

4 April 2008

The Chief Planning Officer,  
Local planning authorities in England

Dear Chief Planning Officer,

**Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2008**

I am writing to you about the forthcoming changes to planning fees in England, and I attach an electronic copy of the new fees Regulations.

The Regulations were agreed in both Houses of Parliament on 1<sup>st</sup> April, 2008 and will come into force on 6 April 2008. They are a further amendment of the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989.

A new Circular on *Planning-related fees* has also been prepared and will come into force on 6 April, replacing Department of the Environment Circular 31/92, *The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (No.2) Regulations 1992*. The Circular is currently being printed; electronic copies will be sent to you as soon as the proof has been cleared. Two hard copies will also be sent once the circular is printed.

The new fee levels are broadly in line with the lower level of increase proposed in our consultation paper of May 2007, *Planning Fees in England: Proposals for Change*. A summary of the responses to that consultation, together with a statement of the Government's intentions with regard to planning fees, was issued in November and is accessible on the Communities and Local Government website at [www.communities.gov.uk/documents/planningandbuilding/pdf/564596](http://www.communities.gov.uk/documents/planningandbuilding/pdf/564596).

Most fees will increase by 25%, though for applications for householder development the increase will be limited to 11%.

This means that, overall, the increase in basic fees will be of the order of 23%.

There are larger increases for the maximum fees payable in certain fee categories. For all but minerals and waste development, the maximum application fee will go up from £50,000 to £250,000, or £125,000 where the application is for outline permission. For minerals and waste applications in Fee Categories 9(a) or 11, the fee is capped at £65,000. (The fee for monitoring mining and landfill sites, introduced in April 2006, remains unchanged.)

The Regulations add one new category of planning fee – that for a Request for confirmation of compliance with one or more planning conditions. The charge for this is £85, or else £25 for a householder application for development in Fee Category 6 or 7(a).

There are two issues which have caused a number of issues to be raised and these relate to wind turbines and the new fee on confirmation of compliance with one or more conditions. I have therefore provided two extracts from the circular in relation to those matters at the end of this letter.

Paper copies of the Regulations and the Circular can be purchased from The Stationery Office, telephone 0870 600 5522. The Regulations – as Statutory Instrument 2008/958 - can also be viewed on the website [www.opsi.gov.uk/legislation](http://www.opsi.gov.uk/legislation). The Circular, *Planning-related fees*, will be available to read or download on the Planning / Circulars pages of the website [www.communities.gov.uk](http://www.communities.gov.uk)

May I also remind you that, in respect of major applications, a local planning authority may be able to negotiate a Planning Performance Agreement (PPA) with applicants. Additional financial support for planning services you voluntarily provide could be secured for PPAs by making a charge under section 93 of the Local Government Act 2003, this is on top of the statutory planning fee. ATLAS, the Advisory Team on Large Applications, has published guidance on Planning Performance Agreements on its website, [www.atlasplanning.com](http://www.atlasplanning.com).

Yours faithfully,



**Alan Cornock**

# Calculation of fees for wind turbines

## *Plant and machinery (Category 5)*

1. Wind turbines are Category 5 for fees purposes (unless of the small domestic type, where installation should be treated as an alteration or curtilage operation in Category 6 or 7a if not allowed as permitted development). To calculate the fee for a new windfarm, add all the land over which the blades of each turbine can rotate<sup>1</sup> to the area of the footprint of any ancillary structures and engineering works. It is not necessary to include within the red line(s) on an application to put up wind turbines any other land between the turbines if no development is proposed there. On a site of no more than five hectares, £335 should be charged for each 0.1 hectare. Over five hectares, a fixed sum of £16,565 is payable with an additional £100 for each 0.1 hectare in excess of the first five hectares, subject to a maximum in total of £250,000.
2. By the way, using land within the perimeter of a windfarm for agriculture would not require planning permission for change to a mixed use.

