

# DRAFT Partial Regulatory Impact Assessment

## 1. Introduction

1.1 This document assesses the impact of the following proposals:

- an increase in planning application fee levels;
- provide a refund the planning application fee where an application remains undetermined after a set period of time;
- the introduction of a fee for the discharge of planning conditions; and,
- deemed planning application fees to be only paid to the Local Planning Authority (LPA);

1.2 The cost and benefit analysis has been undertaken separately for each of the provisions. The costs identified for the Do nothing options are existing costs.

## Increase planning application fees

## 2. Options

2.1 The following options are considered:

- **Option 1: Do nothing** – Do not change the current fees regulations. This would result in a continuing gap in resources between income received from planning applications and the costs of processing and making decisions.
- **Option 2: Provide an overall increase in planning application fees** - Increase planning fees so that they are more proportionate to the work involved in processing and determining an application.

## 3. Cost and Benefits Analysis

3.1 The sectors most likely to be affected by the proposals include:

- **Businesses** seeking to apply for planning permission
- **Local planning authorities** who determine applications for planning permission.
- **General public / householders** that may want to make a planning application to extend or improve their property.
- **Welsh Government** who (or through appointed representatives) determine appeals where an application is refused or remains undetermined after the statutory period.

- 3.2 The following cost and benefit analysis has been undertaken for each of the above sectors:

### **Cost Analysis for Option 1 – Do nothing**

#### **Businesses**

##### *Direct costs*

- 3.3 If fee levels remain the same, businesses will not have to pay increased planning application fees. The cost of submitting an application will remain the same.

##### *Indirect costs*

- 3.4 Application fee levels will remain the same, and the difference between the fee levels and the resources required to determine applications will increase. As the LPA has fewer resources to deal with applications, this may either increase the time for applications to be determined, or increase the number of decisions that businesses wish to challenge. This may increase the number of appeals that businesses submit to the Planning Inspectorate.
- 3.5 Where an applicant appeals they will incur the cost of the appeal process. Each appeal will follow either the written representations, hearing, or local inquiry procedures depending on the complexity of the case. Using estimated appeal costs used by DCLG, appropriately adjusted using a GDP deflator of 1.20, the average cost of each appeal procedure for developers is estimated to be £600 for written representations, £1,200 for hearings, and £4,800 for local inquiries. Over a 5 year period, the average number of planning appeals across Wales is 869 per annum.

#### **Local planning authority**

##### *Direct costs*

- 3.6 The planning application fee levels will remain the same, and the difference between the fee levels and the resources required to determine applications will increase. The current planning application fee covers on average 60% of the cost of processing and determining an application. The lack of resources available to LPAs will lead to a decline in the speed and quality when determining applications.

##### *Indirect costs*

- 3.7 As the LPA is less well equipped to deal with applications, this may either increase the time for applications to be determined, or increase the number of decisions that businesses wish to challenge. Should an applicant appeal, the LPA will need to spend resources making representations to the Planning Inspectorate. The CIPFA/PAS Benchmarking Report 2012 gives an average cost of £1,643 for local planning authorities to engage in the appeal process. Adjusting the figure using a GDP deflator of 1.06 gives a 2014 cost of £1,742 per appeal. Over

a 5 year period, the average number of planning appeals across Wales is 869 per annum.

### **General public/householder**

#### *Direct costs*

- 3.8 Applicants would not have to pay increased fees for the submission of a planning application.

#### *Indirect costs*

- 3.9 Planning application fee levels will remain the same, and the difference between the fee levels and the resources required to determine applications will increase. As the LPA has less resources to deal with applications, this may either increase the time for applications to be determined, or increase the number of decisions that the applicant may wish to challenge. Given that householders are less familiar with the planning system, it is not anticipated that this will increase the number of appeals. However householders may spend additional time engaging with the planning system, including checking with LPA officers for advice and progress on their application. This is not a quantifiable cost.

### **Welsh Government**

#### *Indirect costs*

- 3.10 If LPAs are less well equipped to deal with applications there is the potential for an increase in the number of appeals that are made over slow or poor decisions. Should this occur the Planning Inspectorate will receive a higher workload as a result.
- 3.11 It is not know what level of appeals are a result of an under resourced LPA. Should an appeal be made, it can be determined by written representations, hearing, or local inquiry procedure. The average cost of processing and determining a written representations appeal is £1,582; a hearing appeal is £5,096 on average; and a local inquiry appeal costs on average £14,517<sup>1</sup>. Over a 5 year period, the average number of planning appeals across Wales is 869 per annum.

