Llywodraeth Cymru
Welsh Government

Section 7 Annex: Calculating the Fee

Development Management Manual

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Section 7 Annex

Calculating the Fee

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1.0 Introduction

1.1 This annex provides guidance on calculating the fee for planning applications and related consents.

1.2 The fees set out in this annex apply to applications made from 24 August 2020 onwards, as introduced by the Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) (Amendment) Regulations 2020 (SI 2020/745).

2.0 Site area and floor space

2.1 For fees purposes, site area is defined as the area to which the application relates. This is usually shown edged in red on plans accompanying an application, while other land in the same ownership but not being developed is normally outlined in blue.

2.2 Floor space is taken to be the gross amount (all storeys, including basements and garaging) to be created by the development shown in the application. This is an external measurement, including the thickness of external and internal walls. Floor space does not include other areas inside a building which are not readily usable such as lift shafts, tanks and loft spaces.

2.3 There is no simple rule about whether floor space is created by the erection of a canopy, but the absence of external walls is not the determining factor. For example, petrol filling canopies are unlikely to create floor space, but a Dutch barn or other covered storage area would do.

2.4 Part 2 of schedule 1 to The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015 (as amended) ('the Fees Regulations') sets out a scale of fees including increments for additional floor space or site area above a minimum amount. Where the floor space or site area of an application is not an exact multiple of the unit of measurement provided by the fee scale, the amount remaining is taken to be a whole unit for fee purposes. For advice on common floor space in a mixed development, see section 10.

3.0 Outline permission and reserved matters

3.1 Specific fees are set for applications for outline planning permission that fall within categories 1, 2 and 3 in part 2 of schedule 1 to the Fees Regulations. Otherwise, applications for outline planning permission are charged at the full rate applicable for the development. Where an applicant makes and pays a fee for a full application, local planning authorities (LPAs) should not grant permission in outline. LPAs have power to require details to be supplied even if the application was submitted in outline and where this occurs no additional fee is payable.

3.2 Where planning permission has been granted in outline only, the remaining applications for approval of any or all of the reserved matters can be made in any order, unless the LPA has specified a sequence in which they should be made.

3.3 Subject to paragraph 3.4, each separate application for approval of any number of reserved matters is charged at the same rate as if for a full planning application. The fee is calculated with reference to the category or categories appropriate to the development as a whole, whatever the reserved matters involved. Where the LPA are uncertain of this they can ask the applicant to supply additional information necessary for calculation of the fee. Where an application for approval of reserved matters relates to only one part or phase of the development covered by the outline permission, fees should be charged on the basis of the number of buildings or the floor space included in that part or phase. Subsequent applications, in respect of other parts or phases, will attract fees on the same basis.

3.4 A flat-rate fee of £460 is available for certain reserved matters applications. It applies to the submission of:

- separate applications for different reserved matters
- separate applications for different parts of a site
- revised applications not coming within the exemptions set out in regulation 8 of the Fees Regulations (Section 12)

3.5 To benefit from the flat-rate fee, the applicant concerned must be the applicant who incurred the full rate fees for earlier reserved matters applications. Each reserved matters application made after obtaining the outline permission for a development will incur a fee at the full rate, what ever matters are involved, until the total amount paid by that applicant in respect of the reserved matters equals, or exceeds, the fee that would have been payable if there had been one application for approval of all reserved matters for the whole of the development authorised, and that application had been made on the day on which the current application was made. When that point is reached, any further application will attract a flat rate fee. It is not necessary to consider what matters were reserved by the outline permission, and what matters are contained in the application in question.

3.6 When details of a building's design and external appearance have been approved, any subsequent application required by a condition attached to that permission (for example, approval of the type of brick) should not be treated as an application for approval of reserved matters. An application to discharge such a condition would attract a fee as set out in regulation 15 of the Fees Regulations.

4.0 Changes of Use

4.1 Changes of use which are not within the same use class, or do not benefit from permitted development rights, require an application for planning permission for a fee of £460.

4.2 It should be noted that the extension of domestic curtilage requires an application for planning permission as it is a change of use. It does not fall under the type of development which can be applied for through a householder application.

5.0 Non-material amendments

5.1 Non-material amendments can be made to existing planning permissions under section 96A of the Town and Country Planning Act 1990 ('the 1990 Act'), for a fee of £115, subject to exemptions set out in regulations 4 and 5 of the Fees Regulations. The fee to accompany an application is £35 if the scheme is a 'householder change application' as defined in regulation 16.

6.0 Section 73 applications following a non-material amendment application

6.1 The Fees Regulations provide for a reduced fee, subject to conditions, where an application under section 73 of the 1990 Act is made following refusal, partial refusal or non determination of a section 96A application. Paragraph 5A of part 1 of schedule 1 to the Fees Regulations sets out the conditions that must be met for an application to qualify for this fee.

