



**Argyll and Bute Council**  
**Comhairle Earra-Ghàidheal Agus Bhòid**

*Executive Director: Douglas Hendry*

*Kilmory, Lochgilphead, PA31 8RT*  
*Tel: 01546 602127 Fax: 01546 604435*  
*DX 599700 LOCHGILPHEAD*

12 February 2020

**NOTICE OF MEETING**

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD** on **WEDNESDAY, 19 FEBRUARY 2020** at **11:30 AM**, which you are requested to attend.

Douglas Hendry  
Executive Director

**BUSINESS**

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST**
- 3. MINUTES**
  - (a) Planning, Protective Services and Licensing Committee 22 January 2020 (Pages 3 - 6)
  - (b) Planning, Protective Services and Licensing Committee 29 January 2020 (Pages 7 - 24)
- 4. RESPONSE TO CONSULTATION ON PLANNING PERFORMANCE AND FEES 2019**

Report by Acting Executive Director with responsibility for Development and Economic Growth (Pages 25 – 84)
- 5. PROPOSED PROGRAMME OF PLANNING TRAINING FOR MEMBERS**

Report by Head of Development and Economic Growth (Pages 85 – 88)
- 6. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: CONTINUED APPLICATION FOR GRANT OF TAXI OPERATOR LICENCE (P MILLER, OBAN)**

Report by Head of Legal and Regulatory Support (Pages 89 – 96)

## **E1 7. REQUEST FOR TREE PRESERVATION ORDER**

Report by Acting Executive Director with responsibility for Development and Economic Growth (Pages 97 – 100)

The Committee will be asked to pass a resolution in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the public for items of business with an “E” on the grounds that it is likely to involve the disclosure of exempt information as defined in the appropriate paragraph of Part I of Schedule 7a to the Local Government (Scotland) Act 1973.

The appropriate paragraph is:-

**E1 Paragraph 13** Information which, if disclosed to the public, would reveal that the authority proposes-

- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- (b) to make an order or direction under any enactment.

### **Planning, Protective Services and Licensing Committee**

Councillor Gordon Blair	Councillor Rory Colville (Vice-Chair)
Councillor Robin Currie	Councillor Mary-Jean Devon
Councillor Lorna Douglas	Councillor Audrey Forrest
Councillor George Freeman	Councillor Graham Hardie
Councillor David Kinniburgh (Chair)	Councillor Donald MacMillan BEM
Councillor Roderick McCuish	Councillor Jean Moffat
Councillor Alastair Redman	Councillor Sandy Taylor
Councillor Richard Trail	

Contact: Fiona McCallum

Tel. No. 01546 604392

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING  
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 22 JANUARY 2020**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Lorna Douglas                      Councillor Alastair Redman  
Councillor Donald MacMillan BEM      Councillor Richard Trail

**Attending:** Fergus Murray, Head of Development and Economic Growth  
Shona Barton, Committee Manager  
Peter Bain, Development Manager  
Sandra Davies, Major Applications Team Leader  
David Moore, Senior Planning Officer  
Kim de Buitel  ir, Design and Conservation Officer  
Emma Jane, Planning Officer

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Gordon Blair, Rory Colville, Robin Currie, Mary-Jean Devon, Audrey Forrest, George Freeman, Graham Archibald Hardie, Roderick McCuish, Jean Moffat and Sandy Taylor.

**2. DECLARATIONS OF INTEREST**

Councillor Donald MacMillan declared a non-financial interest in the business dealt with at item 4 of this Minute (**Planning Application Reference: 19/01498/MPLAN**) as he is a Board Member of Argyll Community Housing Association. He left the room and took no part in the consideration of this item.

Councillor Richard Trail declared a financial interest in the business dealt with at item 5 of this Minute (**Application Reference: 19/02597/PAN**) as he has an interest in land opposite the proposed development site. He left the room and took no part in the consideration of this item.

**3. MINUTES**

- a) The Minute of the Planning, Protective Services and Licensing Committee held on 18 December 2019 at 11.30 am was approved as a correct record.
- b) The Minute of the Planning, Protective Services and Licensing Committee held on 18 December 2019 at 2.00 pm was approved as a correct record.
- c) The Minute of the Planning, Protective Services and Licensing Committee held on 18 December 2019 at 2.20 pm was approved as a correct record.
- d) The Minute of the Planning, Protective Services and Licensing Committee held on 18 December 2019 at 2.40 pm was approved as a correct record.
- e) The Minute of the Planning, Protective Services and Licensing Committee held on 18 December 2019 at 3.00 pm was approved as a correct record.

- f) The Minute of the Planning, Protective Services and Licensing Committee held on 18 December 2019 at 3.20 pm was approved as a correct record.

Having previously declared an interest in the following item, Councillor Donald MacMillan left the meeting at this point.

**4. ARGYLL COMMUNITY HOUSING ASSOCIATION: MASTERPLAN IN RESPECT OF POTENTIAL DEVELOPMENT AREA PDA 5/3, 5/6 AND 5/7 OF THE ARGYLL AND BUTE LOCAL DEVELOPMENT PLAN 2015 RELATING TO HOUSING DEVELOPMENT: LAND NORTH WEST OF GLENCRUITTEN RISE, OBAN (REF: 19/01498/MPLAN)**

The Senior Planning Officer spoke to the terms of the report. The current Masterplan proposal covers land associated with three individual PDA areas - PDA 5/3, PDA 5/6 and PDA 5/7 but relates primarily to PDA 5/7 at this time and promotes 100 affordable houses to be developed by Argyll Community Housing Association (ACHA). Officers consider that the components of the proposed Masterplan are compatible with the envisaged development of PDA 5/7. However any development of PDA 5/3 or 5/6 would require to be the subject of a Stage 2 Masterplan submission, and would be dependent on the delivery of the Oban Development Road in respect of facilitating vehicular access, as well as further detailed consideration of the site specific constraints to development, such as potential loss of woodland and impacts upon biodiversity. It was recommended that the Committee approve the current Masterplan submission as detailed at section 2 of the report of handling.

**Decision**

The Committee agreed:

1. to provide endorsement to the elements of the Masterplan as they relate to the release of land for the development of 100 affordable housing units on PDA 5/7;
2. the principle of allowing appropriate re-contouring of PDA 5/7 in order to facilitate a less linear and formal housing layout and allow the creation of a greater degree of building clustering, placemaking and landscape integration within the built form;
3. to endorse the view of Officers that a high quality development, in accordance with the advice contained in the approved Larger Housing Developments Design Guide, Designing Streets and Placemaking advice is required on this site to promote a successful outcome for any future planning application;
4. that the development of the site for 100 houses on PDA 5/7 is dependent on the Area Roads Engineer agreeing the extent and phasing of necessary roads improvements to Glencruitten Road in the interests of road safety as part of any future planning application submissions; and
5. to endorse the view that a 'Stage 2' Masterplan submission will be required for further consideration of the Council in advance of either PDA 5/3 or PDA 5/6 being brought forward for development, to include details of vehicular access arrangement from the Oban Development Road.

(Reference: Report by Head of Development and Economic Growth dated 8 January 2020, submitted)

Councillor MacMillan returned to the meeting.

Having previously declared an interest in the following item, Councillor Richard Trail left the meeting at this point.

**5. ICENI PROJECTS LIMITED: PROPOSAL OF APPLICATION NOTICE FOR THE ERECTION OF OFFICE DEVELOPMENT (CLASS 4) WITH HOTEL (CLASS 7), RESTAURANT/FOOD AND DRINK (CLASS 3) AND PUBLIC HOUSE (SUI GENERIS) WITH ACCESS AND ASSOCIATED WORKS: LAND NORTH WEST OF IONA STABLES, HELENSBURGH (REF: 19/02597/PAN)**

The Major Applications Team Leader spoke to the terms of this report. This Proposal of Application Notice (PAN) advises that a mixed use development at a site located on the eastern edge of Helensburgh immediately to the south east of the Waitrose Supermarket on the other side of the Red Burn which separates the two sites is proposed. The site also lies directly across the road (A814) and to the south of the Sawmillfield site. Within the existing Local Development Plan the proposed site is designated as a Helensburgh – Craigendoran Business and Industry Allocation (BI-AL-3/1). The suitable uses are listed as being Use Classes 4, 7 and garages selling or displaying motor vehicles. Within the forthcoming Local Development Plan (LDP2), which is currently out for consultation, the site is designated as a Business and Industry Allocation (B2001) with business (Use Class 4) and Hotel (Use Class 7) and ancillary employment related uses. The report summarised the policy considerations, against which any future planning application would be considered as well as potential material considerations and key issues based upon the information received to date. It was recommended that Members note the content of the report and submissions and provide such feedback as they consider appropriate in respect of this PAN to allow these matters to be considered by the Applicants in finalising any future planning application submission.

**Decision**

The Committee noted the content of the report and submissions and agreed that the following issues should be taken into consideration by the Applicant in finalising any future planning application submission:

- Design and layout
- Drainage and flooding
- Off-site road improvements and access to the site
- Existing cycle path

(Reference: Report by Head of Development and Economic Growth dated 8 January 2020, submitted)

Councillor Trail returned to the meeting.

**6. ARGYLL AND BUTE DESIGN AWARDS 2020**

Argyll and Bute Council has successfully held three rounds of Design Awards over the past ten years, the most recent being held in 2015. A report inviting Members to agree the proposal to facilitate the launch of built environment Design Awards in 2020 was considered.

**Decision**

The Committee noted and agreed the content of this report which set out the process required to adequately prepare for a built environment design competition to be launched in 2020.

(Reference: Report by Executive Director with responsibility for Development and Economic Growth dated 10 December 2019, submitted)

**7. UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISIONS**

A report summarising the outcome of recent appeal decisions by the Planning and Environmental Appeals Division for the conjoined Killean and Clachaig Glen Public Local Inquiry held in January 2019 was before the Committee for information.

**Decision**

The Committee noted the contents of the report.

(Reference: Report by Head of Development and Economic Development, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING  
COMMITTEE held in the AROS HALL, MAIN STREET, TOBERMORY, ISLE OF MULL  
on WEDNESDAY, 29 JANUARY 2020**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Gordon Blair  
Councillor Robin Currie  
Councillor Mary-Jean Devon  
Councillor George Freeman

Councillor Donald MacMillan BEM  
Councillor Alastair Redman  
Councillor Richard Trail

**Attending:** Iain Jackson, Governance, Risk and Safety Manager, Argyll and Bute Council  
Peter Bain, Development Manager, Argyll and Bute Council  
Tim Williams, Area Team Leader, Oban, Lorn and the Isles, Argyll and Bute Council  
Calum MacLachlainn, Argyll Properties Ltd, Applicant  
Phil McLean, Geddes Consulting, Applicants Agent  
Callum Anderson, Kaya Consulting, Applicants Agent  
David Cameron, JBA Consulting, Flooding Assessor  
John MacDonald, Tobermory Harbour Association, Supporter

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Rory Colville, Lorna Douglas, Audrey Forrest, Graham Archibald Hardie, Roderick McCuish, Jean Moffat and Sandy Taylor.

**2. DECLARATIONS OF INTEREST**

There were none intimated.

**3. ARGYLL PROPERTIES LTD: ERECTION OF RETAIL UNIT, VISITOR CENTRE AND 3 SELF-CATERING UNITS, INCLUDING REALIGNMENT OF ESCAPE STAIRS TO TAIGH SOLAIS AND MACGOCHANS: LAND ADJACENT TO TAIGH SOLAIS, TOBERMORY, ISLE OF MULL (REF: 17/01205/PP)**

The Chair welcomed all those present to the meeting and introductions were made. He outlined the procedure and invited the Governance, Risk and Safety Manager to identify all those present who wished to speak.

**PLANNING**

Tim Williams presented the application on behalf of the Head of Development and Economic Growth. He made the following presentation referring to a number of PowerPoint slides which were displayed to the Committee -

Before commencing my presentation and whilst this matter was drawn to the attention of Members at the October PPSL Meeting, for the benefit of this Hearing and in the interests of ensuring complete transparency, I wish to reiterate two minor errors within the published Report of Handling.

On Page 3 of your Agenda Pack (the first page of Agenda Item 3) the report states that there has been no response from the Council's Environmental Health team. I must inform you that this is not correct. The Environmental Health officer did respond and offered no objection to the proposed development by memo dated 18<sup>th</sup> September 2017.

In addition, on the next page, Page 4, under the summary of the comments from the Council's flood risk officer it states that he objects to the development as the proposal is contrary to Policy LDP 11 and Supplementary Guidance TRAN 7. That should read Policy LDP 10 and Supplementary Guidance SERV 7; these being the key Local Development Plan policies in this case and those specifically, and correctly, referenced throughout the remainder of the report of handling.

I can only apologise for these errors to this one small section of the text and ask that it be minuted that the report be thus corrected.

In terms of the adopted Local Development Plan, the application site is located within the 'Main Town Centre' of the 'Key Settlement' of Tobermory wherein settlement strategy policy LDP DM 1 of the Local Development Plan gives encouragement to appropriate and sustainable forms of up to large scale development upon suitable sites subject to compliance with other relevant local and national planning policy and guidance.

The proposal is for a mixed use development consisting of a medium scale retail component and a small scale tourism offer which represents an appropriately high quality, well designed and suitable proportioned development within an existing 'gap site' within the Tobermory Harbour waterfront and conservation area. The proposed development has attracted some 51 letters of support. It is considered that the proposed development is wholly compliant with all relevant provisions of both local and national planning policy, with the material and critical exception of flood risk.

Members will have read the report of handling and I am aware that some or all of you have been contacted directly by one of the Applicant's Agents. The recommendation of officers is that this is not an appropriate site for this specific development as it will result in a built development located within the functional coastal floodplain and determined as being categorised as a 'Highly Vulnerable Use' within an area of medium to high flood risk, clearly contrary to Scottish Planning Policy and SEPAs published flood guidance as well as the Council's own flood risk policy and supplementary guidance.

SEPA, as the government's flood risk agency have strenuously maintained an objection to the proposed development and no appropriate compromise position has been found sufficient to allow officers to recommend to Members that the application can be considered acceptable.

It is anticipated and accepted that this stance may not sit comfortably with Members and I must advise that should Members be minded to go against officer's recommendation in this case, they will be required to notify this intention to Scottish Ministers and to explain, in detail, their reasons for wishing to depart from national and local flood risk policy.

I must take this opportunity to express publically my profound disappointment that SEPA have elected not to be represented in person at today's proceedings; this



despite their initial confirmation that they would attend. However, I should stress to Members and to those in attendance today that the absence of SEPA must not be taken as any indication that they have somehow 'backtracked' on their consistent objection to the proposed development.

Conversely, however, I would ask that Members bear in mind, particularly during their questions and assessment, that the key determining issue in this case rests solely on a single technical matter; that the Government agency tasked with formulating and operating national planning policy surrounding that issue is not present today and, therefore, the value from today's debate may not entirely meet the high standards normally expected. Having now carried out a site inspection, Members may wish to consider a continuation of these proceedings to a time and place mutually agreeable and in order to secure the attendance of SEPA.

I propose to leave this as a rhetorical matter and move on.

This is the submitted amended ground floor plan which shows a large, open retail unit to the right hand side and a smaller tourist information office to the left hand side. It also shows the recently added 'flood refuge' area to the rear of the building. This consists of an elevated rectangular platform cut into the hillside at the rear of the site and accessed via stairs. This refuge area is open in the main part with a small covered area to the left hand side. It is noted that it affords no level access for the mobility impaired.

This is the proposed first floor plan which consists of three two-bedroomed residential holiday letting units, accessed via an external staircase to a covered but open gallery access landing to the rear.

These are the proposed elevations with a helpful street montage illustration. The proposed development would adjoin the existing harbour building to the left hand side and sit within an existing undeveloped gap between the harbour building and MacGochans bar and restaurant to the right hand side. The proposed building would have a relatively simple form and an attractive design consisting of a mix of traditional and contemporary design elements and a range of external finishes including painted render, sage green timber composite boarding and a standing seam zinc roof. The building would be extensively glazed to its front elevation with small balcony areas to the first floor self-catering accommodation. The proposed building would occupy a relatively flat and level area of land which sits in front of a steep and rocky hillside.

This slide shows the details of the proposed flood refuge area to the rear of the building. It can be seen that this takes the form of a long, narrow platform cut into the steeply sloping ground immediately to the rear of the proposed main building. This would be an open area accessed via an external stair and surrounded by a safety railing. A small area to the eastern end of this platform would be covered by a simple monopitched roof structure.

This is a zoomed-in view of the site taken from the other side of the bay, from the north and looking due south. It clearly shows the existing gap site with the coastguard building and Mull Aquarium to the left and MacGochan's bar and restaurant to the right.

This is looking across the site from within the existing public car parking area looking south east with the temporary visitor centre trailer demarking the approximate central position of the application site and the aquarium and harbour building beyond. This photograph also illustrates the steepness of the rising land at the rear of the site. This is a similar view but this time looking due south.

And this photo and this one: Are taken from the rear of the site, behind the tourist information trailer, and looking in a north-east to north-west arc over the harbour and its car park and with the iconic bay-side settlement beyond.

Members may just make out the clock tower on the opposite side of the bay, as pointed out to them at the site inspection (middle, background – above white camper and to left of tree). This is important because it shows that the existing ground level of the development site is approximately equal to that of the esplanade upon which the clock tower sits. I will refer to this again later.

This is from the site looking due east; and this is looking due west. And this shows the western side wall of the aquarium and harbour building with a bewildered-looking elderly gentleman being supported by a tourist information sign. The proposal is to attach the new building to this side wall, set back slightly from its existing front face and to utilise the existing window opening to provide an internal walk-through between the existing visitor centre and the proposed new tourist information centre within the proposed new building. The existing external stair would be moved to the back of the building.

As previously stated and as outlined in detail in the published report of handling, the sole but fundamental issue for Members is the flood risk vulnerability of the site. This is a screenshot from SEPA's flood risk mapping database with the red arrow marking the approximate position of the proposed development and the green colouring an overlay of the coastal margins in and around Tobermory and showing the extent of the 'medium coastal flood risk zone'.

This means a flood event that is likely to occur in the defined area on average once in every 200 years or a 0.5% chance of it happening in any one year. SEPA point out that the likelihood of flooding remains the same in each year, for instance if a flood were to occur in year one, there would remain the same statistical (0.5%) probability of it occurring again in year two and so on.

SEPA's starting point is that proposed developments should not be located within the functional floodplain or in areas of medium to high risk from fluvial or coastal flooding. This stance is reflected in both national and local planning policy and constitutes a hardline 'precautionary principle' which, at its heart, seeks to protect people and property from flooding. It is this fundamental principle which Members will be required to reconcile should they wish to depart from key planning policy.

