

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT TOWN AND COUNTRY PLANNING (FEES  
FOR APPLICATIONS, DEEMED APPLICATIONS,  
REQUESTS AND SITE VISITS) (ENGLAND)  
(AMENDMENT) REGULATIONS 2023

*Wednesday 25 October 2023*

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**The Committee consisted of the following Members:**

*Chair:* MR LAURENCE ROBERTSON

Bradshaw, Mr Ben ( <i>Exeter</i> ) (Lab)	† Metcalfe, Stephen ( <i>South Basildon and East Thurrock</i> ) (Con)
† Britcliffe, Sara ( <i>Hyndburn</i> ) (Con)	† Nichols, Charlotte ( <i>Warrington North</i> ) (Lab)
Byrne, Ian ( <i>Liverpool, West Derby</i> ) (Lab)	† Pennycook, Matthew ( <i>Greenwich and Woolwich</i> ) (Lab)
† Cairns, Alun ( <i>Vale of Glamorgan</i> ) (Con)	† Poulter, Dr Dan ( <i>Central Suffolk and North Ipswich</i> ) (Con)
† Carter, Andy ( <i>Warrington South</i> ) (Con)	† Vaz, Valerie ( <i>Walsall South</i> ) (Lab)
Coyle, Neil ( <i>Bermondsey and Old Southwark</i> ) (Lab)	† Vickers, Matt ( <i>Stockton South</i> ) (Con)
† Glindon, Mary ( <i>North Tyneside</i> ) (Lab)	Jack Edwards, <i>Committee Clerk</i>
† Hughes, Eddie ( <i>Walsall North</i> ) (Con)	† <b>attended the Committee</b>
† Kniveton, Kate ( <i>Burton</i> ) (Con)	
† Largan, Robert ( <i>High Peak</i> ) (Con)	
† Maclean, Rachel ( <i>Minister of State, Department for Levelling Up, Housing and Communities</i> )	

## Fourth Delegated Legislation Committee

Wednesday 25 October 2023

[MR LAURENCE ROBERTSON *in the Chair*]

### Draft Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2023

9.25 am

**The Minister of State, Department for Levelling Up, Housing and Communities (Rachel Maclean):** I beg to move,

That the Committee has considered the draft Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2023.

Good morning, Mr Robertson; it is a pleasure to serve under your chairmanship. Laid before the House on 20 July, the draft regulations amend the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 and, by increasing planning application fees by 35% for major applications and by 25% for all other applications, will provide much-needed additional income to local planning authorities. Importantly, the regulations introduce, for the first time, an annual inflation-related increase, so that fees retain their value in the future, year on year, and they give local planning authorities greater certainty.

The measures in the regulations are widely welcomed by the industry. They are designed to boost the income to local authorities. We expect local authorities, in turn, to invest that income in their planning services to improve the speed and quality of their decision making.

To state the obvious, it costs money to run the planning application service. At the moment, the cost of the service is more—by an estimated £225 million across England—than the income from the fees charged. That means that local taxpayers have to contribute to dealing with the shortfall, while those who stand to benefit the most could be paying a greater share. Planning fees have reduced in value over the five years since the last increase, in January 2018, while the costs and demands on local planning authority budgets have increased. The regulations will address the issue by ensuring that applicants for planning permission contribute a higher proportion of the estimated £675 million cost of the application service, reducing the burden on the local taxpayer.

As well as reducing the shortfall, the regulations will create greater sustainability for local planning authorities when the annual increase comes into effect from 1 April 2025. Local planning authorities will be able to use the additional income to procure more resources, including planning officers and other specialists, which will enable them to provide an improved service to applicants. That will benefit the whole of society as good planning decisions are made more quickly, enabling development to proceed without unnecessary delay.

Respondents to our consultation on proposals to increase fees were generally supportive. They acknowledged that local authorities needed more funding, and supported higher fees, with the important caveat that that should lead to improvements in planning performance.

