ARGYLL & BUTE COUNCIL | **SMT & COUNCIL**

DEVELOPMENT AND INFRASTRUCTURE SERVICES | **JUNE 2011**

PLANNING REFORM: RESPONSE TO SCOTTISH GOVENMENT CONSULTATION PAPERS

1. SUMMARY

The purpose of this report is to respond to 5 X Scottish Government Consultation papers titled:-

- **DEVELOPMENT DELIVERY –** *Appendix A*
- **DEVELOPMENT PLAN EXAMINATIONS –** *Appendix B*
- **MISCELLANEOUS AMENDMENTS TO THE PLANNING SYSTEM –** *Appendix C*
- **NON-DOMESTIC GENERAL PERMITTED DEVELOPMENT ORDER –** *Appendix D*
- **PLANNING APPLICATION FEES –** *Appendix E*

The Consultation papers seek views from all sectors of the development industry on proposed changes to the Scottish Planning System which is part of the Scottish Governments modernisation regime.

Views are sought via a series of questions set out in the appendix of this report. Summaries and main messages from each of the consultations have been provided below.

The Government seeks views by the 22nd June and is likely to feedback and draw conclusions from all the responses in late summer 2012.

2. RECOMMENDATION

It is recommended that Members

i) Note the content of the report;
ii) Endorse the feedback to the specific questions as contained at the Appendix for submission to Scottish Government.

3. BACKGROUND

The Planning etc (Scotland) Act 2006 contained the most significant changes to the planning system in 60 years. The Act was drawn up against a commitment to make the planning system more efficient and inclusive. The majority of the new procedures and process came into effect in 2009 and Members may recall some of the changes that were implemented at the time such a bringing forward a new scheme of delegation, introduction of e-planning and a consolidated Planning Committee.

On March 28, 2012 Derek Mackay, the Minister for Local Government and Planning made a statement to the Scottish Parliament setting out the Scottish Government's new proposals for future reform of the planning system.

The aim of the proposals is to help the planning system reach its potential in supporting economic recovery. The emphasis is on non-legislative measures but legislative changes will be brought forward where necessary.

The key priorities for the next stages of planning modernisation are:-

- promoting the plan led system
- driving improved performance
- simplifying and streamlining processes
- delivering development

In order to deliver these priorities and help shape the proposed changes in the planning system / legislation the Government published a suite of consultation documents to obtain feedback from the development industry. This report encapsulates the feedback to these consultation exercises on behalf of the Council.

It is worth noting that alongside the consultation documents, a new planning performance framework (PPF) was also launched and came into effect on 1st April 2012. The PPF is a balanced approach to performance which will allow the Council to demonstrate achievements, successes as well as the historic speed of determination statistics.

4. DETAIL OF CONSULTATION

This part of the report shall detail the specific proposals and content of the 5 individual consultation documents. The consultation questionnaires can be found in the appendices A-E.

A - DEVELOPMENT DELIVERY

Overview

Infrastructure provision has traditionally been delivered by way of one-off public sector funded capital projects, by the programmed provision of projects by infrastructure providers such as the utility companies, and by way of developer contributions. The latter have usually been confined to larger scale projects and have been secured by way of negotiated agreements under planning legislation.

The imposition of obligations upon developers to deliver enabling infrastructure or to contribute to identified infrastructure priorities has depended upon there being sufficient economic returns in development to offset the costs of infrastructure augmentation or the funding of new provision. This approach has been weakened latterly by the economic downturn which has impacted upon profitability and viability to the point where infrastructure funding obligations imposed by the planning system can act as an inhibitor to development. The government is therefore on the one hand anxious to ensure that the development industry is supported through difficult times, and on the other, to ensure that necessary infrastructure is provided to support proposals on hand and to help facilitate future development.

The government's position on the use of planning agreements has been set out in Circular 1/2010 and associated advice from the chief planner. This affirms the validity of seeking contributions towards off-site enabling works, but advises the use of more flexible timing and the use of stage payments to avoid unnecessary up-front costs being borne by the developer. One difficulty with the use of agreements is that the planning authority is unlikely to have sufficient insight into the development economics of a proposal to be sure as to whether infrastructure contributions are on the one hand realistic in terms of maintaining project viability, or on the other whether they are under-specified in circumstances where a development could actually contribute more without threatening financial viability. There is therefore often a degree of uncertainty on the part of the planning authority as to whether a contribution offered or sought is realistic. Additionally, from the developer's point of view, the negotiation process introduces uncertainties into the funding of a project late on in the gestation of a project which entails a degree of uncertainty for the developer.

In addition to improving what can be done within the existing legislative and policy context, the Scottish Government is also seeking views on more innovative approaches to infrastructure provision such as the introduction of a Development Charge which would act as an infrastructure levy. Such an approach is currently being introduced in England via the Community Infrastructure Levy, with authorities currently consulting on charging zones and scales of charges.

Argyll and Bute Response

The current dependency on public sector funded capital projects and privately funded developer contributions does not support the delivery of substantial infrastructure provision in Argyll and Bute. The inability of the Council to fund key projects with the potential to unlock future development opportunities (such as the Oban Development Road, for example) has demonstrated that public finances and competing priorities continue to conspire to inhibit the delivery of development plan aspirations. Whilst larger scale development projects may still offer the prospect of high value long-term returns, and offer opportunities to secure substantial developer contributions towards off-site development mitigation and infrastructure improvements, (such as the Helensburgh Waitrose supermarket, for example), projects offering returns on this scale are few and far between in the context of a largely rural authority such as Argyll and Bute.

There are a wide range of infrastructure requirements associated with development for which appropriate funding mechanisms should be identified. These are not just limited to enabling or mitigation measures sufficient to secure planning permission, but also include measures to ensure that new development makes a contribution to the social and physical fabric of its surroundings, well as helping to address the additional demand that new development places on existing services To that end infrastructure should be construed in the widest sense to include such things as:

Transport – road improvements, new construction, public transport improvements;
Utility provision
Flood defence – where strategic schemes are required;
Green infrastructure – open space and recreation provision;
Public Realm enhancements – environmental improvements, street works;
Social infrastructure - education provision, healthcare facilities, community facilities.

Local Plan Policy LP PG 1 currently forms the basis on which planning gain is sought from developers in Argyll and Bute, on the understanding that this will be subject to negotiation between the parties, but that it should be proportionate to the development, address consequences attributable to development, and secure measures which secure a legitimate planning process. This approach is consistent with the subsequent stance taken in Circular 1/2010.