Application to add one turbine to a windfarm, with a substation, buried cable, extended access track and enlargement of the perimeter fence? Including land the blades rotate over, substation and other engineering works, but excluding the access track, the relevant area is 2 hectares. The fee for 2 hectares at £335 per 0.1 hectare comes to  $20 \times £335 = £6,700$ . There is no need to include the fixed £170 for new access track (under Category 7b), or the £170 for more fencing (a Category 2 structure that creates no floor space), since only the largest fee is chargeable (see **Mixed category applications, below**). Therefore only £6,700 would be payable.

Application to install oil refinery equipment and associated pipes and tanks on a site of 2 hectares?

2 ha at £335 per 0.1 hectare =  $20 \times £335 = £6,700$ .

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<sup>1</sup> Area of sweep will be approximately 3.1416 times the square of the radius; add the area of the tower top where appropriate. .

## Requests for confirmation of compliance with planning conditions

1. Article 21 of The Town and Country Planning (General Development Procedure) Order 1995 provides that where an application has been made to a local planning authority for any consent, agreement, or approval required by condition or limitation attached to a grant of planning permission (other than an application for approval under Part 24 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995(a))<sup>2</sup> or if the request would be in respect of a reserved matter, which should be the subject of a reserved matters application), the authority shall give notice to the applicant of its decision on the application within a period of **eight weeks** from the date when the authority received the application, or any longer period agreed in writing by the applicant and the authority. This remains as the usual mechanism by which a developer seeks to clear a condition.
2. A fee will henceforth be payable where a written request to the relevant local planning authority is made for any application, in accordance with article 21 of the General Development Procedure Order, where written confirmation is required that one or more conditions imposed on the same permission have been complied with. The fee chargeable by the authority is £85 per request (or £25 where the related permission was for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). The fee must be paid when the request is made, and cannot be required retrospectively. For these purposes, it does not matter when the relevant planning permission was granted. It may be that some conditions on a permission have already been discharged by 6 April 2008 (the earliest point at which a request can be made under regulation 11D of the Fees Regulations as amended). The request, identifying the permission and the conditions concerned, can be made in any written form which is clear and legible.
3. In most cases the local planning authority will be able to respond in less than eight weeks. Indeed, authorities should endeavour to respond within 21 days for simple approvals, though a longer period may be justified if an authority has itself to obtain evidence or confirmation of compliance from a third party, such as a statutory consultee. Where confirmation or indication that confirmation cannot be given, has not been supplied within twelve weeks of receipt of the request, the request fee must be refunded. The period of twelve weeks is in order to provide sufficient time to the authority to confirm compliance, particularly where it needs to get confirmation from third parties.
4. If the local planning authority considers that a condition has not yet been complied with, the authority should explain to the applicant what remains to be done. It is expected that there will be an exchange of information in either written or other form in order to provide evidence of compliance. Where the exchange of information to secure compliance of a condition is ongoing, it is not necessary for a new request to be made to the authority.

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<sup>2</sup> Development by telecommunications code system operators

The authority should issue confirmation of compliance when satisfied, unless it finds that enforcement action or a retrospective planning application would be more appropriate in the circumstances.

5. To confirm clearance of more conditions, a further request, and a further fee, would be required if the developer needs written confirmation. An additional request for confirmation that a **revised** detail achieves compliance with a condition would be charged as if it were the first such request; there is no discount or 'free go' in this context.
6. The facility just described is **not** available if the is in respect of conditions imposed on a minerals or waste permission under Fee Categories 9(a) or 11 for which the inspection arrangements provided for in Statutory Instrument 2006 / 994 and regulation 11B already cater.
7. In order to vary the terms of a condition, it will still be necessary to make an application under section 73 or 73A of the Act. It is for the planning authority to decide which part of the Fees Regulations is applicable to an individual case.
8. Local planning departments may choose to 'clear' some conditions informally without seeking the new fee, where they find it appropriate and more efficient to do so. It will be for the developer to decide whether any approval provided will suffice, or whether he or she should pay the new fee and request a more formal statement of compliance.
9. Although administrative practices in one local planning authority may differ from those in another, planning department staff should make every effort to ensure that requests from different applicants within the same authority area are handled fairly and with similar attention to the timing and quality of outcome; inconsistency of treatment should be avoided.