

Development Management

Practice Note

PRACTICE NOTE

11

Planning Fees

May 2016

Preamble

This Development Management Practice Note is designed to guide planning officers and relevant users through the planning fees required when submitting a planning application to a council or, as the case may be, the Department¹. It forms part of a series of new practice notes stemming from the **Planning Act (Northern Ireland) 2011** [the 2011 Act] and any related subordinate legislation. The emphasis is very much on advice but where explicit legislative requirements must be followed these will be made clear.

Where appropriate this practice note will therefore highlight:

- Relevant legislation;
- Procedural guidance;
- Definitions;
- Best practice examples / relevant case law.

This guidance is not intended to replace the need for judgement by planning officers and those making planning applications. Nor is it intended to be a source of definitive legal advice. Reference should be made to the actual legislation referred to in this document and if any discrepancy or conflict exists between the Practice Note and legislation the provisions of the legislation will prevail.

¹ Department means the Department for Infrastructure unless otherwise stated. The Department for Infrastructure came into being on 8th May 2016 and the Department of the Environment was dissolved in accordance with The Departments Act (Northern Ireland) 2016 and The Departments (2016 Act) (Commencement) Order (Northern Ireland) 2016.

1.0 Introduction

1.1 This Practice Note provides guidance in relation to the main legislative provisions associated with planning fees for different types of planning applications for planning permission and consent applications. It also provides guidance on planning fee issues that sometimes arise, the method of calculation for planning fees and the payment of planning fees and related matters.

2.0 Legislative context

2.1 Under **section 223 (1) of the 2011 Act**² the Department has the power to make regulations for the payment of a charge or fee of the prescribed amount in relation to council or departmental planning functions.

2.2 **The Planning (Fees) Regulations (Northern Ireland) 2015**, referred to hereafter as the “Fees Regulations”³, were published in March 2015 and came into operation on 1st April 2015. A legislative Correction⁴ was issued in March 2015 to correct an error in wording in Schedule 1 Part 2 Category of Development 5(d).

2.3 The Fees Regulations can be changed by the making of amendment regulations and such amendments may sometimes include varying the amounts of fees payable as the Department thinks fit.

² The powers under section 223 of the 2011 Act were transferred to the Department for Infrastructure on 8th May 2016 under The Departments (Transfer of Functions) Order (Northern Ireland) 2016.

³ The Fees Regulations are available on the UK legislation website at <http://www.legislation.gov.uk/nisr/2015/73/contents/made> and also via the Legislation section of the Northern Ireland Planning Portal at www.planningni.gov.uk.

⁴ The legislative Correction is included with the Fees Regulations as noted in footnote 2.

2.4 **The Planning (Fees) (Amendment) Regulations (Northern Ireland) 2015** referred to hereafter as the “Amendment Fees Regulations 2015”⁵, came into operation on 31st December 2015 and its main purpose was to correct a drafting error in the Fees Regulations and clarify how the fees for certain mixed development applications are to be calculated. The amounts of fees payable were not varied and remain the same as prescribed in the Fees Regulations. Any further reference to the Fees Regulations in this document also includes the Amendment Fees Regulations 2015.

3.0 Applications and planning fees

3.1 There are different types of applications that can be submitted to the appropriate council or, as the case may be, the Department and planning fees are payable in relation to some types and not others⁶. Most applications, including those that attract fees, will be submitted to the appropriate council⁷.

3.2 Planning application and other forms; the ‘Explanatory Notes on Applying for Planning Permission, Approval of Reserved Matters and Other types of Planning Consent; ‘Applicant Advice for Completion of Planning Application Form (Form P1)’ and the ‘Planning Fees - Explanatory Notes for Applicants’ documents are available on the Planning Portal. Information may also be available from councils⁸. An applicant, or agent if acting on behalf of an applicant, is advised to refer to and apply the Fees Regulations prior to the submission of applications to the appropriate council or, as the case may be, the Department.

⁵ The Amendment Fees Regulations 2015 are available on the UK legislation website at <http://www.legislation.gov.uk/nisr/2015/398/made> and also via the Legislation section of the Northern Ireland Planning Portal at www.planningni.gov.uk.

⁶ Refer to Paragraphs 3.5 and 3.6 (of this document).

⁷ Refer to Paragraphs 13.3 and 13.4 (of this document) regarding applications that attract fees.

