

**EXPLANATORY MEMORANDUM TO THE
THE TOWN AND COUNTRY PLANNING (FEES FOR APPLICATIONS
AND DEEMED APPLICATIONS) (AMENDMENT) (ENGLAND)
REGULATIONS 2005**

2005 No.

1. This explanatory memorandum has been prepared by the Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty.

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

2. **Description**

2.1 This instrument makes amendments to the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 (SI 1989/193) (“the 1989 Regulations”). It increases the level of fees payable to local planning authorities in England for planning applications and deemed planning applications from 1st April 2005, and alters the basis of the calculation of the fee payable in some cases.

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

3.1 This instrument implements increases in the level of fees for applications for planning permission and deemed applications for planning permission, to be introduced on 1 April 2005. The Government’s intention is that fees should rise to provide greater financial resources to the planning service.

3.2 Further increases are intended to take account of inflation, but the full extent of these, together with any additional changes brought about in the fees system will be subject to further consultation at a later date. Further details about the increases in fees are explained in paragraph 7 (policy background).

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 That section and those provisions were repealed as part of the consolidation of the planning legislation in 1990.

3.4 By virtue of section 2 of the Planning (Consequential Provisions) Act 1990, the 1989 Regulations have effect as if they had been made under section 303 of the Town and Country Planning Act 1990 and relate to applications made or deemed to have been made under provisions of that Act and the Planning (Listed Buildings and Conservation Areas) Act 1990.

3.5 Section 303 of the 1990 Act is amended by section 53 of the Planning and Compulsory Purchase Act 2004. The enabling powers in section 303 substituted by section 53 came into force on 6th August 2004, by virtue of the Planning and Compulsory Purchase Act 2004 (Commencement No.1) Order 2004 (SI 2004/2097 (C. 89)). As the amendments made by this instrument under section 303, as amended by section 53, could have been made under section 303 before that amendment, the Office places reliance on section 17(2)(b) of the Interpretation Act 1978 to make the instrument.

3.6 The remaining provisions of section 53 that are yet to come into force are not relied upon for the amendments made by this instrument. The remaining provisions are to be brought into force on 7 March 2005, by virtue of the Planning and Compulsory Purchase Act 2005 (Commencement No.4) Order 2005 (SI 2005/204) (C.8).

3.7 The Office has considered whether to make completely new fees regulations, but given that the widened powers in section 53 are likely to be exercised in 2006, it was thought preferable to consider whether a completely new set of regulations should be issued at that time.

4. Legislative Background

4.1 Town and Country Planning legislation was consolidated by the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, and the Planning (Consequential Provisions) Act 1990, as amended by the Planning and Compensation Act 1991, Town and Country Planning (Costs of Inquiries) Act 1995, Planning and Compensation Act 1999, and the Planning and Compulsory Purchase Act 2004.

4.2 The 1989 Regulations make provision for the payment of fees to local planning authorities in respect of applications made under the Town and Country Planning Act 1990 for planning permission for development or for approval of matters reserved by an outline planning permission, in respect of fees for applications for certificates of lawful use or development, in respect of applications for consent for the display of advertisements and in respect of certain applications made under the Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418); and for the payment of fees to the Secretary of State in respect of applications for planning permission which are deemed to have been made in connection with an appeal against an enforcement notice.

4.3 Section 303 of the Town and Country Planning Act 1990 enables the Secretary of State to make regulations to prescribe planning fees for applications made to local planning authorities under the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 (by instrument subject to affirmative resolution).

4.4 The amendments made by section 53 widen the scope of the powers in section 303 so as to enable the Secretary of State to provide for the payment of both charges and fees relating to planning applications and other functions of local planning authorities. The section also widens the scope for how the charge or fee is set, including provision to allow local planning authorities to set their own fees,

subject to the provision that taking one year with another they do not make a profit. The section allows the Secretary of State to prescribe that no charge or fee is payable in relation to specific activities. These wider powers have not, however, been exercised in the drafting of this instrument.

4.5 The instrument increases the level of fees and alters the basis of the calculation of the fee in some cases. The alterations to the basis of the calculation of the fee are in regulation 10A(6) (fees for applications for certificates of lawful use of development where use is one or more separate dwelling houses), paragraph 15(2) of Part I of Schedule 1 (application or deemed application for outline planning permission which relates to development which is within more than one of the categories specified in Part II of Schedule 1), and in the categories of development numbered 1-3, 5 and 8-11 in Part II of Schedule 1.

