CONSULTATION RESPONSE

PLANNING FEES IN ENGLAND PROPOSALS FOR CHANGE

17 August 2007

Introduction

1. HBF continues to fundamentally oppose the notion that the costs of the planning system should be bourne entirely by applicants. As is recognised in paragraph 2 of the consultation, the chief stakeholders in the planning system are local communities. It therefore follows that those stakeholders should bear some of the costs of administration. That proportion should, therefore, be derived from either central or local taxation of communities as a whole. The notion that the planning system should, therefore, strive for self financing status as suggested in paragraph 7 and 8, through the incremental raising of application fees is flawed.

2. The suggestion in paragraph 6 that applicants should pay a fee since they are achieving a benefit is similarly fundamentally flawed. It is the planning system that removes the rights of landowners to do what they want with their own land. To then suggest that it is the planning system that delivers back a private gain is disingenuous.

Local Government Act 2003

3. It is recognised that the Local Government Act gives LPAs the power to charge for discretionary activities. However, pre application discussion is now a fundamental part of the planning process and it would seem reasonable to incorporate the costs of such discussions within the formal fee regime structure. This would have the benefit of allowing for a clear and consistent approach towards charges and would bring a level of consistency to the benefits and outputs of the pre application process. It may, similarly, streamline the post application process, thereby saving resources. However, we do not advocate a separate fee for the pre application stage. We suggest that the planning fee should cover all of the stages of both pre and post application processing. We develop this theme further in our response to Planning Performance Agreements.

Improvements to Service

4. HBF continues to submit evidence that the current performance targets for the determination of planning applications attract unintended consequences and behaviour on the part of LPAs seeking to meet the simplistic targets of determination within 8 or 13 weeks. We will continue to work with government to devise new targets that allow for a level of quality, consistency and certainty in the decision making process which is currently lacking. This may be best dealt with as part of the review of the process of pre application discussions as suggested above, whereby fees are integrated into the delivery and performance of agreed tasks and milestones as suggested by planning performance agreements for larger applications.

5. At the very least the monitoring data should be split into the proposed categories of minor, small scale major and large scale major applications as suggested as part of the PPA consultation paper.

Research

6. The research upon which the proposed fee increases are based takes no account of the monopoly situation that all LPAs enjoy. There is little or no incentive for LPAs to reduce costs of their service since there is no alternative for applicants. This lack of commercial or competitive approach inevitably raises costs which are merely recorded, rather than questioned, by the research.

7. Kate Barkers proposals for increased fees, as acknowledged in the final paragraph of paragraph 16, were clearly linked to the outcome of a higher quality of service. Whether this is measured in terms of service to applicants or service to the wider community is unclear. However, if it is the latter then the additional costs should be bourne by the community as a whole rather than by applicants within the planning process.

8. The research makes no attempt to examine any correlation of performance against costs nor does it address the issue of wildly different costs for similar services between local authorities. Without such comparisons we cannot support the contention that an increase in fees guarantees an increase in performance.

Preferred option

9. The proposed option of increasing fees by 23% across the board is, as set out in paragraph 29, an annual increase of 9%. This figure is well in excess of inflation and cannot be justified in simple economic terms. The increase in costs to LPAs, as suggested above, is not competitive due to an areas monopoly on planning services. With the government seemingly prepared to raise planning fees regardless of efficiency measures or competition being introduced throughout LPAs planning services we cannot support an above inflation increase in fees.

Excluding householder applications

10. It not clear from the research report how the assertion that householder applications cover 92% of their associated costs has been determined. Many of the administrative tasks are the same regardless of the size of the application. It is suspected that the major contributor to the costs of larger applications is the higher costs of senior staff. However, this decision of resource allocation is a matter for the LPA rather than the choice of the applicant (albeit that the benefits to applicants are accepted). It therefore follows that the premise that rises in householder application fees should be less than an across the board rise is fundamentally flawed.

Removal of fee cap

11. The removal of the fee cap is not considered to be justified. There is no evidence that the costs of processing a planning application is proportional to the size of the application once it has reached the current fee cap.

12. Although it is acknowledged that there are only a small number of applications each year that are of a scale that attract the current maximum fee (outline residential applications must currently be for a site area of 25.46875ha while full applications must be for 509.375 dwellings to attract the maximum fee) the proposed removal of the cap will impose punitive charges to the applicant that are not proportional to the additional work involved in the processing of these larger applications.

13. This of particular concern in relation to outline planning applications where the principles and limits of development are being established at an early stage of the development. All planning fees are speculative and are at the risk of the applicant since a permission is not guaranteed and the costs must, therefore be bourne by the applicant.