⁸ Council contact details are available via the Planning Portal homepage at www.planningni.gov.uk and via NI Direct at <https://www.nidirect.gov.uk/contacts/local-councils-in-northern-ireland>.

Interpretation of Fees Regulations

- 3.3 It is for the appropriate council or, as the case may be, the Department to interpret the Fees Regulations with respect to planning fees payable and apply them to the facts of individual applications. Note, staff within the Department cannot comment on an individual case or rule on the correct fee for a particular application that is the responsibility of a council.
- 3.4 It is recommended best practice that judgements exercised by the council or, as the case may be, the Department on planning fees to be charged should be documented and recorded on application files.

Fees payable

- 3.5 In accordance with the Fees Regulations, fees are payable⁹ for the following:
- (a) Applications for planning permission (Regulation 3)
 - (b) Applications for approval of reserved matters (Regulation 3)
 - (c) Applications for express consent to display advertisements (Regulation 9)
 - (d) Applications for hazardous substances consent (Regulation 10)
 - (e) Applications for certificates of lawful use or development (Regulation 12).

⁹ Amounts of fees payable in respect of applications for planning permission or for approval of reserved matters are laid out in Schedule 1 Part 1 General Provisions and Part 2 Scales of Fees of the Fees Regulations. Amounts of fees payable in relation to certificates of lawful use or development and for consent to display advertisements are laid out in specific regulations in the Fees Regulations. Amounts of fees payable in respect of applications for Hazardous Substances Consent are laid out in Schedule 2 of the Fees Regulations.

Fees not payable

3.6 Fees are not payable¹⁰ for the following:

- (a) Applications for consent required by condition attached to a planning permission other than reserved matters
- (b) Applications for consent to cut down, top, lop or uproot trees subject to a tree preservation order
- (c) Applications for consent to cut down, top, lop or uproot trees in a conservation area
- (d) Applications to determine whether listed building consent is required
- (e) Applications for listed building consent
- (f) Applications for planning permission to demolish a building in an Area of Townscape or Village Character
- (g) Applications to determine whether conservation area consent is required
- (h) Applications for conservation area consent
- (i) Applications for non-material changes to planning permission
- (j) Applications to modify or discharge a planning agreement.

4.0 Fees for applications for planning permission and approval of reserved matters

4.1 **Regulation 3 (1)** of the Fees Regulations states that where an application is submitted to the council or, as the case may be, the Department for planning permission or for the approval of reserved matters, a fee shall be paid in accordance with the provisions of the Fees Regulations,

¹⁰ There is no provision in legislation for the payment of fees in relation to the applications listed.

subject to Regulation 4. However, in some instances a fee exemption or a reduced fee may apply¹¹.

4.2 Under **Regulation 3 (2)** of the Fees Regulations planning fees for planning applications and the approval of reserved matters are calculated in accordance with the provisions of Schedule 1 of the Fees Regulations, subject to Regulation 8. Schedule 1 comprises Part 1 General Provisions¹² and Part 2 Scales of Fees¹³.

4.3 Part 2 Scales of Fees comprises 13 categories of development, with some split into sub-categories and some containing more than one fee payable band. Bearing in mind the provisions of Part 1 General Provisions, in calculating planning fees each application made to the council or, as the case may be, the Department, is assessed against the relevant category or categories of development and fee payable band or bands¹⁴. Categories of development 1 and 2 relate to outline applications¹⁵.

4.4 It should be noted that in the case of an application for a material change of use to a dwelling or dwellings **and** any other change of use that involves both fee payable bands (a) and (b) of category of development 12, the planning fees are calculated for each band and they are added together to obtain the total fee payable under that category.

¹¹ Fee exemptions and reduced fees are referred to in later sub-sections of section 4.0 (of this document).

¹² Refer to the Fees Regulations. Annex A (of this document) shows Part 1 for ease of reference.

¹³ Refer to the Fees Regulations. Annex B (of this document) shows Part 2 for ease of reference.

¹⁴ Fees for planning permission or for the approval of reserved matters for mixed development (involving more than one category of development and fee payable band) are referred to in section 9.0 (of this document).

¹⁵ Refer to Paragraphs 9.9 to 9.11 (of this document).

