

Investing in Planning Consultation

Summary and Recommendations

This paper presents Leaders with COSLA's response to the Scottish Government consultation on Investing in Planning for approval. The consultation was launched in February 2024 and forms a key part of ongoing work to reform the planning system.

The response builds on long standing agreed positions on both fiscal empowerment and specific planning policy, as well as our long term ambition for full cost recovery for planning authorities. The deadline is Friday 31 May and, subject to Leaders' approval, our response will be submitted following the conclusion of this meeting.

This paper invites Leaders to:

- i. Agree COSLA's response at Appendix A

References

Previous reports:

- COSLA Leaders – March 2022 – NPF4 Consultation Response
- Environment and Economy Board – December 2022 – Place, Planning and the Wellbeing Economy
- Environment and Economy Board – May 2023 – Investing in Planning

Calum Lindsay
Policy Manager
calum.lindsay@cosla.gov.uk
0131 474 9274

Date Considered: May 2024

Investing in Planning Consultation

Purpose

1. To bring to Leaders' attention Scottish Government's consultation on Investing in Planning.

Current COSLA Position

2. Planning reform has been a long-standing priority for COSLA and Local Government, pre-dating the Planning (Scotland) Act 2019 and its implementation. A key part of this reform throughout has been the resourcing of the planning system and Local Government's ambition for full cost recovery.
3. The previous consultation on planning resources took place in 2019/20 and COSLA made clear in our response that both resourcing and performance of the Scottish planning system must be at the forefront of planning reform. Our position remains that, without appropriate funding for Local Government, essential services such as planning will begin to fail and if local authorities are to deliver a high performing, effective and efficient planning system, then resources and flexibility are essential. This includes more power of discretionary charging and local fee setting in order to achieve full cost recovery.

What is Changing?

4. On 28 February the Scottish Government published "[Investing in Planning – A consultation on resourcing Scotland's planning system.](#)" This is built on a series of workshops, which COSLA attended, and engagement with stakeholders to identify potential options to improve the resourcing and performance of the planning system in Scotland. The consultation document highlights the range of work taking place as part of the wider reform of planning, and seeks views on proposals, which are broadly grouped under the headings of "Working Smarter" and "Raising Resources".
5. At their previous meeting, COSLA's Environment and Economy Board reaffirmed their support for already established positions and agreed positions on new proposals such as the creation of a planning hub to support capacity, annual inflationary fee increases and the creation of a new planning fee category for hydrogen projects. These are referenced in the attached draft response.

Proposed COSLA Position

6. Leaders are invited to agree, pending comments, the proposal contained in Annex A be submitted as COSLA's response to the Investing in Planning consultation.


Next Steps

7. The next meeting of the High Level Group on Planning Performance is to take place in June, and while this will likely prove too early to discuss initial findings with Scottish Government and stakeholders, it will provide an opportunity to discuss the future resourcing of the planning system with Ivan McKee, the new Minister with responsibility for planning.

8. Many of the proposals in the consultation will require further work following the analysis of findings, and the High Level Group provides a forum to discuss findings and identify next steps. Further updates will be provided when appropriate.

Date Considered: 31/05/24

Contribution to agreed COSLA Plan and Verity House Agreement:

<p>COSLA Plan 22-27</p> 	<p>Priority Areas</p> <p>Strengthen Local Democracy <input checked="" type="checkbox"/></p> <p>Secure Sustainable Funding <input checked="" type="checkbox"/></p> <p>Improve the Wellbeing of Individuals, Families and Communities <input type="checkbox"/></p> <p>Enhance Education and Support for Children and Young People <input type="checkbox"/></p> <p>Deliver a Just Transition to a Net Zero Economy <input checked="" type="checkbox"/></p> <p>Support the Most Vulnerable in our Communities <input type="checkbox"/></p>
<p>Verity House Agreement</p>	<p>Shared Priorities</p> <p>Tackling Poverty <input type="checkbox"/></p> <p>Just transition to net zero <input checked="" type="checkbox"/></p> <p>Sustainable Public Services <input checked="" type="checkbox"/></p>

COSLA Response to “Investing in Planning – A consultation on resourcing Scotland’s planning system