14. A medium sized, mixed use scheme of, for example, some 2,000 dwellings and 60,000 sq m of commercial floorspace would, maybe cover some 75ha. Such an application would currently attract a fee of £25,000 for the outline application plus an additional £50,000 for the reserved matters application (or more likely £100,000 as the reserved matters may be submitted separately). Thus, total planning fees for the project would, in the worst possible case, be £125,000.

15. Under the new proposals (using the current fee scales) the outline planning application would attract a fee of £64,625 while the reserved matters applications would require a fee of £192,750 for the residential element and a further £73,250 for the commercial development. The total planning fees for the development would amount to £330,625.

16. Not only does the above example show the huge impact of the proposed removal of the fee cap it also highlights the inequity of the fee structure in regard to residential applications.

17. HBF is not convinced that the costs of processing large applications rises in direct proportion to the number of units over and above a maximum limit. For example, an application for 3,000 dwellings requires the same considerations as an application for 2,000 dwellings yet the former would, under the new proposals, require an additional fee of £80,000. There appears to have been very little research undertaken to seek to establish where the ceiling lies, rather the research has merely identified that maximum fee applications (ie, those over 500 units) do not cover their costs.

18. The above example suggests that there is a real danger that removal of the fee cap will lead to LPAs moving into profit from some of these applications, a situation not supported by the fee regime.

19. We believe that there may be some applications for which a larger fee is appropriate (such as major infrastructure projects) although clearly these are currently being proposed to be dealt with outside of the existing LPA processes.

Fee for discharge of planning conditions

20. HBF acknowledges that there are currently a number of problems associated with the discharge of conditions on planning permissions. Many of these arise because

there is no formal statutory procedure for the process resulting in LPAs giving such applications low priority.

21. HBF would be keen to discuss how the process might be statutorily controlled. However, this may be possible through other action by CLG such as updating Circular guidance to Local Authorities. The proposal to merely apply a standard fee to the discharge of conditions is not supported.

22. There appears to be no justification for a different fee for householder applications as against any other type of application. There can be very little difference in the administration of many conditions on any type of application and thus the proposed approach appears to be based merely on the concept of perceived ability to pay rather than associated in any way with the administrative burden on the LPA.

23. There is little clarity over the actual mechanism being proposed, particularly with regard to the flat rate fee. For example, how would an authority deal with an application to discharge 2 conditions to which it agreed on only one. Would the applicant have to resubmit with another fee? Can an applicant submit as many times as required to gain agreement under the one fee?

24. There is considerable evidence that many LPAs apply conditions to planning permissions without really considering the necessity for such a condition. Often they replicate the requirement for information already submitted with the application itself. The ability to charge for discharge would do little to stop this activity and, indeed, may perversely encourage LPAs to apply even more conditions merely to generate additional income.

25. This issue clearly requires much further discussion between LPAs and applicants. For example, HBF suggests that, if a more formalised process were to be established it could be set up in a similar way to building regulation in that the applicant could assume discharge after a statutory period (say, 21 days) unless advised otherwise by the LPA. This would involve very little additional work for the LPA and would thus not have huge resource implications.

26. Until such discussions have taken place this proposal should not be implemented.

Premium service pilot project

27. It is difficult to see how a premium service would operate in practice. We have made extensive representations on the proposals for planning performance agreements which we believe have considerable potential to provide a better service for applicants on large scale major applications.

28. However, the choice of paying a higher fee for a faster service appears to be little more than allowing additional fees by the back door. It is not difficult to foresee a time when all applicants will be forced to pay for a “premium” service since to do otherwise would consign ones application into a sub-standard, inefficient handling system, pre-determined to become on of the 20% of applications that is not determined in 8 or 13 weeks.

29. While HBF accepts that there are currently examples of applicants providing extra resources to LPAs for particular applications this practice should be explored further through the process of PPA rather than a premium service.

Locally set planning fees

30. For similar reasons as our comments above regarding proposals for a premium service, HBF strongly objects to the idea of locally set planning fees.

31. Indeed, the criteria suggested in paragraph 31 as to which authorities would be allowed to set their own fees is tautologous. Since it is proposed that only those authorities that are already providing a service that meets government performance targets that would be allowed to deviate from the national fee scales it is equally clear that they are demonstrably able to provide the required service on the fees as set down centrally. Therefore, there would be no requirement for such an authority to increase fees.

32. Similarly, if some authorities can deliver a planning service for less fees, through the better use of e-planning for example, then their best practice should be shared with other LPAs in order that the national fees can be reduced.

Andrew Whitaker
HBF Head of Planning