

<b>Title:</b> Decentralisation of Planning Application Fees <b>IA No:</b> DCLG 0035  <b>Lead department or agency:</b> Department of Communities and Local Government <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 16/07/12		
	<b>Stage:</b> Enactment		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Secondary legislation		
<b>Contact for enquiries:</b> Alex Turner 0303 444 3818			
<b>Summary: Intervention and Options</b>			<b>RPC Opinion:</b> GREEN

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out? Measure qualifies as One-Out?
£0.0m			No   NA

**What is the problem under consideration? Why is government intervention necessary?**  
Planning application fees are intended to be sufficient for local planning authorities to recover the costs of determining fee-chargeable applications. However, the majority of authorities are failing to recover costs appropriately from fee income. Fees are currently set centrally, with no flexibility for authorities to adjust to meet local requirements and changing circumstances, and have been repeatedly increased (most recently in 2008) in an attempt to address this shortfall.

**What are the policy objectives and the intended effects?**  
Our objective is to review the planning application fees system so that it enables each local planning authority to recoup the costs they incur in determining applications. This will help to achieve the Government's wider aim of reducing taxpayer subsidy of planning applications.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

- Maintaining the current system of centrally-set planning application fees whilst increasing fees by 15%.
- Decentralising responsibility for setting planning application fees to local planning authorities (LPAs) following a centrally-set 15% increase in application fees.
- Decentralising planning application fees whilst setting a cap on maximum fee levels.

Justification of the preferred option (1) is contained in the evidence base section. In summary it is the option that currently best achieves our objective of enabling each local planning authority to recover (through fees) more of the cost of determining-fee chargeable planning applications, while only raising fee levels for applicants in line with inflation since they were last raised in 2008.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 07/2017					
Does implementation go beyond minimum EU requirements?				No	
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		<b>Micro</b> No	<b>&lt; 20</b> No	<b>Small</b> No	<b>Medium</b> No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)				<b>Traded:</b>	
				<b>Non-traded:</b>	

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***

Signed by the responsible Minister: \_\_\_\_\_ **Greg Clark** \_\_\_\_\_ Date: \_\_\_\_\_ **16/07/2012** \_\_\_\_\_

# Summary: Analysis & Evidence

# Policy Option 1

Description:

## FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: 0.0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate		32.1	274.9

### Description and scale of key monetised costs by 'main affected groups'

Under the preferred option 1, costs would be borne by applicants who would face increased planning application fees: annual average costs £32m. These costs represent a transfer of the benefits in full to the local planning authority (increased fee income).

### Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate		32.1	274.9

### Description and scale of key monetised benefits by 'main affected groups'

Increased fee income for local authorities, to help cover their costs. Increase in current fees: Annual average benefit £32m. These benefits are a transfer from applicants.

### Other key non-monetised benefits by 'main affected groups'

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Fees would remain constant, as under the preferred option 1, they would continue to be set nationally. It is also assumed that fees will remain constant in the counterfactual. There are risks that an increase in fees may compensate local authorities that provide an inefficient service (with high associated costs). This risk is insignificant – current evidence suggests local authorities are currently under recovering by more than the proposed fee increase.

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs:	Benefits:	Net:	No	NA

# Evidence Base (for summary sheets)

## Problem under consideration

### The basis for charging planning application fees

It is an established principle that local authorities should be prepared to pay for activities that are purely or largely for wider public good - such as plan-making. The intention of development management by authorities is to promote the public good: as managing local development helps to secure the long-term benefits of sustainable, well-designed communities. Yet planning decisions often bring benefit to the applicant as well; in particular, land with planning permission may be more valuable than it would be without. The charge for planning application fees is a reflection of that possible private benefit implicit in a planning permission. An applicant, even one not in business, should expect to pay a fee for an application that will bring a measure of personal or organisational gain.

### Setting planning application fees

Planning application fees are currently set by central Government. Current fees are set out in the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989, as amended. The regulations prescribe fees based on the type of application and the nature of the development.

We have considered whether responsibility for setting planning fees should be given to local planning authorities, or whether fee-setting by central government should be maintained.

The key principles that underpin an effective planning application fee regime are:

- To help local planning authorities to achieve cost recovery for fee chargeable services
- that the user should pay for the actual service that they receive
- that fees cannot be used to make a profit
- that fees are to be set by means of a fee schedule
- for fees to be set through a fair, consistent and transparent charging methodology.