Introduction

1. COSLA welcomes the opportunity to respond to the Scottish Government’s consultation on Investing in Planning. As the representative voice of Local Government in Scotland and co-chairs of the High-Level Group on Planning Performance, we are committed to delivering a high performing planning system capable of delivering place making, enabling a just transition to a net zero economy by no later than 2045 and improving the wellbeing of our communities.
2. It is important to view this consultation, and our response, in the context of the overarching issues facing the wider planning reform agenda. We welcome the acknowledgement of the financial pressures facing Local Government and planning services. COSLA has been consistent in its message that, without appropriate funding for Local Government, essential services, such as planning, will begin to fail.
3. Since the last consultation on planning fees and performance in 2019, local authority planning services are tasked with even greater responsibility, through the new duties introduced by the Planning (Scotland) Act 2019 and the refreshed policies of National Planning Framework 4, but a continued decline in resources. The Verity House Agreement commits Scottish Government and Local Government to work in partnership to tackle poverty, deliver a just transition to net zero and sustainable public services. Planning is central to delivering on these priorities and we therefore view this consultation as an opportunity to move towards full cost recovery, which will give local authorities the resources, flexibility and empowerment they require to deliver high performing, effective and efficient planning system.

Part 1 – Working Smarter

4. COSLA has always been clear that proper resourcing of the planning system is about more than simply planning fees, although they have an important role. How the planning system operates, and its structure are of critical importance to the overall performance and efficiency. Our position on the High Level Group for Planning Performance has seen positive developments on performance and improvement, particularly around the work of the National Planning Improvement Champion and the new National Planning Improvement Framework currently under development. We are also committed to work with colleagues in SOLACE and HOPS to identify and promote good practice of cross council working as part of moves towards streamlining, alignment and standardisation.
5. The benefits of streamlining and standardisation in terms of efficiencies are clear, however this must not come at the expense of the quality of service. Local flexibilities are essential if planning services are to deliver on the diverse and varying needs of communities across Scotland. Proportionality of impact will need to be carefully considered to ensure a pursuit of efficiency does not curtail the ability of planning services to deliver place making at a local level. We therefore support work to explore where streamlining, alignment and standardisation can provide efficiencies in the planning system which improve capacity within local authority planning services without limiting their ability to deliver on local needs.

6. One area which can offer opportunities for streamlining and improved efficiencies is digital innovation and technology. As members of the Digital Planning Programme Board, COSLA were disappointed that funding to the Digital Planning Transformation Programme was cut in the most recent budget and the programme paused. We note from the End of Programme Report that ways forward have been identified for digital skills and best practice and innovation, but this falls short of the digital transformation that local authority planning services require. We support the development of a business case in the meantime, and urge Scottish Government to prioritise resources to restarting the work to date which has the potential to deliver significant efficiencies and benefits to the planning system.
7. One of the most significant, and potentially transformational, proposals in the consultation is the creation of a planning hub, based on the Building Standards Hub pilot hosted by Fife Council. The consultation document states that such a hub could provide much needed support and resilience to local authorities by providing access to skilled staff at short notice to help them respond to a variety of pressures.
8. It is clear from the document that the concept is in its infancy and this consultation seeks views on the idea rather than proposing a firm vision for the hub. This is welcomed as, while we are not opposed to the principle of a hub, concerns do exist within Local Government that if the hub is not properly designed it could risk severe unintended consequences. It must be respected that the Building Standards Hub emerged from specific circumstances and while it may provide a good working example, a similar approach for planning will require careful consideration and cannot simply be a carbon copy.
9. It is envisioned that a hub could provide additional support and resilience, particularly for technical and specialist expertise, or new and emerging areas such as energy, heat, biodiversity or climate adaptation, or to provide additional support to process large or complex applications. How the hub will be staffed must be a key consideration if the hub is to provide additionality of capacity for these types of applications, as any structure which takes experienced staff from local authorities runs the risk of creating a capacity vacuum within Local Government, which would be counterintuitive to the intended purpose of the hub. This situation must be avoided at all costs.
10. Where the hub would be hosted is another key consideration for Local Government. The Building Standards Hub is based within Fife Council, and this approach appears the best option for ensuring that the hub can more easily support local authorities effectively by identifying the right type of support, having direct access to the relevant information and understanding of local authority processes and procedures and secure buy in from across Local Government.
11. Resourcing will be an important element of the creation of a hub as, like the Building Standards Hub, any additional resource must be cost neutral to Local Government and not a further reduction to the resources available to local authority planning services. Private sector funding has been proposed as a potential model, but this creates the likelihood of conflicts of interest and would be difficult to operate in practice long term. It may be that, until further work to establish the role and demand of a potential hub is complete, we are not able to express a strong position on exactly how the hub is resourced or the amount of funding required, but we can be firm in our position that any new hub must be cost neutral and not impose a resource burden on Local Government.

