

Environment, Planning & Countryside Committee

EPC(2)-04-06 (p6) (Annex 3)

Explanatory Memorandum

Town and Country Planning, Wales

Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (Wales) Regulations 2006

Summary

These Regulations provide, in relation to Wales, for a 20% across-the-board increase in planning application fee levels from 1 April 2006 and a further 10% increase from 1 April 2007. They also provide a simplified fee structure and the removal of the ‘free go’ on re-application to regularise works undertaken in breach of conditions or in variation from the approved plans.

1. This Memorandum is submitted to the Assembly’s Business Committee in relation to The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendments) (Wales) Regulation 2006, in accordance with Standing Order 24.6.
2. A copy of the Instrument is submitted with this Memorandum.

Enabling Power

3. The power enabling this Instrument to be made is contained in section 303 of the Town and Country Planning Act 1990. These powers have been transferred to the National Assembly for Wales. Responsibility for issues relating to the content of these Regulations has been delegated to my portfolio as Minister for Environment, Planning and Countryside.

Effect

4. The fees, which applicants making planning applications to local planning authorities are required to pay, are currently prescribed by the Town and Country (Fees for Applications and Deemed Applications) Regulations 1989. Welsh Assembly Government policy is to set planning fees at a level, which allows local planning authorities to work towards recovering 100% of their costs in processing planning applications over time.

5. These Regulations provide, in relation to Wales, for a 20% across-the-board increase in planning application fee levels from 1 April 2006 and a further 10% increase from 1 April 2007. They also provide a simplified fee structure and the removal of the 'free go' on re-application to regularise works undertaken in breach of conditions or in variation from the approved plans. (The 'free go' system is where any application for development, which is broadly similar to/of the same character as a previous submission, by the same applicant, if submitted within 12 months of the previous application, can have a 'free go'.) Accordingly Regulation 3 amends regulation 7(1) of the 1989 Regulations so as to require an applicant to pay a fee for making a further application to a local planning authority where the further application relates to an application for which planning permission was previously granted.

6. These Regulations implement a wholly distinct Welsh policy as the rate of the planning application fees is different in Wales and emerged out of results of a Wales only consultation.

Target Implementation

7. It is intended that the proposed Instrument will be made on 14 March 2006 and come into force on 1 April 2006, thereby allowing local planning authorities some time to update their standard documentation. Delay in making the Regulations will reduce the amount of income received by local planning authorities in the next financial year with possible adverse effects on the delivery of planning services.

Financial Implications

8. Planning application fees have to be paid by anyone (whether an individual, company or voluntary body), who submits a planning application to a local planning authority. The increased cost of making applications would fall on applicants. Examples of individual fee increases are given below:

- Most householder development, e.g. domestic extensions/outbuildings, is likely to fall within fee category 7 of the Fee Categories set out in Schedule 1 to the 1989 Regulations. The current fee is £120 and this would increase to £144 in 2006 and to £159 in 2007; and
- Category 3 covers the erection on agricultural land, of buildings to be used for agricultural purposes. For an outline planning applications, the current fee is £240 for each 0.1 hectare of the site area and this would increase to £288 from 1 April 2006 and £317 from 1 April 2007.

9. The increase in fees are detailed at Annex 1 of the Regulatory Appraisal.

10. The cost of preparing the Regulations can be met from within the existing Planning Division's and Directorate of Legal Services' administration costs budgets. There are no additional financial implications for the Assembly.

11. An increase in planning fees will generate extra income for local planning and National Park

planning authorities. This extra funding is intended to be utilised by local planning authorities to improve the planning service.

12. The income received by local planning authorities depends on the number of planning applications made to them. Planning Division Statistics (Survey of Welsh Local Planning Authorities April 2003 to March 2004) show that a total of 36,742 planning applications were made during 2003/04 giving an income of £7.9m across Wales in 2003/04 from the associated planning fees.

13. The increases proposed in this legislation, together with the 10% fee increase introduced in November 2004 by The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (Wales) Regulations 2004 (SI 2004/2736) (W.243), will generate a 45% recovery for local planning authorities over the three years (2004 – 2007).

Regulatory Appraisal

14. A Regulatory Appraisal has been carried out in relation to this Instrument and is attached.

Consultation

With Stakeholders

15. A public consultation took place from 13 June 2005 to 5 September 2005. Views were sought from a range of business organisations, professional bodies, the Welsh Local Government Association (WLGA), social partners and voluntary sector groups and local planning authorities on proposals to increase planning application fee levels in Wales. A list of consultees is attached at Annex 2 to the Regulatory Appraisal. The consultation paper was also posted onto the Welsh Assembly Government web-site at: www.countryside.wales.gov.uk/consultations, therefore, giving the public the opportunity to comment.

16. Twenty-nine responses were received:

- nine from business organisations (the Cardiff Chamber of Commerce, the Welsh Development Agency, the Home Builders Federation, The Law Society, Redrow, Arquiva, the Quarry Products Association, Persimmon and the Confederation of British Industry);
- three from professional bodies (the Planning Officers Society for Wales, the Royal Town Planning Institute in Wales, the Royal Institute of Chartered Surveyors Wales);
- fourteen from local planning authorities; and
- others from the Royal Society for the Protection of Birds Cymru, the Countryside Council for Wales and the WLGA.

17. A summary of the consultation responses is attached at Annex 3 to the Regulatory Appraisal. All the organisations recognised the need to increase planning fees so that additional funding could be made available to improve the planning service. However, business requested that a robust evaluation framework be put in place to ensure that the increased funding would lead to an improved planning service. The Welsh Assembly Government and other planning stakeholders are currently working together to develop this.

With Subject Committee

18. The consultation letter of 13 June 2005 was copied to all Environment, Planning and Countryside (EPC) Committee Members. No comments were received. The Regulations were also notified to the EPC Committee, via the list of forthcoming legislation, on 2 February 2006 (EPC(2) 02-06(p3), item no: 37(69PE)), but were not identified for detailed scrutiny.

Recommended Procedure

19. Subject to the views of Business Committee, I recommend that the proposed Regulations proceed to Plenary under the Accelerated procedure as they provide for an increase in planning fees, which is supported by stakeholders.

Compliance

20. The proposed legislation will as far as is applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998, section 120);
- be compatible with the Assembly's scheme for sustainable development (section 121);
- be compatible with Community law (section 106);
- be compatible with the Assembly's human rights legislation (section 107); and
- be compatible with any international obligations binding in the UK Government and the Assembly (section 108).

21. The information in this Memorandum has been cleared with the Directorate of Legal Services (DLS), the Assembly Compliance Officer

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Carwyn Jones AM February 2006

Minister for Environment, Planning & Countryside Committee