



Infrastructure Wales Bill

Fees for performance of infrastructure consent functions and services

July 2024

About us

Since 1978, Solar Energy UK has worked to promote the benefits of solar energy and to make its adoption easy and profitable for domestic and commercial users. A not-for-profit association, we are funded entirely by our membership, which includes installers, manufacturers, distributors, large-scale developers, investors, and law firms.

Our mission is to empower the UK solar transformation. We are catalysing our members to pave the way for 70GW of solar energy capacity by 2035. We represent solar heat, solar power and energy storage, with a proven track record of securing breakthroughs for all three.

Respondent details

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Introduction

We welcome the opportunity to respond to the Welsh Governments consultation on The Infrastructure Wales Bill (now Act) 'Fees for performance of infrastructure consent functions and services. A streamlined, well-resourced and proportionate planning system will be critical for Wales to deliver 100% of its energy by renewables by 2035 and deliver on the obligations set out within the Infrastructure Wales Act.

We have provided responses to 16 questions below.

Consultation

Question 1: Do you agree that the Bill should operate on a full cost recovery basis?

We agree with the principle in the Bill that it should operate on a full cost recovery basis. However, our support for the fee regime is contingent on the assurance that the funds generated directly translate into genuine improvements in the quality and delivery of the services developers receive from all statutory authorities. Additionally, any increase in fees should not be made to the extent that it deters the deployment of renewables, particularly small-scale solar PV.

In respect to Local Planning Authorities (LPAs), it is crucial that the funds generated are ringfenced to fund the planning department within a given LPA, and not diverted to other services provide by the council. We would expect the increase in fees to result in the appointment of dedicated planning officers, who are able to coordinate face to face meetings with developers, and ensure a timely response is received from statutory consultees.

Question 2: Do you agree that fees should be able to take into account factors such as inflation? Please provide any evidence you may have to support your position.

The principle of adjusting fees to take into account inflation is reasonable and will ensure LPAs and other statutory bodies are properly resourced. Not incorporating inflation may only serve to exacerbate existing resourcing issues when the real value of fees drops.

We note however, that unlike speculative residential developments, utility-scale solar projects are often initiated several years before planning applications are submitted. The timeframe between these stages is increasing due to grid connection constraints. Developers are therefore likely to feel the impact of inflation on fees, it is

therefore important that timeframes throughout the consenting process are maintained and the planning performance is closely monitored.

To maintain stability and predictability, we would advise inflation is applied to fees at regular intervals according to a predetermined timetable (e.g. annually) rather than constantly being CPI indexed.

Question 3: Do you agree that fees should vary depending on size, scale and location of proposed developments? Please provide any evidence you may have to support your position.

First and foremost, fees should be proportionate to the services and functions provided for the project. In principle, we support using project complexity as a reference point to set fees however it is often site-specific and not always determined by size/scale.

At a national level, policy should promote consistency, ensuring that all projects, regardless of their location, adhere to the same development regulations. This helps to encourage investment across regions and remove locational biases which would likely increase pressures on some local authorities where fees were set lower and discourage investment and development in regions which set a higher fee.

Given that there is no simple proxy to determine the 'complexity' of a renewables project, we recommend implementing a fee structure based on a predefined framework of service categories agreed upon in advance. For instance, in England, the Planning Inspectorate (PINS) offers a three-tier pre-application service structure, while Natural Resources Wales (NRW) similarly utilises a system of service fee banding. In both cases, developers have the flexibility to determine the appropriate level of service required for their specific project, and the associated fees.

Question 4: Do you agree that fees should provide a recovery mechanism where the service is not provided?

We agree with the proposal for statutory consultees to charge fees for planning services to improve resourcing and quality of service. We agree that where the applicant does not receive improved services proportionate to the fee, then a refund should be agreed. However, any recovery mechanism should be proportionate and operate on the basis that it does not further exacerbate resourcing issues within

statutory bodies. It should also allow for flexibility in the cost recovery mechanism for particularly complex schemes where an adjustment to timelines or services may need to be agreed by both the applicant and statutory body.

Question 5: Do you have any comments on local and national fees?

~~Yes.~~

As discussed in our response to question 3, baseline fees should be set at a national level to provide consistency and predictability for developers. Whilst we agree with the need to install a mechanism that operates on a full cost recovery basis, setting fees at local level could lead to higher and more variable fees in certain jurisdictions. This could act as a barrier to entry for new developers or smaller companies, more sensitive to higher fees, looking to invest in solar projects in Wales.

If a local authority, NRW and other statutory bodies are providing an additional service which goes above the baseline requirement, then there should be a degree of flexibility which allows them to set an increased fee. However, this should be agreed with the developer in advance of work being undertaken.

Question 6: Do Safeguards need to be placed on a locally set system of fees (e.g. consultation on a proposed fee level, performance reporting)?