## **Benefit Analysis for Option 1 – Do nothing**

### **Businesses**

#### *Direct benefits*

- 3.12 Applicants would not have to pay increased fees for the submission of a planning application, although this is offset by a declining service.

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<sup>1</sup> Data provided by the Planning Inspectorate.

### **Local planning authorities**

- 3.13 There are no benefits to LPAs under this option. Since 2009, local authority settlements have decreased by 8% and planning application fee income will continue to only cover 60% of the costs associated with processing and determining applications. These will increasingly affect the quality of service provided to applicants.

### **General public / householders**

#### *Direct benefits*

- 3.14 Applicants would not have to pay increased fees for the submission of a planning application.
- 3.15 However, under this option the planning system would remain underfunded and it is likely that this would continue to affect speed and quality of service.

### **Welsh Government**

- 3.16 There are no benefits to the Planning Inspectorate under the current system. There may be an increase in appeals that are indirectly linked to the resources of LPAs and the service they provide.

## **Cost Analysis for Option 2 – Increase planning application fees**

### **Businesses**

#### *Direct costs*

- 3.17 The new fee schedule will increase the cost incurred by businesses when they apply for planning permission. For example, under the current schedule, an application for full planning permission for a residential scheme consisting of 5 new dwellings would be charged at fee of £1,650 (£330 x 5). Under the new schedule the proposed fee is £1,900 (£380 x 5). Under the current schedule outline application for an industrial estate of 5 hectares would be charged as follows. Since the site exceeds 2.5 hectares, the basic fee of £8,232 is paid plus £2,100 (calculated at 25 x £84) giving a total of £10,332. Under the proposed schedule the basic fee would be £9,466, plus £2,415 (25 x £96) giving a total £11,881.

#### *Indirect costs*

- 3.18 Business may incur minimal costs associated with familiarising themselves with the new fee schedule.
- 3.19 As a result of the LPA having resources they should be better equipped to deal with applications, this may reduce the number of appeals that are made over slow or poor decisions. Costs per appeal are provided in the costs analysis of option one above.

## **Local planning authorities**

### *Direct costs*

- 3.20 LPAs will receive increased revenue as part of this measure. If all applications submitted to the LPA are subject to a fee, a 15% increase could add £80,000 to the average income that individual LPAs receive from planning fees.

### *Indirect costs*

- 3.21 LPAs may incur a minimal one-off cost associated with familiarising themselves with the new fee schedule and updating any guidance (such as the website) that they publish.
- 3.22 As a result of the LPA being better resourced this may reduce the number of appeals that are made over slow or poor decisions. Costs per appeal are provided in the costs analysis of option one above.

## **General public / householders**

### *Direct costs*

- 3.23 The new fee schedule will increase the cost incurred by householders when they apply for planning permission. Based on the 6762 householder applications received in 2013, the fee increase would amount (if all applications were subject to a fee, which is not considered to be the case) to householders spending £162,288 more per annum across Wales.

## **Welsh Government**

- 3.24 There are no direct costs to the Planning Inspectorate under the proposed system.

## **Benefit Analysis for Option 2 – Increase planning application fees**

### **Businesses**

- 3.25 The fee will more accurately reflect the work actually involved in processing and dealing with an application. Therefore it is expected that such an increase will allow authorities to ensure their resources are appropriately allocated within their service. This should impact on the speed and quality of decisions made by LPAs, reducing delay in determining the application. Delays in the process can mean frustration, unnecessary expense and the loss of investment and jobs. It can also create uncertainty for communities with an interest in the proposals. Although fee levels are increased, the application fee will still only represent a small proportion of the total cost of making an application.
- 3.26 Since 2009, the costs associated with design and development process have increased by 7% as a result of inflation. During this time planning fee

levels have remained static, and so of the 15% increase in planning application fees, inflation is considered to form 7%.