That is the key guiding principle. However, planning policy accepts that such a broad brush ban on development within such flood risk zones, whilst desirable in exercise of the precautionary principle, may not be possible in all cases. Therefore planning policy acknowledges that some types of development may be acceptable if they meet the requirements of a detailed 'risk framework' as defined within Scottish Planning Policy and by SEPA's published 'Land Use Vulnerability Guidance'.

This is used to assess and describe the vulnerability classification of proposed developments and to ensure that those developments are suitable for the location and degree of flood risk. – This table is a summary of that vulnerability guidance.

SEPA have assessed the proposed development and have concluded that it falls within the category of 'Highly Vulnerable Uses' because of the proposed first floor residential holiday accommodation. The retail and visitor centre element of the proposed development would, if considered in isolation, fall within the category of 'Least Vulnerable Uses'.

However, if we look at this next table, particularly the row along the bottom which refers to developments within the medium to high flood risk areas, it can be seen that neither the 'Highly Vulnerable Uses' or the 'Least Vulnerable Uses' are acceptable when one applies the necessary risk framework assessment, unless the following circumstances apply:

The proposals constitute a redevelopment of an existing building on either a change of use basis or a redevelopment basis and proposes a use of equal or less vulnerability than the existing use.

In the case of this specific application, no such opportunity exists and the proposed development remains fundamentally contrary to both national and local planning policy.

This does not mean, however, that the site is necessarily undevelopable. SEPA's guidance on flood risk policy suggests that a different form of development on this site could be acceptable. It is possible that a different development; one classed either as a 'water compatible' development or a development consisting of 'essential infrastructure' requiring a flood risk location for operational reasons, could be acceptable within the medium to high risk coastal flooding zone provided that it can be demonstrated that any such development within the functional flood plain will not lead to flooding elsewhere.

Otherwise, Scottish Planning Policy indicates support for development of the type currently proposed where such flood risk areas are protected by an appropriate existing or planned flood protection scheme.

Members will have seen that numerous discussions and negotiations have taken place between officers, the developer, his various agents and consultants and with SEPA. There is much discussion within the published report of handling of floor levels, of climate change and of various flood attenuation measures. All of this has been well-intended and useful to inform the wider debate. However, I must advise you that none of the submitted safeguarding measures have been deemed sufficient to overturn the national and local planning policy objection.

SEPA, over the course of 28 months and eight separate consultation responses maintain that the proposed development may place buildings and persons at flood risk contrary to Scottish Planning Policy; that SEPA have a shared duty with Scottish Ministers and other responsible authorities under the Flood Risk Management (Scotland) Act 2009 to reduce overall flood risk and to promote sustainable flood risk management. SEPA point out that the cornerstone of sustainable flood risk management is the avoidance of flood risk in the first instance.

SEPA have reviewed all of the submitted proposed mitigation in detail. SEPA conclude that:

- the site of the proposed development is located within the coastal floodplain;
- the site can and will flood;
- that it is their opinion that this location is not essential for operational reasons, nor would it constitute an exceptional circumstance;
- that the proposed use of mitigation measures to facilitate the development of the site are not considered to be appropriate and;
- that the principle of flood risk avoidance is at the heart of national planning policy with Paragraph 255 of the Scottish Planning Policy stating that, “the planning system should promote flood avoidance by safeguarding flood storage and conveyance capacity and [by] locating development away from functional floodplains and medium to high risk areas. Built development should, therefore, not take place on the functional flood plain.”

SEPA concludes by reiterating that there is, in their considered opinion, no technical solution to managing flood risk at this site which meets with Scottish Planning Policy.

That the site will flood should not be in doubt following recent events.

This is a photograph taken of the clock tower and adjacent esplanade and road at just before 8pm on Monday 13<sup>th</sup> January, this year. It shows the impact of Storm Brendan.

Members have seen for themselves the relative height of this ground compared to that of the application site on the opposite side of the bay – they are, for all intents and purposes, the same.

SEPA have categorised this flood event as somewhere between the 1 in 10 and 1 in 20 year return period, sufficient to flood the development site though at a level substantially less than that predicted by the 1 in 200 year flood event.

In such a flood event, due primarily to the predicted effect of climate change and flood waters driven ashore by wave action, one might expect the water level shown on this photograph to be increased by almost 1.9 metres.

Whilst I have no wish to appear before you as the world’s oldest Greta Thunburg, I hope you will agree that such an event would be catastrophic for Argyll’s lower lying coastal margins.

We must face this challenge together and we can begin here, today, by supporting our Government’s flood risk strategy and their response to the climate change emergency. We can do this by saying no to inappropriate development on sites subject to flooding where such development will put people and places at risk.

## APPLICANT

Phil McLean presented the application on behalf of Argyll Properties Ltd. He made the following presentation –

Good afternoon – I am Phil McLean from Geddes Consulting, planning adviser to the Applicant, Argyll Properties. Some of you may remember me from my time as Planning Officer with the Council, covering Mull. I am joined by Callum Anderson from Kaya Consulting, a flood risk specialist, as well as Calum MacLachlann of Argyll Properties.

We welcome the Committee's Decision in October to hold this hearing, and we thank you for the opportunity to address you today.

The proposal is for a ground floor convenience retail unit, additional space on the ground floor as a tourist information office for the Harbour Association, and three self-catering apartments above. The proposal supports regeneration and economic investment objectives for Tobermory waterfront. It provides road safety benefits, and will represent a significant visual and streetscape enhancement of a prominent 'gap site' within the Conservation Area.

As you have heard from Council officers, the proposal is fully compliant with all relevant local and national planning policy. The single matter of debate, and the reason we are here today, is about the implications of flood risk.

We welcome the assessment in the Committee Report that the proposal is an appropriately high quality, well-designed, suitably proportioned development and consistent with the aims of the development plan in terms of tourism and economic development.

We are also delighted that the Application has attracted such significant public interest, with over 50 representations of support, including unanimous support from the Community Council. This reflects the benefits of the proposal in terms of economic benefit, road safety, and enhancing the local townscape.

The Applicant does accept that flood risk is an important issue for this site. As outlined in the Committee Report, we have made a number of changes to the proposal since the Application was originally submitted, including raising proposed floor levels to the maximum practicable level. We have also outlined a range of mitigation measures, which can be secured by planning conditions or Legal Agreement.

The proposed mitigation measures include: firstly, providing a flood refuge area that can also be accessed by patrons of MacGochans pub; secondly, providing an emergency boat fixed to a nearby building; thirdly, including the property in the flood warning scheme operated by the Harbour Association; and finally, using flood resilient construction measures to provide additional protection to the ground floor.

The proposed mitigation measures provide the necessary protection levels for the development to the year 2080 taking account of projected climate change, or to 2065 with an additional allowance for waves.

The objection by SEPA does not address the fact that a strategic and adaptive approach to managing flood risk in Tobermory will be needed in future, whether or not this development is approved. The proposed ground floor level of this development is higher than many other existing shore-front properties in Tobermory.

SEPA's position also does not take local circumstances into account. It does not recognise the site's location within the town centre, and the significant benefits of the development to the local community. It is based on categorising the site as 'undeveloped/sparsely developed functional floodplain', which is not reflective of the actual location of the site. It also does not acknowledge that the more vulnerable residential use is on the first floor rather than the ground floor, and is therefore well above relevant flood levels.

It is important to bear in mind that the proposal does not materially increase the risk of flooding to other properties but the proposed mitigation measures delivered by this proposal will be of benefit to Tobermory overall.

To sum up, we are seeking the Committee's support to approve this Application. We urge you to give weight to local circumstances, to the significant benefits of this development and to the clear wishes of local residents.

There is no 'Plan B' for this prominent gap site – if this development is not approved, the site will remain undeveloped.

As officers have highlighted, if you are minded to approve the Application this will need to be referred to Scottish Ministers due to SEPA's position. This procedure is not unusual. While Ministers have the power to 'call in' the Application for their consideration, they would only do so if they were of the view that the proposal raised issues of national importance. We have reviewed many other such cases and we are confident that Ministers would decide this Application is best dealt with locally and would return it back to the Council to approve.

I thank you again for the opportunity to present to you today, and we will be very happy to respond to questions at the appropriate point on the agenda.

### **SUPPORTERS**

Mr John MacDonald spoke in support of the application, on behalf of Tobermory Harbour Association. He advised that the Harbour Association owned the land and stood to gain advantage from the application. Mr MacDonald gave a history of the Harbour Association advising that it had been founded in the early 80s to ensure the bay remained in local control. He advised that the Association had expanded since then and offered facilities both on shore and off shore, and that the application would enhance these facilities.

Mr MacDonald advised that Tobermory had experienced only 2 significant floods, one in 1973 and one in 2005. The flood in 1973 had been exceptional and there had been nothing like that since. He advised that the flooding was infrequent and that the Harbour Association did not feel that it was of significance to the application. He advised that when flooding did occur, that it was over a short period of time, adding that it seldom lasted more than 2 hours. He advised that the flood water did not

contain any sewerage or foul elements, that it did cause damage, but the damage was not catastrophic.

Mr MacDonald told the Committee that he was aware that there was an ongoing scheme to replace the railings the length of the street along with a low wall and replace the existing slipway which would assist with flooding mitigation. He advised of a problem with a lack of drainage. He advised that the flooding in the car park would be significantly reduced with the proposals for the railings and seawall, and that it was unlikely it would affect the application.

He concluded by saying that the Association was ambitious and that they hoped to attract more people to Tobermory both on shore and off shore. He advised that they would not like to see anything that would stifle suitable development. Having lived and worked there all their lives they thought the risk was worth it and could see no reason to worry about it.

### **MEMBERS QUESTIONS**

Councillor Redman asked the applicant to provide further detail about the flood mitigation measures mentioned in the presentation given. Mr McLean advised that these measures were set out on page 13 of the agenda pack and included an evacuation and rescue area, measures for the building including raising the property floor level and a range of flood protection measures within the shop. He advised that because flood event was predictable these measures could be put in place and secured by planning conditions. He advised that other key measures included a flood management plan which would tie in with flood warnings by the Harbour Association and would cover arrangements for how flood warnings would be communicated, adding that the exact detail would be dealt with through planning conditions. Mr McLean highlighted the starting point of the floor level of the building and advised that the level SEPA were saying would be required would take the floor level of the property in line with the level of the top of door of MacGoghan's bar which would be unacceptable. He advised that the proposed floor level of the application was 1m above the current floor level of MacGoghan's bar.

Councillor Devon highlighted the absence of SEPA, stating that Members were not professional planners or flood experts and were dependent on consultees to provide information to them to make an informed decision on issues that affect communities. She advised that she would be directing the questions she had for SEPA to Mr Cameron of JBA Consulting. Councillor Devon asked Mr Cameron where the designation of Tobermory Bay as a coastal flood zone had come from advising that they had not received copies of the SEPA maps showing Tobermory as high risk. She said that residents were worried about how this designation would affect the insurance of existing properties. Councillor Devon read out SEPA's development management guidance that had been updated in July 2018. She advised that they had considered removing Tobermory from the potential vulnerable area list and if that was the case, then why was the bay designated as a medium to high coastal flood zone. Mr Cameron advised that the designation had come from Scottish Planning Policy, 1 in 200 year flood risk and that SEPA had provided indicative maps that were available on their website. He advised that there were three categories, low, medium and high. He advised that he could not answer her question in terms of removing the potential vulnerable area designation from Tobermory.

Councillor Currie asked the applicant for further detail on the proposal for the provision of a rescue boat. Mr McLean advised that the applicants had other land within their control and had offered to put a rescue boat in place which could be secured through planning conditions. Councillor Currie asked where the rescue boat would be situated and Mr MacLachlann advised that it would be situated near the distillery and that the net benefit gain would be extraordinary as it would be of use to other properties.

Councillor Currie asked Mr Cameron for his view on the floor levels required by SEPA. Mr Cameron advised that in his view the technical solution would be to raise flood level above 3.92m, as at this level it was only 1cm higher than the 1 in 200 year flood level. He advised that there was also a need to account for climate change and wave action. He advised that the application did not meet the Council Policy in terms of flood risk and in that case should be recommended for refusal.

Councillor Currie asked what weight was given to SEPA's objection and asked if there was an obligation to comply with the guidance given. Mr Bain advised that SEPA were a statutory consultee which meant the Council were required to consult them and obtain comments, take these comments into account and give material weight to them when making a decision. Mr Bain added that there was a provision in the Scottish Government Planning Act advising of the requirement to notify to Scottish Ministers when a Council intends to go against the view of a statutory consultee. Councillor Currie asked if similar action would be taken for other consultees such as roads. Mr Bain advised that that would not be the case as they were internal consultees. He added that in the case of the current application the Scottish Government had set out that flooding was a national issue and wanted oversight of the operation of that Policy.

Councillor Trail asked the applicant if they had negotiated with SEPA in terms of the flood mitigation measures listed in the report. Mr McLean confirmed that the information had been circulated to SEPA and JBA Consulting, that SEPA had objected in principle and were not willing to negotiate. Mr Williams advised that the Planning Authority aim to work with SEPA to achieve a solution. He advised that SEPA had commented in detail on the mitigation strategies and did not support the principle of the application. They had advised that the proposed use of mitigation measures were not appropriate.

Councillor Trail asked Mr Williams if he was of the opinion that SEPA had given serious consideration to the mitigation measures proposed by the applicant. Mr Williams said that he considered that they had, as all their responses had been detailed.

Councillor Trail asked the applicant to explain why the flooding level of 1.9m above the level of the water was not considered by the public to be a reasonable level. Mr McLean advised that he had not seen the survey that had confirmed the level. He referred to the flooding event of 13 January advising that there had been limited flooding of the car park but he had not witnessed it personally. Councillor Trail asked if the clock tower shown on the slide by planning was the same level as the car park. Mr Williams confirmed the level of the clock tower was 3.4m and that the existing level of the site was 3.3m which would mean that the site would have flooded by 10cm. He added that if the water level was to rise to the predicted level of 5.27m, the majority of Tobermory would be under water.



Councillor Redman asked how much economic benefit the proposal would bring to the island. Mr MacDonald advised that the proposal would have a direct advantage to Tobermory itself rather than the island as a whole. He added that they received compliments on the facilities that were currently available but the proposal would allow the existing aquarium to be enlarged, additional accommodation to be provided which there was always a requirement for; and the provision of another retail outlet which would be advantage as the only current food outlet was the coop.

Councillor Blair asked Mr MacDonald what damage had been done to the existing building beside the gap site during previous flooding events. Mr MacDonald advised that the floor of the building had been raised by 1m above the car park as a precautionary measure when it was built, and during the flood event in 2005 there had been no flooding of that building. The building had not been in existence in 1973 and therefore he could not comment on that event.

Councillor Blair referred to the photograph shown by planning of the window of the building which would become the link door to the new property and which Mr Williams stood next to the sign to the aquarium and asked where the floor level suggested by SEPA would be. Mr Williams demonstrated that the level would be around his nose level on the photograph and the existing proposal would take the floor level to the bottom of the existing window.

Councillor Blair referred to flooding in his garden each year and the mitigation measures he had put in place to deal with this. Councillor Blair asked who owned the car park. Mr MacDonald confirmed that the car park was currently owned by the Council but the Association were looking to purchase the car park to lease to the Council. Councillor Blair asked if any of the existing properties had encountered difficulties with insuring their properties. Mr MacLachlainn confirmed that none of the existing properties had received an adverse reaction from insurance companies.

Councillor Freeman requested confirmation on whether the chance of flooding referred to was 0.5% or 5%. Mr Williams confirmed that it was 0.5%. Councillor Freeman asked if the flood water level suggested by SEPA would reach the top of the window. Mr Cameron confirmed this and outlined the different elements that took the predicted flood water level to 5.27m. Councillor Freeman then referred to the photograph on the planning officer's presentation showing the flooding at the clock tower and asked if there were any photographs of the flooding in the car park during that time. Mr MacLachlainn showed the Committee a range of photographs of the car park that he had taken on his mobile phone at the same time as the photograph of the clock tower had been taken on 13 January. The flood water had not reached the level of the existing building.

Councillor Freeman then asked for confirmation that during that flooding event he could have walked from the high street to MacGochan's without walking through flood waters. Mr Cameron confirmed that he could have. Councillor Freeman asked if there had been an instance of flooding where people had required to be rescued from MacGoghan's. Mr Williams advised that he had no information available on this matter.

Councillor Kinniburgh referred to the mitigation measures and asked why measures such as barriers were not acceptable. He described premises in Helensburgh that were prone to flooding and which had measures in place to fit barriers to doors when they knew there would be flooding. He referred to the concern over residential

properties and asked why this was the case if they were to be on the first floor of the property. Mr Cameron advised that barriers were only suitable for water levels of up to 0.6m which was not high enough.

Councillor Kinniburgh asked when the predicted climate change figures would come into effect. Mr Cameron advised that was dependent on the design life of the proposal. Councillor Kinniburgh asked about the significance of the year 2080. Mr Anderson replied that this was the year that SEPA would look to in terms of climate change and therefore 2080 would be what they would look to for the design life of the property. Councillor Kinniburgh asked if climate change could happen earlier than 2080. Mr Anderson advised that the year 2080 would be a standard design life and that they would not look any further than this. Councillor Kinniburgh asked if the building would last until the year 2080. Mr McLean explained that the climate change allowance would increase over time and the mitigation measures they proposed would take them as far as the year 2080 with climate change, he advised that by the year 2080 flooding would be a bigger issue in Tobermory than just that of the site.

Mr Cameron advised that currently the floor level was just 1cm higher than the 3.92cm level required for a 1 in 200 year event if it occurred in 2020. He advised that the floor level needed to be higher as a door guard would only help up until a certain point in the future and was reliable on flood warning. Councillor Kinniburgh asked if it would be the visitor centre that would be at risk from flooding and referred to the garage in Helensburgh that he worked in which regularly flooded but was designed so that it did not cause any damage. The applicant advised that it would only be the visitor centre that would be at risk of flooding.

Councillor Freeman asked if the visitor centre would be designed in such a way that the electrics would be at a higher level to minimise the damage should it flood. He was told that this would be the case. He asked if the 2080 figure was given because the building had been given a 60 year design life and if the design life was reduced would that also reduce the height required for the floor level. He was told that it would.

Councillor Freeman highlighted his disappointment at SEPA not being present to justify their recommendation and asked for clarification that the officers present were not there to speak on behalf of SEPA. He was advised that the officers present were not there to speak on behalf of SEPA.

Councillor Blair commented that SEPA had regulations in place to prepare for moving forward in a changing society. He asked the applicant if he agreed that there was a need for a common sense approach. Mr McLean advised that SEPA worked on a national perspective but there was a need to take in to account local factors.