7.0 Approval of conditions

7.1 Article 23 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (DMPWO) sets out procedures where a developer seeks to have matters required by a condition, approved by the LPA. Where an application is submitted the LPA shall give notice to the applicant of its decision within a period of 8 weeks from the date when the authority received the application, or any longer period if agreed in writing.

7.2 Applications may be made on the Standard Application Form setting out the details which the applicant would like the LPA to consider. It is also acceptable for applications (other that reserved matters) be made in any written form which is clear and legible as long as it identifies the permission and the conditions concerned. Each request may contain a single or multiple conditions for approval by the LPA.

7.3 Regulation 15 provides that where an application has been submitted under Article 23 (that is not a reserved matters application) then the application shall be accompanied by a fee. The fee chargeable by the authority is £115 per request (or £35 where the related planning permission was for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse).

7.4 Regulation 15 also requires that the fee payable is refunded if the LPA fail to determine the application within 8 weeks after the period for determination has expired (unless a longer period for the decision has been agreed).

7.5 As with planning application fees, calculation of the period before a refund is due, begins from the determination date, as set by article 23 of the DMPWO. Therefore the provisions to extend the time period also apply to applications to approve matters required by condition.

8.0 Lawful development certificates

8.1 A lawful development certificate confirms that the particular use, operation or activity named within it is lawful, so far as planning law is concerned, on the dates specified. A fee is payable for an application to the LPA for such certificates. For fees purposes, it is necessary to distinguish between applications made under section 191(1)(a) and (b), under section 191(1)(c), and under section 192 of the 1990 Act.

8.2 A section 191(1)(a) or (b) application is for a certificate to establish the lawfulness of an existing land-use, or of development already carried out. The fee would be the same as if one were applying for a new permission for that use or operation.

8.3 A section 191(1)(c) application is for a certificate to establish that it was lawful not to comply with a particular condition or other limitation imposed on a planning permission. There is a fixed fee of £230 in all cases.

8.4 A section 192 application is for a certificate to state that some future development would be lawful. The fee would be half what it would be necessary to pay if one were applying for planning permission to carry out whatever form of development is the subject of the certificate.

8.5 Where an application is made both under section 191(1)(a) and/or (b) and under section 191(1)(c), the fee to be paid is the sum of the fees that would have been paid if there had been separate applications. Where – and only where – a lawful development certificate application fee is based on the equivalent planning application fee, advantage may be taken of any exemption or concession that would be available for that ‘equivalent’ application.

9.0 Cross boundary applications

9.1 Paragraph 8 of schedule 1 to the Fees Regulations requires, where a cross boundary application (an application where the redline boundary is within two or more LPAs) is submitted, a fee to be paid to all authorities.

9.2 Where a cross boundary application is made it is necessary to submit identical applications to each LPA, identifying on the plans which part of the site is relevant to each. Where both applications have been handed to the one authority we expect LPAs to forward the forms and correct fee to the neighbouring LPA.

9.3 The fee payable to each LPA is the amount payable in respect of the application which is to be determined by that LPA. The fee is calculated at the normal rate for the application type.

10.0 Mixed category applications

10.1 Applications may sometimes involve development which falls into more than one fee category set out in part 2 of schedule 1 to the Fees Regulations. For example, the application may relate to:

- dwellinghouses and other buildings
- buildings together with other works

- changes of use together with works
- more than one change of use

Applications to erect residential accommodation with other buildings

10.2 The fee for an application which involves the erection of dwellings (see the definition in section 11) and other types of building is calculated by adding together the fee appropriate to each development. This applies whether the two types of development are combined or in separate buildings. For outline applications, the fee is calculated on the total site area. Where a mixed use building includes common service floor space areas (for example, foyers) serving both the residential and other parts of the building, these areas are divided pro rata between the floor space of each type of development, for the purpose of calculating the fees.

Other mixed applications

10.3 Where an application relates to two or more categories, other than in the way described in paragraph 9.2, only the highest of the fees calculated under these categories is charged.

10.4 The creation of golf courses and similar development will often be far more than a simple change of use. Landscaping requiring substantial earthworks may be involved and a clubhouse or car park may be proposed. The fee payable should reflect this.