I will now turn to the details. First, the regulations introduce a much-awaited national fee increase of 35% for major applications and 25% for all others. The maximum fee for a large planning application will be £405,000, up 35% from £300,000. Fees for householder applications will rise from £206 to £258, an increase of 25%. The regulations also introduce an annual inflation-related increase in fees from 1 April 2025. That will be at the rate of the consumer prices index from the previous September. To prevent the annual increases from becoming too onerous, they will be capped at a maximum of 10%. This measure will ensure that fees do not lose their real-terms value.

In addition, the regulations remove an existing fee exemption that allows applicants, in certain circumstances, to submit a second application without having to pay another fee—colloquially known as the “free go”. The removal of that exemption will enable local planning authorities to charge for repeat applications, which will help to fund their costs for dealing with the applications, which we know are a demand on their resources.

Furthermore, the regulations reduce the planning guarantee period for non-major applications from 26 weeks to 16 weeks. That means that, in most cases, if their application is not determined after 16 weeks and no extension has been agreed, the applicant will be entitled to a full refund of their planning fee. That measure is intended to encourage faster decision making, which applicants will expect as a result of paying higher fees.

Lastly, the regulations introduce a new prior-approval fee of £120 for the permitted development right for development by the Crown on a closed defence site. That right was introduced through an amendment to the general permitted development order in December 2021 and requires that a fee be paid for prior-approval applications.

We estimate that the fee increase will raise an additional £65 million for local planning authorities in the first year. In future years, from 1 April 2025, income will increase further, as the annual inflation-related rises take effect. That will provide much-needed income to local authorities. Some may consider that this is not the time to be increasing fees, since there are considerable financial pressures on businesses and householders, but if we do not increase fees, the planning application service will continue to deteriorate, to the detriment of applicants and the wider economy.

We need to find a way to get more resources into the system. The fairest way is for applicants, who stand to benefit the most from planning decisions, to contribute more toward the costs to local planning authorities of delivering the service. We consider our approach to be proportionate, with the greater burden falling on applicants for major developments, who, as I said, largely welcome these measures and are considered more likely to be able to bear a larger increase. That leaves householders and small businesses, who are more sensitive to higher fees, with a smaller increase. Together, the increases will provide additional income for local planning authorities.

The regulations do not introduce any new fees for applications for which there is currently no charge, such as applications for listed building consent, and they retain the existing exemptions, including for alterations to homes to provide facilities for a disabled occupant. I can reassure hon. and right hon. Members that we estimate that, in most cases, the cost of the planning application will still be less than 1% of the overall development costs, so we do not consider that it will be a burden or deter development.

The regulations do not contain any requirements for the additional fee income to be formally ringfenced. Hon. Members will note that we proposed in our consultation to ringfence the increase, and that proposal was strongly supported by some respondents. However, the primary legislation—section 303 of the Town and Country Planning Act 1990—requires a fee to be charged so that local planning authorities can perform the function of determining planning applications. As there is no surplus to planning fee income, there is logically no underspend that could be used to cross-subsidise other services. The Committee will note that there may be cases where other services are ringfenced. That is usually because they make a surplus; it is a different category of funding in this case.

We have made it clear to all local authorities that they are expected to retain the income from planning fees for direct investment in their planning services, and we will reiterate that expectation after the regulations are made. We recognise that the circumstances of each local authority are different. In line with our general approach to simplification of funding, which is widely welcomed by local authorities, we believe that our approach strikes the right balance.

**Valerie Vaz** (Walsall South) (Lab): On a point of clarification, how many responses did the Government get to their consultation, as a percentage?

**Rachel Maclean:** I thank the right hon. Member for that point. I will have to write to her about that, if she will allow me.

As I was saying, local authorities have made it clear that they want and need this income so that they can build up the capability and capacity of their planning services and improve their performance. We expect them to do so, and we know that that is what applicants will expect in return for paying higher fees.