4.6 Fees prescribed by the 1989 Regulations are increased by this instrument and there are proportionately higher increases for major applications. The instrument increases the level of maximum fee payable by virtue of regulation 10A(6), paragraph 15(2) of Part I of Schedule 1 and the categories of development 1-3, 5 and 8-11 in Part II of that Schedule in the range of 203% to 354%; and in all other cases in the range of 20 to 25%.

4.7 Replacement scales of fees (Part II of Schedule 1, and Schedule 2, to the 1989 Regulations) are set out in the Schedules to the Regulations.

5. Extent

5.1 This instrument applies in relation to England only. It does not apply to Wales. The functions of the Secretary of State under section 303 were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the entry in Schedule 1 for the Town and Country Planning Act 1990.

6. European Convention on Human Rights

6.1 In the view of the Rt. Hon Keith Hill MP (Minister for Housing and Planning) the provisions of the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2005 are compatible with Convention rights.

7. Policy background

7.1 The Green Paper¹ made the commitment to undertake a fundamental review of the fees system, which would involve research to find out the scope of fees activities, whether the ceilings on the largest fees needed to be raised and whether fees could be set locally within national tariffs.

¹ *Planning: Delivering a Fundamental Change*, DTLR 2001

7.2 The last general increase in fees occurred in April 2002 (SI2002/768) and was brought about as a result of the first planning fees study.² The change in fees amounted to a 14% across the board increase which the study identified as the minimum increase necessary based on the information on costs at the time. The study also concluded that a larger increase could be justified if local authorities were able to better reflect and apportion the 'overhead' costs to the fee-paying elements of the development control service.

7.3 A further survey was carried out in 2003 to establish more accurate costs.³ This identified a much higher shortfall between the income received as a fee and the costs of handling and determining applications, which is especially the case with the larger applications. The research, which involved a survey of costs of planning activities in all local authorities in England, concluded that the annual cost of the planning system is around £904m, which is £204m higher than previous studies had shown. The figure was reached by incorporating an analysis of overheads, which had been excluded from previous research. Overheads were calculated to be either 155% or 210% additional to all labour costs for planning, depending on whether 'gross' or 'net' overheads were defined.

7.4 The 2003 research found that in order to achieve near full cost recovery fees would need to increase by an average of 39%, taking 'net overheads' into account. The net overheads figure is preferred as it included the costs properly attributed to the planning service.

7.5 On 16 September we published a consultation document, 'Changes to the System of Planning Fees' with a proposed range of fees increases which in total it was estimated would raise an additional £30m in revenue for local planning authorities in 2005/6. The average increase brought about by the proposals would have been 17%. Overall, it would have gone about half way towards achieving full cost recovery. The intention was that a further increase would follow in 2006/7 to make up the remaining cost deficit. Proposed fees increases varied for different types of applications, with proportionally higher increases on larger developments where the planning fee is furthest from the cost of handling the application.

7.6 The proposals also invited comments on widening the scope of what fees or charges could be applied to activities that are currently outside of the fees regime. There was a proposal for the introduction of a performance element to fee charges. Authorities that achieved Government targets for determining major applications within 13 weeks would have the option of charging up to 10% above the proposed maximum fee of £28,500 to move further towards cost recovery. There was also a proposal to offer a flexibility to reduce fees for applications made online. Respondents were asked whether they considered that the fees for installing telecommunications masts should be increased, because they had potential to create additional work for authorities. The removal of the 'free-go' which allows an applicant to resubmit an application that the authority has refused within one year, with revisions, at no cost, was also put forward.

² *Planning Fees*- DTLR, 2001

³ *The Planning Service: Costs and Fees*, ODPM, 2003,

7.7 Apart from all local planning authorities in England the consultation involved a large number of key stakeholders in industry and amenity groups. Of the 196 respondents, 129 were in favour of an increase in fees at the level proposed. These were mainly planning authorities, however, the CBI, British Property Federation, English Heritage and Bellway Homes were amongst other respondents in favour of our proposed increases. Only 9 respondents were against the idea of fee increases. These included the Small Business Council, and 5 groups representing minerals developers, who were opposed because they believed the aggregates tax and uniform business rates already contributed enough to local authorities. 59 of those 129 in favour felt the fee increases were not high enough. Amongst these, key stakeholders such as the Local Government Association and the Planning Officers Society argued strongly in favour of fee increases to meet cost recovery.