### Planning application fee levels

The fee amount payable is intended to reflect the overall cost of handling, administering and determining the various types of fee-chargeable planning application. The amount chargeable is designed to include recovery of direct costs and an apportionment of overheads directly related to the cost of staff time involved in processing an application in the relevant fee category. Fees cannot be used to make a profit. They are intended to be set at a level that allows for full recovery of costs.

### The failure to achieve cost recovery

Setting fees centrally can give rise to inflexibility and an inevitable lag in achieving full cost recovery (because of inflation). This has been a consistent problem since the existing fees regulations were introduced in 1989. It has also become evident through the Local Government Association's benchmarking work with authorities that setting fees locally is a complex task, and that further work is required to ensure that this can deliver local fee schedules that accurately reflect cost recovery. Since the 1989 Regulations, fees have been increased 10 times in an attempt to address the shortfall between costs and fee income, on the following occasions:

- January 1991 - (S.I.1990/2743) - 20% increase
- January 1992 - (S.I.1991/2735) - 20% increase
- January 1993 - (S.I.1992/3052) - 10% increase
- January 1994 - (S.I.1993/3170) - 15% increase
- January 1995 - (S.I.1993/3170) - 15% increase
- February 1997 - (S.I.1997/37) - 10% increase
- October 1997 - (S.I.1997/37) - 5% increase
- April 2002 - (S.I. 2002/768) - 14% increase

- April 2005 - (S.I. 2005/843) - 23% increase
- April 2008 - (S.I. 2008/958) - 23% increase

## 2007 Research

Fees were last increased in 2008 by approximately 23%. This increase was based on research conducted for the department by Arup on planning costs and fees, published in May 2007<sup>1</sup>. This research suggested that the cost to local planning authorities of fee-related development management was between £298m and £365m during 2005/6. This range exists because two different approaches were taken to assessment of overheads and productive and unproductive time.

**Table 1: Cost of fee-related development control in England in 2005/6 for (a) all labour costs (gross overheads) and (b) productive labour costs (net overheads)**

Base Salary Cost	All labour costs		Productive labour costs	
	OH Cost	Total	OH Cost	Total
£121,848,855	£176,680,840	£298,529,695	£243,697,710	£365,546,566

During the 2005/6 period that was reviewed, income from planning application fees was approximately £232m. The research therefore suggested that there was a shortfall between fee income and associated costs of between £66m and £133m during 2005/6. The 2008 fee increase of 23% was intended to help address that shortfall.

## 2009 Research: impact of the 2008 fee increase

Further research commissioned from Arup in February 2009 to re-examine planning application costs and fees suggests that the 2008 fee increase has not proved sufficient: a significant proportion of authorities are still failing to recover costs through fees. Arup worked with a group of eleven local planning authorities to assess the average cost they each incurred over a period of four years in determining fee-chargeable planning applications and the average fee they received for those applications (the time period was 2006/7 to 2009/10, with the figures for the final year being projections). The sample constituted a good cross-section of authorities in terms of location, context, authority type and scale. Collectively the data relates to over 22,000 planning applications per annum. Overheads were considered alongside salary costs and as a percentage of direct salary costs.

The research also considered the response to and the impact of the decline in applications in recent years. Fee income declined from 38 percent of overall planning service costs in 2006-2007 to 31 per cent in 2008-2009. Survey responses from 78 (21%) local planning authorities revealed that authorities had reduced their development management staff numbers by about 6 percent over this period, but that in trying to balance costs and income, this reduction had been outweighed by cost inflation. The overall impact is that many local planning authorities are still failing to recover their costs despite taking steps to respond to the reduction in income from planning application fees.

Research published in 2010<sup>2</sup> showed that fees were approximately 10% below associated costs, based on an overall average cost of £619 per application and an average fee income of £563. This is as a result of fees remaining constant since they were last amended in 2008, while inflation has increased. We have therefore proposed an increase in fees of 15% under the preferred option 1, to address the gap between costs and fee income resulting from inflation.