We need a planning system that supports appropriate development and functions effectively. The regulations will provide a welcome financial boost to local planning authorities, on top of the additional spending that we have already awarded to them through our planning skills delivery fund and other measures. These measures will generate additional income year on year. Local authorities will be able to invest the extra money in their planning services, including in staff and in digitising the service to make it fit for the present day and to improve their performance. Local authorities will be able to budget with more certainty and build up their capability and capacity.

I hope that Members will join me in supporting the draft regulations, which I commend to the Committee.

9.34 am

**Matthew Pennycook** (Greenwich and Woolwich) (Lab): It is a pleasure to serve with you in the Chair, Mr Robertson. I thank the Minister for that explanation of the instrument before us.

We welcome the regulations, which, as we heard, increase the fees payable for major and non-major planning applications for the first time since 2018, add an annual inflation indexation of those fees, and make changes to both fees payable for repeat applications and the planning guarantee period for non-major applications.

Local authorities play an instrumental role in efforts to meet housing need and demand, yet many are struggling to fulfil their responsibilities due to a lack of capacity, capability, skills and resourcing in their planning departments. As a report published last year by the House of Lords Built Environment Committee put it, we face an “evolving crisis”, with local planning authorities under-resourced and consequently unable to undertake a variety of skilled planning functions effectively. The resources dedicated to planning within local authorities, which were never particularly high by international standards even before 2010, have fallen dramatically over the past 13 years, primarily as a result of local authority belt tightening in response to central Government funding cuts.

The “Planning for new homes” report published by the National Audit Office in February 2019 found that between 2010-11 and 2017-18 there was a 37.9% real-terms reduction in net current expenditure on planning functions by local councils. Even when the income that authorities generated from fees, sales and charges or transfers from other public authorities was considered, the report concluded that total spending on planning had fallen by 14.6% in real terms between the dates in question—from £1.125 billion to £961 billion. Given that context, I would be grateful if the Minister could tell the Committee whether the Government are considering any other means, beyond the fee increases provided for by this instrument, to provide local authority planning services with additional funding.

Although the fee increases provided for by the regulations will not compensate fully for the sharp real-terms reductions in funding that authorities have had to cope with over recent years, they do have the potential to help enable local planning authorities to better deliver the service that applicants and the public rightly expect. I use the word “potential” deliberately, because there is a justifiable concern that increased revenue from planning application fees will not necessarily be allocated to planning departments or lead to improved performance. Although there is both a clear expectation and a requirement in primary legislation for planning fees to be used by local authorities to perform the function of determining planning applications, in practice many councils use planning fee income, despite the lack of surplus, to cross-subsidise other services. If they did not, the Government would never have felt the need even to consult on ringfencing in their “Increasing planning fees and performance” technical consultation earlier this year.

As such, what further assurances can the Minister provide today that the Government’s expectations—and ours—and the statutory requirements in respect of revenue generated from planning fees will be adhered to? In addition, can she confirm that the Department plans to

[Matthew Pennycook]

begin actively monitoring how planning fees are generated and used, and evaluating whether they are having a beneficial impact on performance?

I would also be grateful if the Minister could provide further clarity on what other steps the Department is taking to ensure that local planning authorities are improving their performance. When the other place considered these regulations last week, Baroness Swinburne, speaking for the Government, referred to “a new framework” that will measure local authority performance across

“a wider set of criteria to ensure that local authorities are delivering on all fronts, for all users of the system.”—[*Official Report, House of Lords*, 17 October 2023; Vol. 833, c. 141.]

Can the Minister tell us when that new framework is expected to be put in place?

Lastly, increasing fees by the proposed amount or in isolation, even if supplemented by other funding sources, will almost certainly not be enough to address the capacity and capability issues faced by local planning authorities. As the Minister knows, difficulties in recruiting and retaining principal planners, and a shortfall of specialist skills, is another significant challenge. Although the Government have seemingly abandoned the proposals in the 2020 “Planning for the future” White Paper for a comprehensive resources and skills strategy, the policy paper that accompanied the Levelling-up and Regeneration Bill committed Ministers to bringing forward a planning skills strategy. Can the Minister tell us whether the Department still intends to publish one, and if so, when?