- 4.5 Under **Regulation 3 (3)** of the Fees Regulations any fee paid shall be refunded if an application for planning permission or approval of reserved matters is rejected as invalidly made.

Fees for Environmental Impact Assessment (EIA) development

- 4.6 Under **The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015**, referred to hereafter as the EIA Regulations, some planning applications for development are subject to an environmental impact assessment and such applications are called EIA development. Under **Regulation 4 (2)** of the EIA Regulations the council or, as the case may be, the Department shall not grant planning permission for EIA development unless they have first taken environmental information into consideration, which is submitted in the form of an environmental statement.
- 4.7 Where an application is EIA development¹⁶, under **Regulation 11** of the Fees Regulations a fee of £10,632 is payable in addition to the amount of fee that would otherwise be payable, subject to the maximum for the category of development as specified in Part 2 Scales of Fees of Schedule 1.

Fees Exemptions

- 4.8 **Regulations 4, 5 and 6** of the Fees Regulations provide a limited number of specific exemptions from fees for planning applications and for applications for approval of reserved matters. These are described in the following sub-sections.

¹⁶ Refer to Paragraphs 9.7 and 13.13 (of this document).

(a) *Disabled Person*

4.9 Under **Regulation 4 (1)** of the Fees Regulations no fee is payable 'where the council is satisfied that the application relates solely to: –

- the carrying out of operations for the alteration or extension of an existing dwellinghouse; or
- the carrying out of operations (other than the erection of a dwellinghouse) in the curtilage of an existing dwellinghouse,

for the purpose, in either case, of providing means of access to or within the dwellinghouse for a disabled person who is resident in, or is proposing to take up residence in that dwellinghouse, or of providing facilities designed to secure that person's greater safety, health or comfort.'

4.10 In relation to such an application under Regulation 4 (1) the fee exemption should also apply when the applicant is someone who is submitting an application where a disabled person is resident in, or is proposing to take up residence in the dwellinghouse (e.g. an applicant may be the parent of another member of a family who is a disabled person and the application relates to that person).

4.11 Under **Regulation 4 (2)** of the Fees Regulations no fee is payable 'where the council is satisfied that the application relates solely to the carrying out of operations for the purpose of providing means of access for disabled persons to or within a building or premises to which members of the public are admitted (whether on payment or otherwise).'

4.12 It is recommended best practice that the council requests evidence to be submitted by an applicant, or agent if acting on behalf of an applicant, if it

has not already been submitted, as part of a planning application to confirm that the works to be carried out are for a person who is within any of the descriptions of persons to whom Section 1 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 applies (as referred to in Regulation 4(3)). It will be for the council to decide what type of evidence they will accept to satisfy this requirement.

(b) Use Class

4.13 Under **Regulation 5** of the Fees Regulations no fee is payable where the council is satisfied that an application for planning permission relates solely to the use of a building or other land for a purpose specified in **The Planning (Use Classes) Order (Northern Ireland) 2015**, referred to hereafter as the “UCO”, and the existing use of that building or other land is for another purpose of the same class, and the application is necessary only by reason of a condition imposed on a previous grant of planning permission or having the like effect as a permission granted under Part 3 of the 2011 Act.

(c) Planning applications made by or on behalf of a club, society or other organisation (including any persons administering a trust) which is not established or conducted for profit and the conditions specified in the Fees Regulations are satisfied

4.14 Under **Regulation 6** of the Fees Regulations there is a fee exemption (no fee is payable) for certain applicants (sometimes known as not for profit organisations) in relation to some planning applications made and if the conditions specified are met, which relate to the development that is the subject of the application.

- 4.15 A fee exemption can be applied if the council or, or as the case may, the Department is satisfied that an application for planning permission is made by or on behalf of a club, society or other organisation (including any persons administering a trust) which is not established or conducted for profit, and the following conditions are satisfied:-
- (a) the application relates to the provision of community facilities (including sports grounds) and playing fields; and
- (b) the council or, as the case may be, the Department is satisfied that the development is to be carried out on land which is, or is intended to be, occupied by the club, society or other organisation and to be used wholly or mainly for the carrying out of its objects.'
- 4.16 It is recommended best practice that the council requests evidence to be submitted by an applicant, or agent if acting on behalf of an applicant, if it has not already been submitted, to demonstrate that an application for planning permission complies with Regulation 6. This could include, but not be exclusively dependent upon, a registered charity number.
- 4.17 The evidence submitted with a planning application at the outset should establish clarity regarding the payment or non-payment of planning fees with respect to Regulation 6.
- 4.18 The council or, as the case may be, the Department have to be satisfied that the applicant and the application for planning permission for development comply with Regulation 6. The question as to whether an applicant and the application comply with Regulation 6 is a matter of fact and degree. Every application claiming a fee exemption has to be considered on a case by case basis using the evidence submitted and a planning judgement made.