11.0 Definition of dwellinghouse

11.1 The Fees Regulations define 'dwellinghouse' for fees purposes as a building or part of a building which is used as a single private dwellinghouse and for no other purpose. The fees definition of a dwellinghouse would include:

- private houses, flats and maisonettes (authorities will need to decide on the facts of each case whether a bedsit is sufficiently is sufficiently self-contained to amount to a dwellinghouse)
- a house in multiple occupation with communal sharing of facilities
- a holiday flat, if self contained and owned by a private owner (but not if let on a short-term basis to paying guests)

11.2 Anything which is not a building (for example, a caravan) is excluded from the definition.

12.0 Exemptions and concessions

12.1 The Fees Regulations make a number of exemptions and concessions in respect of fees payable for planning applications and applications for approval of reserved matters. These are described below.

People with disabilities

12.2 Regulation 4 makes an exemption from planning application fees for applications to alter or extend an existing dwellinghouse where the application is for works in

the curtilage of an existing house to create access for, or to provide for or improve the safety, health or comfort of, a disabled person living or intending to live in the house. There is no fee exemption for an application to construct a new dwelling for someone with a disability.

12.3 Applications which relate solely to works to provide a means of access for disabled people to a building to which the public are admitted (whether on payment or otherwise) are similarly exempt. This exemption is not confined to those buildings where there is a statutory obligation to provide such access.

12.4 In this context, a disabled person is someone if: the person's sight, hearing or speech is substantially impaired; the person has a mental disorder; or the person is physically substantially disabled by any illness, any impairment present since birth, or otherwise. Decision-makers should have regard to the Human Rights Act 1998 and the Equality Act 2010, but the intention of this concession should be noted. The exemption is intended to facilitate a safe, dignified and comfortable home life, or safe and convenient access to their homes, for people with a physical disability.

12.5 It is for the LPA to interpret the regulations and apply the Equality Act guidance, the definition of 'the public' in this context should not be a narrow one. For example, private ownership of a building would not preclude it being regarded as a 'building to which the public are admitted'.

Permitted Development and Use Class rights

12.6 Where an application relates solely to development for which an application is required because the right to carry it out under the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) has been removed or restricted by a condition attached to a planning permission, or by a direction under Article 4 that application is exempt from the fees (Regulation 5).

12.7 Similarly, no fee is payable for an application for change of use of land if that application is rendered necessary because a right to change the land-use granted by The Town and Country Planning (Use Classes) Order 1987 as amended has been removed by a condition imposed on a previous grant of planning permission (Regulation 6).

Parish and Town Councils

12.8 For applications on behalf of town and community councils, the fee is half of the normal fee for the application in question.

Playing fields

12.9 There is a flat-rate fee of £460 for applications made by non-profit making clubs or other non-profit-making sporting or recreational organisations, relating to playing fields for their own use. The concession covers applications to change the use of land to use as playing fields and associated operations such as earthmoving, draining or levelling; but it does not cover applications to erect buildings. The term 'playing field' includes, for instance, football, cricket, hockey or hurling pitches, but

not enclosed courts for games such as tennis or squash, and not golf courses or golf driving ranges.

Revised applications following withdrawal, refusal, or non-determination (the 'free go')

12.10 An application may be withdrawn; for instance, where planners have suggested that certain changes would make it acceptable. Alternatively, an application may be refused, and the applicant may try again with a revised proposal. Where an application is withdrawn or refused, where an appeal or a 'called-in' application has been rejected by the Welsh Ministers, or where the applicant has appealed to the Welsh Ministers on the grounds of non-determination of his application, the same applicant may submit, without paying a fee, one further application for the same character or description of development on the same site, or part of that site (Regulation 8).

12.11 The Fees Regulations are drafted to allow a good deal of flexibility. Minor changes which the LPA is satisfied maintain the character or description of the previous application will be exempt. Additional land can be included only in connection with revised access arrangements. It is for the LPA to assess whether a revised proposal would maintain the character or description of the previous one, and so be eligible for the 'free go'.

12.12 Where permission was refused, whether upon application or appeal, the revised application must be made within twelve months of the refusal. In the case of a withdrawn application, the revised application must be made within twelve months of the making of the earlier one; or, in the case of an appeal against non-determination within twelve months of the expiry of the eight-week period.

12.13 Where the original application was in outline, only a revised outline application can be exempt. Where the original application was for full permission, the further application must also be for full permission if it is to be exempt. Similarly, in the case of applications for reserved matters, the revised application must relate to the same reserved matter(s) if it is to be eligible for the exemption.

12.14 In order to benefit from these provisions, any fee due for the original application must have been paid in full. The applicant may benefit from the 'free go' exemption only once for any given site, regardless of whether the type of development now being proposed differs from that proposed previously. Where any applicant needs to submit a third or subsequent revised application, the full fee is payable.

12.15 There is no equivalent 'free go' for an application for prior approval to carry out permitted development authorised by the GPDO, approval of conditions under article 23 of the DMPWO or for a non-material amendments under section 96A of the 1990 Act.