9.38 am

**Dr Dan Poulter** (Central Suffolk and North Ipswich) (Con): I rise briefly to raise concerns about the statutory instrument. Very often we sit on these Committees and wave things through without giving them proper consideration, but there are two issues that I wish to raise with the Minister.

The first is the issue of proportionality, which the Minister used to make a case in favour of the regulations. I would argue that the scale of the fees increase is potentially disproportionate, particularly on individuals who bring planning applications and those who may need to bring repeat applications—for example, those who live in conservation areas or those who run into challenges with planning officers and the system.

Secondly, there is the point raised by the hon. Member for Greenwich and Woolwich about ensuring that fees are tied to improved performance. Over the last week we have seen flooding throughout the country, and it has been very severe in my constituency and elsewhere in Suffolk. The failure of planning authorities in both Mid Suffolk and East Suffolk to adequately consider the impact of flooding and sudden storms on the drainage system exacerbated the problems that we experienced last week. Homes have been ruined, and we have seen many businesses closed for a long time.

As a result, there are concerns about the calibre and quality of the planning systems in place in Suffolk. If we as a Committee are going to support an increase in fees, we need reassurances about the improvements that will be put in place to ensure that local planners do their jobs more thoroughly in future. I have not heard anything from the Minister that reassures me on that.

On the issue of proportionality in the fee increases, of course the Minister is right that larger developers can absorb these fees, but households that are making individual applications for an extension or to make modest changes to their home—perhaps to adapt it for somebody they need to care for or an older relative—will potentially face a substantial increase in fees as a result of this measure, particularly if they bring repeat applications.

The Minister said that the fee scheme had accounted for that, and that there would not be a disproportionate burden on individuals who bring applications and the burden would fall on big developers. Can she outline what that will mean in percentage terms and what additional protections will be put in place for individuals bringing applications of a very modest nature about their own home? The danger is that if fees become disproportionate, people who need to adapt homes to care for an older relative or a disabled child, for example, will not be able to afford the cost of bringing an application.

If the Minister cannot reassure me on both those points, I would support the Opposition in voting against the regulations if they sought to divide the Committee.

9.42 am

**Rachel Maclean:** I thank Members for their contributions to the debate, and I will respond to the questions raised.

I can tell the right hon. Member for Walsall South that the consultation received 495 responses.

The hon. Member for Greenwich and Woolwich asked me about ringfencing. I set out in my opening remarks how we have approached this matter. We believe that our approach is the right one. As I said, the response we have had from local authorities on our overall strategy of funding simplification indicates strongly that local authorities want to see a simpler picture for funding the essential services that they provide to their residents and businesses. That is why we have taken this approach. As the hon. Gentleman acknowledged, primary legislation already requires a fee to be charged so that local planning authorities can perform the function of determining planning applications. There is no surplus to planning fee income, so there is logically no underspend that could be used to cross-subsidise other services, which means that ringfencing is not necessary.

We have been very clear with local authorities that they are expected to retain the income from planning fees for direct investment in their planning services, and we will reiterate that direction once the regulations are made. It is worth observing that in my considerable engagement with local authorities, the Local Government Association and others, they have all been very clear that they need this funding, they must spend it on planning and they intend to do so. That is the clear expectation.

**Valerie Vaz:** I have two points to make. First, I would like the percentage of the number of consultations that were returned—was it 1% or 100%? Secondly, how will the Government monitor whether local authorities are actually using the fees for the purposes intended?

**Rachel Maclean:** I will be happy to respond to the right hon. Lady on that point, but can I clarify what she means by the percentage? I am not quite clear on her question.

**Valerie Vaz:** The civil servants have helpfully given the answer that there were 495 responses to the consultation. What was the percentage of returns? Was that a 1% return of the total number of people who were consulted, or was it 100%? Is it 495 of 495? What is the percentage?

**Rachel Maclean:** I think what the right hon. Lady is asking is whether it was a binary choice either for or against ringfencing. Is that right?

