



## Consultation on Planning Performance and Fees – 2019

### RESPONDENT INFORMATION FORM

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Are you responding as an individual or an organisation?

Individual       Organisation

Full name or organisation's name

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The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

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The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes       No

# CONSULTATION

## Response Document



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### **Planning performance and fees (Scottish Government)**

**14 February 2020**

# Introduction to CIEEM

The Chartered Institute of Ecology and Environmental Management (CIEEM), as the leading membership organisation supporting professional ecologists and environmental managers in the United Kingdom and Ireland, welcomes the opportunity to comment on this consultation.

CIEEM was established in 1991 and has over 6,000 members drawn from local authorities, government agencies, industry, environmental consultancy, teaching/research, and voluntary environmental organisations. The Chartered Institute has led the way in defining and raising the standards of ecological and environmental management practice with regard to biodiversity protection and enhancement. It promotes knowledge sharing through events and publications, skills development through its comprehensive training and development programme and best practice through the dissemination of technical guidance for the profession and related disciplines.

CIEEM is a member of:

- Environmental Policy Forum
- IUCN – The World Conservation Union
- Professional Associations Research Network
- Society for the Environment
- United Nations Decade on Biodiversity 2011-2020 Network
- Greener UK
- Irish Forum on Natural Capital (working group member)
- National Biodiversity Forum (Ireland)
- The Environmental Science Association of Ireland

CIEEM has approximately 600 members in Scotland who are drawn from across the private consultancy sector, NGOs, government agencies, academia and industry. They are practising ecologists and environmental managers, many of whom regularly provide input to and advice on land management for the benefit of protected species and biodiversity in general.

We welcome the opportunity to participate in the consultation on Planning Performance and Fees and would be happy to provide further information on this topic. We have provided a high-level response to the areas where we have the most relevant expertise. Please contact Jason Reeves (CIEEM Head of Policy and Communications) at [JasonReeves@cieem.net](mailto:JasonReeves@cieem.net) with any queries.

## Comments from CIEEM

### **Planning System Vision (pages 9-10)**

Yes, we agree that a Vision is needed to direct strategic development of the planning system. The proposed vision is very high-level so we would like to see greater detail and reference to sustainable land use and communities.

### **Approach to Content of Planning Performance Reports (pages 10-11)**

We welcome a move from the simple reporting of planning metrics such as number of applications processed and speed of processing. Although this shows the efficiency of how applications are processed with resource limitations at local government level, this can override the actual quality and level of engagement involved in the process.

The statement around deviation from the high-level requirements for NPF4 on page 10, as defined in the Planning (Scotland) Act 2019 (hereafter referred to as the Planning Act), is of concern, as is the idea that a step change is not

needed. Whilst using the National Performance Framework to measure outcomes from planning is a reasonable approach, there needs to be a clear tie-in to the requirements of the Planning Act.

There is good overlap between the desired outcomes as set out in the National Performance Framework, such as 'Protecting, Valuing and Enhancing our Environment', which has clear links to the Planning Act's required outcomes on reducing emissions and securing positive effects for biodiversity. There are also well-documented links between availability and access to quality greenspaces and human health and wellbeing, which links the National Performance Framework outcome of 'We are Healthy and Active', with the Planning Act's requirements around biodiversity and improving the health and well-being of the people of Scotland. However, those in the National Performance Framework are broader and less directly measurable than some of those in the Planning Act.

We would therefore like to see clear metrics on providing net biodiversity gains and emissions reductions. Biodiversity Net Gain (BNG) is development that leaves biodiversity in a better state than before. CIEEM has been key to guiding and supporting the application of BNG within the UK development industry. In 2016, CIEEM, together with the Construction Industry Research and Information Association (CIRIA) and the Institute of Environmental Management and Assessment (IEMA), published the first UK principles<sup>1</sup> on delivering BNG and subsequent guidance<sup>2</sup>. We have also published a briefing on implementing BNG in Scotland<sup>3</sup>.

Further detail on enforcement, even in pre-planning stage, would be useful to determine how many retrospective planning permissions are applied for and granted, as this approach by small landowners and developers appears to be on the increase in rural areas.

We would like to see detail about the level of engagement with statutory consultees such as Scottish Natural Heritage and the Scottish Environment Protection Agency, as well as greater engagement with local record centres and local groups. Encompassing a wider range of social, economic and environmental metrics will highlight more than just the administrative side of planning.