Whilst large urban authorities with large scale redevelopment projects and high value end users are in a favourable position to exploit planning gain, most developments in Argyll and Bute are relatively small-scale and do not contribute anything towards off-site infrastructure. Only in the case of residential developments in excess of 8 units, where the development plan imposes an affordability obligation, or in excess of 20 units, where it imposes an open space/play equipment obligation, are there automatic burdens on the developer via planning policy to provide measures contributing to the common good. Accordingly, there is on the face of it, an attraction in the prospect of some form of an infrastructure levy which could be applied to specified categories of development proportionately to the scale of that development, in addition to the continuing opportunity to use legal agreements to overcome site specific impediments to development or to secure site specific mitigation measures.

However, the prospect of an infrastructure levy raises many complications. It could not be levied uniformly across all authorities and would be likely to require differential charging zones within authorities, given the wide variations in land values, prosperity levels, deprivation and so on, which would require it to be tailored to local circumstances. The fragility of the Argyll and Bute economy in the current climate is such that the priority of the planning system must be to facilitate and enable development, and to that end, it must be our priority to seek solutions to the needs of prospective developers, rather than to impose unexpected burdens or measures which act as a disincentive to development.

Whilst the current development plan does allow for and raises the prospect of planning gain so that it can be anticipated by developers, the plan does not provide for the levying of any form of development charge. Whilst it would be possible to do so either on an area basis, or on the basis of particular categories of development, such an approach could only be countenanced if it were to be underpinned by a policy justification which had been advanced through the development plan process and had been the subject of public consultation process and review at inquiry. In the absence of any intention to bring forward such a measure as part of the forthcoming Local Development Plan, there is no prospect of a development charge being levied unilaterally by the Council, in the absence of a requirement by government to do so. Accordingly, our approach will continue to be to seek proportionate planning gain via legal agreement in respect of development where off-site measures are required to support development proposed, or where the scale of development is able to support more extensive planning gain.

B – DEVELOPMENT PLAN EXAMINATIONS

Overview

The Planning etc. (Scotland) Act 2006 introduced important changes for development planning, including those related to the Local Development Plan (LDP) Examination process (formerly Local Plan Inquiry). An examination has the value of providing independent endorsement of the plan, which can give local stakeholders additional confidence in the planning process; ensure a plan complies with government policy; and provide a more transparent process. However, the Scottish Government is now aware of a number of issues with the new LDP Examination process and so is consulting on proposed changes.

The ability of planning authorities to depart from the reporter's recommendations was restricted by the 2006 Act and subsequent regulations. This has led to the following issues with the examination:-

- some authorities have had additional sites imposed on them;
- undermining of the role of elected members;
- undermining of the involvement of local stakeholders; and
- some lengthy/costly examinations where additional consultation was sought during the examination.

The following should be noted in terms of the last Public Local Inquiry on the Argyll and Bute Local Plan :-

- Many policies and sites in the Modified Finalised Draft Local Plan had full support. Therefore, they did not go to the Inquiry and were not commented on by the reporters.
- The majority of objections that did go to Inquiry (around 70%) were resolved in favour of the planning authority by the reporters.
- Of the objections where the reporter recommended changes to the plan around 28% were accepted by the planning authority
- A very limited number of the objections, where the reporter recommended changes to the plan, were either partially accepted or not accepted by the planning authority and a different approach was taken. However, the approach taken had the intention of addressing the issues raised by the reporters in their conclusions.

The impact of this change in the 2006 legislation would only be on the cases that fall under the final bullet point above. Whilst minor in number, the ability to have ultimate local control in these cases may be considered beneficial.

4 different options for a revised examination process are proposed as a solution to these issues as follows:-

Option 1 – Improve current practice

Leave as is but instigate minor changes to practice such as promotion of good practice, improved project management and not seeking to gather additional evidence during examination but highlighting short comings and need to address. This has the advantage of an independent and transparent process but would not fully address issues raised.

It is considered that whilst not providing a long term solution this option has merit as an interim solution prior to primary legislation being implemented.

Option 2 – Greater discretion to depart from Reporters recommendations
Planning authorities would have to provide clear reasons to demonstrate that the reporter's recommendations were not in the interest of the area. This would require a change to primary legislation and may undermine confidence in the process (challenges related to undermining of independent scrutiny) but could offer greater local control.

Subject to an amendment, this option is considered to be the preferred approach. It is recommended that a further stage be introduced into the LDP process whereby planning authorities are given an opportunity to respond to the reporter's deliberation and decision which could then be formally accepted or rejected by the planning authority, stating reasons for doing so. This should reduce the potential for challenge to the process.

Option 3- Restrict the scope of the examination
For example Permit planning authorities would define the matters they considered necessary to be examined or focus only on the plans compliance with the National Planning Framework and the strategic development plan. This could result in reduced confidence in process and legal challenges for the planning authority. This would require changes to secondary and possibly primary legislation.

Option 4 – Remove the independent examination from the process
Planning authority would consider the representations and then adopt the plan (with or without modification). A report on the consideration of all the representations would be made public. This could erode confidence, has the potential to not conform with national policy and could result in legal challenge. This would require changes to primary and secondary legislation.

Note - Primary legislation change would take 2 years as a minimum and so the current LDP process would be liable to be subject to the current legislation even if options 2, 3 or 4 were selected.

Argyll and Bute Response
Implications
Policy: Should the Scottish Government select an option that requires primary and/or secondary legislation the timeframe is liable to be such that the changes would not impact on the examination for the Local Development Plan currently being prepared.
Option 1 : Minimal change from current practice i.e. ability for planning authority to depart from reporters findings would be restricted. But for areas where there was insufficient evidence at the examination these issues would be returned to the authority to address.
Option 2 : Subject to justification the planning authority could depart from the reporter's findings to introduce its preferred policy.
Option 3 : Restriction to reporters findings remains but limited to those issues at examination.
Option 4 : Council adopts the Local Development Plan policies without an examination.

Financial: The planning authority is responsible for costs associated with the examination of the Local Development Plan. Efforts to improve practice should

make the process more efficient and potentially reduce costs. Removing or restricting the examination process may reduce the cost of the examination but is liable to lead to increased costs related to legal challenges.

Personnel: Planning staff prepare the case for the planning authority at the examination. Removing or restricting the examination process may reduce staff time related to the examination but is liable to lead to increased staff resource required related to legal challenges.

Equal Opportunity: Options 1 : None; Option 2: Examination may be seen as not independent; Option 3: Restricts opportunity of some to have issues dealt with at examination. Examination may be seen as not independent; Option 4: Removes the opportunity for all to have issues dealt with at an independent examination.