**Valerie Vaz:** No. There are two separate points. The point about the consultation is that there were 495 responses, but how many people were consulted? What is the percentage—was it a 1% return or a 50% return? On a separate point, the Minister helpfully said that local authorities have to spend the fees on planning and planning officers. How will the Government monitor whether they are doing that? The intention and the direction are there, but how can the public—my constituents—be reassured that that money will not be used for other purposes?

**Rachel Maclean:** I will respond to the right hon. Lady's second point, as I understand that question very clearly. I think it is better if I write to her on the first question. My understanding is that there were 495 responses, but I do not know how many people were actually asked. I think she is asking for a response rate—

**Valerie Vaz** *indicated assent.*

**Rachel Maclean:** We may be able to provide a further breakdown and further detail on those responses, and what they were in favour of and against. I am sure we can provide that information to the right hon. Lady and any other Committee member who is understandably interested in that.

The point about planning performance is really important. It is feedback I always hear from industry and householders, as my hon. Friend the Member for Central Suffolk and North Ipswich has mentioned. Planning performance is an issue that is raised time and again. My overall conclusion and response is that when people are applying for these services, although they expect to get a good service, they have not always had that, which has led to overall dissatisfaction with the system. It also has a knock-on effect on the public's confidence in the planning system more generally, which leads to a lot of the other issues that we see time and again. I am sure all Members have messages in their inbox about these sorts of issues, which are common across the country.

We recognise that the current metrics on planning performance, including the use of extensions of time, do not adequately reflect the performance of local authorities. We recognise that they do not capture the consumer experience either. We have therefore recently consulted on proposals to measure performance across a broader set of quantitative and qualitative measures, providing greater transparency of service delivery and enabling early action where local authorities are not performing. We will come forward with further details on those measures in due course.

Separately to that, my Department and civil servants in the relevant team have very granular information on local authorities' performance in this area—as well as a number of other areas, of course—on which they regularly report to me. On that basis, other Ministers and I are

able, where necessary, to exercise our functions and powers to intervene and to remove planning powers from local authorities, although we obviously only want to do that as a last resort. However, we do expect local authorities to be providing these services to their residents, which we monitor.

Before I come to my hon. Friend the Member for Central Suffolk and North Ipswich, I will address the point about funding raised by the hon. Member for Greenwich and Woolwich. As he rightly said, we have made available to the profession additional capacity funds, amounting to £54 million, to enable more planners to come into the profession. Also, on the back of the Secretary of State's long-term plan for housing announcement this summer, we made £24 million available to the planning skills delivery fund. Local authorities will be able to use that fund to speed up planning applications and ensure that services flow faster, and that any backlogs are dealt with.

**Dr Poulter:** I remember bringing forward statutory instruments quite a few years ago. If we had a statutory instrument to improve performance, it was customary to introduce it at the same time as the SI that allocated extra funding for that improvement. I ask the Minister to reflect on the point that it is bad legislating to do what she is doing today—to bring forward one SI, but fail to bring forward another that is linked to it that has to do with an ambition for the future.

**Rachel Maclean:** I thank my hon. Friend for his point, and the feedback is noted, but what I was talking about regarding planning performance is a policy decision that we are in the process of making. I am sure that further legislation will come forward in due course.

**Matthew Pennycook:** Will the Minister give way?

**Rachel Maclean:** I will, briefly, but then I want to make progress.

**Matthew Pennycook:** I appreciate the Minister's giving way. She has provided some useful additional clarity on performance and funding. May I press her on greater transparency, and the Department's monitoring of how the increased planning fees are used? Does it monitor how fees are generated and used by planning authorities across the country? If not, will it start to, and will it actively track whether the increased fees are contributing to the improved performance that we all want?