### **Local planning authorities**

- 3.27 It is difficult to accurately predict the impact on resources this will have for planning authorities. As the types of development and the number of applications submitted vary by authority. However a 15% increase could add £80,000 to the income that individual LPAs receive from planning fees.
- 3.28 Overall LPAs will receive a fee more commensurate with the work actually involved in processing and dealing with an application. It is expected that such an increase will allow authorities to ensure resources are appropriately allocated within their planning service. This should improve the speed and quality of decisions made by LPAs.

### **General public / householders**

- 3.29 The fee will more accurately reflect the work involved in processing an application. This should improve the speed and quality of decisions made by LPAs, reducing delay to the applicant.
- 3.30 Although applicants will have to pay more when planning permission is required, separate provisions in the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales in 2013), have reduced the number of times planning permission is required for householder development. It is anticipated the cumulative impact of the current order will ensure the impact of the fee increase is less widely felt by householders.

## **Refund the planning application fee where an application remains undetermined after a set period of time**

### **4. Options**

4.1 The following options are considered:

- **Option 1: Do nothing** – Do not change the current fees regulations. This would result in limited options to the applicant where the LPA has failed to come to a decision on an application.
- **Option 2: Provide for the refund of the application fee where the LPA has failed to determine an application** – Where the LPA has failed to determine a planning application after 24 weeks (16 for householder development) the application fee should be refunded.

## 5. Cost and Benefits Analysis

5.1 The sectors most likely to be affected by the proposals include:

- **Businesses** seeking to apply for planning permission
- **Local Planning Authorities** who determine applications for planning permission.
- **General Public / Householders** that may want to make a planning application to extend or improve their property.
- **Welsh Government** who (or through appointed representatives) determine appeals where an application remains undetermined after the statutory period.

5.2 The following cost and benefit analysis has been undertaken for each of the above sectors:

### Cost Analysis for Option 1 – Do nothing

#### Businesses

##### *Indirect costs*

- 5.3 Where an application remains undetermined by the LPA, if the applicant is aggrieved by the service provided the only options available to the applicant are to make a formal complaint or appeal the decision for non-determination. This may include an appeal for the award of costs, although this is not common practice.
- 5.4 Where an applicant appeals for non-determination they will incur the cost of the appeal process. The average cost of each appeal procedure for developers is estimated to be £600 for written representations, £1,200 for hearings, and £4,800 for local inquiries. Over a 5 year period, the average number of planning appeals across Wales is 869 per annum.
- 5.5 Overall, retaining the current system will result in continued delay in the planning system. DCLG contend that planning delays cost the UK economy £3billion a year.<sup>2</sup> Whilst this figure has been challenged by the Royal Town Planning Institute<sup>3</sup>, other published research<sup>4</sup> estimates the cost of planning delays to be at least £700 million per year. Whilst it is difficult to estimate the exact cost, it is apparent that delayed planning decisions place a significant financial burden on developers and the Welsh economy.

<sup>2</sup> <https://www.gov.uk/government/speeches/planning-reforms-boost-local-power-and-growth>

<sup>3</sup> <http://www.rtpi.org.uk/knowledge/core-issues/planning-myths/myth-number-3-planning-is-costly/>

<sup>4</sup> The Killian Pretty Review, Final Report, November 2008  
[www.planningportal.gov.uk/uploads/kpr/kpr\\_final-report.pdf](http://www.planningportal.gov.uk/uploads/kpr/kpr_final-report.pdf)

## Local planning authorities

### *Direct costs*

- 5.6 There are no significant costs to the LPA under the current system. Where the LPA has failed to meet acceptable time limits in determining the application they may face costs in handling and resolving complaints made directly or through the Public Services Ombudsman.

### *Indirect costs*

- 5.7 There are potential indirect costs to the LPA under the current system as applicants may feel aggrieved by the time taken to resolve an application and appeal for non-determination. The CIPFA/PAS Benchmarking Report 2012 gives an average cost of £1,643 for local planning authorities to engage in the appeal process. Adjusting the figure using a GDP deflator of 1.06 gives a 2014 cost of £1,742 per appeal. Over a 5 year period, the average number of planning appeals across Wales is 869 per annum.