- 4.19 Where the council or, as the case may be, the Department is not satisfied that an application complies with Regulation 6, a fee exemption cannot be applied and the applicant shall pay planning fees in accordance with the Fees Regulations.
- 4.20 Where an application comprises development that partly complies with the specified conditions of Regulation 6 then the council or, as the case may be, the Department should consider it carefully and be satisfied as to what development is subject to a fee exemption and what development is subject to the payment of fees as per the Fees Regulations.

Reduced Fees

- 4.21 The Fees Regulations provide for reduced fees in certain instances and these are described in the following sub-sections.

(a) Permitted development rights removed

- 4.22 **Regulation 7** of the Fees Regulations sets out that an applicant is charged a reduced fee where the application for development would have been 'permitted development' except that permitted development rights have been removed by a Direction under **Article 4 of The Planning (General Permitted Development) Order (Northern Ireland) 2015**, referred to hereafter as the "GPDO", or by a condition imposed on a planning permission. The fee for an application for planning permission to which Regulation 7 applies is £64.
- 4.23 Under **Regulation 8 (2)** of the Fees Regulations, any fee paid shall be refunded if an application to which Regulation 7 applies is rejected as invalidly made.

(b) Renewal of extant planning permission

4.24 **Paragraph 3 of Part 1 General Provisions of Schedule 1** of the Fees Regulations states the following:

“Where an application to renew planning permission is made, and the application has been submitted before the time limit imposed on the extant permission has expired, the fee payable shall be one-quarter of the amount that would otherwise be payable”.

4.25 Under Paragraph 3 there is a reduction in planning fees for the renewal of an extant planning permission in that it is 25% of the fee that would otherwise be payable.

4.26 To renew an extant full planning permission the renewal application would have to be submitted to the council or, as the case may be, the Department before the five year time period for the commencement of the approved development has expired.

4.27 To renew an extant outline planning permission the renewal application would have to be submitted to the council or, as the case may be, the Department within the three year time period within which an application for the approval of reserved matters must be made, or, where the reserved matter(s) application(s) was / were all submitted in accordance with the time limit for the submission of reserved matters under an outline planning permission, and the time period for commencement of the approved development has not yet expired¹⁷.

¹⁷ Under section 62 (2) (b) of the 2011 Act a development must be begun by whichever is the later of the following dates – (i) the expiration of 5 years from the date of the grant of outline planning permission; or (ii) the expiration of 2 years from the final approval of reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.

5.0 Fees for the express consent to display advertisements

- 5.1 **Regulation 9** of the Fees Regulations prescribes fees for applications made to the council under **Regulation 8 of The Planning (Control of Advertisements) Regulations (Northern Ireland) 2015**, referred to hereafter as the “Advertisements Regulations”, for the express consent to display advertisements. The fee for an application is £189.
- 5.2 Where the application relates to the display of advertisements on more than one piece of land the fee payable in respect of the application shall be the aggregate (sum total) of the sums payable in respect of the display of advertisements on each piece of land. (Regulation 9 (2)).
- 5.3 Where the application relates to the display of more than one advertisement on the same land a single fee shall be payable in respect of all the advertisements to be displayed on that land. (Regulation 9 (3)).
- 5.4 Where the application relates to the display, within a specified area, of advertisements on parking meters, litter bins or bus shelters, the whole area to which the application relates shall be treated as one piece of land. (Regulation 9 (4)).
- 5.5 Under Regulation 9 (6) any fee paid shall be refunded if an application for express consent to display advertisements is rejected as invalidly made.
- 5.6 An application for the Consent to Display Advertisements by or on behalf of a club, society or other organisation (including any persons administering a trust) which is not established or conducted for profit is not subject to a fee exemption because such a provision is not provided for by legislation.