**Rachel Maclean:** Yes, I can assure the hon. Gentleman that that is one of the core activities that I carry out in my role, with the assistance of my civil servants and various teams that feed into this. I have already spoken about our powers to intervene where local authorities are not performing. On top of that, we expect that the additional funding that we are giving through the separate funding pots that I referred to, and this new broader funding, will be spent, and we can track performance. Notwithstanding the challenge put to me by my hon. Friend the Member for Central Suffolk and North Ipswich, we intend to bring forward details of how we will track performance. I know that every Member in this House is very interested in how their local authority

[*Rachel Maclean*]

performs on planning applications, because we are often the first to receive complaints when they not performing well.

My hon. Friend has indicated his concerns about the disproportionate impact of the fees. I obviously take that on board, and we have considered that carefully; that is why the fee for householders will rise only from £206 to £258. We consider that to be proportionate, given the need. Planning services do not make a profit from fees; the services are still subsidised through wider funding. It is not a cost-recovery fee. Applicants still benefit from what they pay, even with the increase. He raised the point about people making modifications for disabled residents of a property. They will still be exempt. The current set of exemptions will still apply, so people in that situation will rightly not be charged; he is right to say that.

**Dr Poulter:** The issue going forwards is that fees will be linked to inflation. That is of concern, because with compound increases, fees can rapidly escalate for people making modest modifications. Will people making smaller applications, such as single households making an application for an extension, now have to pay repeat fees if they have to go back and forth with the planning authority, and submit a second, third or even fourth application, as often happens if a house is in a conservation area?

**Rachel Maclean:** The changes that we are making have removed the “free go”; we debated that in the House in proceedings on the Levelling-up and Regeneration Bill. We made that change because the free go placed a disproportionate burden on planning departments, and added to their overall workload.

It is really important to look at this small increase in the round. We are talking about increasing capacity and providing a better service across the board. I have recent experience of making a planning application to my local authority, so I know how much work is involved. When people pay a fee, they want to get a good service. If we resource the system as a whole to a greater extent—I hope Members will be reassured, both by this instrument and by the other grants that we have mentioned, that we are doing that—small householders building an extension will see a better service overall, and that should minimise the need for repeat applications. The idea is to capture everything up front.

It is also important to note that we are embarking on an ambitious programme to digitise the whole system. Members will know how paper heavy the system is now. That is where mistakes creep in and things need to be repeated. By improving the whole system overall, we will remove the need for repeated applications and, I hope, provide a fairer service.

My hon. Friend the Member for Central Suffolk and North Ipswich asked me about flooding, so I will touch on that before I wind up. We have all seen the recent events, which I know have affected his area greatly. All our sympathies are with the people affected, and I hope that they can be back in their homes soon. He will know that the national planning policy framework—the planning system more broadly—already takes account of flooding. Work has been done on this matter by my colleagues in the Department for Environment, Food and Rural Affairs, particularly in setting up the Flood Re scheme and making sure that planning applications and local plans are made with flooding in mind.

We will be going further. My hon. Friend will know of the work that we have done through the national development management policies; we debated again yesterday on the Floor of the House when considering the Lords message how the planning system responds to climate change, of which flooding is one manifestation. We have been clear that we intend to strengthen our approach, to give planners and the country the reassurance that the planning system can respond adequately to climate change and help us achieve our net zero objectives.

**Matthew Pennycook:** The Minister has missed out one of my questions. Will we see the planning skills strategy that was promised in the policy paper that accompanied the Levelling-up and Regeneration Bill?

**Rachel Maclean:** I understand the hon. Gentleman’s eagerness to see that, and we will bring it forward in due course. If he will allow me, I will write to him with more details on the timeline.

I thank Members for their interest in this matter. I must reiterate that it is critical that we have well-resourced, effective and efficient local planning services so that development is not delayed. We need to build the right houses for our country, in the right places, and planning is critical to that. The regulations will contribute to that by delivering much-needed additional resources. As I hope I have said multiple times, we are clear that local planning authorities must invest the additional income from the increase in planning application fees in their planning service. Improvements will enable speedier delivery and the economic growth that our country needs. I hope the Committee will welcome these important and necessary regulations.

*Question put and agreed to.*

*Resolved,*

That the Committee has considered the draft Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2023.

9.58 am

*Committee rose.*