7.8 On the basis of the responses to the initial consultation, and meetings which the Office had held with consultees during the period, Ministers decided that they wished to go further towards achieving full cost recovery in 2005/6. On 15 December 2004 the Office published a second consultation document, 'Further Proposed Changes to the System of Planning Fees', with a higher range of fees aimed at raising an additional £68m in fee revenue for local planning authorities in 2005/6. Once again the fee increases proposed varied according to the size of development, with the smallest rises concentrated on householders and small businesses, and the largest rises on major developments where research had found the biggest gap between costs and fees.

7.9 As well as proposing higher fees closer to cost recovery levels, the second consultation dropped the proposal to remove the free-go, as there was very little support for this measure from authorities and applicants. The direct performance relationship was also removed, as it had attracted little support and given the further increases in fees for large developments could have been more difficult to justify. It was considered that the package of Planning Delivery Grant and Best Value sufficiently addressed the issues of resource and performance improvement, but that the increases in fees would also help to improve the quality of service for users of the system.

7.10. 138 responded to the second consultation and 82 were in favour of the further proposed increases in planning fees, with 33 respondents opposed. Of the 82 in favour, there were some groups not representing local authorities, including the CBI, British Property Federation, Bellway Homes, The Royal Institute of Chartered Surveyors, and Barratt Homes. Most added that they would like to see an improvement in quality alongside an increase in fees. Those opposed included the British Chambers of Commerce and the British Retail Consortium, as well as waste operators.

7.11 The proposal to increase the fee for installing a telecommunications masts was also supported by 40 respondents in the first consultation, and 15 in the second. However, there was little in the way of evidence to enable us to decide an acceptable level of fee increase beyond the general increase proposed. We would need to subject this area to further evidence gathering and research.

7.12 On the proposal to reduce fees for online applications, the majority who responded - 46 in the first and 15 in the second consultation - thought that online applications were unlikely to result in efficiency savings sufficient to lower fees, and at the very least more work needed to be done on this area before such a measure could be implemented. We have therefore decided against taking this option forward at present

7.13 A summary of responses to the consultations will be published on the ODPM website by 3 March. As a result of both consultations there are many options to revisit in future years. Further research or consultation will be needed to establish the true costs before implementing some of proposals such as introducing a fee for major infrastructure projects and the possibility of a fee for retrospective applications, which was also suggested by several respondents.

7.14 The provisions of this instrument therefore take forward across the board increases in all the fee categories with proportionately higher increases for major applications. A threshold is designated, slightly higher than the level of the previous maximum fee above which a new increment of £80 per additional unit will apply, to the new maximum. For example, the first 50 houses in a major development would attract a fee of £265 each, to a threshold of £13,250. Any houses over that number, would attract a fee of £80 each, to a maximum of £50,000. The £80 figure is based on the calculations in the 2003 research on the average cost of an additional unit of development above the designated threshold. The fee in (10) (a) (ii) of Schedule I applies to the change of use of a single dwelling to 50 or more dwellings. While this is extremely unlikely, it is nevertheless included so that a means of calculating the maximum fee in all cases is provided to planning authorities.

7.15 The fee rises have been introduced in this way to tackle the problem of fees for major applications falling well short of cost recovery. The intended effect is to minimise the impact on applications for smaller development, where the planning application fee would represent a higher proportion of the total development costs.

7.16 The increases in the level of maximum fees payable in regulation 10A(6), paragraph 15 of Part I of Schedule 1, and the categories of development 1-3, 5 and 8-11 in Part II of Schedule 1 range from 203% to 354%. In all other cases the increase in the level of the fee payable is in the range of 20-25%. The overall average increase in fees is approximately 39%. Although this is considerably higher than the rate of inflation, studies have shown that, as a result of a decline in resources in the planning service since 1996, and previous underestimates of full costs of planning functions, these increases are necessary.⁴

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum

⁴ *Planning Fees and The Planning Service: Costs and Fees*

8.2 The impact on the public sector is to raise an additional £68m in planning fees and to increase levels of fees such that they achieve recovery of costs.

9. Contact

9.1 Relwyn Reffell at the Office of the Deputy Prime Minister Tel: (020) 7944 4817 or e-mail: relwyn.reffell@odpm.gsi.gov.uk can answer any queries regarding the instrument.

FINAL REGULATORY IMPACT ASSESSMENT (RIA)
CHANGES TO THE SYSTEM OF PLANNING FEES IN ENGLAND.

PURPOSE AND INTENDED EFFECTS OF MEASURE

Objective

1. The proposals for a new fee regime are intended to increase the fee income for authorities. There will be an expected increase in quality of services as a result of the increased resources available to authorities. The target date for implementation of a revised fees regime is April 2005.