Legal : It is considered that Options 3 and 4 would increase the risk of legal challenge to the planning authority.

Customer Services: None

C – MISCELLANEOUS AMENDMENTS TO THE PLANNING SYSTEM

Overview

This consultation seeks views on draft legislation for a number of refinements and amendments to the procedures on development management, schemes of delegation, local reviews and appeals. Highlights of the proposals are:

- The removal of statutory Pre Application Consultation (PAC) requirements for section 42 applications, for major and national development.
- Amendments to neighbour notification and advertising of planning applications
- Additional requirement to consult Network Rail
- Revision to delegation of planning authority interest cases
- Where local review procedures would apply, an extended period for the determination of an application may be agreed between the applicant and the appointed person.
- Extending the period for determination of local reviews, sought on the grounds of non-determination of the application, to three months from two months.
- Views are sought as to whether requirements relating to applications for Approval of Matters Specified in Conditions are excessive.

Following consultation with stakeholders, the Scottish Government expects to lay Scottish Statutory Instruments in Parliament in autumn 2012.

Argyll and Bute Response

STATUTORY PRE-APPLICATION PROCESS

Planning applications for national and major developments require a minimum 12 week Pre-Application Consultation (PAC) process prior to submission. The consultation paper suggests the removal of statutory PAC requirements for “section 42 applications”. These are applications to vary the conditions attached to existing planning permissions. The 2010 Consultation sought views on a number of

approaches to making PAC requirements more proportionate in relation to applications to amend existing planning permissions (known as "Section 42 Applications") for major and national development. The concern raised by planning authorities and developers is that the requirements of waiting 12 weeks and having to hold public events is often disproportionate to the proposed amendment. It could also put additional burdens on communities. Having considered these responses, the Scottish government has concluded that removing PAC requirements for Section 42 Applications represents a pragmatic, proportionate and simple solution but that these legislative amendments to PAC requirements woud not apply to applications for planning permission incorporating changes other than to conditions, as such other changes are considered to be material.

While these changes are to be welcomed, it is considered that the problem is overstated. The very purpose of the pre-application process is to engage with stakeholders and, if need be, amend the proposal prior to submitting an application. A Proposal of Application Notice (PAN) and the associated PAC process have no limit of time. It would therefore appear that, once a PAN and PAC have been carried out, there is no inherent reason why more than one planning application can be submitted.

NEIGHBOUR NOTIFICATION AND ADVERTISING OF PLANNING APPLICATIONS

The Scottish Government intends to amend the current requirements so that:

a) advertising is not required where neighbouring land is a road (as defined in the Roads (Scotland) Act 1984) or a private means of access to land; or land with no premises which is owned by the applicant or the planning authority
b) advertising is not required where the application is for householder development and neighbouring land has no premises on it
c) the separate charging regime for recovering the costs of advertising from applicants will be removed and such costs will be met out of fee income, with an adjustment to fee levels to cover this.

The Scottish Government wants to ensure that people can access information about proposals that may affect them or their communities in the most appropriate way and without undue cost and delay being added to the process. These changes seek to help streamline the process around advertising planning applications and to make the requirements more proportionate. At present there are requirements for neighbour notification, for the publication of the weekly list of applications, available in planning offices, libraries, on-line and sent to community councils, and in some cases there are further requirements for newspaper advertising. The Scottish Government would welcome views on the effectiveness of the current arrangements..

The Council's total spend on advertising planning applications for financial year 11/12 was over £100,000. Although some, but not all, of this cost is carried by applicants through an advertising fee (currently £156), this level of expenditure is not justified by the level of representation received in response to press notices. Furthermore, determination of some applications has to be delayed simply to await the expiry of publicity periods. The proposed restrictions on the need to advertise under a) and b) above would remove some advertising which adds little value to the process. However, mindful of the geography of Argyll & Bute, the exemption could usefully be extended to cases where the neighbouring land is the foreshore, railway or canal or

other tracts of land owned by public bodies such as Scottish Water or Foresty Commission Scotland.

The intention to absorb the costs of advertising into general application fees would require an increase in application fees of approx £50, based on some 2000 applications per year. This would not only spread the burden of expense across all applicants but also simplify administration as many applicants and agents currently contest the need to advertise particular applications.

Retaining the newspaper advertisement regime but removing the ability to charge the actual cost also creates a local authority lottery based on the expense of newspapers. In certain areas (Helensburgh for example) the cost of an advert in a local paper can be significant depending on how many adverts are placed each week. If a single advert is placed in the local Helensburgh paper then the cost is regularly above £500 – ie greater than the planning application fee at present! Some of the other newspapers in Argyll and Bute are cheaper so an average re-charge is taken throughout. So even within a single authority where multiple papers are in circulation the variations in advertisements costs causes disparities. These disparities shall result in certain Local Authorities with cheaper papers benefiting more form the increase in fees than Authorities such as ourselves where newspaper costs are generally high. This is considered to be unfair and would commend the total abolishment of newspaper adverts or replacement with online Public Information Notices (PINS) portal.

This issue with disparities between newspaper charges is compounded by our rural nature. Authorities such as Argyll and Bute must advertise more frequently than an urban authority given there are more ‘vacant land’ notifications and undeveloped areas. Again we feel that the benefits of the increased fees shall not be fully realised given our expensive papers and rural nature and shall be disadvantaged compared to other authorities.

In addition to the suggested changes, it is considered that a reduction in the need to advertise applications affecting listed buildings and buildings in conservation areas would be beneficial, especially since the new householder permitted development rights introduced in February 2012 require planning applications for many minor proposals. It is considered that planning authorities should be given discretion as to whether to advertise such proposals

NEW CONSULTATION REQUIREMENTS

In response to recommendations from the Rail Accident Investigation Branch, after a derailment incident associated with development near a railway line, the 2010 consultation included a proposal to consult Network Rail on developments within 10 metres of a railway line or the boundary of railway property. In the main, responses were content with the distance from a railway line. The proposed amendment to the consultation requirements is set out in regulation 2(5) of the Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2012. This adds to the existing requirement to consult Network Rail and other railway undertakers in relation to development affecting level crossings.

In light of the consultations generated, Network Rail will consider whether to use the powers in Regulation 25(4) of the DMR, which allow consultees to write to planning authorities indicating types of case on which they do not require to be consulted.

From a practical point of view Argyll and Bute Council could easily buffer a railway line as this information is in the OS MasterMap Topo layer and consultations could be generated easily. However, as we don't hold land ownership data for Network Rail or other railway undertakers, it may be difficult to comply with the consultation requirement in such cases.