## Householders / general public

### *Indirect costs*

- 5.8 Where an application remains undetermined by the LPA, if the applicant is aggrieved by the service the only options available to the applicant is to make a formal complaint about the actions of the LPA or appeal the decision for non-determination and seek an award of costs.
- 5.9 As a householder is likely to be less knowledgeable of the planning process it is not anticipated that applications are appealed on this basis. However householders may spend additional time engaging with the planning system, such as making complaints direct or through the ombudsman. This is not a quantifiable cost.
- 5.10 Where the LPA has not determined an application for a significant period of time, the general public will have no certainty over the development proposals that are approved or refused for their area. This may cause anxiety and lead to increased costs in engaging with the planning system.

## Welsh Government

### *Indirect costs*

- 5.11 Where an application remains undetermined by the LPA, the applicant may appeal for non-determination. This may include an application for the award of costs. Appeals can be determined by written representations, hearing, or local inquiry procedures. The average cost of processing and determining a written representations appeal is £1,582; a hearing appeal is £5,096 on average; and a local inquiry appeal costs on average £14,517<sup>5</sup>. Where an application for the award of costs is made the processing and determination costs of this are £900 per application in

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<sup>5</sup> Data provided by the Planning Inspectorate.



addition to the appeal cost. Over a 5 year period, the average number of planning appeals across Wales is 869 per annum.

## **Benefit Analysis for Option 1 – Do nothing**

### **Businesses**

5.12 There are no benefits to businesses under the current system.

### **Local planning authorities**

#### *Direct benefits*

5.13 Under the current system the LPA will not have to refund the application fee if they have failed to determine it in a set time period. They will therefore retain the income received.

#### *Indirect benefits*

5.14 If the applicant is unhappy with the time taken to determine the application they may appeal for non-determination, this may include an application for the award of costs. However, it is not anticipated many applications are appealed on this basis and even fewer applications for costs are made (There were only 26 applications for costs awarded since Feb 2011). The risk to the LPA of challenges is therefore minimal.

### **General public / householders**

5.15 There are no benefits to the general public or householders under the current system.

### **Welsh Government**

5.16 There are no benefits to the Planning Inspectorate under the current system.

## **Cost Analysis for Option 2 – Introduce a refund for applications**

### **Businesses**

#### *Direct costs*

5.17 The proposal will have direct financial impact on businesses. Under the system, where the LPA has not determined the application within a set time period the fee is automatically refunded. Based on current determination timescales LPAs may refund 10% of applications that they receive. The fee level will be dependent on the application submitted; however the maximum fee that could be refunded to an applicant is £250,000.

*Indirect costs*

- 5.18 The fee is not refunded where the applicant has agreed a planning performance agreement/extension of time, or they have sought to exercise their right of appeal. Given that the proposal introduces a new 'option' to the developer there may be a small initial cost as business seek to understand the new legislation.
- 5.19 There may be an increase in the number of applications that are refused as LPAs seek to prevent the application fee being refunded. Where the LPA has refused an application the developer may choose to appeal the decision. The cost of appealing the decision is identified as £600 for written representations, £1,200 for hearings, and £4,800 for local inquiries.

**Local planning authorities***Direct costs*

- 5.20 The proposals will have a direct impact on local planning authorities that fail to determine applications within the time period, set at 16 weeks for householder and 24 weeks for all other applications. The fee is not refunded where the applicant has agreed a planning performance agreement/extension of time, or they have sought to exercise their right of appeal.
- 5.21 Based on the current determination times, LPAs may refund 10% of applications that they receive. The fee level will be dependent on the application submitted; however the maximum fee that could be refunded to an applicant is £250,000, but the average fee (assuming all applications pay a fee) is £464. LPAs may therefore refund £4,640 per annum. However it is anticipated that performance will improve over time, reducing the percentage of applications that are refunded. This increase in determinations may also increase the number of refusals, the impact of which is discussed below.

*Indirect costs*

- 5.22 Where an extension of time for the determination of an application is not agreed, LPAs may refuse applications to prevent the application fee being refunded. Where they undertake this option, the applicant may appeal the decision of the LPA. The cost of defending the decision is £1,742 per appeal.

**General public / householders***Direct costs*

- 5.23 Under the system, where the LPA has not determined a householder application within a set time period the application fee will be refunded. The current fees for householder developments are £166 for a single dwelling or £330 where it relates to two or more dwellings.

*Indirect costs*

- 5.24 The application fee is not refunded where the applicant has agreed an extension of time, or they have sought to exercise their right of appeal. Given that householders may not be aware of new legislation they may spend additional time engaging with the planning system. This is not a quantifiable cost.