Background

2. Fees for planning applications and development control matters are currently as set out in SI 1989/193 the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 most recently amended by SI 2002/768 The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2002.
3. Section 53 of the Planning & Compulsory Purchase Act 2004 amends Section 303 of the Town and Country Planning Act 1990 to widen its scope although the amending regulations do not exercise these wider powers. It allows for activity outside of the determination of planning applications to be covered by a fee regime. It also allows for fees or charges to be levied, whereas the current provisions allow only for prescribed fees. The section allows the Secretary of State to prescribe a fee or charge or a means of calculating a fee or charge, including setting performance related fees or charges and allowing authorities to set their own fees or charges. The section also allows for prescribing that no fee or charge be paid for a service.
4. The Planning Green Paper⁵ contained a commitment to undertake a review of the fees regime, to improve resources for local authorities. Research carried out as part of the review and published in 2003 found that planning was under funded by around £200m annually, and that fees for largest applications and the maximum fees fell furthest short of intended cost recovery⁶. The report recommended that differential fees increases should be introduced, and the fees system should be broadened in scope to maximise cost recovery and improve planning resources.

⁵ *Planning: Delivering a Fundamental Change*, DTLR 2001

⁶ *The Planning Service: Costs and Fees*, ODPM 2003. Analysis figures in costs and other section are based on findings of this research.

5. The estimated numbers of applications attracting a maximum fee was 2,726 in 2003 (0.43% of total applications). The costs of such applications was estimated at between £1,453,000 - £1,602,000, compared with a fee income of £258,400. This suggests that a rise of between 462% and 520% would be needed on these fee areas to achieve the costs to the planning service of handling such applications.
6. In the 2002 Spending Review, £350m was allocated to planning (through Planning Delivery Grant, PDG) over three years, and additional sums to be raised in fees was indicated by Treasury. This was intended to generate additional resource for the planning service so that by 2005/6 income again reached 1996 levels, which previous research had identified as a benchmark year in which planning services had been appropriately funded⁷ taking into account workload. Workload has also risen sharply since 1996, with significant increases in fee paying application numbers and a consequential increase in the absolute level of costs that have not been recovered.
7. The fees increases were seen as integral to the package of resource improvement for planning - as these would address the cost recovery issues on fee-related planning functions. Although PDG has increased funding available to the planning system, there is still considerable under funding. PDG is not considered to be a long-term option and there will need to be a mechanism to ensure that authorities can continue to receive proper resource for planning.
8. Powers for authorities to make charges to help recover costs on non fee-related activities, such as pre-application discussion and advice, are available under section 93 of the Local Government Act 2003. These allow a charge to be made for any 'discretionary activity'. A small number of authorities are using this power in 2004/5 to charge for aspects of pre-application discussion and advice. None of the options presented here affects this flexibility.

RISK ASSESSMENT

Option A: Do Nothing

9. If planning fees are not increased, authorities will continue to fall short of cost recovery on planning functions. Research has indicated that against a 2003 fees income of £174m, total costs of fee-related activities were £242m - a shortfall of £68m. This is prior to any widening of the scope of fees-related activities to allow authorities to charge for other areas of planning where a private gain to applicants can be demonstrated.

Option B: Partial Cost Recovery

⁷ *Resourcing of Local Planning Authorities*, DTLR 2002.

10. With Option B as rates of increase will still be below cost recovery on maximum fees, the resulting increase to authorities would not produce a demonstrable increase in capacity or quality, and further fees rises would need to be scheduled.
11. An increase in fees may reduce the number of applications made, and lead to less development (or slow the rate of increase). Given that planning fees are only a small share of total development costs it is unlikely that this will have a large impact.
12. In April 2002, fees were raised by 14%, but applications rose by 9% in 2002/3 (the highest single year increase since 1998) and have been continuing to rise.
13. However, there may be a relatively small increase in the number of activities carried out without planning applications, although we would need to assess this further retrospectively.
14. The majority who responded - 46 in the first and 15 in the second consultation - thought that online applications were unlikely to result in efficiency savings sufficient to lower fees, and at the very least more work needed to be done on this area before such a measure could be implemented.