DELEGATION OF PLANNING AUTHORITY INTEREST CASES

Procedures introduced in 2009 specified that where the decision on a planning application for local development was delegated to an appointed person, that decision could be challenged via a local review and not an appeal to the Scottish Ministers. Local reviews are considered by members of the planning authority who make up the local review body or "LRB".

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 prevent the delegation of applications in which the planning authority has an interest (as applicant or as owner of or having a financial interest in the land to be developed) or which have been made by members of the planning authority. Many applications for relatively minor developments, which would previously have been delegated to an officer for decision, have therefore had to be referred to committee for a decision. This delays decisions and diverts planning authority resources.

Many 'Council interest' applications have been reported to PPSL Committee, most of which have been minor in nature and uncontroversial. The proposed changes are welcomed and would allow the authority to amend its scheme of delegation to remove the requirement for such applications to be referred to Committee for decision.

AMENDMENTS TO LOCAL REVIEW PROCEDURES

The 1997 Act allows an applicant to appeal to Ministers where a planning authority has not determined the application within the period set out in regulations or "within such extended period as may be at any time be agreed upon in writing between the applicant and the planning authority". The effect of such an agreement is to postpone both the point at which the right to appeal on the grounds of non-determination arises and the start of the three month period within which such an appeal must be made.

There is no similar allowance made for agreements in relation to cases to which local review would apply. In such cases the applicant would need to seek local review within three months of the end of the prescribed two month period or lose the ability to seek a local review on the grounds of nondetermination. Applicants may therefore feel pressed to seek such a local review rather than risk losing that right by waiting even a short additional period for the officer's decision.

Introducing a similar power to agree extensions in local review cases would ensure applicants had the flexibility to agree longer decision periods and preserve their right to seek a local review on the grounds of nondetermination. In addition, planning

authorities often have criteria within their Scheme of Delegation which rely on what may arise during the processing of an application, e.g. numbers of or types of objections. It is not always clear at the outset, therefore, whether an application for local development is one in which an extension to the period for determination can be agreed.

The Scottish Government propose to amend section 43A(8) of the 1997 Act so that local reviews on the grounds of non-determination can be sought after the prescribed two month period, or after any extended period as may at any time be agreed upon in writing between the applicant and the appointed person.

The proposed amendment would introduce sensible flexibility to the applicant's right of appeal.

APPROVAL OF MATTERS SPECIFIED IN CONDITIONS (AMSC)

Since August 2009, those conditions attached to planning permission in principle which require the further approval of the planning authority, for some detailed aspect of the development, require an application under regulation 12 of the DMR. Such applications for AMSC must be neighbour notified, advertised, where necessary, in a local paper and subject to requirements on formal decision notices under the DMR. Concerns have been raised that this could be excessive, with, for example, objections triggering referral to committee on technical issues such as archaeological surveys. The comparison is made to the situation prior to August 2009, when, in relation to outline planning permission, only conditions relating to "reserved matters" – that was landscaping, access arrangements and the design and location of buildings – were subject to such formal processing. Other matters specified in conditions as requiring further approval could previously be dealt with by an exchange of letters.

The Scottish Government seeks views on these arrangements.

While details of a proposed development following the grant of planning permission in principle should rightly be subject to publicity, the procedural requirements for AMSC applications are now inconsistent with the long established procedure for dealing with details pursuant to conditions attached to full planning permissions by exchange of letters.

D – NON-DOMESTIC GENERAL PERMITTED DEVELOPMENT ORDER

Overview

The Town and Country Planning (Scotland) Act 1997 (and previous Planning Acts) contains powers for the Scottish Ministers to make a development order, which grants planning permission for certain Classes of development. The granting of planning permission in this way (often referred to as permitted development rights (PDR)) removes the need to apply for planning permission provided that the development complies with certain restrictions and conditions set out in the GPDO and that there is no Article 4 direction removing PDR in a specified area i.e. conservation areas.

The 2012 Amendment Order details a range of proposed changes to non-domestic permitted development rights, and follows a previous consultation on the subject in June 2011 and a Scottish Government focus group meeting with selected Local Authority representatives at which Argyll and Bute Council was represented. During the focus group meeting in November 2011, Argyll and Bute Council's initial consultation response was used as a basis for further discussion, contributing to the current Amendment Order consultation.

A similar exercise was also recently concluded in terms of domestic PDR, with amended rights taking effect in February 2012.

Argyll and Bute Response

The proposed amendments are key elements of the Government's wider modernisation agenda for planning, and contribute towards the key national aim of supporting sustainable economic growth.

Amendments are proposed to the following existing classes of permitted development:

- Class 15 – Temporary Use of Land (open air markets)
- Class 17 – Caravan Sites
- Classes 18, 22 and 27 – Private Roads and Ways
- Classes 25 and 26 – Industrial and Warehouse Development
- Class 33 – Local Authority Development

New classes of permitted development are proposed relating to:

- Class 7E and 7F – Electric vehicle charging points
- Class 7A and 7B – Extension of retail premises and provision of free standing trolley stores
- Class 7C – Extension or alteration of hospital, university, college, schools buildings and of nursing or care homes
- Class 7D – Extension of offices
- Class 7H – Use of land for pavement cafes
- Class 7G – Erection, construction or alteration of an access ramp

The standardised exceptions to be applied to new PDR classes exclude rights within:

- A site of archaeological interest
- A National Scenic Area
- A historic garden or deigned landscape
- A battlefield
- A Conservation Area
- A National Park
- A World Heritage Site

It is noted that the contents / implications of this Consultation Paper, for a predominantly rural authority, are fairly minor and in general Officers are supportive

of the proposed amendments to assist local businesses where appropriate and tighten existing controls over potentially damaging items such as hill tracks.

In response to previous consultation responses, the proposals have been amended such that there are no changes proposed for aviation or harbours, PDR for new hill tracks should be removed, and the financial cap for Local authority developments is proposed to increase from £100,000 to £250,000.

E – PLANNING APPLICATION FEES

Overview

Audit Scotland in their report, Modernising the Planning system, concluded that "the funding model for processing planning applications is becoming unsustainable as the gap between income from fees and expenditure increases, putting greater pressure on already constrained council budgets". Over the six years to 2009/10 the report reflected that the overall gap between income and expenditure had increased in real terms from £6.7 million to £20 million. In 2009/10, 50% of expenditure on processing planning applications was offset by income from fees, compared with 81% in 2004/05.

The aims and principles underlying these amendments are that;

- the planning fees are more proportionate to the work involved;
- planning authorities should overall receive adequate resources from the planning fee to allow them to carry out their development management functions;
- the regulations are simpler and easier to administer;
- the regulations establish a clear link to the performance of planning authorities;
- the planning service recognises and delivers public value.