### **SUM UP**

#### **Planning**

Peter Bain, Development Manager, summed up as follows -

During the course of this afternoon Members have heard a range of arguments seeking both to support and oppose the development, however, it is clear that the fundamental issue in deciding whether or not to grant permission essentially comes

down to the weighting afforded to management of flood risk in the decision making process.

In reaching a decision today, Members are reminded of the requirement placed upon decision makers by Section 25 of the Town and Country Planning (Scotland) Act 1997 to determine all planning applications in accordance with the provisions of the adopted development plan unless material considerations indicate otherwise.

The case before you has been assessed by officers who have reached a view that notwithstanding that the siting, scale, design, finishes, access and servicing arrangements associated with the proposed development are considered to be sufficiently aligned with the relevant provisions of the Local Development Plan, the proposed development is not considered to be sustainable in terms of flood risk as it would result in the introduction of new retail and residential holiday letting units within a functional flood plain which is identified as being at medium to high risk of flooding.

Whilst the determination of the case largely boils down to the consideration to be afforded to flood risk management when weighed against other material matters which are supportive of the development Members are reminded that the relevant provisions of both National and Local policy advocate that a 'precautionary approach' is taken in respect of flood risk management and as such set a high bar to overcome for any decision maker who might be minded to consider setting aside considerations which are identified as being fundamental to the objectives of the Development Plan.

Scottish Planning Policy 2014 clearly identifies that the impacts of rising sea levels and more extreme weather events arising from climate change will increase the risk of flooding and sets out an expectation "that planning will play an important role in reducing the vulnerability of existing and future development to flooding." (*SPP – para 254*) In order to achieve this the planning system is expected "to prevent development which would have a significant probability of being affected by flooding or which would increase the probability of flooding elsewhere." (*SPP – para 256*)

In this instance it is considered that the applicant has not satisfactorily demonstrated any overriding locational or operational necessity to develop the land in order to deliver a key strategy identified in the Development Plan, nor are there any other material considerations that would merit setting aside significant concerns relating to flood risk. Officer's recommendation that planning permission be refused is founded upon technical information provided by the applicant in the form of a Flood Risk Assessment, the expert advice from SEPA, as a statutory consultee to the planning process, and the Council's own Flood Risk Advisor who have not only verified that the proposal is contrary to the National flood risk management framework established by Scottish Planning Policy 2014 and SEPA's Development Management Guidance on Flood Risk and Land Use Vulnerability but have also reaffirmed that the mitigation measures put forward by the applicant do not satisfactorily address the risk to safety of the development's occupants and potential for damage to the property from coastal flooding.

Members are strongly cautioned against setting aside flood risk considerations in the face of a technical assessment identifying the likelihood of the development being affected by flooding and consultation responses from SEPA and the Council's own Flood Risk Advisor raising objection to the proposal. Members are also reminded that in the event that they were minded to support the proposal as a departure to the

local development plan, there would be a requirement to notify such intention to Scottish Ministers under Section 46 of the Act prior to planning permission being issued as a decision contrary to the objection of a government agency.

Accordingly it is recommended that the application currently before Members be refused as development which is not sustainable as a result of a significant probability of being adversely affected by coastal flooding and is accordingly considered to be contrary to the precautionary principle on such matters set out within Scottish Planning Policy 2014, the SEPA Development Management Guidance on Flood Risk and Land Use Vulnerability Guidance, Policy LDP 10 and SG LDP SERV 7 of the Argyll and Bute Local Development Plan 2015.

### **Applicant**

Mr Anderson referred to the final photograph in the PowerPoint presentation that showed the flooding around the clock tower. He advised that the flooding level on this photo was 3.4m and the 1 in 200 year level was 3.92 which was 0.5m more than that on the photo. He advised that the level of 5.27m recommended by SEPA included an allowance for waves and climate change and included freeboard. He advised that freeboard was a recommendation but not a requirement. In terms of insurance he advised that there was a Government Scheme that ensured that those in flood risk areas could still obtain insurance.

Mr McLean reiterated that SEPAs approach was not recognising the specific needs of the local area as they had taken a hard-line principle and broad brush approach. He advised that it was important for the decision makers to take into consideration to local issues and the wishes of local residents.

### **Consultees**

David Cameron advised that in terms of the content of Argyll and Bute Policy on the 1 in 200 year event, together with freeboard, climate change allowance and wave action, the development proposed did not meet the standard required. He referred to the historical events that had been talked about advising that it was important to remember that these events were of less magnitude of that proposed for the future.

### **Supporters**

Mr MacDonald summed up by saying that Tobermory Bay was sheltered and that there was little or no wave action. He advised that flooding in Tobermory Bay was normally due to high tides and strong southerly winds. He advised that the Harbour Association subscribed to a flood warning system and real time information was then disseminated by social media to those likely to be affected. He said that if permitted the development would fill in an unattractive gap site which would undoubtedly enhance the amenity of the village and in this case he recommended approval to members.

### **FAIR HEARING**

The Chair asked all those present to confirm that they had received a fair hearing, to which they all confirmed they had.

## DEBATE

Councillor Redman showed his appreciation to the large attendance from the community which had shown broad local support. He referred to the photograph in the presentation which did not show the flooding to the carpark, the benefit to the local economy and the lack of attendance by SEPA and advised that in this case he did not agree with the recommendation from planning to refuse the application. He advised that he supported the proposal.

Councillor Freeman said that given the fact that SEPA were not present to justify their objection, he found it hard to place the same weighting on their objection than he would have if they had been in attendance. He advised that given the benefits the proposal would bring to Tobermory, both economic and social, he would be placing higher weighing on those when making a decision.

Councillor Devon highlighted that there were two policies which backed up the reason to refuse the application, LDP 10 and SG LDP SERV 7, whereas there were a lot more policies that supported the application; she read them out. She highlighted the 51 letters of support, the fact that there were no objections and said that if they were to refuse the application that they would be going against a number of Council policies that supported the application.

Councillor Trail advised that this had been an unusual application as normally there would have been objectors present whereas they had been faced with unanimous support for this application. He referred to the fact that despite SEPA's guidance, planning officers were advising support for the application. He said that he would have liked to continue the matter to a further meeting and for SEPA to attend.

Councillor Currie referred to the point made by Councillor Trail about continuing the meeting and advised that he would be against it. He said that SEPA had been given the opportunity to attend and that they had known the date of the hearing since the previous year. He advised that he was in support of the application.

Councillor MacMillan advised that he was happy to support the application.

Councillor Blair advised that he was minded not to support the planning officer's recommendation on the basis that this was a fragile rural community and a strong community. He advised that he would be minded to support the application.

The Chair advised that he had been very disappointed that SEPA had not been in attendance. He advised that through the process operated by the Council, SEPA could not attend another meeting without running another pre-determination hearing, and there was the chance that they would not attend again. He advised that having the extra photographs from Mr MacLachlainn had put his mind at ease in respect of flooding as the site was higher than clock tower. He referred to the fact that the building proposed was being built bearing in mind that in the unlikely event it did flood that it would not affect it dramatically.

The Chair ruled and the Committee agreed to adjourn the meeting from 2.45pm to 2.55pm to allow for the preparation of a competent Motion to support the approval of the application.

Councillor Devon proposed the following Motion which was seconded by Councillor David Kinniburgh –

Chair I intend to move a motion that it is appropriate to grant the application and in doing so I am taking a different view to that expressed by SEPA and the Council's Flood Risk officer. While I fully respect the professional judgements advanced by them I believe, on this occasion, that I should follow my own opinion in regard to the weight of consideration to be given in balancing the various material planning considerations.

The proposed development is located within the Key Settlement of Tobermory where Policy LDP DM 1 of the Local Development Plan (LDP) gives encouragement to sustainable forms of development up to large scale subject to compliance with other relevant policies and supplementary guidance. The site is located within the defined Main Town Centre and also lies within Area for Action (AFA 6/1). The development is of an appropriate use and design for this town centre location which has an appropriate massing, form, scale and orientation which will readily integrate into the landscape and with neighbouring properties without having an adverse impact on the setting of the conservation area. The proposal represents an appropriately high quality, well-designed, suitably proportioned development within this existing 'gap site' within the Tobermory Harbour waterfront and conservation area and, with the exception of flood risk, is otherwise wholly compliant with all relevant provisions of both local and national planning policy.

While the development is contrary to Scottish Planning Policy 2014, and to Policy LDP 10 and Supplementary Guidance SG LDP SERV 7 of the Local Development Plan which require development to be located out with areas of significant flood risk, the development complies with the LDP in all other respects. In this particular instance there are material considerations which are considered to be of sufficient weight meriting the departure from national and local planning policy, the consultation comments of a statutory consultee which all set out their requirement that the Council will take a 'precautionary approach' to flood risk in the determination of planning applications. The determining factor in the assessment of this planning application rests on a single technical issue and a matter of national and local planning policy with respect of flood risk.

I move that the application is notified to Scottish Ministers for approval contrary to the provisions of Scottish Planning Policy 2014, the advice of SEPA as a statutory consultee to the planning process, and as a 'minor departure' to Policy LDP 10 and Supplementary Guidance SG LDP SERV 7 of the Argyll and Bute Local Development Plan 2015 on the basis that;

Tobermory is listed as one of the top ten visitor destination in the UK, Despite this there is no longer any form of Visitor Centre/Tourist Office, in the town. Visit Scotland removed their busy office in Tobermory many years ago. This application will reinforce the very important role which Tobermory plays within the "Tourism Development Area. "as identified in the Structure Plan . It would also consider and improve town centre and waterfront enhancement potential.

TOUR 1 Tourist Facilities and Accommodation There is a presumption in favour of new or improved tourist facilities and accommodation provided. Tobermory's economy relies on tourism and as the capital town of the island it is vital to have this focal point for tourists to obtain information. Its existence would provide a much

needed highly visible welcome to the harbour town whereas at present tourists pull into a large impersonal car park and wander around not knowing where to go. The current visitor information facility is a caravan and is only temporarily on site. In a fragile rural economy the tourism industry offers the prospect for real growth. It is something that everyone can benefit from and participate in. More specifically it will offer full time year round employment and relive pressure that is on existing businesses to employ staff at the height of the season.

A refusal would be contrary to LDP TOUR 1.

TOUR 3 promoting tourism development Areas. The identification of Tourism Development Areas throughout A&B highlights the potential for this industry to expand in a sustainable way close to major tourist centres.

A refusal would be contrary to LDP TOUR 3.

Both these LDP policies support this application and are in line with  
LDP 4 – Supporting the Sustainable Development of Our Coastal Zone  
LDP 5 – Supporting the Sustainable Growth of Our Economy  
LDP 7 – Supporting Our Town Centres and Retailing  
LDP 8 – Supporting the Strength of Our Communities

I consider there is an exceptional case for the approval of this development. The reasons for that are –

1. It is an existing gap site that is visually harmful and harmful to the character and appearance of the conservation area.
2. It is the only remaining development opportunity within the Harbour front and without development here, the harbour front remains incomplete and as such is a unique opportunity to complete the harbour front development.
3. The development includes an opportunity to include permanent tourist information provision, currently lacking in Tobermory and development is vital to secure the tourism growth strategy of the council.

The above represents a clear and overriding locational and operational need for the development sufficient to warrant departure from national and local flood risk policy.

The applicant has confirmed the mitigation measures they will put in place to combat the flood risk. In my view these are reasonable and proportionate and provided these are secured by planning conditions and reasons, which require to be determined by the Head of Development and Economic Growth in consultation with the Chair of the Planning Protective Services and Licensing Committee and will be included within the notification to Scottish Ministers.

There have been 51 expressions of support regarding the proposed development. The considerations that have been brought forward by those who support the application are material considerations which, in my view, carry considerable weight in their nature and are in accordance with the various material policy considerations in the LDP with which the application is compliant so that they should outweigh the weight that has been given to the concerns that have been raised by planning services and by SEPA with regard to flood risk.

Confirmation was given from both Mr Jackson and Mr Williams that the Motion was competent.

**Decision**

The Planning, Protective Services and Licensing Committee unanimously agreed the terms of the Motion.

(Reference: Report by Head of Development and Economic Growth dated 2 October 2019, submitted)



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**ARGYLL AND BUTE COUNCIL****PLANNING PROTECTIVE SERVICES  
AND LICENSING COMMITTEE****DEVELOPMENT AND ECONOMIC GROWTH****19 FEBRUARY 2020**

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**RESPONSE TO CONSULTATION ON PLANNING PERFORMANCE AND FEES  
2019**

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**1.0 EXECUTIVE SUMMARY**

- 1.1 The main purpose of this report is to provide information on the Scottish Government's "Consultation on Planning Performance and Fees – 2019", identify the potential implications for the Council, and set out the intended response.
- 1.2 The consultation paper proposes "a new approach to how performance of planning authorities is measured, the role of the planning improvement co-ordinator, a new structure for the planning fee regime along with the introduction of additional services which can be charged for and the ability to waive planning fees in certain circumstances".
- 1.3 The consultation paper is split into four key elements, Planning Performance, Planning Fees, Discretionary Charging, and Other Issues. Detailed commentary and analysis on each of these measures, and details of the proposed Council response to each consultation question is set out against each section of the consultation paper attached as Appendix A to this report.
- 1.4 Based upon analysis of fee income/application type over the past 5 year period it is estimated that the proposals within the consultation paper would deliver additional planning fee income of £118.5k per annum on average. This would represent an 11% uplift on current planning fee income and would be in alignment with expectations set out for delivery of £125k savings from the Development Management service budget for 2020/21 which were based upon review of statutory planning fees. Dependent on the uptake of measures on conservation areas, listed buildings and prior notifications, the estimated overall benefit of the proposals could rise to an average of £165.5k additional planning fee income per annum which would be representative of a 15.5% increase in current receipts.
- 1.5 Scottish Government support for the extension of discretionary charging to include non-material variations and discharge of planning conditions, and the imposition of a 100% surcharge for retrospective applications could potentially provide opportunities for further additional income of around £30k per annum, which in a best case scenario, would bring the consultation proposals into general alignment with the position previously established by the Council which

was to lobby for the equivalent uplift of 17.2% to current planning fee income in any upcoming review of statutory planning fees.

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ARGYLL AND BUTE COUNCIL

PLANNING PROTECTIVE SERVICES  
AND LICENSING COMMITTEE

DEVELOPMENT AND ECONOMIC GROWTH

19 FEBRUARY 2020

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**RESPONSE TO CONSULTATION ON PLANNING PERFORMANCE AND FEES  
2019**

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**2.0 INTRODUCTION / BACKGROUND**

- 2.1 The Scottish Government published a consultation on their proposals to revise the planning performance and fees regimes on 18<sup>th</sup> December 2019 seeking feedback by 14 February 2020. The purpose of this report is to consider the potential implications for the Council that these proposals will give rise to and set out details of the Council's response to the consultation paper.
- 2.2 The consultation paper proposes "a new approach to how performance of planning authorities is measured, the role of the planning improvement co-ordinator, a new structure for the planning fee regime along with the introduction of additional services which can be charged for and the ability to waive planning fees in certain circumstances".
- 2.3 The consultation is informed by a significant body of information including HOPS research projects which the Council has inputted to such as Costing the Planning Service February 2019, and Increases in Major Fees February 2019. Details of the relevant research publications are provided within the Introduction section on page 4 of the consultation paper.
- 2.4 The consultation paper identifies that "the resourcing of the planning system has been a recurring issue since the financial downturn" and that the Scottish Government "have worked with authorities and others since then to understand the issues involved and encouraged alternative ways of working such as shared services and sharing and learning from each other".
- 2.5 The paper also identifies that "the Independent Panel appointed to review the planning system in 2015 considered both performance and fees during their review and made the following recommendations:
- Timescales remain critical in providing certainty and should remain part of performance reporting framework;
  - Alternative mechanisms to support improvement should be found;
  - The penalty clause should be removed;
  - A fuller study of combined consents should be undertaken;
  - Planning fees for major applications should be increased substantially; and
  - Scope for further discretionary charging should be considered further."

- 2.6 The paper highlights that the Scottish Government have already taken substantial steps in response to the recommendations of the Independent Panel including increasing maximum fees on major applications, and making provision within the Planning (Scotland) Act 2019 to extend the range of services which authorities can charge for.
- 2.7 The consultation paper also seeks to clarify that the purpose of the consultation is to seek views on how planning fees cover the cost of determining an application and advises that whilst the Planning (Scotland) Act 2019 will place additional duties on planning authorities it is not the role of planning fees to cover these new duties unless they relate specifically to the determination of an application. The paper also notes that at present planning fees only account for on average 63% of the cost of determining an application and sets out that the Scottish Government expect that closing that funding gap should free up resources for the remainder of the planning service.
- 2.8 A previous paper put forward by the Head of Planning in June 2019 on the Costing the Planning Service in Scotland research project identified that the Development Management Service was operating at that time with a 17.2% shortfall in statutory planning fee income from full cost recovery. DMT, SMT and PPSL determined that it would be appropriate to lobby for increased planning fees which addressed this deficit and to seek to remove/reduce 'zero fee' application types through introduction of charges and/or appropriate amendment of regulations to reduce demand.
- 2.9 An extended period for response to the Scottish Government was sought in order that Member's views could be taken account of in this consultation. The Scottish Government has responded advising that a draft response can be submitted in advance of the committee. It was highlighted that due to tight timescales, it may be that a late response would not be included in the official analysis report, however, it was confirmed that all responses would be taken into consideration to help inform the way forward. Given the short timescale for response to this important consultation, officers will submit the response agreed by DMT and SMT to the Scottish Government by the deadline of the 14<sup>th</sup> February 2020 with a comment noting that the timing of the consultation period has precluded the opportunity for Member involvement in the drafting of the Council's response. Any subsequent comments emerging from the committee will be forwarded on to the Scottish Government for consideration as an addendum.

### **3.0 RECOMMENDATIONS**

- 3.1 It is recommended that the PPSL committee endorse the response to the consultation which was submitted on 14 February 2020 as per the commentary attached to Appendix A. This position sets out general support for the proposals on planning performance reporting, and seeks to maximise the potential financial benefits to the Council from planning fee reform.

## 4.0 DETAIL

4.1 The consultation paper is split into four key elements, Planning Performance, Planning Fees, Discretionary Charging, and Other Issues. Detailed commentary and analysis on each of these measures, and details of the proposed Council response to each consultation question is set out against each section of the consultation paper attached as Appendix A to this report.