As mentioned above, we support a nationwide approach to fees with limits on flexibility available to LPAs to specify local variations. We agree with the approach set out in the consultation to apply base fees for projects which are constructed on the actual services and functions required to determine an application for infrastructure consent rather than a projects size or type of proposed development.

We would support the use of performance reporting as a safeguard to be placed on locally determined system fees. The speed of decision making against the statutory determination period would be a simple measure which would identify where additional fees are having a material impact.

Question 7: Do you agree that fees should be charged for pre-application services?

Creating a chargeable pre-application service is mostly welcomed. Currently, there is significant variability in the pre-application fees charged and the level of service provided by local authorities. To tackle this issue, we propose creating a framework

that clearly outlines the fees and the corresponding services that developers can expect. PINS provides such a framework which not only clearly specifies what services are available but also what is required from applicants besides fees to access each service.

It is anticipated that these changes will provide notable improvements to the advice from the Planning and Environment Decisions Wales (PEDW) and overall engagement from statutory bodies.

It should be recognised that by improving the pre application service, there is a greater shift to identifying and resolving any concerns at the very beginning of a project helping to improve the speed of examination and final determination. More broadly by introducing a pre-application service, it should be expected that the quality of planning applications will be higher and the process for delivering projects more efficient, reducing administrative burdens for both the developer and PEDW.

Solar developers are already familiar with a similar process for Town and Country Planning Act 1990 (TCPA) projects where developers pay for pre-application advice from Local Planning Authorities. We ask that any learnings from the process at a TCPA level, and PINS offering in England, be considered before introducing the pre-application service from the planning inspectorate.

Under this proposal developers will be required to take a front-loaded approach to developing projects, with more money and resources needed at the pre-application stage than previous.

Question 8: Do you agree that there should be a fixed fee for submitting a pre-application notification?

We agree that setting a fixed fee for submitting a pre-application notification is appropriate. The fee should be representative of the service provided.

Question 9: Do you agree that application fees should be both fixed and variable? For example, a fixed fee could be paid on the submission of an application, and a variable fee could be paid in relation to the length and complexity of the examination.

We agree that application and examination fees should be both fixed and variable. Where possible, examination fees should be agreed ahead of any work being undertaken. For example, in England, PINS determine fees based on the estimated number of inspectors necessary to handle an application for

examination, with fees calculated per relevant day.

Question 10: Do you agree that examination fees should be variable (i.e. daily rates?)

As in our answer to questions 9, we agree that application and examination fees should be both fixed and variable. This could be based on hour/day rate evidenced by timesheets based on full cost recovery.

Question 11: Do you agree that LPAs and NRW should receive a fee for submitting a LIR/MIR?

We agree. Currently, under the DNS process, local authorities receive only £7,500 for compiling a Local Impact Report/Marine Impact Report. As a result, this means that there is little motivation to see a LIR brought together and submitted in timely fashion.

To improve the process for LPAs, NRW and developers, we ask that the fee received for submitting a LIR/MIR be reviewed. Solar Energy UK would support a proportionate increase in the fee for LIRs, if there was guarantee that the quality of service would increase. We recognise that NRW and LPAs are heavily constrained, therefore additional capacity would need to be brought into NRW to ensure that existing resourcing issues are not exacerbated.

Question 12: Do you agree that this should be a fixed fee?

Yes, we agree. Any fee should be fixed and proportionate to the amount of work and a determination should be made within the statutory timeframes, where this is not the case, a full or partial refund should be made.

Question 13: Do you agree that there should be a fee for the determination of an infrastructure consent order?

No, we don't agree. This should already have been covered by application and examination fees.

Question 14: Do you agree this should be a fixed fee?

No Response

Question 15: Do you agree that there should be fees for the amendment or revocation of an infrastructure consent order?

Yes, we agree providing this is proportionate.

Question 16: Do you have any comments on statutory consultees charging fees?

We agree with the proposal for statutory consultees to charge fees for planning services to improve resourcing and the overall quality of service. If an applicant does not receive an improved service, which is proportionate to the level of fee which has been paid, a refund should be agreed and processed.

Question 17: Do you consider any other fees or costs should be included in the process?

Additional fees could be implemented to establish a planning hub aimed at providing reinforcement and support to under-resourced LPAs in conducting technical assessments. These planning hubs, with a focus on providing specialist expertise, would bolster the capacity of council planning departments that are experiencing strain due to the rapid expansion of renewable energy projects in certain regions.

Question 18: Do you have any comments to make, or evidence to put forward in relation to the proposed fees, or any suggestions for improvements?

No Response.

Question 19: We would like to know your views on the effects that charging of fees in connect with infrastructure consent would have on the Welsh language, specifically, on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

No response.

Question 20: Please also explain how you believe the proposed policy for charging fees could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No response.