The proposed changes retain as much as possible of the current structure and approach. However, to ensure that the fee more accurately reflects the time and resources required to process applications the following changes are being proposed;

- the fee maximum is raised to £100,000 – *currently £15,950*;
- fees are linked to performance – *poor performance will result in financial penalties;*
- Increases are proposed for residential development- £800 for first house then £500 thereafter –*currently £319*;
- Increases in fees for retail and energy generating developments;
- alterations within the curtilage of existing dwellinghouses (householders) are charged at a lower rate than extensions and a lower fee should be charged for householder developments in conservation areas;
- advertising costs for the purposes of neighbour notification are included in the fee

- fees for certain categories of business development such as warehousing and offices may reduce
- Annual Increase in Fees: The Ministers also intend to make a provision within the fee regulations to increase the fees on an annual basis in line with the retail price index (RPI);
- the fee for subsequent applications made within 12 months of an application being granted, refused or withdrawn is 50% of the application fee; - currently free;
- a new 50% fee is introduced for the renewal of planning permissions which have not yet lapsed
- the fee for applications for Certificates of Proposed Use or Development from householder developments should be removed

These changes to the fee structure and method of calculation aim to recover the relatively high fixed costs for the first unit of development.

The overall resourcing of the planning service is the responsibility of local authorities. The planning service is financed through the local authority's budget and fees from planning applications.

Argyll and Bute Response

The consultation document sets out a number of proposed changes to the planning fee regulations associated with all types of planning applications. Depending on the outcome of the consultation, this will impact upon the level of fee income generated by Development Management and how much our customers shall need to pay when applying for planning consent. In the current economic climate it may appear perverse for the Scottish Government to be increasing the financial burdens on developers but it is widely accepted that the current fees are outdated and are only a small part of any development project. Furthermore, small low value projects such as replacing windows, garden fences and installation of dormer windows shall actually decrease in cost ensuring fees remain proportionate to development and do not unduly restrict projects from going ahead.

We generally welcome and support the majority of proposed changes in an effort to ensure that the applicant funding of Development Management is sustainable and proportionate to the work undertaken by officers.

Higher fees are proposed across almost all categories of development (with the exception of small scale householder development which is proposed to be reduced) and the level of fee income generated may increase, particularly as a result of significant changes to the fees relating to larger scale developments such as windfarms, housing, retail and industrial developments as well as yearly increases.

Whilst it has not been practicable to determine the exact value of the proposed changes on income level accurately, a short audit has been carried out and it has concluded that the overall effect will be beneficial. Given that our newspapers are particularly expensive in Argyll and Bute we are unlikely to notice significant benefits as some other authorities now that the advertisement fees are now encompassed with the application.

It will be necessary, however, for the Council to be able to demonstrate satisfactory performance in the light of the proposed linking of fees to performance and that any increases in fee income are reinvested in the planning service. The consultation process is anticipated to be concluded in the Autumn with any proposed changes not being in place until early 2013 and so any financial impact for the current financial year will limited.

5. IMPLICATIONS

5.1	Policy	None as this is a consultation document
5.2	Financial	None as this is a consultation document however significant financial implications would result once legislative changes are made. For example potential increase in planning applications fees, financial penalties for poor planning performance and resources required to undertake Development Plan Inquiry.
5.3	Personnel	None
5.4	Equalities Impact Assessment	This consultation has no implications for disadvantaged groups.
5.5	Legal	None as this is a consultation document.

APPENDIX A – DELIVERING DEVELOPMENT

DEVELOPMENT DELIVERY CONSULTATION QUESTIONS

Consultation question 1a: Do you think the current planning system supports or hinders the delivery of development and infrastructure?

☐ **Strongly supports**

☐ **Mostly supports**

☐ **Does not influence**

☐ **Mostly hinders**

☐ **Strongly hinders**

☐ **Don't know**

Please explain why you have chosen your above answer.

Response: Mostly supports – The planning system provides a mechanism whereby developers are obliged to contribute to or cover the cost of off-site works associated with their developments by way of legal agreements. These may be in respect of works which are essential to enable a permission to be granted, or may be towards identified infrastructure aspirations where developers are expected to make a contribution. The process is well understood and anticipated by prospective developers and the justification for it is underpinned by development plan policy. The reasoning behind the measures adopted are made explicit as part of the planning process and are therefore also understood by third parties. The planning application process is such that the infrastructure consequences of development will be identified early on in the application process, thereby enabling discussion and negotiation between the parties to take place concurrently with the consideration of the application.

Consultation question 1b: What additional measures could be taken to support development and infrastructure delivery?

Response: The current use of planning obligations involves an element of uncertainty for the developer, involves negotiations in circumstances where the developer is party to information which is not necessarily disclosed to the planning authority, and there is often delay at the end of the process in the drafting and concluding of the agreements. It is important that the financial information dictating development viability is disclosed to the planning authority so that open negotiations can take place, and that standard agreements and templates are made available in order to reduce the time taken in concluding the agreements once negotiations have been completed.

Consultation question 2: How well do you think the process of seeking developer contributions through Section 75 planning obligations is functioning?

☐ Process functions well

☐ Process requires some MINOR changes

☐ Process requires some MAJOR changes

☐ Section 75 Planning Obligations is not an appropriate process for securing developer contributions

Please explain why you have chosen your above answer and identify what can be done to alleviate any issues raised?

Response: Process requires some MINOR changes - The current system of planning obligations underpinned by development plan policy targeted to those developments which require, or which are of such value as to be capable of contributing towards, infrastructure provision continues to be the most appropriate mechanism for securing developer contributions. The process is such that the conclusion of legal agreements at the end of the planning process is often protracted and delays the issuing of permissions. This could be streamlined by having standard templates for such agreements, agreed by legal and financial institutions as being fit for purpose, which would reduce the scope for requests for revisions as part of the legal process and the delay associated with such. The phasing of agreements having regard to the difficulty in securing up-front funding from the banks would be helpful in recognising the realities associated with developers' cash flows throughout the course of development.

Consultation question 3: What additional measures or support could the Scottish Government undertake or provide to facilitate the provision of development and infrastructure within the current legislative framework?

- *Existing use values;*
- *Post-development values;*
- *Construction costs;*
- *Exceptional site costs (e.g. demolition, contamination remediation);*
- *Implications of policy requirements (e.g. affordable housing, open space);*
- *Sales value;*
- *Subsidy if available (e.g. grant funding).*

This would enable better understanding of the financial attributes of a development and would provide more certainty that the contribution envisaged is proportionate to the development. In so doing, it would ensure that requirements imposed by the planning authority would not be of such magnitude as to impinge on development viability, but would also ensure that it represented a realistic contribution which was not under-valued as a result of the developer holding all the information about the economics of the proposal.