Option C: Cost Recovery

15. There is still a risk that the gap between fee income and planning service costs could widen, if revenue from planning fees was lower than expected. However this is considered to be a small risk.
16. An increase in fees may reduce the number of applications made (or slow the rate of increase), and lead to less development. Given that planning fees are only a small share of total development costs it is unlikely that this will have a large impact.
17. In fact the rates of increases are lower for smaller applications, and it is not expected that there would be a downturn in the number of applications arising as a result of raising fees.
18. Fee avoidance is unlikely to be an issue with Option C, as the larger fees increases would be met by developers.
19. The majority who responded - 46 in the first and 15 in the second consultation - thought that online applications were unlikely to result in efficiency savings sufficient to lower fees, and at the very least more work needed to be done on this area before such a measure could be implemented.

OPTIONS

Option A: Do Nothing

20. Do nothing: that is, leave the fee regime in its present form. In this option there would be no increase in fees.

Option B: Partial Cost Recovery

21. This is the option proposed in the September 2004 Consultation Paper, which included proposals to revise the current fees system and increase fees at different levels according to types of applications, so that authorities receive a greater sum proportionate to recovery costs. It also considered options for extending the scope of fees to recover more costs of planning activities, and introduced a performance relationship for earning higher fees. The opportunity to offer a quality service would also be given through the flexibility for authorities to reduce fees for online applications.

Option C: Cost Recovery

22. Revise the current fees system and increase fees at different levels according to types of applications, so that authorities recover more of their costs. Introduces scope for further recovery of costs for individual applications through extending the maximum level of fees for major applications, which will help to reduce the current subsidy of larger applications by small applicants. As in Option B there is the flexibility for authorities to reduce fees for applications made online, to promote an efficient service.

BENEFITS

Option A: Do Nothing

23. Option A yields no additional economic, social or environmental benefits.

Option B: Partial Cost Recovery

Planning Authorities

24. Option B has been estimated to raise an additional £30m in planning fees revenue.
25. By giving planning authorities the ability to lower fees for e-applications, the number of e-applications should be increased. Assuming that e-applications are actually cheaper to process than conventional applications, planning authorities should be able to reduce the shortfall in planning costs.

26. A study from the NAO gives a useful illustrative example of the kinds of savings that can be made as a result of e-enablement.⁸ For the Land Registry, provision of services online reduced the unit cost of work from £27.48 in 1995/6 to £22.52 in 2000/1. These savings were reflected in reduced fees for users of the on-line service 'Land Registry Direct'. If similar levels of savings could be made by the e-enablement of planning services then there could be a benefit to all parties, applicants and planning agents, as well as local and central government.
27. This suggests that online applications may be as much as 18% cheaper to process than conventional applications. Obviously total costs will not fall by 18%, just the share of costs incurred from online applications.

Developers

28. With a shortfall of £38m, rather than £68m, planning authorities will be able to offer a better service to developers than in the do-nothing scenario. Improved service may come in the form of quicker responses to planning applications. Planning authorities are currently set Best Value Targets to determine 60% of major applications in 13 weeks, and 65% of minor and 80% of other applications in 8 weeks.
29. Developers should be able to benefit from reduced fees for applications made online. The extent of this benefit will depend on how much cheaper online applications are, and how much of these cost savings are passed onto the applicant through lower fees.

Option C: Cost Recovery

Planning Authorities

30. Option C has been estimated to raise an additional £68m in planning fees revenue.
31. Option C also allows planning authorities to lower fees for online applications and we would expect the same sort of benefits as from Option B.

Developers

32. With near full cost recovery, planning authorities will be able to offer a better service to developers than in both the do-nothing scenario and Option B. Improved service may come in the form of quicker responses to planning applications.
33. Again developers will benefit from lower fees from online applications, as with option B.

⁸ *Better Public Services through e-government* (NAO, 2002).

34. Unlike Option B, Option C should reduce the cross subsidisation of large applications by small applications. By increasing the maximum charge for large applications the fees should be more in line with actual costs. This should mean that any distortions created by fees that are not proportional to costs should be reduced.

Business Sectors affected

35. The business sectors affected are commercial applicants and their planning agents. The cost of fees would remain low relative to the value of large development and the costs of professional advisers used, particularly on major development projects. Many developers who responded said that they would be prepared to pay higher fees in return for an improved quality of service.

COSTS

Option A: Do Nothing

36. No additional economic, environmental or social costs. Authorities already operate a system of fees set out in SI 1989/193.