## 4.2 PLANNING PERFORMANCE

The provisions of the consultation relating to planning performance seek:

- i) To propose a vision statement setting out that *“the Planning System must provide certainty, consistency and clarity to all those who participate in it, through effective engagement, policy, decision making and communication”*. It is considered that this vision statement is very much in alignment with the Council’s current expectations of its Planning Service and its Customer Service Excellence (CSE) accreditation, and accordingly should be supported.
- ii) To align annual Planning Performance Framework (PPF) reports more closely with the outcomes of the National Planning Framework document and to provide a greater focus on qualitative measures that demonstrate wider customer satisfaction levels and stakeholder views with the performance of planning authorities. These proposals appear to set out an intention to evolve rather than replace the format of existing PPF submissions; proposals to align local planning authority performance against national planning outcomes appears sensible, and the requirement to demonstrate customer satisfaction across all parties who engage with the planning system is very much in keeping with CSE.
- iii) To propose that the content of PPF reports will be structured to cover the following areas: Statistics, Customer Service, Engagement, Case Studies, Outcomes, Improvement, and Resources.
- iv) To seek views on the role and responsibilities of the National Planning Improvement Co-ordinator who will be appointed by Scottish Ministers to monitor and provide advice to planning authorities, and others involved in the planning process, on performance.

## 4.3 STATUTORY PLANNING FEES

The consultation sets out proposals for a new structure of planning fees and also seeks views on other aspects of the planning system where there is prospect for non-statutory charges to be applied.

4.4 Highlights of the proposals for review of statutory fees include:

- i) Fees for new housing development to be uplifted by 25% with the fee maximum increased to £150k.

- ii) Creation of a new fee category for householder development charging proposals for minor alterations, outbuildings, fences etc. at a lower rate than floorspace extensions to existing dwellings.
  - iii) Creation of new fee classes for retail and business development. The business development class includes provision for a reduction of current fees by up to 20% for small scale development of up to 10,000sqm which is intended to encourage expansion for small/medium businesses. Fees have been uplifted by up to 26% for larger developments. It is however noted that some clarification of the consultation proposals will be required in respect of both of these classifications of development and, if they are not all encompassing, whether an additional fee class for 'other' buildings is necessary.
  - iv) Reduction in current fees by 8% for agricultural buildings of up to 1,565sqm, fees uplifted by up to 25% for larger buildings.
  - v) Revised fee structure for small scale wind energy development of up to 3 turbines under 50m and an increased maximum fee of £150k for larger scale wind energy development.
  - vi) Modest uplift of fees for marine fin-fish aquaculture and maximum fee uplifted to £150k. It is however suggested that the Council note in its response that the technical complexity of this workload is still not adequately recognised and request the Scottish Government review this fee category.
  - vii) Introduction of a new category for shellfish farming to remove the seabed component from fee calculations – this previously added significant cost to small scale developments that required a large seabed area for moorings such as mussel longlines.
  - viii) Introduction of a new category that removes the flat fee for changes of use of land and replaces this with a site area based calculation. Whilst this is generally to be welcomed it is noted that fees calculated in this manner may be cost prohibitive for uses which require extensive land areas but have little or no commercial value to recoup such costs. It is therefore recommended that the Council seek clarification on whether an additional fee category for developments such as playing fields, amenity spaces and burial grounds may be appropriate.
- 4.5 The consultation sets out a proposal for a 50% reduction of householder fees within conservation areas in recognition that permitted development rights are restricted within these designations. It is noted with some concern that such applications make up between 6-8% of application caseload within Argyll and Bute and could give rise to reduction in the benefit of other consultation proposals by around £12k per annum. It is recommended that the Council object to this proposal and seek to highlight that the processing of householder developments within conservation areas is generally more challenging and

resource intensive than those outwith the historic built environment, and that proper resourcing is essential to ensure positive management of change in the historic built environment which will not only provide certainty of outcome to property owners but in many cases also have a positive impact upon their property value.

- 4.6 The consultation seeks views on whether fees should be introduced for the handling of listed building consent (LBC) applications. These are currently zero fee submissions but, on average, give rise to similar costs to the handling of householder planning applications. Argyll and Bute Council receive 135 applications for listed buildings consent on average per year and it is estimated that the cost of processing these is around £32k. In the Council's previous response to the Cost of Planning in Scotland research project concern was raised in relation to the impact of zero fee applications and an intention to lobby the Scottish Government to address this position was agreed. It is recommended that the Council support the introduction of fees for listed building consent noting that even a modest fee of £200 per application would generate around £27k income. In responding to the consultation it is also recommended that the Council advise that the Scottish Government give consideration to updating primary legislation to enable streamlining of consent processes as LBC is very often progressed alongside a planning application and there is considered to be good potential for aligning this as a single consent process which would reduce costs for both customers and planning authorities.
- 4.7 The consultation seeks views on uplift of fees for hazardous substances consent; whilst there are very few applications submitted within Argyll and Bute it is noted that this fee category has not been revised for 25 years. It is accordingly suggested that the fees be adjusted for inflation during this period – this would indicate that an increase of 95-100% would be appropriate.
- 4.8 The proposals set out to raise fees for telecommunication prior notifications by 66% and others by 28%. There is no clarification provided however on whether the proposals would remove existing zero fee categories for forestry tracks and electricity works. It is estimated that removal of zero fees could provide additional fee income of around £8k per annum from prior notifications. As noted in 4.6 above, the Council has previously agreed to lobby for removal/reduction of zero fee applications and it is accordingly recommended that this issue again be highlighted in the consultation response.
- 4.9 The potential impact of each of the proposals as set out in the consultation paper is set out in the table below. Benefits relating to the introduction of fees for listed building consent and removal of zero fee prior notifications are identified as additional components in the calculation of potential total benefits as the consultation paper does not set out a proposed fee value for LBC, or confirm that zero fee submissions will definitely be removed.

<b>Fee Category</b>	<b>Estimated Change to Current Fee Income Per Annum (based on previous 5 year period)</b>
1 Residential Development	+£60k
2 – 5 Extensions and Alterations to Existing Dwellings	+£15k
6 Retail and Leisure	+£2k
7 Business and Commercial	+£5k
8 Agricultural Buildings	+/- £1k
9 Glasshouses	-
10 Polytunnels	-
11 Windfarms	+£10k
12 Hydro Schemes	+£3k
13 Other Energy Generation	+£1k
14 Exploratory Drilling for Oil and Natural Gas	-
15 Fish Farming	+£5k
16 Shellfish Farming	+/- £1k
17 Plant and Machinery	+£1k
18 Access, Car Parks etc, for Existing Uses	-
19 Winning and Working of Minerals	+£1k
20 Peat	-
21 Other Operations	-
22 – 23 Waste Disposal, and Minerals Stocking	-
24 Change of Use to Flats and Houses	+£4k
25 Change of Use of Buildings	+£10k
26 Change of Use of Land	+£5k
<b>Other Fees</b>	
Approval of Matter Specified in Conditions (AMSC)	-
Cross Boundary Applications	-
***Conservation Areas (50% fee reduction for householder development)	-£12k
*Listed Building Consent (assumed £200 per application)	+£27k
Hazardous Substances Consent (assumed 100% uplift)	+£1k
Certificates for Lawful Use	+£1k
Advertisement Consent	+£4k
Prior Notifications (uplift on present chargeable)	+£2.5k
**Prior Notifications (uplift plus removal of zero fee categories in addition to present chargeable)	+£8k
Alternative Schemes	-
Section 42 Applications	+£2k
<b>CUMULATIVE POTENTIAL ANNUAL BENEFIT OF ALL PROPOSALS DETAILED IN THE CONSULTATION</b>	<b>+£118.5k</b>
* with fees introduced for Listed Building Consent at £200	+£145.5k



<i>per application (+£27k)</i>	
<i>** with removal of all zero fee prior notifications (+£8k)</i>	<i>+£153.5k</i>
<i>*** without 50% reduction of householder development in conservation areas (-£12k)</i>	<i>+£165.5k</i>

Based upon analysis of fee income/application type over the 5 year period to date it is estimated that the basic fee category proposals within the consultation paper could deliver additional planning fee income of £118.5k per annum on average. This would represent an 11% uplift on current planning fee income and would be in alignment with expectations set out for delivery of £125k savings from the Development Management service budget for 2020/21 which were based upon review of statutory planning fees. Dependent on the uptake of measures on conservation areas, listed buildings and prior notifications, the estimated overall benefit of the proposals this could rise to additional income of £165.5k on average which would be representative of a 15.5% increase in current statutory planning fee income.

#### 4.10 DISCRETIONARY CHARGING

The consultation notes that the Planning (Scotland) Act 2019 contains provisions which formally enable planning authorities to extend the scope of services which they can offer charges. The paper clearly sets out that the Scottish Government do not intend to make it compulsory for authorities to charge for such services but seeks views on where charges may be acceptable, and whether the Scottish Government should prescribe how charges are imposed, and their upper limits.

#### 4.11 The summary highlights of discretionary charging proposals include:

- i) The consultation seeks views on whether fees for pre-application advice should be prescribed nationally, and whether these should be subtracted from the full planning fee payable upon submission of an application. As is noted in the consultation, there is currently a disparity of views between local authorities on the desirability of charging for pre-application advice, the type of service which is provided, and how such services are charged/funded. It is noted that Argyll and Bute Council introduced a chargeable service on the basis that this was necessary to ensure its continuation with significant budget pressures upon the Council necessitating that service delivery be tailored toward statutory minimum requirements. It is recommended that the Council respond to the consultation with support for discretionary charging for provision of pre-application advice but that the requirement to impose charges, the level and type of service provided, the level of charge, and whether this should be subtracted from the planning fee upon submission of an application all being matters which should be left to the discretion of individual planning authorities to respond to local circumstances.
- ii) The consultation seeks views on whether charges could be implemented for non-material variations of planning permissions, and if so how such fees should be charged, and whether they should be subject to a

nationally prescribed upper limit. It is noted that Argyll and Bute Council receive between 100 and 150 requests from non-material amendments per annum which are currently processed without a fee; introduction of a modest admin fee could potentially deliver additional income of around £5-£10k per annum and accordingly a positive response to this element of the consultation would be appropriate.

- iii) The consultation seeks views on whether it would be appropriate to impose a charge on post-determination submissions seeking discharge of planning conditions. It is noted that this is currently known to be a significant yet unrecorded work stream within the Development Management caseload. It is recommended that the Council offer support for this element of the consultation and thereafter, if such charges are considered to be supported by the Scottish Government, take further steps to seek to quantify the potential fee income which might be generated and establish whether this could be harnessed to deliver additional resource to deliver a performance managed workflow process for this aspect of the Development Management Service.
- iv) The Planning (Scotland) Act 2019 introduces a new requirement upon planning authorities to maintain a register of persons interested in acquiring land for self-build. Whilst the exact duties to be imposed are as yet unspecified, the RTPi paper on the Financial Implications of Implementing the 2019 Act sets out that this may cost up to £10k per authority to set up and thereafter require a further £5k to maintain it. It is recommended that the Council respond to the consultation recommending that it would be appropriate to impose a discretionary charge for persons wishing to be included on the list with a view to recouping any costs incurred in the setting up and maintaining the register.
- v) The consultation seeks views on whether it would be appropriate to introduce charges for submission of appeals (and by extension LRBs managed by local authorities), the circumstances in which charging may be appropriate, and whether fees should be refunded if an appeal is successful. The consultation notes that it would be essential to ensure that the introduction of fees for appeals/LRBs are not a barrier to justice and on this basis it is recommended that the Council offer support for proposals to resource the appeal/LRB processes from fee income. It is also suggested that support be offered for fees to be refunded as per current process for awarding costs in a circumstance where an appeal is upheld but the initial decision maker is considered to have acted unreasonably or incompetently.
- vi) The consultation also sets out the Scottish Government's view that local authorities should be provided with discretion to waive or reduce fees instead of such matters being prescribed by regulation as per current arrangements (disabled access, community council development, repeat application within 12 months etc). It is noted that this proposal gives rise to concerns relating to competition, increased demand/political pressure

for exemptions to individuals/businesses, inconsistency of application, and requirement to publish personally sensitive information. It is recommended that the Council highlight these concerns in its response.

#### 4.12 OTHER ISSUES

The summary highlights of the matters addressed under the Other Issues section of the consultation are:

- i) It is proposed to introduce a surcharge of 100% on applications seeking retrospective planning permission although planning authorities will be provided discretion to waive/reduce this requirement where it considers appropriate. The consultation seeks views on whether the surcharge should be set at 100% of the payable application fee, and the process for exercising discretion on whether it should be applied. It is noted that Argyll and Bute Council receive around 100 submissions per annum seeking retrospective permission, accordingly a 100% surcharge would generate additional fee income of approximately £20k. The introduction of a surcharge is to be welcomed as a financial disincentive to developers who fail to follow due process and undertake unauthorised developments, or fail to comply with the terms of permissions previously granted. It is however noted that requiring planning authorities to exercise discretion in the application of the surcharge gives rise to similar concerns noted in relation to the potential to waive/reduce statutory fees as set out in 4.13 above.
- ii) The consultation seeks views on whether the performance of planning authorities could be further incentivised by a requirement to refund planning fees where excessive time periods for determination are taken. This aspect of the proposal gives rise to considerable concern as it is noted that the lengthy determination periods can arise from matters outwith the control of the planning authority and also as a result of negotiations entered into with the developer which seek to deliver a positive outcome and avoid refusal/resubmission. The threat of financial penalty for failure to determine an application within a fixed time period is considered to be counterproductive and would preclude extended determination periods which allow the developer to resolve matters of concern that would otherwise prevent a positive outcome. The requirement to refund a major application fee (potentially up to £150k) could give rise to considerable financial uncertainty with the Development Management budget.
- iii) The consultation seeks views on whether submission of hardcopy applications should be subject to a higher fee than e-submissions. It is recommended that the ability to impose an admin fee on hardcopy submission is supported as a means of incentivising online submission of applications.
- iv) The consultation seeks views on whether advertisement fees should be incorporated within application fees. It is noted that current procedures do

not require all applications to be advertised therefore it is recommended that concern be expressed that this would needlessly increase the costs for some applicants. It is also recommended that the response request that the Scottish Government give further consideration to the continued requirement for publication of application details in newspapers when it is arguable that similar provision, and a cost saving in the planning process as a whole, could be made through online publication on planning authority websites.

- v) The consultation seeks views on whether there should be an administration charge for submission of applications on the e-planning portal which payments being utilised to support Scottish Government e-planning services. It is recommended that such a move may be counter-productive as it would act as a disincentive to use the online submission portal; clarification of this measure is also required as local authorities currently make a pro-rata payment for maintenance and development costs based upon the volume of application submissions.

## **5.0 CONCLUSION**

- 5.1 Based upon analysis of fee income/application type over the past 5 year period it is estimated that the proposals within the consultation paper would deliver additional planning fee income of £118.5k per annum on average. This would represent an 11% uplift on current planning fee income and would be in alignment with expectations set out for delivery of £125k savings from the Development Management service budget for 2020/21 which were based upon review of statutory planning fees. Dependent on the uptake of measures on conservation areas, listed buildings and prior notifications, the estimated overall benefit of the proposals could rise to an average of £165.5k additional planning fee income per annum which would be representative of a 15.5% increase in current receipts.
- 5.2 Scottish Government support for the extension of discretionary charging to include non-material variations and discharge of planning conditions, and the imposition of a 100% surcharge for retrospective applications could potentially provide opportunities for further additional income of around £30k per annum, which in a best case scenario, would bring the consultation proposals into general alignment with the position previously established by the Council which was to lobby for the equivalent uplift of 17.2% to current planning fee income in any upcoming review of statutory planning fees.
- 5.3 It is evident that the Scottish Government expect planning authorities to be able to demonstrate that the provision of additional resources to support the delivery of planning services is being underpinned by improvement in performance and efficiency of service delivery. The introduction of a National Planning Performance Co-ordinator and the evolution of the Planning Performance Framework to align with national planning outcomes and to extend the scope of customer engagement should be viewed as an indication that the provision of additional resources will result in additional scrutiny requiring planning

authorities to demonstrate best value and continuous improvement.

## **6.0 IMPLICATIONS**

- 6.1 Policy – n/a
- 6.2 Financial – Proposals have potential to significantly increase receipts from statutory planning fees and provide additional opportunity to introduce charges for non-statutory services.
- 6.3 Legal – n/a
- 6.4 HR – n/a
- 6.5 Fairer Scotland Duty: - n/a
- 6.5.1 Equalities - protected characteristics – n/a
- 6.5.2 Socio-economic Duty – n/a
- 6.5.3 Islands – n/a
- 6.6. Risk – n/a
- 6.7 Customer Service – Proposals set out an intention to improve customer engagement and consideration in the monitoring of planning authority performance

**Acting Executive Director with responsibility for Development and Economic Growth: Kirsty Flanagan**

**Policy Lead: Cllr Kinniburgh**

31 January 2020

**For further information contact:** Peter Bain – 01546 604204

## **APPENDICES**

Appendix 1 – Scottish Government Consultation on Planning Performance and Fees 2019 (with officer commentary and proposed response details)

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# **Consultation on Planning Performance and Fees - 2019**

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## MINISTERIAL FOREWORD

In our work programme “Transforming Planning in Practice” we committed to moving quickly following on from the Planning (Scotland) Act 2019 to bring forward detailed proposals for substantial changes to the planning fees structure, with the aim of having early clarity around costs and resources and the new fee arrangements in place by mid-2020. This will require careful assessment of the impacts on both planning authorities and applicants, to ensure that there are no unforeseen consequences from the combination of changes.



I want Scotland’s planning system to be efficient and effective, facilitated by skilled and experienced planners. This is essential to supporting our ambitions of creating a more successful country with opportunities for all of Scotland to flourish through increased wellbeing and sustainable and inclusive economic growth.

Since my appointment as Minister with responsibility for planning I have seen first-hand the improvement in the performance of the system. This has been demonstrated through the Planning Performance Framework Reports submitted voluntarily by authorities each year and through the Scottish Awards for Quality in Planning.

I want to support and work with local authorities to make sure that the planning system is valued, resilient and capable of providing the service that local people and planning applicants expect, and delivering on the increasing challenges being placed on it.

Fundamental to this is ensuring that the planning system is appropriately resourced to deliver on those ambitions. Increases to planning fees must be matched by continuing improvements to performance, and this requires an effective reporting regime that ensures the priorities of all users are being delivered.

I am determined to get this right and we need your input to ensure that happens. I hope that you will share this consultation as widely as possible and I encourage everybody who has a view on the performance of the system to respond with their views.

A handwritten signature in black ink, appearing to read "Kevin Stewart". The signature is stylized and fluid.

**Kevin Stewart MSP**  
Minister for Local Government and Housing

## Introduction

This consultation paper proposes a new approach to how the performance of planning authorities is measured, the role of the planning improvement co-ordinator and a new structure for the planning fee regime along with the introduction of additional services which can be charged for and the ability to waive or reduce planning fees in certain circumstances.