<sup>1</sup> DCLG (2007) Planning Costs and Fees Report – Arup. <http://www.communities.gov.uk/publications/planningandbuilding/planningcostsforDCLG>

<sup>2</sup> Planning Costs and Fees Report (November 2010) – Arup for DCLG (<http://www.communities.gov.uk/publications/planningandbuilding/planningfeesreport>)

## **Policy objective**

Our objective is to consider whether the planning application fees system can be reviewed so that it is more transparent and locally accountable and at the same time enables each local planning authority to recover (but not exceed) the costs they incur in determining fee-chargeable applications. This will help to achieve the Government's wider aim of reducing taxpayer subsidy of planning applications. We have also considered extending charging where applicants resubmit an application, to better reflect local authority costs.

## **Options considered**

We have considered three broad options for reforming the planning application fees system:

- Option 1: Maintain the current system of centrally-set planning application fees, subject to a 15% increase in fee levels. **This is the preferred option.**
- Option 2: Decentralise responsibility for setting planning application fees to local planning authorities
- Option 3: Decentralise planning application fees whilst setting a cap on maximum levels

### Option 1: Maintain the current system of centrally-set planning application fees, subject to a 15% increase in fee levels.

This option would involve no change to the system of centrally-set planning application fees. We would amend the fees regulations to increase fees by 15%, to address the increase in costs since 2008 arising from inflation (following on from a 23% increase in 2008). This increase is based on the Arup research and reflects the average estimated shortfall.

### Option 2 – Decentralise responsibility for setting planning application fees to local planning authorities

The Government has given careful consideration to the case for decentralisation of planning fees and setting these locally. In the longer term, we believe there is a case for decentralisation to allow more flexible cost-recovery, but evidence from the broader consultation process suggests that this is a complex proposal which will need further working through.

At present, decentralisation could result in unintended consequences. There is a need to avoid the situation where councils responded to current reductions in central government grant funding simply by increasing fees to raise lost grant revenue. In time, decentralisation should be part of a package of measures to make council planning departments more responsive to the needs of business and local residents. The Government will continue to work with the Local Government Group to further develop the benchmarking work designed to inform cost measurement that initially suggests: the data for supporting locally set fees is still immature; that further work is required to understand costs at the local level; and that this is necessary if the move to set fees locally is to be understood by planning applicants, whether householders or businesses. Ongoing work will continue to examine the proposal for decentralised fee setting.

### Option 3 - Decentralise planning application fees whilst setting a cap on maximum levels

This option would give local planning authorities control over setting fees below a cap imposed by central Government. We would set the cap at 25% above current fee levels to provide sufficient flexibility for authorities to recover costs. All authorities would be subject to fees set at cost recovery level only. Our most recent evidence suggests that on average costs are approximately 15% higher than current fees. Setting the cap higher reflects the fact that the 15% is an average and so there will be authorities who need to further increase fees to fully recover costs. We would amend the fees regulations to state that fees are maximums, not set figures, and to introduce a requirement for authorities to establish a charging schedule. Authorities would be expected to keep their costs to a minimum - helped by local democratic accountability - and to ensure that their charges are based on efficient services which remain affordable. They would have to be transparent about the costs they incur in determining applications and will be

directly accountable to residents and applicants if they fail to offer an efficient service. The same issues apply as with option 2 above, that setting fees locally is a complex proposition, and that data to support this change is still immature. Option 3 is not discussed further in this IA.

## Costs and benefits of each option

### Planning application fee income projection

Table 2 outlines the total income from planning application fees between 2005 and 2011<sup>3</sup>. Figures are estimates because not all authorities provided fee returns.

**Table 2: Planning application fee income in England (2005/6 to 2010/11)**

Year	2005/6	2006/7	2007/8	2008/9	2009/10	2010/11
Income from planning applications (£)	232,000,000	245,000,000	255,000,000	233,000,000	209,000,000	214,000,000
Number of planning applications	644,000	645,000	649,000	507,000	466,000	483,000
Average fee per planning application (£)	360	380	393	460	448	443

### Projecting the annual number of planning applications that will be made

Attempts to quantify costs and benefits must be based on assumptions about the number of planning applications that will be received in 2012/13 and future years. The table above outlines the trend in planning application numbers received over the last five years. Until the recession began, the number of applications had remained relatively constant at around 645,000 per annum. Since the recession began it has fallen, to 483,000 in the last financial year (2010/11).