Consultation question 4: What innovative approaches are you aware of in facilitating development and infrastructure delivery and what are your views on their effectiveness?

Response: Planning Authorities have utilised various forms of development levy to secure contributions towards infrastructure delivery, either in respect of a single development (such as developer contributions towards the Borders Rail Link and various authorities with Airport Development Charges), or more widely such as the newly introduced Community Infrastructure Levy in England, which is in effect a development tax applying to all occupied buildings.

The success of such an approach depends upon the underlying economy being healthy, the scale of development being significant (as small projects contribute relatively little and could be hit disproportionately hard by such a levy) and the operation of such a system being understood in advance by being underpinned by national policy and the provisions of the development plan. Experience to date in England, where most authorities are still consulting on prospective charges, is that the introduction of such charges is not widely understood and that local authorities are tending to levy the most stringent charges on residential and retail developers (which would otherwise have been candidates for legal agreements anyway), whilst not be inclined to levy much more than a nominal charge on other developers. Experience in Canada, where development charges have been levied for some time, is that some authorities have opted out of development charging in an attempt to secure preferential advantage over neighbouring authorities, which unhelpful in that it promotes unnecessary competition for development between authorities.

The fragility of a marginal rural economy such as that found in Argyll is such that a development levy would be likely to prove an impediment to investment, in circumstances where development costs are high, and commercial returns are limited. Additionally, the small-scale of development is such that it is often pursued by individuals or local businesses rather than commercial property investors, where developers would be likely to be hardest hit. This limited scale of development would also only produce relatively small contributions, which would take a long time to aggregate into meaningful investment in infrastructure projects. The need in this scenario is for public investment to unlock the potential of prospective development land and to encourage private investment, rather than to penalise developers with an infrastructure levy which is unlikely to be capable of funding infrastructure improvements for many years after development has taken place.

Consultation question 5: Would you be supportive of the introduction of a Development Charge system in Scotland to assist in the delivery of development and infrastructure?

☐ Yes

☐ No

Please explain why you have chosen your above answer.

Response: No for the reasons outlined above.

Consultation question 6: Do you have any information or can you suggest sources of relevant information on the costs and/or benefits to support the preparation of a BRIA?

Response: No

Consultation question 7: We would appreciate your assessment of the potential equalities impact these issues may have on different sectors of the population.

Response: Infrastructure provision benefits all sectors of society regardless of disadvantaged groups. Other than the fact that additional infrastructure will be designed to modern standards to meet the needs of persons with disabilities, there will be no implications for equality.

APPENDIX B – DEVELOPMENT PLAN EXAMINATIONS

CONSULTATION QUESTIONS

Question 1: How well do you think the examination process is functioning and should any changes be made to the process at this stage?

Argyll and Bute Council has not been through the new examination process as yet. The evidence presented by the Scottish Government in this consultation indicates that there are issues withsome authorities having additional sites imposed on them; undermining of the role of elected members; undermining of the involvement of local stakeholders; and some lengthy/costly examinations where additional consultation was sought during the examination. Whilst implementation of the new examination process is in the early stages it is considered useful to amend the process to take account of the noted issues.

Question 2: If you think changes are needed which option do you support, and why?

The preferred option is an amended version of option 2 as follows:- It is considered that Option 2 would address the concerns regarding democratic accountability but it may lead to challenges of undermining independent scrutiny of local development plans. It is therefore recommended that a further stage be introduced into the LDP process whereby planning authorities are given an opportunity to respond to the reporter's deliberation and decision which could then be formally accepted or rejected by the planning authority, stating reasons for doing so.

However, in the interim (as the above could take 2 years plus) it would be useful to adopt the positive elements of Option 1, such as promotion of good practice, improved project management and not seeking to gather additional evidence during examination but highlighting short comings and need to address.

Option 3 is not supported. There is no clarity on the appropriate level of focus for the restricted examination, nor how this would be determined. The planning authority would be liable to be subject to an increase in challenges where cases were not included in the examination.

Option 4 is not supported. It is considered that this will result in a loss of confidence in the transparency of the planning process currently provided by the examination process. Maintaining confidence and transparency is important in a plan led system.

Question 3: Are there other ways in which we might reduce the period taken to complete the plan-making process without removing stakeholder confidence?

Yes. The plan-making process could be completed more efficiently if all required elements were included within the planning process appropriately,

which is currently not the case.

It should be acknowledged that where engagement has been meaningful there is the possibility for positive new suggestions (for sites/proposals) to emerge during the consultation process. If these were not anticipated during the preparation of the MIR it has been advised that an additional consultation, using the Strategic Environmental Assessment process, is required to allow these sites/proposals to be included in the proposed LDP.

Attempting to second guess every possible site/proposal at the MIR stage is costly, time consuming and wasteful of resources during the initial stages of the process, particularly for authorities with large geographical areas such as Argyll and Bute. To ensure the process is robust and therefore operates more efficiently either a new formal step needs to be introduced into the planning process (rather than using the SEA process) to deal openly and effectively with this issue. This would improve stakeholder confidence in the process as it would be clear how such issues should be dealt with by the planning process.

Question 4: Do you think any of the options would have an impact on particular sections of Scottish society?

Options 3 and 4 would remove or restrict access to an independent examination for those with objections to the development plan.

APPENDIX C – MISCELLANEOUS AMENDMENTS TO THE PLANNING SYSTEM

CONSULTATION QUESTIONS

Question 1: Are there any costs or benefits not identified in the draft BRIA?

No

Question 2: Do you have any information or can you suggest sources of relevant information on the costs and/or benefits detailed in the BRIA at Annex VI?

No

Question 3: We would appreciate your assessment of the potential equalities impact our proposals may have on different sectors of the population. A partial EQIA is attached to this consultation at Annex VII for your comment and feedback.

No comment

Question 4: Do you agree or disagree with the proposed removal of PAC requirements in relation to Section 42 Applications? Please explain why.

Agree ☐ Disagree ☒

While these changes are to be welcomed, it is considered that the problem is overstated. The very purpose of the pre-application process is to engage with stakeholders and, if need be, amend the proposal prior to submitting an application. A Proposal of Application Notice (PAN) and the associated PAC process have no limit of time. It would therefore appear that, once a PAN and PAC have been carried out, there is no inherent reason why more than one planning application can be submitted.