Whatever the findings of this consultation, COSLA are committed to working with Scottish Government and Heads of Planning to consider in detail how finance could be collected and administered for a hub.

12. Therefore, our position is that COSLA support work to establish a business case for a hub which is, like the Building Standards Hub, embedded with in Local Government in some way. This support is contingent on establishing the function and additional capacity the hub will provide, hosting of the hub within Local Government and a funding model which is cost neutral to Local Government.
13. Skills have been touched on above, but it is essential to stress the pressing need to develop the planning workforce of the future. We agree that the current situation is down to a number of interconnected pressures, not least the aging demographic of the workforce and critical financial pressures facing local authorities, and that there is not one solution to an issue which can only be addressed over long timescales. We must therefore prioritise creating new routes into the planning profession if we are to avoid a skills crisis in the future which undermines all other aspects of this consultation and the planning system as a whole.
14. We are now 4 years into the 10-15 years quoted by Skills Development Scotland to find 550-600 planners, plus the projected 11% growth in the sector. We endorse the findings and recommendations of the HOPS and RTPi Future Planners report and options must be explored for making funding available postgraduate opportunities as well as opening new pathways into the profession.
15. The skillset of the current workforce must also be taken into consideration. In recent times we have seen increasingly complex, large scale applications, as well as the bedding in period for National Planning Framework 4 and new technologies such as hydrogen causing ever increasing challenges for planning services. The continuous improvement approach of the new National Planning Improvement Framework provides an opportunity to identify any emerging skills gap due to these circumstance, but resourcing is required to ensure these are addressed.

Part 2 – Raising Resources

16. COSLA's position on resourcing the planning system remains support for full cost recovery for planning authorities. This is a long term ambition and in the past, we have been disappointed by similar consultation's which rule out full cost recovery in favour of ad hoc and incremental fee increases. As we have made clear in previously in this response, simply raising fees is insufficient if we are to achieve full cost recovery, and more nuanced and flexible approaches are required. This consultation, and in particular the proposals in this section, provides an opportunity to begin empowering local authorities to move towards full cost recovery by giving them some of the tools required to meet demand locally. Flexibility of approach, discretionary charging options and annual inflationary fee increases are all essential if we are to adequately resource planning services to deliver a high performing planning system.
17. We support the decision by Scottish Government to rule out refunds for planning application fees. As the consultation makes clear delays in planning decisions can be caused by external factors out with the control of a planning authority. Our position remains unchanged and we oppose the creation of rebates, discounts or other incentives which unfairly penalise or disadvantage planning authorities due to factors out with their control. This also run counter to the continuous improvement approach of the

National Planning Improvement Framework being piloted by the National Planning Improvement Champion.

18. One of the proposals which we view as a priority to take forward is annual inflationary fee increases. The consultation highlights the fact that planning fees have not kept pace with inflation, which has been felt more acutely in recent years. As stated above, fee increases have been made at irregular intervals and often by seemingly arbitrary amounts, rather than at regular intervals and amounts which reflect changing context. One suggestion for addressing this issue is to automatically adjust planning fees annually in line with inflation, calculated on the basis of the 12 month Consumer Price Index rate.
19. The potential benefits of this approach to Local Government are 2-fold. Firstly, planning fees would not fall behind in periods of higher inflation, such as our recent experience, which would increase the resources raised through planning fees proportionately. This benefit would only be fully realised if the inflationary increases apply to maximum fee caps as well as individual and incremental fees. Secondly, automatic regular adjustments would improve the efficiency of the current system by removing the need for consultation and engagement on every fee increase which necessitates a significant amount of time and staff resources. COSLA therefore support the proposal that planning fees should increase annually in line with inflation based on the 12 month Consumer Price Index calculation, with increases applying to individual fees, increments and maximums.
20. An important aspect to annual fee increases in line with inflation will be setting fees at an appropriate baseline. The last fee increase was in April 2022 and we have seen significant inflation since that time. Any work to implement annual inflationary fee increases must include work to ensure fees are set at an appropriate baseline, otherwise this potentially useful proposal instead locks in fees at an insufficient level in perpetuity. There must also be a review mechanism to adjust fees in future to account for changes in demand or emerging technologies, like we have seen recently with the renewables sector and hydrogen.
21. COSLA welcomes the inclusion of locally set planning fees in this consultation. This is an option we have supported for some time and is in line with existing commitments in the Fiscal Framework, most notably, “The fiscal framework should promote effective use of fiscal flexibilities and levers to address local priorities and improve outcomes.”
22. It is widely understood that the percentage of cost recovered when determining an application by planning fees varies significantly between local authorities, therefore flexible solutions are required if all local authorities are to be empowered to achieve full cost recovery. We have heard criticisms that this would create a confusing landscape for developers however local fee setting is already commonplace with multiple examples in existence such as council tax, non-domestic rates, empty property relief and new emerging fiscal levers such as the visitor levy.
23. As the consultation document makes clear, this proposal represents a significant change to the current fee structure and will require ongoing work to identify the best possible model of local fee setting. At this time we favour maximum devolution of planning fees to allow local authorities to set fees at levels most appropriate to their circumstances, however we are committed to working with Scottish Government and other stakeholders

to explore all options further and identify solutions which delivers on our ambition for full cost recovery.