Since the Independent Panel Reported in 2016 we have been gathering information to inform our approach going forward. This has included

- Research – Reasons for delays with planning applications for housing – August 2018<sup>1</sup>
- Research – Customer Service and the Planning System – August 2018<sup>2</sup>
- Research – Monitoring the Outcomes of Planning – August 2018<sup>3</sup>
- RTPI analysis – Financial Implications of Implementing the Planning (Scotland) Act 2019 – August 2019<sup>4</sup>
- HOPS research – Costing the Planning Service – February 2019<sup>5</sup>
- HOPS research – Increase in Major Fees – February 2019<sup>6</sup>
- RTPI ongoing analysis of the numbers of people employed in the planning service and planning services budgets
- RTPI research – Developing skills, behaviours and knowledge – April 2017<sup>7</sup>
- HOPS and Improvement Service surveys on Skills, Shared Services and Training of Elected Members – August 2018<sup>8</sup>

The resourcing of the planning system has been a recurring issue since the financial downturn and we have worked with authorities and others since then to understand the issues involved and encouraged alternative ways of working such as shared services and sharing and learning from each other.

The Independent Panel appointed to review the planning system in 2015 considered both performance and fees during their review and made the following comments/recommendations:

- Timescales remain critical in providing certainty and should remain part of performance reporting framework;
- Alternative mechanisms to support improvement should be found;
- The penalty clause should be removed;
- A fuller study of combined consents should be undertaken;
- Planning fees for major applications should be increased substantially; and
- Scope for further discretionary charging should be considered further.

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<sup>1</sup> <https://www.gov.scot/publications/reasons-delays-planning-applications-housing/>

<sup>2</sup> <https://www.gov.scot/publications/customer-service-planning-system-research-study/>

<sup>3</sup> <https://www.gov.scot/publications/monitoring-outcomes-planing-research-study/>

<sup>4</sup> [https://www.rtpi.org.uk/media/3447036/RTPI%20Scotland%20-%20Financial%20Implications%20of%20Implementing%20the%20Planning%20\(Scotland\)%20Act%202019.pdf](https://www.rtpi.org.uk/media/3447036/RTPI%20Scotland%20-%20Financial%20Implications%20of%20Implementing%20the%20Planning%20(Scotland)%20Act%202019.pdf)

<sup>5</sup> <https://hopscotland.files.wordpress.com/2019/03/hops-costing-the-planning-service-action-report-220219.pdf>

<sup>6</sup> <https://hopscotland.files.wordpress.com/2019/02/finalised-hops-report-on-major-application-fees-040219.pdf>

<sup>7</sup> <https://www.gov.scot/publications/planning-review-developing-skills-behaviours-knowledge-report/>

<sup>8</sup> <https://hopscotland.files.wordpress.com/2019/01/final-report-skills-and-shared-services-survey-october-2018.pdf>

As a first step in 2017 the maximum planning fee was increased to £125,000 which provided in its first year over £4m additional income to planning authorities. The Planning (Scotland) Act 2019 includes provisions to extend the range of services which authorities can charge for and also the ability for Scottish Ministers to charge for the services they provide under the Planning Acts.

It is important to note that this paper seeks views on how planning fees cover the cost of determining an application. Although research published by the RTPI has identified that the Planning Act will place additional duties on planning authorities, it is not the role of planning fees to cover those new duties unless they relate specifically to the determination of an application. However, it is noted that currently planning fees only account for on average 63% of the cost of determining an application. Therefore, we expect that closing that gap should free up resources for the remainder of the planning service.

However, we recognise that increasing fees in isolation is not the only solution. We need to look at smarter resourcing and the opportunities which digital services can bring to the planning service such as increasing efficiencies in the preparation and submission of plans and applications.

## Responding to this Consultation

### Responding to this Consultation

We are inviting responses to this consultation by 14 February 2020.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/planning-architecture/planning-performance-and-fees/>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 14 February 2020.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form and send to:

[chief.planner@gov.scot](mailto:chief.planner@gov.scot)

or

Planning and Architecture Division  
Scottish Government  
2F South  
Victoria Quay  
Edinburgh  
EH6 6QQ

### Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy:

<https://beta.gov.scot/privacy/>

### Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

### **Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at [chief.planner@gov.scot](mailto:chief.planner@gov.scot).

### **Scottish Government consultation process**

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



## Consultation on Planning Performance and Fees – 2019

### RESPONDENT INFORMATION FORM

**Please Note** this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

Individual       Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name  
 Publish response only (without name)  
 Do not publish response

#### Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes       No

## **Planning Performance**

The Planning (Scotland) Act 2019 places annual performance reporting by planning authorities on a statutory basis. The Act sets out that Ministers may make further provision about the form and content of performance reports in regulations.

The Planning Performance Framework<sup>9</sup> established by Heads of Planning Scotland in 2011-12 has been a valuable tool in demonstrating planning authorities' commitment to continuous improvement and all the work which they do in delivering the planning service from determining planning applications, producing development plans and policies to working with other corporate services and sharing and learning from each other.

We have seen a significant improvement in the markings awarded to authorities for the 15 Key markers, demonstrating a commitment to continuous improvement. Year on year there has been an overall increase in the number of green ratings awarded to authorities. However, performance against some of the markers remains variable, in particular, with regards to decision making. This has required developing an alternative approach to assessment particularly where an authority is determining applications on average within the statutory timescales.

The PPF has also evolved since its inception to provide a balance of both statistical and qualitative information with the introduction of the key markers, to authorities undertaking peer review of each other's reports and the enhanced role of case studies to evidence how they are delivering a better service to customers and also adding value to the process when considering planning applications.

Our experience of the PPF provides us with a valuable place in which to start to look again at how the performance of the planning system is measured going forward.

Set out below is our initial proposition for the structure and content of performance reports going forward.

### **Planning Performance Reporting**

#### **Purpose of Planning**

The Planning (Scotland) Act 2019 states that the purpose of planning is "to manage the development and use of land in the long term public interest".

The Scottish Government considers that there is merit in developing an accompanying statement about the performance of the system, a vision of a system we all want to see. There is clear consensus around the key components which all users of the system believe contribute to good performance. Taking these into account the vision could be:

The Planning System must provide certainty, consistency and clarity to all those who participate in it, through effective engagement, policy, decision making and communication.

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<sup>9</sup> <https://hopscotland.org.uk/publications/planning-performance-framework-reports/>


Should we set out a vision for the Planning Service in Scotland?

- Yes 
- No

Do you agree with the vision proposed in this consultation paper?

- Yes 
- No

Do you have any comments about the proposed vision? 

We have learned a lot from the Planning Performance framework (PPF) and the Key Markers over the years and this has helped inform the direction we are proposing to move in. What is proposed below is not a dramatic step change but rather a refocussing of the PPF to take account of the outcomes in the National Performance Framework, better integrate key performance indicators and take account of customer and stakeholder views. 

Throughout the parliamentary process of the Act we have been clear that we would like performance reporting to include the outcomes and impacts which planning delivers rather than just the volume of applications and time taken to determine them.

There are a number of possible approaches to measuring these. National Planning Framework 3 and Scottish Planning Policy are currently structured around 4 outcomes: a Successful Sustainable Place; a Low Carbon Place, a Natural Resilient Place; and a Connected Place. With preparation of National Planning Framework 4 underway this presents an opportunity to ensure that the outcomes we are looking to measure filter through the NPF and LDPs into decisions and ultimately development on the ground.

The 2019 Act sets out that the NPF should include a statement about how Scottish Ministers' consider that development will contribute to each of the outcomes listed below:

- (a) meeting the housing needs of people living in Scotland including, in particular, the housing needs for older people and disabled people,
- (b) improving the health and wellbeing of people living in Scotland,
- (c) increasing the population of rural areas of Scotland,
- (d) improving equality and eliminating discrimination,
- (e) meeting any targets relating to the reduction of emissions of greenhouse gases, within the meaning of the Climate Change (Scotland) Act 2009, contained in or set by virtue of that Act, and
- (f) securing positive effects for biodiversity.

However, our preferred approach is to use the outcomes in the National Performance Framework<sup>10</sup> as it provides the necessary scope with which to ultimately measure the impacts of planning. We consider it to be an excellent way to demonstrate how planning plays an integral part in people's lives. We also believe that reporting in this way can play a key role in expressing the contribution of the planning system to wider outcomes within local authorities and with stakeholders and communities.

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<sup>10</sup> [https://nationalperformance.gov.scot/sites/default/files/documents/NPF%20-%20%20A4%20Booklet%20-%2025\\_07\\_2018%20%28002%29.pdf](https://nationalperformance.gov.scot/sites/default/files/documents/NPF%20-%20%20A4%20Booklet%20-%2025_07_2018%20%28002%29.pdf)



A recent project commissioned by the RTPI in Wales<sup>11</sup> provides a useful example of how planning's contribution to our national outcomes could be presented.

### **Preparation and Content of reports**

As previously mentioned the PPF has evolved over the 8 years since its introduction and over that time we have learned a lot about what works, what doesn't work and how. This provides valuable insight for taking forward development of a refocused performance framework. For instance, a common criticism of PPF reports from some stakeholders has been that they are prepared by the authority in isolation with little opportunity for customer input and that they only highlight the good stories the authority wants to tell. They don't always reflect on when things have gone wrong or not as intended and what has been learned from that to prevent the same issue arising again in the future. Some authorities have indicated that they have undertaken some targeted engagement in the preparation of their report, and we would like to see this rolled out across all authorities. This could be through customer/stakeholder forums or liaising with representative bodies/associations.

Our current expectation is that reports should cover the following areas:

**Statistics** – range of published statistics and other quantitative information which Planning Authorities collect, including the annual statistics published by the Scottish Government.

**Customer Service** – customer service should extend beyond applicants to those who comment on applications, policies and plans as their views on how their engagement has been handled are also important and can have a key role in helping to build trust and confidence in the planning system.

**Engagement** – how the authority has carried out their engagement activity during the reporting year. Examples of the types of engagement to be considered include the authority's approach to Local Place Plans added through the new Act, pre-application discussions with applicants, agencies and other statutory consultees and also how they are engaging with elected members and other stakeholders on the development of the LDP and proposed applications.

**Case Studies** – specific examples which demonstrate how authorities are helping to deliver better development and places and their contribution to national outcomes. Both good examples and examples where the process hasn't necessarily worked as intended to help identify areas for improvement.

**Outcomes** – key achievements/metrics contributing to the national outcomes.

**Improvement** – areas for improvement and to outline how the authority is learning from and sharing good practice with other authorities and stakeholders.

**Resources** – how an authority has allocated/used its available resources during the reporting period both financial and staff resource. This could include how staff have been allocated to different disciplines to address workload pressures or provide a focus on particular types of applications, policy issues or the development of Regional Spatial Strategies, Local Development Plan or how an authority has engaged in the preparation of Local Place Plans.

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<sup>11</sup> <https://www.rtpi.org.uk/media/2896429/Value-of-Planning-Handout.pdf>

Is the proposed approach to the content correct?

- Yes 
- No 

Do you have any comments on the proposed content of Planning Performance Reports? 

Do you have any comments or suggestions as to how reports should be prepared? 

What statistical information would be useful/valuable to include and monitor?

What are the key indicators which you think the performance of the system and authorities should be measured against?

Do you have any other comments to make with regards to how the Performance of the Planning System and Authorities is measured and reported?

Do you have any suggestions about how we could measure the outcomes from planning such as:

- Placemaking
- Sustainable Development
- Quality of decisions

Do you have any suggestions about how planning's contribution to the National Outcomes contained in the National Performance Framework should be measured and presented?

### **National Planning Improvement Co-ordinator**

The Planning (Scotland) Act 2019 includes a power for Ministers to appoint a National Planning Improvement Co-ordinator to monitor and provide advice to planning authorities and others on the performance of general or specific functions.

The Co-ordinator will be appointed by Scottish Ministers following an open recruitment process. Stakeholders' views on the role of the co-ordinator were invited during the consideration of the Planning Act and during pre-consultation workshops. We consider that the co-ordinator should sit within government and ultimately report to Scottish Ministers. Their role will be focussed on the performance of the planning system as a whole; working on behalf of the Scottish Government and Scottish Ministers positions them well to do that. The Co-ordinator may be provided with administrative support from the Planning and Architecture Division (PAD). They will provide advice to Ministers in an impartial way, including looking at PAD and Department for Planning and Environmental Appeals (DPEA) and Scottish Ministers' role. Initially we think that the Co-ordinator should help to develop their role in collaboration with stakeholders once they are in post so that they can learn from what does and doesn't work.

Do you have any comments/suggestions about the role and responsibilities of the National Planning Improvement Co-ordinator?

We will continue to work collaboratively with the High Level Group on Planning<sup>12</sup> and other stakeholders on the development and implementation of the new statutory Annual Reporting framework and the role of the National Planning Improvement Co-ordinator.

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<sup>12</sup> <https://www.gov.scot/groups/high-level-group-on-planning-performance/>

## PLANNING FEES

### Background

Resourcing of planning services has been a consistent priority during the review of the planning system. Resources are going to be an essential element in successfully implementing the reforms which are being brought forward through the Planning Act and other legislative and non-legislative actions.

The [Independent Panel](#)<sup>13</sup> recommended that “planning fees on major applications should be increased substantially, so that the service moves towards full cost recovery”. They also recommended that discretionary charging, for example for pre-application processes, should be considered further.

In response to the Independent Panel’s recommendations we consulted on raising the [maximum planning fee](#)<sup>14</sup> in December 2016 and subsequently introduced a new revised maximum fee of £125,000 for most types of application on 1 June 2017.

We also set out our initial thoughts about reforms to the fee structure in [People, Places and Planning \(January 2017\)](#)<sup>15</sup> and sought comments on those. Following the consultation we published a [Position Statement](#)<sup>16</sup> setting out our response to the consultation.

Given the limited existing powers in current legislation around resourcing, the Planning (Scotland) Act 2019 includes enabling powers that provide additional scope for the range of services for which fees can be charged, as well as introducing the ability for Scottish Ministers to charge fees, the ability for fees to be waived or reduced and an increased fee for retrospective applications.

We are now seeking views on how we can implement the new provisions as well as reviewing the current planning fee structure.

In this paper, full cost-recovery refers to the cost of processing an application, from validation to the issuing of the decision letter. We have not committed to delivering full cost-recovery through the changes proposed below, however we do expect to move closer towards that outcome. As the new planning act is implemented, further work may be needed to model how much income the new structure will generate for each authority given the different profile of application types and numbers handled by authorities across Scotland.

We recognise that the development and business sectors have some concerns about the impact of further charging on development viability and wider investment. We have prepared a draft Business and Regulatory Impact Assessment and will continue to work with all sectors to understand the impacts of any changes.

### Linking fees to performance

The overall resourcing of local planning services is the responsibility of local authorities. Those services are financed through the local authority’s budget and fees from planning applications. Scottish Ministers expect a planning system that is reliable, proportionate, provides a service that is focused on delivery and which is able to develop, share and adopt good practice for continuous improvement.

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<sup>13</sup> <https://beta.gov.scot/publications/empowering-planning-to-deliver-great-places/>

<sup>14</sup> <https://consult.gov.scot/planning-architecture/consultation-on-raising-planning-fees/>

<sup>15</sup> <https://www.gov.scot/publications/places-people-planning-consultation-future-scottish-planning-system/>

<sup>16</sup> <https://consult.scotland.gov.uk/planning-architecture/places-people-and-planning-position-statement/>

Scottish Ministers agree with the views expressed in the review that any increase in fees must be linked to sustained improvements in performance. The fees proposed in this paper are intended to provide additional resources to planning authorities to help support performance improvement.

### Previous Consultations

This consultation paper draws upon the previous consultations which were undertaken in 2010<sup>17</sup> and 2012<sup>18</sup>. The results from those consultations has informed the content of this consultation paper along with intelligence gathered from stakeholder workshops.

The only changes implemented following the 2010 and 2012 consultations were to the levels of fees charged, with no changes made to the method of calculating fees or to the categories. Fee levels were increased in 2013, 2014 and 2017.

Heads of Planning Scotland undertook research to establish the impact of increase to the maximum fee which showed that in the first 12 months:

- £4,218,242 additional fee income was generated across Scotland
- 2 authorities received no major applications during this time (Shetland and Cairngorms)
- Only 2 councils received income uplift of more than £500,000 (Edinburgh and Glasgow)
- 4 Councils received more than £200,000 but less than £500,000 (North Lanarkshire, Highland, Fife and East Lothian)
- 9 Councils received less than £50,000 in additional income
- 10 councils reinvested uplift income totalling £1,412,018. (33% of overall uplift)

A further change was made in 2018 to mitigate the impact of the fee increase on hydro developments. This resulted in a new category being created for hydro developments.

The Planning (Scotland) Act 2019 includes new provisions which presents an opportunity to carry out a wide review of the planning fee structure. Further changes are required to the fee regime to better support planning services.

This consultation looks at how the fee regime could be revised as well as looking at the potential for discretionary charging, increased fees for retrospective applications, the removal of fees for advertising planning applications and reducing and waiving fees. There are also some practical issues which this paper seeks views on.

This consultation takes note of the recent [consultation](#)<sup>19</sup> and [subsequent increase](#)<sup>20</sup> to fees for Section 36 & 37 Electricity Act applications and the fees for Marine Licences for offshore developments. The Fees for Section 36 & 37 applications can be found at:

<http://www.legislation.gov.uk/ssi/2019/176/contents/made>. The voluntary contribution which the Scottish Government makes to planning authorities has also increased to 50% of the fee.

### Proposed Changes to Fee Structure

This section examines in more detail some of the issues related to how fees might operate. The categories below were previously consulted upon in 2012 and take account of some of the

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<sup>17</sup> Consultation Paper - <http://www.gov.scot/Publications/2010/07/07154028/0> & Analysis - <http://www.gov.scot/Publications/2011/03/18151009/4>

<sup>18</sup> Consultation Paper - <http://www.gov.scot/Publications/2012/03/3164> & Analysis - <http://www.gov.scot/Publications/2012/09/7926>

<sup>19</sup> <https://consult.gov.scot/energy-and-climate-change-directorate/power-lines-and-electricity-generating-stations/>

<sup>20</sup> [Fees Charged for Applications under the Electricity Act 1989 – Scottish Government Response](#)  
[Fees Charged for Applications under the Electricity Act 1989 – Analysis of Consultation Responses](#)  
[Fees Charged for Applications under the Electricity Act 1989 – Business and Regulatory Impact Assessment](#)

feedback including some additions and amendments to some categories. The structure is based on the current model and reflects previous responses to consultations.