Question 5: Do you think the proposed changes to advertising requirements are appropriate or inappropriate?

Appropriate ☒ Inappropriate ☐

Please give reasons for your answer.

The proposed restrictions on the need to advertise would remove some advertising which adds little value to the process.

Question 6: Are there further changes to requirements or the use of advertising in planning which should be considered?

Yes ☒ No ☐

Please give reasons and evidence to support your answer.

Mindful of the geography of Argyll & Bute, the exemption could usefully be extended to cases where the neighbouring land is the foreshore, railway (especially in view of proposed consultation requirements) or canal or other tracts of land owned by public bodies such as Scottish Water or Foresty Commission Scotland.

Question 7: Do you agree or disagree with the proposed removal of the restrictions on the delegation of planning authority interest cases?

Agree ☒ Disagree ☐

If you disagree, please give your reasons.

Many 'Council interest' applications have been reported to PPSL Committee, most of which have been minor in nature and uncontroversial. The proposed changes would allow the authority to amend its scheme of delegation to remove the requirement for such applications to be referred to Committee for decision.

Question 8: This section proposes a change to allow an extended period for the determination of an application to be agreed upon between the applicant and appointed person where local review procedures would apply. Do you agree or disagree with this change?

Agree ☒ Disagree ☐

Please explain your view.

Comments

Question 9: Do you agree or disagree with this change to the time period on determining local reviews sought on the grounds of non-determination?

Agree ☒ Disagree ☐

Please explain your view.

The proposed amendment would introduce sensible flexibility to the applicant's right of appeal.

Question 10. Do you agree or disagree with this change to the Appeals Regulations on procedure regarding minor additional information?

Agree ☒ Disagree ☐

Comments

Question 11: Do you think the current requirements on applications for approval of matters specified in conditions on planning permission in principle are generally excessive?

Yes ☒ No ☐

Please explain your views, citing examples as appropriate.

While details of a proposed development following the grant of planning permission in principle should rightly be subject to publicity, the procedural requirements for AMSC applications are now inconsistent with the long established procedure for dealing with details pursuant to conditions attached to full planning permissions by exchange of letters.

Question 12: Are there are any issues in this consultation not covered by a specific question or any other aspects of the current planning legislation on which you would like to comment? If so, please elaborate.

Comments

APPENDIX D – NON-DOMESTIC GENERAL PERMITTED DEVELOPMENT RIGHTS

CONSULTATION QUESTIONS

Q1. Are there any costs or benefits not identified in the draft BRIA?

There will be marginal improvement for businesses in terms of project planning / delivery should small scale development negate the requirement for planning consent. It is a fine balance whilst doing this to retain control and amenity of area and operation of other private businesses. Given minor nature and scale of most permitted development rights the impacts are likely to be negligible.

Q2. Do you have any information or can you suggest sources of relevant information on the costs and/or benefits detailed in the BRIA?

No

Q3. We would appreciate your assessment of the potential equalities impact our proposals may have on different sectors of the population. A partial EQIA is attached to this consultation at Annex 3 for your comment and feedback.

No comments to make.

Part 1. Amendments to existing classes of permitted development.

Q4. Should we retain class 26? If class 26 should be retained are there any changes to the controls that would strike a better balance?

Yes ☐ No ☒

Class 26 is little used and the deposit of waste is already controlled by SEPA under separate legislation. Deletion of the Class would have little impact.

Q5. With regard to the proposed amendments to existing classes;

(a) Is the granting of permission, and the restrictions and conditions, clear?

Yes ☒ No ☐

(b) Is the granting of permission, and the restrictions and conditions, reasonable?

Yes ☒ No ☐

(c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?

Yes ☒ No ☐

(d) Please identify and explain any changes to the controls that you think would strike a better balance?

No additional comments.

Part 2. Proposed new classes of permitted development.

Q6. With regard to the proposed new classes 7E and 7F;

(a) Is the granting of permission, and the restrictions and conditions, clear?

Yes ☒ No ☐

(b) Is the granting of permission, and the restrictions and conditions, reasonable?

Yes ☒ No ☐

(c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?

Yes ☒ No ☐

(d) Please identify and explain any changes to the controls that you think would strike a better balance?

If the requirement for planning permission and listed building consent is not simplified into a single consent, then the restrictions on PDR should include development affecting a listed building.

Q7. With regard to the proposed new classes 7A and 7B;

(a) Is the granting of permission, and the restrictions and conditions, clear?

Yes ☒ No ☐

(b) Is the granting of permission, and the restrictions and conditions, reasonable?

Yes ☒ No ☐

(c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?

Yes ☒ No ☐

(d) Please identify and explain any changes to the controls that you think would strike a better balance?

If the requirement for planning permission and listed building consent is not simplified into a single consent, then the restrictions on PDR should include development affecting a listed building.

An additional control should be included to explicitly preclude roller shutter doors from being added as 'alterations' under this new PDR, as the presence of shutters can have a damaging impact on the streetscene and increase the fear of crime.

Q8. With regard to the proposed new class 7C;

(a) Is the granting of permission, and the restrictions and conditions, clear?

Yes ☒ No ☐

(b) Is the granting of permission, and the restrictions and conditions, reasonable?

Yes ☒ No ☐

(c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?

Yes ☒ No ☐

(d) Please identify and explain any changes to the controls that you think would strike a better balance?

If the requirement for planning permission and listed building consent is not simplified into a single consent, then the restrictions on PDR should include development affecting a listed building.

Q9. With regard to the proposed new class 7D;

(a) Is the granting of permission, and the restrictions and conditions, clear?

Yes ☒ No ☐

(b) Is the granting of permission, and the restrictions and conditions, reasonable?

Yes ☒ No ☐

(c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?

Yes ☒ No ☐

(d) Please identify and explain any changes to the controls that you think would strike a better balance?

If the requirement for planning permission and listed building consent is not simplified into a single consent, then the restrictions on PDR should include development affecting a listed building.

Q10. With regard to the proposed new class 7H;

(a) Is the granting of permission, and the restrictions and conditions, clear?

Yes ☐ No ☒

(b) Is the granting of permission, and the restrictions and conditions, reasonable?

Yes ☒ No ☐

(c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?

Yes ☒ No ☐

(d) Please identify and explain any changes to the controls that you think would strike a better balance?

Clarification over what comprises a roadway is necessary, as pavement cafes will commonly be acceptable in pedestrianised areas, but many of these constitute 'roads' as defined in the Roads (Scotland) Act. The minimum 3 metres separation from a road edge could perhaps be reduced to 2 metres to enable even greater freedom.

