspective on Development Control in the context of Planning Delivery Grant 2005-06: Supplementary Report* was published in September 2006. One of the key findings was that the main issue to address was planning service resources, in particular the overall shortage of planners in LPAs, especially those with experience. A copy of the report can be downloaded from the DCLG website. Many businesses also contributed to the 2007 consultation; their views were taken into account (eg. the minerals industry's successful opposition to the proposal to abolish the maximum fee cap).

Competition assessment

38. The competition assessment filter has been applied. We do not believe 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 a rise in fees.

Enforcement and sanctions

39. The rules governing the Standard Application Form, being introduced in 2008, will mean that failure to submit the correct fee with an application means that the local planning authority would refuse to begin the process of considering the proposal. That means no enforcement costs as such. The only remedy in cases of dispute about a fee is when it can be made a preliminary matter to an appeal to the Secretary of State on grounds of non-determination.

Monitoring and review

40. We have given an undertaking to the Local Government Association that, in discussion with them and other stakeholders, we will review the impact of the present increases after a year or so. We also intend to consolidate the legislation at that point.

Consultation

41. This Assessment takes into account not only the independent research but also the responses, now published on the Communities and Local Government website, to the formal consultation with stakeholders of the planning system which was carried out between May and August 2007.

Summary and recommendation

42. The overall 23% increase now proposed, including an 11% rise for householder applications, a 25% increase for all other applications, and a raising of the fee maxima from £50,000 to £250,000 (or £65,000 for minerals and waste development) has been estimated to yield an additional £65 million.

43. The new fee for a 'Request for confirmation of compliance with conditions' would be payable on submission of the request which could cover any number of conditions on the same permission. Fee amounts would be: a) in respect of conditions imposed on a planning permission to extend or alter a dwellinghouse, or to carry out other development in the curtilage of a dwellinghouse, £25; or b) in respect of any other conditions imposed on a permission, £85. The estimated yield is up to £10 million a year.

44. Unless planning fee income is increased with effect from April, the shortfall for local planning authorities is estimated to be some £65 Million, accompanied by a declining quality of service.
45. Accordingly, in the absence of any new burden and in the light of the commissioned research and the responses to last year's consultation, it is recommended that, subject to the approval of Parliament, the draft SI 2008 No. XX pass into law.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	Yes
Small Firms Impact Test	Yes	Yes
Legal Aid	No	Yes
Sustainable Development	Yes/No	Yes
Carbon Assessment	No	Yes
Other Environment	Yes	Yes
Health Impact Assessment	Yes	Yes
Race Equality	Yes	Yes
Disability Equality	Yes	Yes
Gender Equality	Yes	Yes
Human Rights	Yes	Yes
Rural Proofing	Yes	Yes

Annexes

The documents forming the evidence base are too long to include as Annexes, but can readily be found on the website www.communities.gov.uk. They comprise:

i) The figures used in last year's consultation exercise were based on the research report 'Planning Costs and Fees' [DCLG, May 2007] by Ove Arup & Partners with Addison & Associates, which may be found at:

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/564596>

ii) The consultation document, now archived but still accessible, was 'Planning Fees in England: Proposals for Change' [DCLG, May 2007]

iii) The analysis and statement of the Government's intentions is 'Planning Fees in England: Proposals for Change - Government response to consultation replies' [DCLG, November 2007]