There should be more detail on how many planning applications fit into local plans and strategic development planning to demonstrate what proportion of planning responses are reactive rather than proactive. Development should be more closely aligned with transport infrastructure to improve sustainability and connectivity.

### **National Planning Improvement Coordinator (page 12)**

Without further detail, it is difficult to comment. We would however, like to raise a potential concern regarding independence when planning decisions are called in at a national level and the role the National Planning Improvement Coordinator would play in this. We would ask whether Scottish Parliament could play a role in the appointment and reporting process.

### **Planning Fees (pages 13-26)**

We do not agree that there is no fee for agricultural buildings under 465m<sup>2</sup> under Category 8. A lack of fees can result in buildings being erected inappropriately without consideration to visual and environmental impact.

The maximum fee for Category 14 (Oil and Gas Exploration) is £100,000 which is considerably less than that for Category 13 (Other, largely renewable, types of energy generation) for which the maximum fee is £150,000). This is not consistent with Scottish Government's commitments on climate change and the need to urgently disincentivise

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<sup>1</sup> CIEEM, CIRIA and IEMA (2016) *Biodiversity Net Gain – Good practice principles for development* (2016). Available at: <https://cieem.net/i-am/current-projects/biodiversity-net-gain/>

<sup>2</sup> CIEEM, CIRIA and IEMA (2019) *Biodiversity Net Gain – A practical guide (and case studies)*. Available at: <https://cieem.net/i-am/current-projects/biodiversity-net-gain/>

<sup>3</sup> CIEEM (2019) *Biodiversity Net Gain in Scotland*. Available at: <https://cieem.net/resource/biodiversity-net-gain-in-scotland-briefing/>

fossil fuel use. Commitments to reducing emissions and the Biodiversity Duty<sup>4</sup> should be reflected in the setting of planning fees in all categories.

Many of these categories simply look at the area of development. There should be a factor in fee setting to account for distance from, or linkage to, designated sites, notably, any projects that affect marine protected sites or areas of irreplaceable habitat, such as peat. A maximum fee of £6,000 for projects involving the winning and working of peat (Category 20) offers very little disincentive for this type of development.

We agree that peat should be considered separately. There should also be a presumption against such projects in the planning system, or at least a very strong disincentive which could be reflected, at least in part, in fees.

The fees for Category 18 should be linked to area planned as in other examples. A large carpark or extensive track or access road could entail a lot of pre-screening work due to the number of habitats it covers and so would require higher fees.

### **Charges for Pre-application Discussions (page 31)**

There is a good reason for such charges, given the resource constraints on planning authorities, but it needs careful consideration, if it is not compulsory there would be a disincentive to have such discussions early on in the life of a development, and those conversations can be critical to avoiding biodiversity loss in development or in seeking enhancements. Conversely, there is a risk of stifling sustainable development with additional fees if pre-application discussions are compulsory. This should therefore perhaps be linked to the scale and type of project. The fees for pre-application discussions should be subtracted from the full fee payable to encourage pre-application discussions to take place.

### **Fees for monitoring, discharge of conditions (pages 32-33)**

Follow up monitoring is essential to ensure planning conditions are met and therefore, we deem it reasonable that local authorities should be able to charge for carrying out monitoring. However, there is a risk of causing the same issues as outlined in the previous paragraph of our response.

### **Other Issues: EIAs (page 39)**

Rather than fees directly for EIAs, there could be a fee wrapped up with the type, size and location of the project: the three factors that determine the need for an EIA in the first place.

### **Consolidated Impact Assessment (page 41)**

The very brief Environmental Assessment section on page 43 indicates there will not be any direct environmental impacts. – is their question referring to the brief assessment on page 43?

As mentioned previously, there could be unintended discouragement of pre-application discussions through non-compulsory options, differences in planning fees for renewable energies compared to fossil fuels and low fees for peat projects, can all have direct impacts on the environment. Therefore, the assessment that it is unlikely to have an impact, as outlined in the brief environmental assessment, is incorrect.

Due to resource cutbacks in local authorities, the skills possessed by Environmental Planners in Scotland is highly variable between local authorities. This is of concern even more so in regions where there is no Local Authority Ecologist who the environmental planner could consult or local record centre/LBAP.

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<sup>4</sup> Nature Conservation (Scotland) Act 2004

We would like further detail and clarification on the Environmental Assessment.