We assume that the number of applications correlates with economic growth, as there has been a relatively close correlation in the past. Scenarios of the number of planning applications over the next 10 years are based on 2010/11 data for planning applications increasing in line with projections of economic growth made by The Office for Budget Responsibility (November 2011)<sup>4</sup>. This results in an estimated 497,000 planning applications in 2012/13 rising to 619,000 in 2020/21. In line with historic trends, it is assumed 40% of all planning applications are assumed to be householder; 60% are other (non-householder) applications. It is assumed that 15% of householder applications are resubmitted; and 10% of other applications. Therefore, planning applications for which fees are paid are estimated at 437,000 in 2012/13; resubmitted applications are estimated at 60,000 in 2012/13.

**Table 3: Table of projected planning applications and resubmissions**

Year	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22
Economic Growth	0.8%	0.8%	2.0%	2.7%	3.0%	3.0%	2.7%	2.7%	2.7%	2.7%
All Planning applications	496,103	500,071	510,073	523,845	539,560	555,747	570,752	586,163	601,989	618,243
Householder apps	198,441	200,029	204,029	209,538	215,824	222,299	228,301	234,465	240,796	247,297
Other apps	297,662	300,043	306,044	314,307	323,736	333,448	342,451	351,698	361,193	370,946
Resubmitted applications	59,532	60,009	61,209	62,861	64,747	66,690	68,490	70,340	72,239	74,189
Resubmitted applications: householder	29,766	30,004	30,604	31,431	32,374	33,345	34,245	35,170	36,119	37,095

<sup>3</sup> DCLG (2011) Total Planning Fees Received by Local Authority, <http://www.communities.gov.uk/documents/statistics/xls/1929730.xls>

<sup>4</sup> OBR (2011) Economic and Fiscal Outlook November 2011.

[http://cdn.budgetresponsibility.independent.gov.uk/Autumn2011EFO\\_web\\_version138469072346.pdf](http://cdn.budgetresponsibility.independent.gov.uk/Autumn2011EFO_web_version138469072346.pdf)

Resubmitted applications: other	29,766	30,004	30,604	31,431	32,374	33,345	34,245	35,170	36,119	37,095
Planning applications minus resubmitted apps.	436,570	440,063	448,864	460,983	474,813	489,057	502,262	515,823	529,750	544,053

It could be argued that an increase in fees could deter some applications and could potentially lead to a small reduction in the number of applications submitted. However, as discussed below, this impact is deemed to be negligible and has not been reflected in the number of planning applications over the 10 year appraisal period. This is because the benefits of obtaining planning permission far outweigh the cost of application fees. The monetised costs and benefits (outlined in the summary pages) represent an increase in planning application numbers following implementation of option 1.

## Costs

Table 4 outlines projections of future income from planning application fees in the counterfactual, based on projections of planning applications and an average fee of £443 (in 2010/11). It is assumed that fees remain constant in real terms in the counterfactual; and in the policy analysis over the 10 year appraisal period.

**Table 4: Planning applications and fee income in the counterfactual**

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	10 Year Average
Planning applications minus resubmitted apps.	437,000	440,000	449,000	461,000	475,000	490,000	503,000	516,000	530,000	545,000	485,000
Fee Income (£m)	194	195	199	204	211	217	223	229	235	241	215

The illustrative scenario assumes a centrally-set 15% fee increase in year 1 for all authorities. We estimate that the proportion of fees paid by individuals (approximately 13%) and businesses (approximately 87%) will remain relatively consistent, based on the assumption that fee increases would be comparable across different fee categories.

### Increase in planning application fees: cost to applicants

This analysis estimates projected fee income based on an increase of 15% in response to inflation under option 1. Average fees would rise by £67 taking the average fee to between £515 (constant over the 10 year period) and an increase in the number of planning applications. The difference in fees paid is calculated in comparison to estimated fees paid in the counterfactual.

Table 5 outlines projections of future income from planning application fees with the counterfactual fee income deducted, in order to present the additional fees paid/ fee income under option 1.

**Table 5: Additional fee income from existing chargeable categories**

£m	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Additional fee income	29	29	30	31	32	33	33	34	35	36

This would impose additional costs on applicants (paying higher fees), estimated at an annual average of £32m, but would still not necessarily reflect the full cost to the local planning authority in all cases.