### Category 1 – Residential Development

The Scottish Government recognises that, whether a planning application is for a single residential unit or 10, a large proportion of the work that goes into making a decision on the application is dependent on the initial decision on the suitability of the site for housing. With this in mind we propose that the fee for a single house should more accurately reflect the processing and advertising costs associated with making a determination on the suitability of the site. The fee per unit for the first 10 units will be £600. Between 11 and 49 units (inclusive) the planning fee per unit will be £450. Housing developments containing 50 or more residential units would pay £23,550 with each additional unit charged at £250 per unit until a new fee maximum of £150,000 is reached.

For applications for planning permission in principle (PPP) the fee for one residential unit will be £300 and where the application is based on site size the fee will rise on a £300 per 0.1 ha incremental basis until the maximum for PPP (£75,000) is reached.

Number of Dwellings	Current	New	% Increase
1	£401	£600	50%
10	£4,100	£6,000	50%
49	£19,649	£23,550	20%
100	£30,050	£36,300	20%
200	£50,050	£61,300	22%
400	£90,050	£111,300	24%
563	Max – £124,850	£150,000	20%
2,058	Max – £124,850	Max – £150,000	20%

Do you agree with the proposed planning fees 

- Yes
- No

Is the proposed method for calculating the planning fee correct? 

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee? 

### Categories 2, 3, 4 and 5 – Extensions and Alterations to Existing Dwellings

Development relating to the alteration and extension of dwellings has been split into two different types and the fees have been adjusted accordingly. There should also be a clear distinction between the work involved in the creation of an extension to a dwelling and other smaller ancillary developments such as replacement windows, fences and garden huts and that fees are more commensurate with the work involved in making a decision on such applications.


The fee for an application to enlarge an existing dwelling will increase to £300. Enlargement should be considered to be, any development that alters the internal volume of a dwelling. This

would usually be through the addition of extensions or dormer windows. An application relating to two or more dwellings within this category will attract a maximum fee of £600.


The fee for an application for alterations to dwellings, as well as operations within the curtilage of an existing dwelling will be £300 per dwelling subject to a maximum of £600. This includes a range of developments that improve or alter a dwelling along with other developments within the curtilage of the dwelling which are for purposes ancillary to the enjoyment of the dwelling.

The replacement of windows, sheds, gates, fences and other enclosures, garages and micro-generation equipment will carry a fee of £150 for one single dwelling. For 2 or more dwellings or building containing one or more flats, the fee will be £300.

Applications for PPP for the erection of buildings under these categories will incur the same fees.

Do you agree with the proposed planning fees? 

- Yes
- No

Is the proposed method for calculating the planning fee correct? 

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee? 

### Category 6 – Retail and Leisure including extensions

Retail and leisure developments can have significant impacts and require careful consideration from the planning authority and often require retail and traffic impact assessments.

Applications for full permission for buildings (other than dwellinghouses) are charged according to the gross floor space to be created.

Applications for development creating no new floor space, or not more than 50 m<sup>2</sup> of new floor space will be charged a fee of £300.

For developments above 50m<sup>2</sup> the fee is £1,500 for the first 50-100m<sup>2</sup> of the development followed by £800 per 100m<sup>2</sup> thereafter up to 2,500m<sup>2</sup>, then the fee reduces to £500 per 100m<sup>2</sup> or part thereof subject to a maximum of £150,000. For example the following fees would be payable:

Floor Space	Current	Proposed	Increase
1,500m <sup>2</sup>	£8,020	£12,700	58%
5,000m <sup>2</sup>	£23,450	£33,200	42%
10,000m <sup>2</sup>	£36,850	£58,200	58%
20,000m <sup>2</sup>	£63,650	£108,200	70%
<b>50,000m<sup>2</sup></b>	£125,000	£150,000	20%

Applications for Planning Permission in Principle shall be charged at £500 for each 0.1 hectare of the site subject to a maximum of £75,000.

Do you agree with the proposed planning fees? 

- Yes
- no

Is the proposed method for calculating the planning fee correct? 

- Yes
- no

Do you have any comments on the proposed fees and for calculating the planning fee? 

### Category 7 – Business and Commercial including extensions


This category covers those developments not covered by residential, agriculture, retail and leisure. Planning fees should not be a deterrent for the expansion of small to medium enterprises therefore the proposed fees are designed to encourage affordable levels of expansion for small to medium businesses. Fees will be calculated based on the floor area/site size being covered.

Applications for full permission for buildings (other than dwellinghouses) are charged according to the gross floor space to be created. Applications for development creating no new floor space, or not more than 50m<sup>2</sup> of new floor space, are charged a fee of £300. For buildings above that size the fee is £800 for the first 100m<sup>2</sup> of floorspace with this falling to £400 per additional 100m<sup>2</sup> or part thereof subject to a maximum of £150,000.

Floor Space	Current	Proposed	Increase
1,500m <sup>2</sup>	£8,020	£6,400	-20%
5,000m <sup>2</sup>	£23,450	£20,200	-14%
10,000m <sup>2</sup>	£36,850	£40,200	10%
20,000m <sup>2</sup>	£63,650	£80,200	26%
<b>50,000m<sup>2</sup></b>	£125,000	£150,000	20%

Applications for Planning Permission in Principle shall be charged at £400 for each 0.1 hectare of the site subject to a maximum of £75,000.

Do you agree with the proposed planning fees?

- Yes 
- No

Is the proposed method for calculating the planning fee correct?

- Yes 
- No

Do you have any comments on the proposed fees and for calculating the planning fee? 

## Category 8, 9 and 10 – Agricultural Buildings, Glasshouses and Poly tunnels

The Scottish Government considers that linking fee levels for agricultural buildings and developments to housing developments as has occurred in the past is disproportionate to the value of the development and the actual work involved in processing such applications.

### Category 8 – Agricultural Buildings

The current regulations provide that an application for planning permission for buildings under 465m<sup>2</sup> which do not have permitted development rights require no fee to be paid.

The fee for applications for agricultural buildings (other than glasshouses or poly tunnels as shown below), as defined in the Interpretation of Part 6 of the General Permitted Development Order will increase from £401 for each 75m<sup>2</sup> to £500 for every 100m<sup>2</sup> in excess of the 465m<sup>2</sup> or part thereof with the maximum fee increasing from £20,055 to £25,000.

Floor Space	Current	Proposed	Increase
465m <sup>2</sup>	£0	£0	n/a
1,565m <sup>2</sup>	£6015	£5,500	-8%
5,065m <sup>2</sup>	£20,055	£23,000	15%
10,065m <sup>2</sup>	£20,055	£25,000	25%

Do you agree with the proposed planning fees?

- Yes 
- No

Is the proposed method for calculating the planning fee correct?

- Yes 
- No

Do you have any comments on the proposed fees and for calculating the planning fee? 

### Category 9 – Glasshouses

Applications for the erection of glasshouses on land used for agriculture are currently charged a flat rate fee of £2,321 where the ground area to be covered exceeds 465m<sup>2</sup>. It is proposed to change this to a fee of £150 per 0.1 ha subject to maximum of £10,000. There is no provision within the fees regulations for applying for planning permission in principle for such developments.

Floor Space	Current	Proposed	Increase
465m <sup>2</sup>	£0	£0	n/a
1,565m <sup>2</sup>	£2321	£1,650	-28%
5,065m <sup>2</sup>	£2321	£6,900	197%
10,065m <sup>2</sup>	£2321	£10,000	330%



Do you agree with the proposed planning fees?


- Yes 
- No

Is the proposed method for calculating the planning fee correct?

- Yes 
- No

Do you have any comments on the proposed fees and for calculating the planning fee?

Should a separate category be established for erection of glasshouses on land that is not agricultural land?

- Yes 
- No


Please provide reasons for your answer

### Category 10 – Polytunnels

Applications for the erection of polytunnels on land used for agriculture are currently charged a flat rate fee of £2,321 where the ground area to be covered exceeds 465m<sup>2</sup>. It is proposed to change this to a fee of £100 per 0.1 ha subject to a maximum of £5,000. There is no provision within the fees regulations for applying for planning permission in principle for such developments.

Floor Space	Current	Proposed	Increase
465m <sup>2</sup>	£0	£0	n/a
1,565m <sup>2</sup>	£2321	£1,100	-52%
5,065m <sup>2</sup>	£2321	£4,600	98%
10,065m <sup>2</sup>	£2321	£5,000	115%

Do you agree with the proposed planning fees?

- Yes 
- No

Is the proposed method for calculating the planning fee correct?

- Yes 
- No

Do you have any comments on the proposed fees and for calculating the planning fee? 

Should a separate category be established for erection of polytunnels on land that is not agricultural land?

- Yes 
- No

Please provide reasons for your answer

## Categories 11, 12 and 13 – Electricity Generation


Currently all such applications fall within the plant and machinery category. Given the rise in numbers of applications for wind turbines, wind farms, energy from waste plants etc., the Scottish Government has concluded that there should be a separate fee category for these. The fee category is split into three parts, one of which covers turbines and windfarms, another which covers hydro schemes and the other covering all other generation.

### Category 11 – Windfarms – access tracks and calculation

A distinction has been made between single wind turbines under 15 m to hub height, and those over 15m and 50m. This is because it is acknowledged that any turbine with a hub height over 15m is required to be screened for EIA purposes and those over 50m require significant resource input by authorities. Otherwise the fees for windfarms will be based on their site size.

- Where less than 3 turbines are to be installed and:
  - All turbines are < 15m will attract a fee of £500
  - Any one turbine > 15m and <= 50m will attract a fee of £1,500
  - Any one turbine > 50m will attract a fee of £5,000
- Windfarms totalling 4 or more turbines will be charged at £500 per 0.1 hectare up to a maximum of £150,000.
- Applications for PPP will be charged at £500 per 0.1 hectare up to a maximum of £75,000.

Do you agree with the proposed planning fees?

- Yes 
- No

Is using site area the best method of calculating fees for windfarms of more than 3 turbines? Y/N

- Yes 
- No

If not, could you suggest an alternative? In your response please provide any evidence that supports your view.

Do you have any comments on the proposed fees and for calculating the planning fee? 

### Category 12 – Hydro Schemes

A new category was created in 2018 for Hydro developments. The fee is currently set at £401 per 0.1 hectare subject to a maximum of £20,055. The fee is calculated on the full extent of the proposed development. The regulations describe what is included as set out below.

*The construction of a hydro-electric generating station and the carrying out of any other operations in connection with the construction of the generating station, including the construction or installation of any means of access to the generating station, pipes or other conduits and overhead electric lines.*

It is proposed that the fee increases to £500 per 0.1 hectare subject to a maximum of £25,000.

Do you agree with the proposed planning fees?

- Yes 
- No

Is the definition and the proposed method for calculating the planning fee correct?

- Yes 
- No

Do you have any comments on the proposed method for calculating the planning fee? 


Could the planning fee be set using site area for the generating station and equipment with a separate calculation used for pipework? This could be similar to the fee for Fish Farms where the surface area is subject to a different fee to the seabed.

### Category 13 – Other energy generation projects

Other energy generation projects which are not windfarms will be based on their site size or floor space and the fees calculated accordingly. The first 100m<sup>2</sup> of site size/floor space to be created will be £1,000 with £500 for every 100m<sup>2</sup> thereafter to a maximum of £150,000.


Applications for PPP will be charged £500 for every 100m<sup>2</sup> until the maximum for PPP (£75,000) is reached.

Is the definition and the proposed method for calculating the planning fee correct?

- Yes
- No 


Do you have any comments on the proposed method for calculating the planning fee?

Should a category be created for Solar Farms?

- Yes
- No 


Do you have any suggestions for how the fee should be calculated?

Should a category be created for energy storage developments?

- Yes
- No 

Do you have any suggestions for how the fee should be calculated?

Should a category be created for Heat Networks?

- Yes
- No 

Do you have any suggestions for how the fee should be calculated?

**Category 14 – Exploratory Drilling for Oil and Natural Gas** 

Applications in respect of on-shore oil and natural gas exploration will be charged according to the area of the site at a rate of £500 per 0.1 ha or part thereof, subject to a maximum of £100,000.

Site Area	Current	Proposed	Increase
1 Hectare	£4,010	£5,000	<b>25%</b>
5 Hectares	£20,050	£25,000	25%
10 Hectares	£32,640	£50,000	53%
15 Hectares	£37,640	£75,000	99%
20 Hectares	£42,640	£100,000	135%

Do you agree with the proposed planning fees?

- Yes 
- No

Is the proposed method for calculating the planning fee correct?

- Yes 
- No

Do you have any comments on the proposed fees and for calculating the planning fee? 

**Category 15 and 16 – Placing or Assembly of Equipment on Marine Waters for Fish Farming****Category 15 – Fish Farming** 

There are no changes in how fish farming fees are calculated. However, the fee will increase to £200 for each 0.1 hectare of the surface area of the marine waters which are to be used in relation to the placement or assembly of any equipment for the purposes of fish farming and £75 for each 0.1 hectare of the sea bed to be used in relation to such development, subject to a maximum of £150,000.

Do you agree with the proposed planning fees?

- Yes
- No 

Is the proposed method for calculating the planning fee correct?

- Yes 
- No

Do you have any comments on the proposed fees and for calculating the planning fee? 

**Category 16 – Shellfish Farming** 

Previous consultations and engagement with stakeholders has shown that there is support for creating a separate fee for Shellfish Farms due to the differing nature of the development. The proposed change removes the seabed calculation. Therefore the fee will be: £250 for each 0.1 hectare of the surface area of the marine waters which are to be used in relation to the placement or assembly of any equipment for the purposes of shellfish farming.

Do you agree with the proposed planning fees?

- Yes 
- No

Is the proposed method for calculating the planning fee correct?

- Yes 
- No

Do you have any comments on the proposed fees and for calculating the planning fee? 

**Category 17 – Plant and Machinery** 

Applications for the installation of plant and machinery WILL BE charged according to the area of the site at a rate of £500 per 0.1 hectare or part thereof, subject to a maximum of £150,000.

Site Area	Current	Proposed	Increase
1 Hectare	£4,010	£5000	25%
5 Hectare	£20,050	£25,000	25%
10 Hectare	£30,050	£50,000	66%
20 Hectare	£50,050	£100,000	100%
30 Hectare	£70,050	£150,000	114%

Do you agree with the proposed planning fees?

- Yes 
- No

Is the proposed method for calculating the planning fee correct?

- Yes 
- No

Do you have any comments on the proposed fees and for calculating the planning fee? 

**Category 18 – Access, Car Parks etc. for Existing Uses** 

Applications for the construction of service roads, other accesses, or car parks serving an existing use on a site will be subject to a flat rate fee of £600.

Do you agree with the proposed planning fees?

- Yes 
- No

Is the proposed method for calculating the planning fee correct?

- Yes 
- No

Do you have any comments on the proposed fees and for calculating the planning fee? 

**Categories 19, 20 and 21 – Winning and Working of Minerals, peat and other operations****Category 19 – Winning and Working of Minerals** 

Applications for the winning and working of minerals (other than peat) will be charged according to the area of the site at a rate of £500 for the first 0.1 ha of the site and after that at a rate of £250 per ha or part thereof, subject to a maximum of £150,000.

Site Area	Current	Proposed	Increase
1 Hectare	£2,020	£2,750	<b>36%</b>
5 Hectares	£10,100	£12,750	26%
10 Hectares	£20,200	£25,250	25%
15 Hectares	£30,300	£37,750	25%
20 Hectares	£35,300	£50,250	42%
50 Hectares	£65,300	£125,250	92%
109 Hectares	£124,300	£150,000	21%

Do you agree with the proposed planning fees?

- Yes 
- No

Is the proposed method for calculating the planning fee correct?

- Yes 
- No

Do you have any comments on the proposed fees and for calculating the planning fee? 

**Category 20 – Peat** 

Fees for applications for the winning and working of peat are to be charged at the rate of £300 for each hectare of the site area, subject to a maximum of £6,000.


Do you agree with the proposed planning fees?

- Yes 
- No

Is the proposed method for calculating the planning fee correct?

- Yes 
- No


Do you have any comments on the proposed fees and for calculating the planning fee?

In light of the climate emergency do you agree that fees for applications relating to the winning and working of peat should continue to be considered separately from other mineral operations? 

### Category 21 – other operations

Operations for any other purpose will be charged at the rate of £400 for each 0.1 hectare of the site area, subject to a maximum of £4,000.

Do you agree with the proposed planning fees?

- Yes 
- No

Is the proposed method for calculating the planning fee correct?

- Yes 
- No

Do you have any comments on the proposed fees and for calculating the planning fee? 

### Categories 22 and 23 – Waste Disposal and Minerals Stocking – does not cover waste management (recycling)

Applications for the disposal of waste or minerals stocking will be charged according to the area of the site with the first 0.1 ha requiring a fee of £500 followed by a rate of £300 per 0.1 ha or part thereof, subject to a maximum of £150,000.

Do you agree with the proposed planning fees? 

- Yes
- No

Is the proposed method for calculating the planning fee correct? 

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee? 

### Categories 24, 25 and 26 – Changes of Use

#### Category 24 – Conversion of Flats and Houses

Applications for the change of use of any building to use as one or more separate dwellinghouses will be charged at the same rate as residential units. £600 per house for the first 10 houses and then £400 for each new dwellinghouse created between 11 and 49 units and thereafter £250 per house, subject to a maximum of £150,000.

Do you agree with the proposed planning fees? 

- Yes
- No

Is the proposed method for calculating the planning fee correct? 

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee? 

## Other Changes of Use (categories 25 and 26)

Applications for the change of use of large site areas can be resource intensive. In view of this, applications for the change of use of buildings or land (other than the conversion to, or subdivision of, dwelling houses, the tipping of waste or the stocking of minerals and spoil) will now be charged separately.

### Category 25

Change of use of a building will be charged at £600 per application.

Do you agree with the proposed planning fees? 

- Yes
- No

Is the proposed method for calculating the planning fee correct? 

- Yes
- No

Do you have any comments on the proposed fees and for calculating the planning fee? 

### Category 26

The fee for a change of use of land will be based on the site area with an initial fee of £500 for the first 0.1 ha and £300 for each 0.1 ha or part thereof up to a maximum of £150,000.

Do you agree with the proposed planning fees?

- Yes 
- No

Is the proposed method for calculating the planning fee correct?

- Yes 
- No

Do you have any comments on the proposed fees and for calculating the planning fee? 

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

## OTHER FEES

### AMSC Applications

Applications for approval of matters specified in conditions (AMSC) is another area where changes are potentially required to provide clarity and to update procedures to reflect the nature of development now coming forward.