Q11. With regard to the proposed new class 7G;

(a) Is the granting of permission, and the restrictions and conditions, clear?

Yes ☒ No ☐

(b) Is the granting of permission, and the restrictions and conditions, reasonable?

Yes ☒ No ☐

(c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?

Yes ☒ No ☐

(d) Please identify and explain any changes to the controls that you think would strike a better balance?

The maximum height of a ramp could often extend above 0.3 metres without significant amenity impacts. The current limitation is perhaps too low to create a significant benefit to business and enhanced disabled access. Consideration should be given to increasing the ramp height limit.

APPENDIX E – PLANNING FEES

CONSULTATION QUESTIONS

Question 1: Are there any costs or benefits not identified in the draft BRIA?

BRIA is competent

Question 2: Do you have any information or can you suggest sources of relevant information on the costs and/or benefits detailed in the BRIA at Section C?

No

Question 3: We would appreciate your assessment of the potential equalities impact our proposals may have on different sectors of the population. A partial EQIA is attached to this consultation at Section D, for your comment and feedback.

N/A

Question 4: Do you consider that linking fees to stages within processing agreements is a good or bad idea? What should the second trigger payment be?

Bad idea.

Introducing more bureaucracy and potential dispute into process over triggers for payment. Also administrative burden of chasing payments and stalled projects when payments are not delivered on time. Could lead to 'stop – start' and disjointed process that would detract from speed and involvement of public.

If application appears to be heading for refusal or applicant falls into liquidation (common in current climate) then payments may stop and Authority be left with abortive work (unfunded) or applications that are not determined.

Current up front charge is easy to administer, provides no delays over financial bureaucracy and if funded proportionally shall fund whole lifecycle of application.

Question 5: Do you agree or disagree with the proposal that where applications are required because permitted development rights for dwellings in conservation are restricted, then a reduced fee should be payable?

Agree ☐ Disagree ☒

Disagree.
Conservation Areas have been specifically designated as the best examples of our built environment and recent changes in GPDO reflect that tight control should be enforced within them. Assessing all proposals, regardless of scale, in CAs require attention to detail and are usually resource intensive because of the special character of the area. May involve extra meetings, liaison with Conservation Officer, greater in depth

analysis, greater scrutiny and objection (particularly where there are preservation groups active).

To this extent, it is considered proportionate to charge full fee for all applications in CA even if PD elsewhere as they are usually resource intensive to determine.

Question 6: Do you agree or disagree with the proposal that there should be a separate fee for renewals of planning permission?

Agree ☒ Disagree ☐

Agree.

Renewals generally less intensive and significant material consideration shall be previous Report of Handling and history

Question 7: Do you agree or disagree that the new fee is set at an appropriate level?

Agree ☐ Disagree ☒

Finely balanced however disagree overall.

This solely relates to subsequent applications currently referred to as 'free go' applications.

In many scenarios Development Management Officers seek to negotiate with applicants to add value to their proposals in effort to make them acceptable in line with the Development Plan. However, in doing this a resubmission may be required as a material change must take place. At present this resubmission is free and is usually accepted. The applicant is already penalised in time to process the application so this proposed additional fiscal penalty is considered to be unhelpful. Furthermore, the majority of the assessment process should already have been completed for the first application and application is valid as the first one was. To this extent, whilst further resource is spent from the Local Authority is should not be significant.

The greatest concern is developing a culture of conflict rather than negotiation whilst determining an application. Developers are much more likely to resist Officer advice to add value and improve projects should they know the resubmission is likely to attract a new application fee.

I would endorse a 50% fee if the application is brought to determination being refused or approved then a subsequent application is submitted but not for withdrawals.

Greater emphasis on use of pre-application discussions / service should be made to ensure determining factors are identified as early as possible.

Question 8: Do you agree or disagree with the proposal that the fee should increase on an annual basis?

Agree ☒ Disagree ☐

Agree.

Shall mean fees remain realistic and greater certainty over budget forecasting.

Question 9: Is using site area the best method of calculating fees for windfarms of more than 2 turbines? If not, could you suggest an alternative? In your response please provide any evidence that supports your view.

Yes ☒ No ☐

No additional comments

Question 10: Please list any types of developments not included within the proposed categories that you consider should be.

No additional comments

Question 11: We would welcome any other views or comments you may have on the contents and provisions on the new regulations.

Section 2 of Consultation Paper– Linking Fees To Performance

Strongly agree with proposed COSLA Response that the 'yellow card, red card / sunset clause' is dropped or at least expanded for fuller understanding. The theory is that poorly performing authorities will have new higher fee thresholds removed is draconian 'stick' approach. Similar approach proved unhelpful when introduced in England (under Planning Delivery Grant Scheme) because poorly performing authorities were generally the ones who were poorly resourced. When further cuts were made to their resources the performance got even worse and became declining cycle. Ambiguity over timescales and early warning of what actually constitutes 'poor performance' at present.

Furthermore, there needs to be explicit messages from Government to Local Authority CEO's and Directors that any increases in fees are recycled and invested back into the planning service.

Advertisement and Public Notice Costs

Whilst the general increase in fees is welcomed, caution is expressed over the level of increase when the loss of public notice re-charging is factored in. In certain areas (Helensburgh for example) the cost of an advert in a local paper can be significant depending on how many adverts are placed each week. If a single advert is placed in the local Helensburgh paper then the cost is regularly above £500 – ie greater than the planning application

fee at present! Some of the other newspapers in Argyll and Bute are cheaper so a average re-charge is taken throughout. So even within a single authority where multiple papers are in circulation the variations in advertisements costs causes disparities. These disparities shall result in certain Local Authorities with cheaper papers benefiting more form the increase in fees than Authorities such as ourselves where newspaper costs are generally high. This is considered to be unfair and would commend the total abolishment of newspaper adverts or replacement with online Public Information Notices (PINS) portal.

This issue with disparities between newspaper charges is compounded by our rural nature. Authorities such as Argyll and Bute must advertise more frequently than an urban authority given there are more ‘vacant land’ notifications and undeveloped areas. Again we feel that the benefits of the increased fees shall not be fully realised given our expensive papers and rural nature and shall be disadvantaged compared to other authorities.

We would seek that newspaper adverts are abolished or replacement with online PINS portal.

Certificates of Lawful Use

A Certificate of Lawful Use is a legal document that requires assessment and in most scenarios a site visit. To this extent, we feel strongly that a fee should be attached to this category of application. ABC operate a free pre-application service which includes ‘do I need planning consent’ queries so the concern that Authorities do not engage at all with customers unless in application form as outlined in the consultation document is unfounded.