



Response to Scottish Government – BRIA Proposed Planning Fee Increase November 2014

Introduction

Homes for Scotland is the representative body of the Scottish home building industry. Its homebuilder members build over 90% of the private housing built in Scotland, along with an increasing proportion of affordable housing. Its associate members represent a cross-section of industries and services which support the homebuilding industry.

Context

The e-mail issued by Scottish Government on 12 June 2014 advising of the Ministers' approval of a 5% increase in planning fees from November 2014 states that the fee increase is "*on the basis that local authorities continue to improve timescale performance.*" However, it is Homes for Scotland's understanding that "performance" is measured on a series of indicators, not just timescales for determining planning applications. The second paragraph of the e-mail does then refer to "*more general service improvements*" and to "*continuous improvement*".

Homes for Scotland considers that any increase in planning fees has to be related to a range of service improvements. Scottish Planning Policy, published on 23 June 2014, is clear that the key duties on planning authorities include maintaining an up-to-date development plan and maintaining a minimum 5-year supply of effective land for both housing and business uses.

Homes for Scotland therefore considers that the case for any increase in fees has to be justified against these and other improvement measures as well as planning application processing timescales. In that respect, the Planning Performance Annual Report (March 2014) provides a substantial amount of evidence that planning authorities are **not** achieving the necessary improvements in performance. Accordingly, Homes for Scotland would **oppose** any fee increase in November 2014.

Planning Performance Annual Report

Page 4 discusses development plans. It suggests that just over two-thirds of authorities now have an up-to-date plan. Given that the Planning Etc (Scotland) Act

2006 has been in force since 2008, Homes for Scotland suggests that, in fact, this is a poor performance. The report notes that some authorities continue to fall behind timescales even now. Indeed, if a view is taken from the first Development Plan Schemes published in 2009, which set out how authorities were to deliver the requirements of the Act and development plan Regulations, then well over 80% of authorities have failed to deliver their stated plan timescales from 2009. Page 5 then shows that only **13 authorities (38%)** are on course to adopt plans within 5 years of current plan(s) adoption and have project plans suggesting this will be achieved.

A minority of authorities scheduled to succeed in keeping plans up-to-date does **not** constitute good or improving performance.

Page 5 discusses land supply. The assertion in paragraph 2 in relation to housing land *that “only three authorities in Scotland have less than the required 5 years”* is entirely inaccurate. Homes for Scotland continuously monitors housing land supplies against development plan housing requirements and annual housing land audits (these are the bases on which SPP sets out how a requirement is assessed and PAN 2/2010 an effective supply calculated). In reality, only 6 authorities **do** have a 5-year effective housing land supply. The average supply across Scotland is 3.3 years, which is wholly inadequate as a basis for stimulating economic growth and supporting housing development. The supply should be at least **double** that amount if Homes for Scotland is to accept that planning authorities are meeting their obligations under the Act and SPP.

Other measures of performance are, frankly, unacceptable to the housing industry and show that planning authorities are failing to deliver the basic requirements of a clear, positive and pro-active planning system intended to stimulate and facilitate development:

- Page 6 only **6 authorities (18%)** have clear and proportionate expectations on developer contributions set out in their plans
- Page 7 only **11 authorities (32%)** have displayed continuous improvement of average decision-making timescales across all development categories
- Page 6 only **12 authorities (35%)** have displayed availability and promotion of pre-application discussions and clear and proportionate information requests. Pre-application discussions are anecdotally a source of major frustration for housebuilders, with authorities indulging in unhelpful practices such as charging fees for meetings, refusing to have meetings, relying on limited access at set times only to planning officers, or still failing to provide definitive advice at meetings.
- Page 8 only **6 authorities (18%)** have produced regular and proportionate policy advice
- Page 8 only **5 authorities (15%)** are offering Processing Agreements to all applicants

- Page 12 only **9 authorities (26%)** conclude Legal Agreements or reconsider applications within 6 months of resolving to grant

These aspects of planning are as important as the headline timescale measures. They are the day-to-day mechanics for developers trying to work with the planning system to promote development. They illustrate starkly a planning service across Scotland which is not customer-focussed and not delivering outcomes for the users of the system. They are an illustration of poor performance and most certainly do **not** justify a fee increase.

Planning application determination timescales are difficult to comment on given the impact of removing legacy cases from the system. However, an average timescale for major applications of 36.3 weeks against the statutory timescale of 16 weeks does not, in the industry's view, represent an efficient planning system. It is interesting to compare the performance of the Directorate of Planning and Environmental Appeals, which now meets or comes very close to all its timescale targets for appeals, casework, plan examinations and so on, despite those targets becoming more stringent and despite diminishing staff resources. It is not clear why planning authorities are unable to match the creditable performance improvements achieved by the DPEA.

Page 15 states that 60% of authorities have multi-disciplinary teams and 88% of authorities are working on cross departmental protocols, integration and restructuring. In spite of that, one of the most common complaints amongst Homes for Scotland members is precisely the **lack** of coordination between Council services on policy and procedures. For instance, there are recurring difficulties across Scotland with planning and education services agreeing on the position on school capacities and new school requirements. Planning and transport functions are frequently in conflict over design matters including Designing for Streets or Road Construction Consents. Planning and housing functions are frequently in conflict over affordable housing needs and provision.

It is clear from the detailed assessment of individual authorities which underlies the Performance Report that there are a number of Councils which are failing on multiple measures of performance, while others are making satisfactory progress. Is it not the intention of performance review to identify poor authorities and consider whether they should have their right to charge higher fees withdrawn? If so, then there are clearly several Authorities who should be at risk of having that right removed. Users of the planning system need to see some explicit analysis from Scottish Government of individual Authority performance.

Pages 19 – 20 acknowledge that staffing levels in planning services have fallen. Some of these falls have been very substantial and staff reductions are continuing in a number of authorities. This clearly suggests that any income from higher planning fees is not being used to tackle improvements to planning services. Nor is there any

real prospect that a further increase will find its way into the budgets of planning services.

Conclusions

Businesses operate on the basis of providing a defined service or quality of product to customers. Customers rightly expect to receive that service, and are entitled not to pay for a sub-standard service or to be compensated in some way if they do receive poor service or a poor product.

Customers of the planning system have no such redress. Planning fees are paid in advance and there is then no way of ensuring that a satisfactory service will be forthcoming. Homes for Scotland remains of the view that there should be a range of measures to define the service a customer can expect, and mechanisms to link the payment of fees to the delivery of the promised service. Without such mechanisms, increased planning fees will lead to no discernible improvement in service.

The Performance Report is clear – the service offered by a number of Scottish planning authorities to its customers is far short of an acceptable standard. In any other area of business, customers would be entitled to a reduced cost, not an increased one. However, more public information is needed on which Councils are performing poorly and which should therefore have the right to charge higher fees withdrawn.