**Welsh Government***Indirect costs*

- 5.25 Where the developer and LPA have not agreed an extension of time LPAs may refuse applications to prevent the application fee being refunded. Where they undertake this option, the applicant may appeal the decision of the LPA. This may increase the number of appeals that are submitted to the Planning Inspectorate. The measure is likely to increase determination rates of LPAs, and this may reduce the number of appeals that are made for non-determination. The costs to the Welsh Government may therefore be neutral in this respect.

**Benefit Analysis for Option 2 – Introduce a refund for applications****Businesses***Direct costs*

- 5.26 The proposals will mean that where the LPA has failed to provide a decision on a planning application before them, businesses will receive a refund of the application fee. The refunding of the application fee does not remove the LPAs role in coming to a decision on the application or prevent the developer exercising their right of appeal. The proposals should also ensure that LPAs focus on the speed of the planning service, reducing delay in the planning system.

*Indirect costs*

- 5.27 The proposals should reduce delay in the planning system. DCLG contend that planning delays cost the UK economy £3billion a year. Whilst this figure has been challenged by the Royal Town Planning Institute, other published research estimates the cost of planning delays to be at least £700 million per year. Whilst it is difficult to estimate the exact cost, it is apparent that reducing delay in providing planning decisions reduced the financial burden on developers and the Welsh economy.

**Local planning authorities**

- 5.28 The proposals may help ensure that LPAs determine planning applications submitted to them. The failure to meet targets will have a financial impact on the LPA. This may help ensure that planning is considered an important corporate resource and LPAs allocate the necessary funding from internal budgets to support the service.

### General public / householders

- 5.29 The proposals will mean that where the LPA has failed to provide a decision on a planning application before them, householders will receive a refund of the application fee. The refunding of the application fee does not remove the LPAs role in coming to a decision on the application or prevent the applicant exercising their right of appeal.
- 5.30 The general public will also benefit as the measures will encourage LPAs to come to timely decisions on all applications. This will help provide greater certainty to the public over the development in their area.

## The introduction of a fee for the discharge of planning conditions

### 6. Options

6.1 The following options are considered:

- **Option 1: Do nothing** – Do not charge for the discharge of conditions. LPAs would continue to undertake work without receiving a fee to cover costs
- **Option 2: Introduce a fee for the discharge of conditions** – This would provide an income for LPAs to help cover the cost of processing and discharging conditions.

### 7. Cost and Benefits Analysis

7.1 The sectors most likely to be affected by the proposals include:

- **Businesses** seeking to discharge conditions on a planning permission
- **Local planning authorities** who discharge conditions attached to a planning permission.
- **General public / householders** seeking to discharge conditions on a planning permission to extend or improve their property.

7.2 The following cost and benefit analysis has been undertaken for each of the above sectors:

## Cost Analysis for Option 1 – Do nothing

### Businesses

#### Indirect costs

- 7.3 Under the current system, there is no charge to accompany the discharge of conditions on a planning permission, and as such there are no direct additional costs to businesses.
- 7.4 There may, however, be indirect costs with the current process, as without resources to undertake the work associated with the discharge of conditions, the LPA may not prioritise this area of work. This can cause delay in the system which would adversely affect applicants.

### Local Planning Authority

#### Direct costs

- 7.5 Where an application has conditions that contain information that needs to be approved the LPA, they will undertake this work without charging a fee. It is estimated that planning officers spend approximately 15% of their time dealing with discharging conditions, which, based on a standard 37 hour week, would equal 5 hours 30 minutes.
- 7.6 Based on the average hourly wage of a planning officer being £24.00 (including on-costs), this would equate to approximately £6,800 per year per officer. However, if a senior planning officer were to undertake the work, this would cost approximately £8,182 per year per officer (based on average hourly wages of £28.61, including on-costs).

### General public/householder

#### Direct costs

- 7.7 Under the current system, there is no charge to accompany the discharge of conditions on a planning permission, and as such there are no direct additional costs to householders.
- 7.8 There may, however, be indirect costs with the current process, as without resources to undertake the work associated with the discharge of conditions, the LPA may not prioritise this area of work. This can cause delay in the system which would adversely affect applicants. It is not possible to quantify the impact of this on householders as a monetary cost.