Currently AMSC applications are charged at the full rate until the total amount paid by the applicant is equal to the fee that would have been paid if approval of all matters involved had been sought all at once for the whole development. The circular states that:

“The applicant concerned must be the same as the applicant who incurred the full rate fees for earlier reserved matters applications. Each reserved matters application made after obtaining the outline permission for a development incurs a fee at the full rate, whatever matters are involved, until the total amount paid by the applicant in respect of the reserved matters is equal to the fee




that would have been paid at that time had approval been sought all at once in a single reserved matters application for the whole of the development covered by the original outline permission. When, but only when, that point is reached, any and all further applications pursuant to that outline permission will attract the flat rate fee". This appears to suggest that it was envisaged that only one applicant was responsible for a site.

We do not intend to change the principle that Planning Permission in Principle and AMSC applications ultimately leads to 150% of the planning fee being paid. What we are seeking views on is how the maximum fee is reached thus triggering the standard fee for AMSC applications. It currently appears to be the case that where a site is being taken forward by multiple developers/applicants there is potential that the first developers/applicants could end up paying significantly more for their AMSC applications than developers/applicants who take forward their part of the site at a later time.

How should applications for planning permission in principle and Approval of Matters Specified in Conditions be charged in future? 

How should the fee for AMSC applications be calculated? 


Should the maximum fee apply to the individual developers/applicants or applied to the whole development with applicants (if number is known) paying an equal share of the max fee? 

Should the granting of a Section 42 application lead to the fee calculator being reset? 

### **Cross boundary Applications – Allocation of the fee**

Cross boundary applications is an area where questions have been raised about the division of planning fees. The fee is currently calculated separately for each application, in the normal way, and then added together. The applicant pays this amount or he pays – if less – an amount equal to 150% of the fee he would have paid had he been able to make one application. Currently the planning fee goes to the authority where the majority of the development occurs with the other authority receiving nothing. As there can still be significant work involved for both parties particularly with regards to co-ordinating decision making on the application should there be a more equal distribution of the fee.

Should the fee for cross boundary applications be split between the respective authorities?

- No change
- 100% to authority where majority of development occurs – remaining 50% to other authority.
- Fee divided as per how the development is split across the authority boundaries 
- Other – please explain

Please provide reasons for your answer

### **Conservation Areas**

Concerns have been raised recently about the requirement to submit an application for planning permission for carrying out alterations to a property which would have otherwise have been carried out under permitted development rights. We propose that where applications are submitted under categories 2, 3, 4, and 5 for developments in conservation areas which are required because of the restriction on permitted development, then only half the fee would be payable.

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 

Please provide reasons for your answer

### Listed Building Consent

Currently when applying for listed building consent there is no fee payable however, authorities are required to process the application and therefore it is reasonable to consider whether a fee should be payable.


During the course of this consultation we are keen to understand any potential long-term implications and unintended consequences of introducing fees for Listed Building Consent (LBC). We want to make sure that the long-term viability of historic buildings is not compromised by the introduction of additional costs for homeowners and applicants, but also recognise the considerable resource required to deal with applications for Listed Building Consent.

For larger developments, which will in many cases require planning permission, we think the introduction of fees for LBC would make little difference. However, many applications for LBC are for works that are relatively minor in planning terms – either permitted development or not development.

The introduction of fees for listed building consent may require a clearer national-level guidance on the need for consent to be produced.

Is the introduction of a fee for applying for Listed Building Consent appropriate?

- Yes 
- No

How should that fee be set? 

### Hazardous Substances Consent






The fees for Hazardous Substances consent sit within the Town and Country Planning (Hazardous Substances) Regulations 1993. The fee levels of £200, £250 and £400 or where the quantity is twice the controlled quantity the fee is £1,000, have not increased in the last 25 years. It is not our intention to change the fee structure in the Hazardous Substances regime, however we now consider it is an appropriate point to consider an increase in the fee levels.

Should the fees for Hazardous Substances Consent be increased?

- Yes 
- No


What levels do you think are appropriate? 

## Other types of Applications

Type of Application	Current Fee		Proposed Fee
Certificate of Lawful Use or Development (CLUD) 	Section 150(1)(a) – use as one or more separate dwellinghouses.	£401 for each dwellinghouse subject to a maximum of <b>£20,055</b> .	£600 for each dwellinghouse subject to a maximum of £150,000
	Section 150(1)(a) or (b) – uses other than use as one or more separate dwellinghouses and any operations.	The same fee as would apply to a planning application for the same development.	
	Section 150(1)(c) Existing use	£202	£300
	Section 151(1) Proposed use	Half the fee applying to a planning application for the same development	
Advertisement 	£202		£300
Prior Notification/Approval	Telecomms – £300 All others – £78		Telecomms – £500  All Others – £100 
Alternative Schemes	Highest applicable fee for options and sum equal to half of the cumulative remaining options		No change
Section 42 application 	£202		£300

Are the proposed increases in fees for the categories above appropriate?

## CLUDS

- Yes 
- No

Please explain the reasons for your answer

#### Advertisement

- Yes 
- No

Please explain the reasons for your answer

#### Prior Approval


- Yes 
- No

Please explain the reasons for your answer

Should the fee for Alternative Schemes remain as it is?

- Yes 
- No


Please explain the reasons for your answer

Are there other fees which have not been considered? 

#### **DISCRETIONARY CHARGING**

The Planning (Scotland) Act 2019 contains provisions which can enable extension of the scope of services planning authorities can charge for in carrying out their functions. We have set out below some examples of services for which authorities may wish to charge, including pre-application discussions, which some authorities already charge for. We do not intend to make it compulsory for authorities to charge for delivering these services but leave it up to their discretion.

Do you think we should set out the range of services which an authority is allowed to charge for?

- Yes
- No 

Please provide reasons for your answer

#### **Pre-application Discussions**


Planning authorities are encouraged to enter into pre-application discussions with prospective applicants. Pre-application discussions can help to provide certainty to applicants with regards to the information required to be submitted alongside their application ensuring that it can be processed effectively and efficiently. We are aware that some authorities have started to charge for entering into pre-application discussions with applicants and we understand that more authorities are investigating the potential of introducing this. For instance Highland have been doing this for a number of years now and have set out clear guidance of what to expect when entering into their pre-application advice service and the fee required to be paid. We understand that this has been well received by users of the service.

The fees for each service are set out below for comparison.

Local Authority	Major	Local – Non-householder	Householder
Highland	5% of planning application fee but a minimum fee of £3000 and maximum fee of £6250	35% of application fee – various max fees ranging from £750 up to £43,750 (exploratory drilling for oil and gas)	35% of application fee – Max £2000
Fife	£1200	£500	£55
West Lothian	50% of application fee up to £800 with additional £200 if meeting or site visit requested.	50% of application fee up to £500 with additional £200 if meeting or site visit requested.	£50 with additional £50 for meeting or site visit.
Edinburgh	Pre-position discussion – £1200.  Standard service – £5,880  Additional Services  Further one hour meeting – £600  Detailed advice on information required to accompany application – £600	Local Medium development  Standard Service – £1020 with additional  Additional Services  £600 for a further one hour meeting with case officer.  £240 for meeting with officer on site.  Detailed advice on information required to accompany application – £600	Local – Small Development  Standard Service – £240  Additional Services  £120 for one hour meeting with case officer.

How should the fee for pre-application discussions be set? 

Should the fees for pre-application discussions be subtracted from the full fee payable on submission of an application?

- Yes
- No 

Please provide reasons for your answer

### Processing Agreements

Processing agreements can be a vital tool in setting out the expectations of all parties with regards to the processing timescales for determining an application. Processing agreements will rely on effective pre-application discussions and guidance about what information is required to support an application along with when that needs to be submitted.

Do you think that there should be an additional charge for entering into a processing agreement to reflect the additional resource required to draft and agree the timescales to be included?


- Yes 
- No


Should we set the fee for that or an upper limit allowing authorities the flexibility to set their fee within clear parameters?

### Non-material variations

Applications for planning permission (including planning permission in principle) can be varied after submission with the agreement of the planning authority.

Where a non-material variation is required should an authority be able to charge for each change which is made? Or per request?


- No charge
- Per Change
- Per Request 

Should regulations set the fee for that or an upper limit allowing authorities the flexibility to set their fee within clear parameters? 


### Monitoring Conditions

Conditions play an important role in ensuring that developments can proceed where it may otherwise have been necessary to refuse planning permission. It is essential that the operation of the planning system should command public confidence. The use of conditions can improve the effectiveness of managing development and enhance that confidence. Whilst some conditions will require an applicant to notify the authority of the completion of a condition or to seek approval of a condition it may be the case that the terms of the condition requires monitoring throughout the construction phase or ongoing use of the development. Where this is the case it has been suggested that authorities should be able to levy a charge for undertaking this monitoring. The principle of this has already been established through The Town and Country Planning (Fees for Monitoring Surface Coal Mining Sites) (Scotland) Regulations 2017 which introduced fees in respect of the monitoring of large opencast coal sites. The monitoring fee was introduced following a recommendation from the coal taskforce, as a means to ensure a planning authority had a statutory opportunity to recover some of the costs associated with the additional monitoring requirements for these large sites. The fee was to ensure a planning authority had the proper resources in place for monitoring and any breaches of planning control were more likely to be identified and where relevant, whether any enforcement action required had actually been undertaken.

Should authorities be able to charge for carrying out the monitoring of conditions?

- Yes 
- No

Should a fee for monitoring be limited to certain types of monitoring requirements?

- Yes
- No 

What should this be limited to?

How should the fee be set? 

## Discharge of Conditions

The discharging of conditions is a crucial step needed to ensure developers can get on site and start works. It has been suggested that requests to discharge conditions may not receive adequate resource and priority within authorities to ensure these are turned around within reasonable timescales. In England there are fees associated with the discharge of conditions attached to planning permissions. This is based on £85 per request, rather than by condition, allowing developers to group conditions together to be discharged. This is refundable if the planning authority has not responded within 12 weeks.

Do you think there should be a fee payable for the discharge of conditions?

- Yes 
- No

Please provide reasons for your answer

## Planning Agreements

Planning agreements have a limited, but useful role to play in planning, they can however, involve lengthy negotiations and significantly add to timescales. Processing agreements or pre-application discussions can be used to establish upfront what will be expected from any agreement.

Do you think that Planning Authorities should be able charge for the drafting of planning agreements?

- Yes 
- No

Please give reasons for your answer

If so how should this be calculated?

## Masterplan Consent Areas

The Planning (Scotland) Act 2019 introduces new powers for local authorities to designate Masterplan Consent Areas (MCA). We believe there is significant potential for MCAs to be an effective tool for planning authorities in leading and enabling development. Planning authorities can use MCAs as part of a proactive, place-making approach to planning and consenting. MCAs can support the plan led system, contributing to the delivery of LDP strategies and particular local priorities, by providing upfront approval for development that has been subject to community consultation – supporting investment in planned developments.


To put a MCA scheme in place, the planning authority will analyse the site, consult, prepare a masterplan, and set out the type of development consented in a particular area, along with any necessary conditions such as design guidelines and other criteria. Development that is in line with the MCA scheme could be brought forward without the need for a planning application.

We recognise this front-loading will involve a shift in approach, with different resource implications for authorities. Planners will be more involved in setting out what they want to see developed rather than just responding to applications, where a developer may have carried out a lot of the background studies. Preparation costs will vary, depending on the size and complexity of the type of development and the area the scheme is being prepared for, and what supporting information and studies might be needed to inform the consent provided in the scheme.

In effect, the authority will grant up-front consent for planned development, so there is benefit to potential investors in terms of adding certainty and removing much of the risk. In order to allow planning authorities to recoup some of the cost of establishing MCA schemes, where they consider that would be appropriate, during the Planning Bill process we committed to bringing in provisions for discretionary charging.

Should an authority be able to charge for development within a MCA (building, or changes or use) in order to recoup the costs involved in setting one up?

- Yes 
- No

Should we set the fee or an upper limit in the regulations?   
Please provide reasons for your answer

### Enhanced Project Managed Applications

Scottish Ministers are interested in improving the way that major developments are processed by authorities, from conception through to delivery. That means taking on a more corporate project management role. To ensure authorities are appropriately resourced to carry out this role we are seeking views on the introduction of a new mechanism and fee category for applications which will be subject to an Enhanced Project Managed Service. Our preferred approach is that an applicant and authority would come to an agreement on the time and resources required to determine the application and the management and co-ordination of the other consents and licences which an authority is responsible for delivering to enable development to commence. To ensure that this is an open and transparent process, authorities would be expected to publish a schedule outlining how the fee will be calculated and in each case subject to this procedure, to publish the fee which has been charged, along with how it was arrived at. To ensure further transparency the project plan should also be published to ensure that in particular communities are aware of what is being proposed and when they can get involved. We have already identified some tools which have previously been used such as the enterprise area planning protocol<sup>21</sup> and processing agreements<sup>22</sup> which are currently offered by all authorities. Applicants and Authorities would also need to work closely to ensure that the application and supporting information which is to be submitted is of a suitable quality to enable appropriate consideration.

Should the ability to offer and charge for an enhanced project managed service be introduced?

- Yes
- No 

How should this process work? 

Please provide reasons for your answer 

What, if anything, should happen in the event of failure to meet timescales? 

<sup>21</sup> <https://www.gov.scot/policies/supporting-business/enterprise-areas/>

<sup>22</sup> <https://www.gov.scot/publications/planning-processing-agreement-template/>




## Self/Custom Build Registers

The Planning (Scotland) Act 2019 introduces a requirement for planning authorities to prepare, maintain and publish a list of people who have registered with the authority that they are interested in acquiring land in the area for self-build housing which the authority are to have regard to in preparing their local development plan.

The purpose of the list is to provide an evidence base of the level of demand for self-build housing, recording the names and address of individuals or groups seeking to self-build, together with further detail on the preferred location, type of development, etc.

In England, councils are able to attach charges to the registers, which should reflect the cost-recovery of managing and fulfilling them, as well as local connection tests. Research by the National Custom and Self Build Association (as at October 2018) found that 40,000 people had signed up to Right to Build registers, but with a significant variance in activity (each planning authority in England was provided with £30,000 annually in the form of new burdens money to support the work required under the legislation). 12% of planning authorities impose a charge, which in the highest-charging authority can add up to £600 over 4 years per person/group.

Do you think charging for being added or retained on the register of interested people should be included in the list of services which Planning Authorities should be allowed to charge for?

- Yes 
- No

Should there be a restriction on the amount that can be charged? 

Please provide reasons for your answer

## Charging for Appeals

The Planning Act includes new provisions which allow Scottish Ministers to charge for carrying out their functions under the Planning Acts. One option is the potential for charging for appeals against planning application decisions.

In our Places, People and Planning consultation we sought views on introducing the charging of fees by Scottish Ministers (Planning and Environmental Appeals Division, known as DPEA) for planning appeals and by local authorities for local reviews of planning decisions.

Previous consultation responses showed that while it was accepted by some that charging for appeals may be necessary and that any fee paid should be used explicitly for the appeal process, there were some concerns that applying a fee would undermine the independence of the appeal or review. Some respondents argued that, in the case of an appeal being upheld, the fee should be reimbursed.

We believe it is important to ensure that the planning system is appropriately resourced. While the focus of most calls for additional resources financed through fee income is directed towards planning authorities, Scottish Ministers through DPEA also play a crucial role in determining applications through appeals. On the same basis, we consider that they too should be appropriately resourced through fee income.

Appellants enjoy the benefit of an appeal right where the planning merits are considered afresh on appeal by an independent decision maker. At present, the cost of running this appeals system (as a proportion of the DPEA workload) is borne by the taxpayer at large. This contrasts with planning

applications to local authorities and, in principle, we consider that potential beneficiaries of a successful appeal should bear a reasonable and proportionate share of such costs.

There are important considerations to take into account when considering the introduction of charges for appeals. Important considerations are that the level of the fee imposed does not impede access to justice by discouraging meritorious appeals nor discourage business investment in Scotland, whether inward investment or from businesses based in Scotland.

We believe that introducing charges for appeals can help to build trust in the planning system with communities and applicants/appellants.

The work of DPEA extends beyond planning appeals. For example, they decide planning enforcement appeals, listed building and conservation area consent appeals, determine and also report on applications called in by Ministers or applications made direct to Ministers such as large wind farm applications for energy consent. DPEA examine local development plans and will continue to do so under gatecheck and subsequent LDP examination processes. They decide appeals on high hedges, appeals from decisions of SEPA and report on road schemes. Many of these fall outside the powers to charge under the Planning Acts, but questions arise of what should be charged for and what proportion of DPEA business should be funded through fees.

As fees for DPEA would be an innovation compared to the present position, we anticipate phasing fee levels (subject to views of consultees), starting at a modest introduction rate and moving towards full recovery of appropriate costs by a series of increases.

In that context, we would like to invite views in principle on how any fee should be set. We consider that there are 3 main options for setting the fee:

- A percentage of original application fee – maintaining a link between original application and appeal and also ensuring that the appeal fee increases in line with any application fee increases.
- Standard fee which is set by either the type/category of application or the hierarchy.
- Flat Rate Fee for all types of appeal.

We recognise there may be some concern that two fees will be paid (one to the planning authority and one to DPEA/LRB) to secure a consent (if the appeal is successful). However, the purpose of fees in spreading the burden of DPEA costs suggests that, since DPEA expend resources regardless of the outcome, a contribution to those costs is appropriate, where the first fee is paid to another body. By comparison, charging fees for appeals has been common practice in the civil court system for many years.

In relation to applications for local review made to planning authorities' Local Review Bodies this would mean extending existing arrangements under local authority feeing arrangements so that applications for a local review should attract fees.

It would not make sense to omit appeals to Local Review Bodies from consideration of feeing arrangements. In addition, not including appeals to Local Review Bodies could lead to potential unfairnesses across different local authority areas where, under schemes of delegation, some types of appeal would go to DPEA (attracting a fee) while others would go to a Local Review Body (not attracting a fee).

If it is decided, in light of this consultation, to proceed with fees for appeals, further consultation will be undertaken on the detail of fee levels and other fee arrangements (for example on the impact on the size of initial fees if fees are to be refunded on success).

Decisions will be made at a later date as to when fees for appeals would be paid and, in light of the need for such detailed work, may be later than June 2020.

Do you think that, in principle, fees should be charged for appeals to DPEA?

- Yes 
- No

Should we limit the circumstances in which a fee can be charged for lodging an appeal? 


In what circumstances do you think a fee should be paid for lodging an appeal? 

Do you think that the fee should be refunded in the event of a successful appeal? 

- Yes
- No

If so, should this follow the same process as is currently set out for awarding costs?

What categories of appeals should be considered for charging? 

Do you think that a fee scale should be provided in relation to appeals to Local Review Bodies and, if so, should the arrangements differ from appeals to DPEA? 