## Benefits

### Increase in planning application fees: benefit to local planning authorities

Local planning authorities will benefit from additional fee income in existing fee categories as a result of the 15% increase, which will help them recoup the cost of determining fee-chargeable applications. The increase of 15% in fees will result in estimated total additional revenue of £32m per annum, based on application scenarios correlated with economic growth projections. This additional revenue represents a

transfer of benefits to the local authority to cover costs, and from applicants seeking planning permission.

## **Impact on the number of planning applications**

It could be argued that an increase in fees could deter some applications and could potentially lead to a small reduction in the number of applications submitted. However, as a proportion of total development costs, the increase in planning applications fees is minimal.

## **Risks**

There is a risk that authorities might be "rewarded" for inefficiency under option 1. Authorities who work less efficiently than their peers may require more resources to determine applications, and subsequently recover less of their costs. However, the evidence<sup>5</sup> shows that a shortfall does exist between the costs of processing applications and fee income. It would therefore not be realistic to ask councils to limit their spending as an alternative to a national 15% fee increase, to counter the possibility of rewarding inefficiency,

Both risks could have a consequent impact upon the viability of development. We do not consider this likely, as planning application fees constitute a small portion of development costs: approximately 0.25%, when we assessed the issue in 2005/6 (during which planning fee income was approximately £232m and development costs amounted to around £93bn). This calculation was made in another research report by Arup for the department, entitled "The Private Sector Perspective on Development Control in the context of Planning Delivery Grant 2005-06". The increase in fees charged to applicants needs to be balanced against the benefit to applicants of suitably resourced planning authorities able to provide an effective and timely service.

## **Summary and preferred option with description of implementation plan**

The Government consulted on proposals to decentralise planning fees from 15 November 2010 to 7 January 2011. Since then, further evidence has emerged on the impact this would have and has shown that some fees would double - particularly for householders where fees have been held historically low - and that there were also some anomalous fee categories where the reasons for significant increases were unclear. There were also potential gains in setting fees locally – with potential for achieving economies of scale in some fee categories, particularly for volume house building where there are indications that fees per unit would reduce.

The data was drawn from a major benchmarking exercise undertaken by the Local Government Group involving two thirds of authorities. This new evidence, which is being developed further, shows that: the data for supporting locally set fees is still immature; that further work is required to understand costs at the local level by local authorities; and that this is necessary if the move to set fees locally is to be understood by planning applicants, whether householders or business. It is also clear that the move from setting fees centrally to setting these locally is a more complex proposition than originally thought. It is therefore proposed to uplift fees by 15% which is in line with inflation since the last increase in 2008. Regulations which will amend the existing 1989 fee regulations will be brought forward to increase fees centrally by 15%. They will come into force in 2012. The Government will continue to work closely with the Local Government Association to examine options for the possibility of introducing decentralisation in the future.

## **Consultation with small businesses**

We undertook a small firms impact test screening as part of the consultation Impact Assessment. Whilst the proposals affect small businesses the impact does not fall more heavily on small businesses than on other applicants for planning consent, nor is it anticipated that the impact will have a significant effect on the costs for business. We undertook consultation on this proposal from 15 November 2010 to 7 January 2011 There was a good response rate (23%) to the consultation by those representing the small business community. One of the responses included a collective view from 42 independent planning

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<sup>5</sup> Planning Costs and Fees Report (November 2010) – Arup for DCLG  
(<http://www.communities.gov.uk/publications/planningandbuilding/planningfeesreport>)



consultants. As with businesses more generally, small businesses were concerned that an increase in planning fees could result in increased costs to business. Businesses would be supportive of the changes if they were confident that they result in an improved service.

### **One in One Out Rule**

The policy is outside the scope of the One In One Out rule as it concerns fees.

Specific Impact Tests - **Exemption from regulation for micro business and start ups**

In accordance with the BIS Guidance on Moratorium on New Domestic Regulation for Micro-Businesses and Start-Ups, the proposal is out of scope.

### **Enforcement and sanctions**

Failure to submit the correct fee with an application may mean that the application will not be considered by the local planning authority. The remedy in cases of dispute about a fee is to make it a preliminary matter to an appeal to the Secretary of State.