## **Benefit Analysis for Option 1 – Do nothing**

### **Businesses**

#### *Direct benefits*

- 7.9 With no fee attached to an application to discharge conditions, applicants are effectively receiving a free service from LPAs, regardless of how many applications they submit to discharge conditions

### **Local planning authorities**

- 7.10 There are no benefits to LPAs under the current system as they are undertaking mandatory work for which they do not receive a fee. This will have a direct impact upon resources.

### **General public / householders**

#### *Direct benefits*

- 7.11 With no fee attached to an application to discharge conditions, applicants are effectively receiving a free service from LPAs, regardless of how many applications they submit to discharge conditions.

## **Cost Analysis for Option 2 – Introduce a fee to discharge a condition**

### **Businesses**

#### *Direct costs*

- 7.12 Applications for the discharge of conditions will be accompanied by a fee, set at £83 per application (with the exception of householder applications). The number of conditions that need to be discharged on a planning permission can vary significantly and the proposals allow more than one condition to be discharged on a single application. It is likely that information to discharge conditions will be grouped for certain developments. Assuming the number of applications submitted to discharge conditions on non-householder application would be between 1 and 4; this presents a cost to Businesses of £83 - £332 per planning permission.

### **Local planning authorities**

#### *Direct costs*

- 7.13 LPAs currently discharge conditions and so there are no additional costs to the LPA in undertaking this element of the process. The additional costs associated with this procedure will only be an additional administrative cost to process the fees received. The fee level is set at the same as that for a non-material amendment application, and the work associated with these procedures is considered equal. As such, work undertaken by the LPA should be covered by the application fee,

proposed at £25 for a Householder application and £83 for a non-householder.

*Indirect costs*

- 7.14 LPAs may incur a minimal one-off cost associated with familiarising themselves with the new fee schedule and updating any guidance, such as the website, that they publish.

**General public / householders**

*Direct costs*

- 7.15 There will be an additional cost to applicants as each application for discharging conditions will need to be accompanied by a fee (£25 for householder applications). Currently, only 27% of householder applications require conditions to be discharged. Given that householder conditions are generally minor and non-contentious in nature, it is assumed that all conditions could be discharged on a single application at a cost to the applicant of £25. With 6762 householder applications submitted per annum, and assuming all of these applications were subsequently approved and implemented, the total cost to householders would be £45,643.

**Benefit Analysis for Option 2 – Introduce a fee to discharge a condition**

**Businesses**

- 7.16 As the application is accompanied by a fee, it is anticipated LPAs will dedicate resources to this function. This means businesses will benefit by experiencing a speedier and more efficient service when discharging conditions, helping to reduce delay in the system.

**Local planning authorities**

- 7.17 With the introduction of fees (set at £25 for householder and £83 for all others) to accompany applications for discharging conditions, LPAs will benefit from an increase in planning fee income. The level of additional income received by an LPA will be dependent on the number and type of application they received. For example, LPAs with larger strategic sites would generally have greater numbers of major developments – with potentially a greater number of applications to discharge conditions – and so experience a greater increase in the income received.

**General public / householders**

- 7.18 Householders will benefit from a speedier and more efficient service in the process of obtaining planning permission.

## Deemed planning application fees to be only be paid to the local planning authority

### 8. Options

8.1 The following options are considered:

- **Option 1: Do nothing** – Where an enforcement appeal is made under ground (a), the applicant pays a planning application fee, charged at double the amount for the same planning application. 50% of the fee is paid to the LPA and 50% to the Planning Inspectorate, acting on behalf of Welsh Ministers. Where an appeal is successful the fee paid to the Planning Inspectorate is refunded.
- **Option 2: Require appellants to pay the whole of the deemed planning application fee to the local planning authority** – Maintain the system but have the whole of the deemed planning fee payable to the LPA, this would reduce the resource requirements of the planning inspectorate and contribute to enforcement activity by LPAs.

### 9 Cost and Benefits Analysis

9.1 The sectors most likely to be affected by the proposals include:

- **Businesses** that are subject to enforcement notices, and pay the deemed planning application fee for enforcement appeals to the Planning Inspectorate and the LPA.
- **Local planning authorities** who raise enforcement notices, and receive 50% of the deemed planning application fee.
- **Welsh Government** – the Planning Inspectorate, on behalf of Welsh Ministers, who process and determine enforcement appeals, including the administration of the deemed planning application fee.