### **Reducing And Waiving Fees**

Another new provision introduced in the Planning Act is the ability for authorities to waive or reduce a planning fee. We believe that authorities should have discretion to use this power where they consider appropriate. We consider that regulations should not prescribe the types of applications where an authority could waive or reduce a planning fee. To take a blanket approach across Scotland could lead to unforeseen consequences and we believe that authorities are best placed to take these types of decisions.

We expect to set out in regulations the procedures authorities would need to follow to allow them to waive or reduce fees. For instance they could be required to produce a charter explaining the circumstances in which they will consider waiving or reducing fees. We would also expect that authorities would in each circumstance of applying a reduced or waived fee that they clearly and publicly explain their reasons for doing this in that particular circumstance.

Do you have any suggestions as to the circumstances in which they could use this power? 

### **OTHER ISSUES**

#### **Retrospective Applications**

Retrospective applications can often be more resource intensive and more controversial than other applications. There can be local frustration/tension where people are perceived to be abusing the system. This can particularly be the case where a development is granted retrospective permission. There is also a reputational/trust element to this whereby communities see applicants doing what they want without any penalty being imposed. However, not all retrospective applications are the result of what might be deemed “bad practice”. We consider that authorities should be able to exercise some discretion in whether the surcharge is applied or not, taking account of whether the authority believe that the applicant has made a genuine mistake in carrying out development without first seeking permission to do so.

Should the surcharge be set at 100%?

- Yes 
- No

If not what level should it be set at?

Authorities will need to apply discretion when applying this surcharge. Should authorities need to clearly set out the reasons why the surcharge has been applied or not in each individual case?


- Yes 
- No

Please provide reasons for your answer


### Incentives

An amendment was lodged during the Planning Bill which sought to define that an applicant would be entitled to a refund if there had been an unreasonable delay in processing their application. The amendment defined an unreasonable delay as an application which has not been determined within 26 weeks or another agreed timescale. This copies the provision which is in place in England under the [Planning Guarantee](#). The planning guarantee is the UK Government's policy that no application should spend more than a year with decision-makers, including any appeal. In practice this means that planning applications should be decided in no more than 26 weeks, allowing a similar period for any appeal. The planning guarantee does not replace the statutory time limits for determining planning applications. Although, the amendment was not agreed by the Scottish Parliament, we believe it is appropriate to seek views on the principle of refunds.

Planning Authorities have previously expressed concern about the fairness of introducing refunds particularly where delays could lie outwith their control, for example, due to delays in responses from consultees or developers. It is also recognised that potentially having to repay fees will add additional administrative burdens and costs to planning authorities and could introduce the need for arbitration.

Do you consider the use of rebates, discounts or other incentives, a useful tool in delivering a more efficient service? If so what would you consider to be an effective discount, rebate or other incentive? 

Given the success of ePlanning, the continuing increase in its use and the savings which are made to both an applicant and authority in submitting an application electronically, do you think it is appropriate to apply an increased fee for submitting a paper application due to the additional work involved?

- Yes 
- No

Please provide reasons for your answer

### Advertising Fee

Some planning authorities have argued that there should be a single fee to absorb all other costs and charges including recovering the costs related to publishing planning applications in local newspapers. This would avoid planning authorities having to pursue the applicant for further costs before being able to issue a decision.


It has been suggested that any change in planning fees should be used to ensure that everything required of a planning application is paid for up front. The introduction of a requirement for planning authorities to advertise development proposals where there are no premises on adjoining

land and then re-charge the developer for this activity has caused some difficulties across Scotland. A single fee to absorb all other costs and charges, including recovering the costs related to publishing planning applications in local newspapers would solve this cost recovery issue.

Until now planning authorities were unable to issue a decision on a planning application until the advertising fee had been paid. The Planning (Scotland) Act 2019 removes this requirement. The cost of advertising now needs to be included in the planning application fee.

A solution to this would be to add a small percentage increase to the planning fee to ensure the cost of advertising is recovered without the need for recharging applicants and pursuing payment which again leads to delays within the system and processing times of the application.

Do you consider there should be a single fee?

- Yes
- No 


How do you think the cost of advertising should be recovered? 

### Environmental Impact Assessments ( EIA)

The technical information contained within an EIA Report can be substantial. Specialist skills and expertise may also be required in order to properly understand and where necessary address some of the more technical areas, requiring staff to receive specialist training or seek input from outwith the planning service or local authority. This can ultimately result in additional costs for the planning authority. Some authorities have indicated they would wish to see the requirement for an EIA being a trigger for attracting an enhanced fee. Although we are aware that in certain circumstances the need for an EIA is not always known at the stage of submission. Consideration would need to be given as to whether a supplementary fee would be payable at the point it is determined whether an EIA is required.

The number of applications subject to EIA is, however, a small proportion of the total number of applications received a year. The figures for 2018-19 show that 26 local applications which were determined required an EIA.

Do you consider that submission of an EIA should warrant a supplementary fee in all cases?

- Yes
- No 

Please give reasons for your answer

If so what might an appropriate charge be?

### Hybrid Applications

Fees for applications for planning permission in principle are calculated at half the fee for a full planning permission. However, we have been aware of some circumstances where an applicant has submitted an application for planning permission in principle which provides additional detail that would normally be considered through an application for Approval of Matters specified in Conditions. This has been unofficially referred to as a hybrid application.

Do you think that applications for planning permission in principle should continue to be charged at half the standard fee?

- Yes 
- No

Should there be a different fee for 'hybrid applications' as described here?

- Yes 
- No


Please give reasons for your answer

### Charging for SG services

All applications submitted through the Planning Portal in England which attract a planning fee of £60 or more to be paid incur a service charge of £20.83 (+ VAT).

The income from the service charge is retained by the Planning Portal to cover the costs of delivering the payment service, to invest in improving the planning application service and to put the business on a secure financial footing in order to continue to deliver services, content and interactive guidance.

Should the Scottish Government introduce a service charge for submitting an application through eDevelopment (ePlanning and eBuilding Standards)?

- Yes
- No 

This income would allow us to invest in developing our services, including:

- The range of free-to-use content and interactive guidance to explain planning, from permitted development on common projects through to applying for planning permission for homeowners and others
- Free-to-use technical and legislative content for planning and building professionals
- A dedicated customer support team available 9am – 5pm to support customers
- The planning application service itself, including increasing the maximum file size of supporting documents, e-enabling further application types and improvements to local validation amongst many others.

## **Consolidated Impact Assessments**

**Title of Policy** – Planning Performance and Fees

**Lead Minister** – Minister for Local Government, Housing and Planning

**Lead Official** – Chris Sinclair

**Directorate** – Local Government and Communities

**Division** – Planning and Architecture Division

**Team** – Development Delivery

**Brief Summary** – The consultation paper looks at reforming how the performance of the planning system is measured and the role of the National Planning Improvement Co-ordinator. The Consultation also seeks views on revising the Planning Fee regime, to better reflect the nature and scale of development now coming forward, with revisions and additions to the categories of developments and how the fees are calculated. The consultation in some circumstances increases the maximum planning fee to £150,000 and the per unit fee. The consultation paper also seeks views on the introduction of charges for discretionary services such as pre-application discussions, enhanced project managed applications, increased fees for retrospective applications and waiving or reducing planning fees.

### **Consultation**

#### **Internal**

In light of the independent review of planning in 2016 and also the consultation *Places, People and Planning* on the future of the Scottish planning system carried out between January and April 2017, the Scottish Government has worked with key stakeholders through a series of working groups to consider a wide range of planning issues including resourcing and fees.

Scottish Government colleagues in other policy areas such as housing, energy and marine fish farming were also consulted about the proposals.

#### **External**

In 2017 we published the *Places, People and Planning* Consultation which included some initial thoughts about planning fees and performance which influenced our approach to the provisions within the Planning (Scotland) Act 2019.

In October 2019 a number of workshops were held with over 50 attendees, representing a wide range of sectors, to discuss the topics of planning performance and planning fees. This early engagement has assisted in the preparation of the consultation paper. Identifying current issues which should be consulted on and providing helpful insight into how planning fees are currently implemented.

This consultation now looks to take these views forward. The consultation will be held over 2 months from December to February in which stakeholders will be invited to make their views known on our proposals.

## **Options**

### **Do nothing**

The planning fee structure is over 25 years old and no longer reflects the nature and scale of developments which are now being brought forward. The review of planning recommended that planning fees should be substantially increased towards full cost recovery. In 2017 we increased the maximum planning fee to £125,000. Although some authorities saw a significant increase in their income this was not universal across the country with 2 authorities identifying no increased income.

Doing nothing would result in a continuing gap in resources between the income received from planning applications and the costs of processing and making decisions.

### **Proposed Approach**

Our proposed approach sees the basic planning fee increased by 50% in many cases with the maximum fee increased further to £150,000. The consultation also proposes bringing into line the unit of calculation for area based developments to either m<sup>2</sup> or per 0.1 hectare.

### **Sectors and Groups Affected**

The sectors most likely to be affected by the proposals are:

- Planning authorities that are required to resource their development management service.
  - Given the nature and scale of developments which are brought forward the impact of the fee increases will have different impacts for urban, rural and island authorities.
  - We will continue to work with Heads of Planning Scotland to assess the impact of the changes to the fee structure and levels.
- All those who submit planning applications.

### **Benefits**

The fee increase proposed is intended to provide increased resources to planning authorities to help support ongoing performance improvement which should benefit applicants by providing improved customer service.

### **Costs**

The proposed changes involve in most cases the increase in the fee payable for applying for planning permission. At this time due to the creation of new categories and method of calculation there is a variation in the increases across different types of development. The variations include reductions in some levels and substantial increases in percentage terms in others. Research has shown that on average planning fees only cover 63% of the cost of processing an application which shows that Local Authorities are subsidising the planning application process. The increases will take us some way towards fully recovering these costs however, because the structure of fees is changing it has not been possible to model the potential impact of these increases with regards to cost recovery. Although due to the gap between fee income and cost of processing the application it is considered that the increase will not lead to authorities profiting from application income. The consultation also proposes the introduction fees for additional services provided by the planning authority. These fees are also intended to be based on the principle of cost recovery and are not pitched at a level which would lead to authorities profiting from their collection and ultimately subsidising other authority services.



**Equality and Childrens Rights Assessment** – During the passage of the Planning Bill, draft assessments (EqIA and CRWIA) were published in advance of Stage 3 (June 2019). These assessments do not provide any direct evidence on matters pertaining to performance or fees. In developing our proposals, the public sector equality duty requires the Scottish Government to pay due regard to the need to:

- eliminate discrimination, victimisation, harassment or other unlawful conduct that is prohibited under the Equality Act 2010;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a relevant protected characteristic.

The aim of the Scottish Government is to use this consultation process as a means to explore fully any potential equality impacts. Comments received will be used to determine if any further work in this area is needed, including full assessments.

**Environmental Assessment** – The Planning Performance and Fee Regimes are not intended to be used to promote or discourage certain types of development. Planning Fees should only seek to recover the cost of the service being provided whether that be pre-application discussions or the processing of an application. Therefore we do not envisage the proposed changes having any direct environmental impacts. With regards to indirect impacts it is not clear what these impacts could be at this time. However, changes to planning fees does not remove the need for applying for permission and any proposed developments will still be subject to the planning process.

### **Scottish Firms Impact Test**

As part of the consultation process on fees, the independent review of planning which reported in 2016 and *Places, People and Planning* a consultation on the future of the Scottish planning system carried out between January and April 2017, we have consulted with a range of businesses to understand the direct impacts of this change to legislation on their business.

### **Competition Assessment**

The proposals are not expected to impact significantly more on some firms than others nor restrict new entrants to the market. The need to produce detailed plans is not impacted by these changes. We consider that the freedom of firms to choose the price, quality range or location of their products will be unaffected.

### **Consumer Assessment**

The proposals are not intended to impact one set of consumers over another. Although, there may be circumstances whereby an authority in one area charges for a service which may be free in another, we would expect that both services should meet the needs and expectations of the customer. It will be up to the authorities in question to decide whether they implement some particular charges to support the delivery of their planning service.

We consider that the proposals will support the delivery of improved services to applicants.

### **Digital Impact Test**

The consultation seeks views on the introduction of charges for applications submitted both digitally and in the more traditional paper method. The charge for the traditional method of submission is intended to reflect the increased cost to authorities in resources of having to upload paper copies into the online planning portal to make available to the public. Introducing the fee for submitting an application through ePlanning is to help fund ongoing maintenance and future development of the ePlanning service.

The practical implementation of any fee will be carefully considered to avoid any adverse impacts.

### **Legal Aid Impact Test**

As far as we are aware these proposals have no impact in relation to Legal Aid, as the policy does not introduce any new procedures or right of appeal to a court or tribunal.

### **Enforcement, Sanctions and Monitoring**

An application for planning permission is not valid unless the appropriate fee has been paid. Where the fee is incorrect or missing the planning authority can turn the application away.

Where a developer considers they have paid the correct fee but this is disputed by the planning authority then they can seek either a local review or appeal against non-determination.

As the consultation notes, fee income and planning authority performance are inextricably linked. With an increase in resources through fee income Ministers expect to see an increase in performance and service delivery. As part of this planning authorities will be monitored and assessed against the Annual Reports which they are now to prepare on a statutory basis. The content of these reports is part of this consultation.

### **Implementation and Delivery Plan**

It is anticipated that the amendments to fees will be laid before the Scottish Parliament in April 2020 and will come into force in June 2020

### **Summary and Recommendation**

It is recommended that these regulations are implemented to help ensure that the planning fees regime becomes more proportionate, fit for purpose and accurately reflects the developments coming forward in modern Scotland. We expect all Planning authorities will see an increase in resources regardless of the different profile of developments which are brought forward in their areas. There will be an impact on developers' costs with such an increase but there is an expectation that any increase in resources will see an increase in performance level from authorities and the service they provide to people and businesses.

## Sign off for Impact Assessments

I have read the consolidated impact assessment and I am satisfied that, given the available evidence, it represents, a reasonable view of the likely costs, benefits and impacts of the of the leading options I am satisfied that the impacts have been assessed with the support of businesses and other stakeholders in Scotland.

Signed

Date

Do you have any comments on the BRIA?

Do you agree with our conclusion that a full EQIA is not required?

Please provide reasons for your answer

Do you have any comments on the EQIA?

Please provide reasons for your answer

Do you agree with our conclusion that a full SEA is not required?

Please provide reasons for your answer

Do you agree with our conclusion that a full CRWIA is not required?

Please provide reasons for your answer

Do you agree with our conclusion that a full Fairer Scotland Duty assessment is not required?

Please provide reasons for your answer

## Islands Proofing

**During the Places, people and planning consultation we identified the following issues which would affect Island Authorities. The consultation has been developed with these points in mind.**

### Proposal 17 Investing in a better service

It was noted that the recent increase to the maximum fee was not impacting on the resourcing of island authorities given the small number of major developments encountered. An example of where in-house expertise has been offered to applicants and charged was raised.

Recommendation: No island-specific recommendations were made.

### Proposal 18 Performance

There were few issues arising from these proposals, although it was noted that performance reporting can have a significant impact on resourcing where there are small teams involved. The authorities asked that the performance reporting system is as simple as possible and that any further complexity should be avoided.

Recommendation: No island-specific recommendations were made.

Do you have any comments which relate to the impact of our proposals on the Islands?



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ARGYLL AND BUTE COUNCIL

PLANNING, PROTECTIVE SERVICES AND  
LICENSING COMMITTEEDEVELOPMENT AND ECONOMIC  
GROWTH

19 FEBRUARY 2020

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**PROPOSED PROGRAMME OF PLANNING TRAINING FOR MEMBERS**

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**1. INTRODUCTION**

Over the past 7 years a series of short training sessions or occasionally workshops/site visits have been delivered for all elected Members with an aim to improve knowledge of the planning system on a wide range of issues. The training has usually taken place in the hour before the Planning, Protective Services and Licensing Committee (PPSLC), although workshops and site visits have also been organised.

In 2019/20 a number of training events were undertaken covering diverse topics including Oban Strategic Development Fund, Competent Motions, the new Planning Act and aquaculture.

This report seeks endorsement of the training programme from April 2020 to March 2021. Further suggestions on any additional topics from Members would also be most welcome. With this in mind a slot has been left vacant in order to accommodate any additional training requirements identified through the course of the year. Below the table in this report there is also a list of reserve items which may be the subject of training events in the future.

It is intended to continue to deliver training by way of short sessions associated with the PPSL calendar of meetings. However, topics which require more time can be delivered by separate half day sessions. It should be noted that the timing of some of these will be dependent on the progression of the implementation phase of the new planning act.

As before, it would not be intended to restrict the availability of training to the PPSL Committee membership, so there would be an open invitation to all Council Members to attend any of the sessions.

**2. SUGGESTED PROGRAMME FOR 2020/21**

<b>Date</b>	<b>Committee day training</b>	<b>Half day workshop</b>	<b>Visit</b>
April 2020	Energy Efficiency and Low Carbon technology in the Historic Built Environment Kim de Buitel��ir		

May 2020	Material Considerations framing planning conditions Howard Young		
June 2020	SEPA role as a statutory consultee Need to confirm availability of SEPA		
August 2020	Placemaking key considerations and then site visit location to be confirmed		SITE VISIT
September 2020	Roads Role as a Statutory Consultee		
October 2020		Archaeology and Planning. Presented by WoSAS. Half Day	
November 2020	LDP2 Update		
December 2020	To be advised by Members		
January 2021	Landscape and Visual Impact Assessment Mark Lodge		
February 2021	Role of the Scottish Planning Improvement Coordinator and Planning Authority Performance - Peter Bain		
March 2021	Enforcement – Peter Bain		

## Reserve items:

- Climate emergency as a material planning consideration
- Local Place Plans
- Regional Spatial Strategy
- Adapt Northern Heritage Programme – the implications of climate change for the historic built environment
- Short term let control areas
- Forestry Scotland presentation

### 3. RECOMMENDATION

It is recommended that Members:

- i) Agree to continuing an ongoing programme of planning related training for Members of the PPSL Committee, which should also be open to any other Members not currently involved in planning decision-making;
- ii) Endorse the initial subject areas for training and the provisional dates for delivery, on the understanding that the programme may be varied to take account of any additional training requirements Members may wish to identify, along with any other particular training needs identified by officers as a consequence of matters emerging during the course of the year.

### 4. IMPLICATIONS

4.1	Policy	Nil
4.2	Financial	It is considered that the level of training required can be delivered internally from existing resources without recourse to having to buy in training from external providers.
4.3	Personnel	Nil
4.4	Equalities Impact Assessment	Nil
4.5	Legal	Nil

**Author of Report:** Sandra Davies

**Date:** 04.02.2019

**Fergus Murray**  
**Head of Development and Economic Growth**

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