Option B: Partial Cost Recovery

37. Costs to applicants would increase by a total equal to the increased revenue taken by planning authorities in fees. Therefore for the developer industry as a whole costs can be expected to increase by £30m.
38. Authorities would need to make amendments to guidance material and provide advice where needed to applicants on changes to fees. This may be responsive (when applicants enquired about fees) in which case it is difficult to estimate an additional cost, but it is expected that authorities would take a proactive approach to updating written and electronic material, and informing significant and frequent applicants.
39. A table of increases is set out below:

Type of application	Current fee £	Option B fee £
Householder Development	110	120
Maximum Fee (e.g., 500 or more dwellings)	11,000	28,500

- 40. No significant negative social impacts are expected to arise from this option.
- 41. There are no anticipated environmental impacts arising from an increase in fees. We are not proposing to widen the fees regime at present to cover listed building and conservation area consents, or applications to fell trees subject to tree preservation orders.

Option C: Cost Recovery

- 42. Costs to applicants would increase by a total equal to the increased revenue taken by planning authorities in fees. Therefore for the developer industry as a whole costs can be expected to increase by £68m.
- 43. Although costs to applicants would increase, this would be more closely related to the costs of their application. An application for building a dwelling would rise from £220 to £265. The maximum fee for this category would be £50,000 (a 354% increase).

Type of application	Current fee £	Option C fee £
Householder Development	110	135
Maximum Fee (e.g., 500 or more dwellings)	11,000	50,000

- 44. Authorities would need to make amendments to guidance material, as with Option B.
- 45. No significant negative social impacts are expected to arise from this option.
- 46. There are no anticipated environmental impacts arising from an increase in fees. We are not proposing to widen the fees regime at present to cover listed building and conservation area consents, or applications to fell trees subject to tree preservation orders.

ISSUES OF EQUITY AND FAIRNESS

47. The options do not fall differentially on any sections of the community - as all sections currently pay for planning applications except in certain cases relating to disabled people.
48. There are no specific impacts on race equality, health or rural issues arising from these proposals.
49. Under options A and B, small business applications would continue to cross-subsidise the larger applicants, whereas option C seeks to begin to excise this difference and make fees more relevant to costs. Option C would increase revenue while reducing the disparity and cross subsidy between sizes of applications and fees charged at the same time.

CONSULTATION WITH SMALL BUSINESS

50. The Small Business Service has been consulted on both proposals. They reported that the general view of small businesses was that these fee increases are inevitable. They did however express concern that councils were in some cases charging for pre-application advice, although this is outside the scope of this consultation.

COMPETITION ASSESSMENT

51. The competition assessment filter has been applied, and a detailed assessment is not necessary. It is unlikely that the proposed changes would have a disproportionate impact on any particular sector. Although developers may face higher costs these will be equal across incumbents and new entrants. The regulations should not act as a barrier to entry, nor lead to a greater concentration of market share. Therefore it is considered unlikely that there would be an appreciable negative impact on competition arising from a rise in fees.

ENFORCEMENT AND SANCTIONS

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

MONITORING AND REVIEW

53. ODPM Planning Directorate will review the scale of fees and costs of the planning service to ensure that the appropriate levels of fees have been set to optimise cost recovery. This will take place in 2005/6, to ensure that the most up to date figures of fee income and inflationary issues are taken into account.

54. We will update the Fees Circular (31/92) to provide guidance to authorities and applicants on revised fees.

CONSULTATION

55. This RIA formed part of the two formal consultations with stakeholders of the planning system that took place from 16 September to 9 December 2004, and in an updated form to include Option C, from 15 December 2004 to 28 January 2005.

SUMMARY AND RECOMMENDATION

Option	Benefit (annual)	Cost (annual)
A	No additional benefit	No additional costs
B	Extra £30m in fees. Possible improved level of service. Cheaper online applications.	£30m increase in fees for developers. Applications (householder) rise from £220 to £240. Maximum fee £28,500. No significant environmental/social costs.
C	Extra £68m in fees. Measurable improved level of service. Cheaper online applications. Significantly reduced cross-subsidy from small to large applicants.	£68m increase in fees for developers. Applications (householder) rise from £220 to £265. Maximum fee £50,000. No significant environmental/social costs.

Recommended Option

56. **Option C** is recommended as it is considered to bring the most balanced improvements: although maximum fees are increased at a higher level, this accounts for a small proportion of the overall numbers of applications, and equates most closely to recovery of costs for those applications. Smaller applicants are not bearing the costs of larger applications as at present.
57. Option C would create a new, fairer fee regime which provide adequate resources and a strong incentive to deliver a higher quality service by all authorities to all applicants.

Ministerial Declaration

"I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs"

Signed

Keith Hill, Minister for Housing and Planning