#### Cost Analysis for Option 1 – Do nothing

##### Businesses

##### *Direct costs*

- 9.2 Businesses pay a double fee when they appeal against an enforcement notice and plead Ground (a). Where the appeal is successful the applicant is refunded half of the planning fee. Where their appeal is unsuccessful, the applicant is burdened by paying a double fee. Over the last four years the Planning Inspectorate received an average of 36 ground (a) appeals and determined 25 per year. During this period businesses would have paid £36,591 in fees to the LPA and Inspectorate, with £7,573 of this refunded by the inspectorate.
- 9.3 The applicant will also have to process and send fees to two different bodies. Should the applicant not be familiar with the system there may be further confusion over this process, which could add additional cost to the system.



## **Local planning authorities**

### *Direct costs*

- 9.4 The current arrangements will continue and LPAs receive 50% of the Deemed Planning Application fee when an enforcement appeal pleading Ground (a) is submitted. Over the last four years the planning inspectorate received an average 36 ground (a) appeals per year. In total LPAs would receive on average £18,295 per year in fees.

## **Welsh Government**

### *Direct costs*

- 9.5 The current arrangements will continue with the Planning Inspectorate receiving 50% of the deemed planning application fee due when an enforcement appeal pleading Ground (a) is submitted. Over the last four years the planning inspectorate received an average 36 ground (a) and determined an average of 25 per year. This was accompanied by an average of £18,295 of fees income. Of this £7,573 was refunded, and £11,931 was transferred to the Consolidated Fund for Extra Receipts.
- 9.6 In order to process these transactions - receiving the fee, making a refund, transferring funds, the Planning Inspectorate spends between £58 and £118 per case, which is an average of £88 per ground (a) appeal submitted.

## **Benefit Analysis for Option 1 – Do nothing**

### **Businesses**

#### *Direct benefits*

- 9.7 Businesses are able to challenge a LPA enforcement notice on the basis that planning permission ought to be granted. If this challenge is successful they are not financially penalised for undertaking this route as the fee that is retained by the LPA in this circumstance is the same amount as if the applicant had submitted an equivalent planning application.

### **Local planning authorities**

#### *Direct benefits*

- 9.8 LPAs are paid half the deemed application fee. This fee if the equivalent of the application fee that that would have been paid should a planning application has been submitted to them for determination. The application fee therefore provides income for the LPA to consider the planning merits of the appeal and make appropriate representations.

## Welsh Government

- 9.9 There are no apparent direct or indirect benefits for the Planning Inspectorate. The fee paid to the Planning Inspectorate is not used by them to fund enforcement action or meet the costs of administering the receipt of the fee and subsequent refund or transfer work.

## Cost Analysis for Option 2 – Require appellants to pay the whole of the deemed planning application fee to the local planning authority

### Businesses

- 9.10 The level of fee paid by businesses will not change as a result of this option. If the fees paid per annum remain the same as current levels, business will pay £36,591 in fees to LPAs on average per year, and receive refund estimated to be £7,573 on average per year.
- 9.11 It is possible that these figures could be impacted on by an improvement in enforcement activity by LPAs. This could cause an increase in enforcement activity and, therefore, more appeals and their associated fees. Alternatively, the quality of enforcement action could increase with fewer successful appeals and, therefore, a reduction in the amount of refunds given. It is not possible to place a financial estimate on this potential impact.

### Local planning authorities

#### *Direct costs*

- 9.12 LPAs will receive the whole deemed planning application fee when an enforcement appeal pleading Ground (a) is submitted. If the fees paid per year remain the same as the current levels, across Wales LPAs will receive £36,591, refund £7,573 to the appellant and retain £29,018.

#### *Direct costs*

- 9.13 LPAs will be required to process the deemed planning application fee. LPAs currently have procedures in place to process fees, including refunding the fee in certain circumstances. It is not anticipated that this provision will increase costs associated with processing the fee.

## Welsh Government

#### *Direct costs*

- 9.14 Requiring the payment of the full deemed planning application fee to the LPA will mean that the Planning Inspectorate will not receive any funds, and will not be required to refund it or transfer funds to the Consolidated Fund for Extra Receipts. The Planning Inspectorate would no longer be required to allocate officer resources to handling the payment and refund or transfer of fees. This will result in a saving of between £58 and £118 per case, or an average of £88 per case.