24. Another key strand of local flexibility and fiscal empowerment required to allow local authorities to achieve full cost recovery is the ongoing expansion of discretionary charging options. COSLA supports the work to increase these options and we would welcome the opportunity to work with Scottish Government and other stakeholders to develop and deliver further options.
25. COSLA's position on charging for appeals remains unchanged and we would recommend taking a cautious approach with further consultation before implementing charging for appeals. While we are not fundamentally opposed to the concept of charging for appeals, there is much detail to be developed. Agreed criteria under which fees would be charged for appeals, as well as the fee structure for those charges need to be established. We note that the introduction of fees for appealing is not intended to inhibit access to justice or to discourage applicants from appealing planning decisions, there is also a risk that it could damage perceptions of the planning system from applicants.
26. The 50 MW threshold in the Electricity Act 1989 has been a longstanding issue for Local Government and COSLA and our members have been vocal in our support for increasing this threshold. Not only would this address the issues of local democratic accountability caused by the shift in the balance of decision making raised in the consultation document, but also reduce the capacity burden caused by the current appeals process. This invariably results in a full public inquiry for developments such as major windfarm projects which prove costly not just financially to the local authority but in terms of capacity taken up by written submissions of evidence and supporting documents.
27. As the consultation document makes clear, technological advancements and changing priorities in the policy landscape mean the threshold is no longer fit for purpose. It is also clear that decision times are far quicker when these developments are taken through local authority planning route rather than Scottish Ministers. Given the pressing need to accelerate efforts to achieve a just transition to net zero by no later than 2045, and some local authorities have committed to even more ambitious targets, the current threshold has become an impediment and COSLA are in support of raising the threshold.
28. Further work is required to establish a new threshold, and COSLA would welcome the opportunity to be involved in developing a more nuanced approach and exploring the benefits of different thresholds for different types of onshore renewable energy developments. As technology in this sector is only likely to advance further, with the possible emergence of new technologies, we believe there should also be a mechanism to review and amend any set thresholds to avoid a repeat of the current situation. This would remove potential future barriers to the continued roll out of renewable energy developments and subsequent negative impacts on local authority planning services.
29. Hydrogen developments are expected to play an important role in supporting the just transition to net zero, and some local authorities are already noticing an increase in applications for hydrogen projects. These vary in complexity and currently are processed under fee category 13 – plant and machinery, which is not appropriate and frequently does not cover the costs of linked to considering applications for hydrogen projects.

30. COSLA supports the creation of a new fee category which would better reflect the resources required when determining applications for hydrogen projects, which would better contribute to full cost recovery for the Local Authority, as well as providing greater clarity to help avoid confusion or potential delay in validating these applications. We would encourage Scottish Government to work with COSLA, Heads of Planning Scotland and other stakeholders in Local Government to ensure any new category accurately reflects the cost of determining applications for hydrogen projects.
31. We note that the consultation seeks views on the potential cumulative impacts of proposals, and while this is an important point it must also be considered in tandem with the cumulative impacts caused by the challenges facing Local Government and the planning system outlined earlier in the document. Severe financial pressures caused by over a decade of budget cuts to services, the aging demographic of the workforce and growing skills shortage coupled with barriers to attracting new entrants to the planning system and wider fiscal pressures brought about by the cost of living crisis and inflation mean we need innovative solutions to investing in the planning system as a matter of urgency.
32. The purpose of planning, as set out in the Planning (Scotland) Act 2019, is, "...to manage the development and use of land in the long term public interest" which includes, "anything which contributes to sustainable development." It is therefore not in the interest of the planning system to increase additional costs to applicants to the point where the development is inhibited, however if we do not find solutions which halt the current challenges facing local authority planning services, more serious and problematic barriers lie ahead. We remain committed to working in partnership with Scottish Government and stakeholders across the planning system to find the right solutions to deliver a well resourced and high performing planning system.