## **Benefits Analysis for Option 2 – Require appellants to pay the whole of the deemed planning application fee to the local planning authority**

### **Businesses**

- 9.15 Businesses will continue to be able to challenge a LPAs enforcement notice and not be penalised financially where their appeal is successful.

### **Local planning authorities**

- 9.16 LPAs will be able to use the increase in retained fees to fund their enforcement work. This would lead to improved and potentially increased enforcement action, preventing poor behaviour by developers and improving the built environment.

### **Welsh Government**

- 9.17 The Planning Inspectorate will be able to redirect resources from the administration of the deemed planning application fee, and its associated refund and funds transfer activities, to other finance functions and casework.

## **10. Analysis of Other Effects and Impacts**

### **Voluntary Sector**

- 10.1 The proposals are likely to have a limited impact on the voluntary sector. The planning fee regulations prescribe the statutory basis of the fee levels and arrangements for the planning system. The wider planning fee regulations benefit certain voluntary sectors. For example, they make special provision for applications by not for profit sports clubs.

### **Equality of Opportunity**

- 10.2 The proposed legislation will not have any adverse equality impact. The proposals prescribe the statutory basis of the fee levels and arrangements for the planning system. The wider fee regulations make specific exemptions where no fee is payable in certain circumstances, for example; applications to facilitate access or accommodate a disabled person at a dwellinghouse or to a public building.

### **Sustainable Development**

- 10.3 The proposals will not have any significant adverse impact on sustainable development. The proposals prescribe the statutory basis of the fee levels and arrangements for the planning system.

- 10.4 The fee proposals will enable and encourage LPAs to process and determine applications more efficiently, quickly and cost effectively. This should mean that applicants receive a quicker decision on proposals. This may also assist in bringing forward the construction of development proposals more quickly.

### **The Welsh Language**

- 10.5 The proposals do not have any adverse implications for the Welsh language. The proposed statutory basis to prescribe the fee levels and arrangements for the planning system will have an equal impact on all sectors.

## **11. Summary**

- 11.0 Based on the analysis undertaken on both options, it is considered on balance that option 2 should be introduced for all of the proposals. This option is preferred in order to:

### **Increase planning application fees**

- Ensure LPAs receive a fee more commensurate with the work actually involved in processing and dealing with a planning application submitted to them.
- Applicants can expect an improvement in the performance of LPAs for the speed and quality of decision made, reducing delay in the delivery of development proposals.
- Provide LPAs with resources that will allow them to improve performance in the speed and quality of decisions made, potentially reducing the number of challenges made at appeal.

### **Provide a refund of the application fee where an application remains undetermined after a period of time,**

- Ensure that LPAs consider the speed in which they determine planning applications as the failure to meet targets will have a financial impact on their resources.
- Contribute to a reduction in delay in the planning system as LPAs issue decisions more promptly.
- Ensure that business is less financially burdened when the LPA has failed to provide a decision on a planning application before them within a set time period.

### **Introduce a fee for the discharge of planning conditions;**

- Provide LPAs with resources to undertake the work actually involved in processing and dealing with applications to discharge conditions submitted to them.
- Provide applicants with a speedier and more efficient service in the process of obtaining planning permission as LPAs have resources to determine the discharge of conditions.

**Deemed planning application fees;**

- Provide more funding to LPAs for their enforcement activity;
- enable the Planning Inspectorate to deploy its resource more efficiently on other finance and casework activities; and
- contribute to improvements to the built environment through more effective and increased enforcement activity by the LPAs.

**12. Consultation** *[This section will be completed following the completion and analysis of the consultation].***13. Competition Assessment**

- 13.1 A competition filter test has been applied to the proposed amendments. The results of the test suggest that the proposals are unlikely to have any significant detrimental effect on competition. The proposals will have equal benefit across the business sector.

**14. Post Implementation Review**

- 14.1 The Government will monitor how the changes have impacted on LPA resources, the number and type of developments that come forward and whether the increased income has impacted on service and performance. We will continue to have a close dialogue with all stakeholders to assess how the new regime is working and whether there are any particular areas of ambiguity. The Government will liaise specifically with POSW to understand the effects of the changes.