5.7 Under **Schedule 3, Part 1, Class 1 of the Advertisements Regulations** functional advertisements for the purpose of announcement or direction in relation to the functions of government departments, district councils, statutory undertakers and public transport undertakers may be displayed with deemed consent. As such an application for the consent to display advertisements and fee is not required for these functional advertisements.

6.0 Fees for hazardous substances consent

6.1 **Regulation 10** of the Fees Regulations specifies that where an application is made to the council or, as the case may be, the Department under **Regulation 5 of The Planning (Hazardous Substances) (No. 2) Regulations (Northern Ireland) 2015**, referred to hereafter as the “Hazardous Substances Regulations”, a fee shall be paid to the council or, as the case may be, the Department in accordance with Schedule 2¹⁸. Under **Regulation 16** of the Hazardous Substances Regulations an application by a council for hazardous substances consent shall be made to the Department.

6.2 The fee payable under Schedule 2 Category of Development ‘1. Presence of Hazardous Substances on, over or under land’ is:-

- where section 111 (1) of the 2011 Act applies (new consent without previous conditions) the fee is £340;
- where section 111 (1) of the 2011 Act does not apply and the quantity specified in the application as the maximum quantity proposed to be present exceeds twice the controlled quantity the fee is £427;
- in all other cases the fee is £340.

¹⁸ Refer to the Fees Regulations. Annex C shows Schedule 2 for ease of reference.

- a fee of £680 shall be payable to the council in respect of an application for the continuation of hazardous substances consent under section 116 of the 2011 Act.

6.3 Under **Regulation 10 (2)** of the Fees Regulations any fee paid shall be refunded if an application for hazardous substances consent is rejected as invalidly made.

7.0 Fees for applications for certificates of lawful use or development (CLUDs)

7.1 **Regulation 12** of the Fees Regulations prescribes fees for applications made to a council for certificates of lawful use or development to which section 169 or 170 of the 2011 Act applies.

7.2 Under Regulation 12 (6) any fee paid shall be refunded if an application for a certificate of lawful use or development is rejected as invalidly made.

(a) Fees for a certificate of existing lawful use or development

7.3 The fee for an application for a certificate of existing lawful use or development made under Section 169 (1) (a) or (b) (or under both sub-paragraphs as the case may be) is the amount that would be payable in respect of an application for planning permission for that use or to carry out the operations specified on the application (or an application to do both, as the case maybe). (Regulation 12 (3) (a)).

7.4 Where a use specified in an application under Section 169 (1) (a) is comprised of or includes a use as one or more separate dwellinghouses the

fee payable in respect of that application is £252 for each dwellinghouse subject to a maximum fee of £12,582 for the application. (Regulation 12 (4)).

7.5 Where an application is made under section 169 (1) (c) in relation to a matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted the fee is £252. (Regulation 12 (3) (b)).

7.6 Where an application is made under Section 169 (1) (a) or (b) (or under both sub-paragraphs) and under Section 169 (1) (c) the fee payable is the sum of the fees that would have been payable if there had been an application under Section 169 (1) (a) or (b) (or under both sub-paragraphs as the case may be) and a separate application under Section 169 (1) (c). (Regulation 12 (5)).

(b) Fees for a certificate of proposed lawful use or development

7.7 The fee for an application made under section 170 (1) (a) or (b) (or under both sub-paragraphs as the case may be) in relation to any proposed use of buildings or other land or any operational development proposed to be carried out in, on over or under the land is half the amount that would be payable in respect of an application for that use or to carry out the operations specified in the application.

Fee exemptions for an application for certificate of lawful use or development

7.8 A fee exemption is available for an application for a Certificate of Lawful Use or Development where the council is satisfied that it relates solely to the carrying out of operations specified in Regulation 4 of the Fees Regulations for the purposes specified in that regulation¹⁹, i.e. a fee exemption for an application for works for a disabled person in the circumstances specified in the regulation.

¹⁹ Refer to Paragraphs 4.9 to 4.12 (of this document).

- 7.9 It is recommended best practice that the council requests evidence to be submitted from an applicant, or agent if acting on behalf of an applicant, to satisfy the council that it relates solely to the carrying out of operations specified in Regulation 4.
- 7.10 Where a notice of refusal has been issued in respect of a CLUD application, the submitted fee should not be offset against the fee for a subsequent planning application.
- 7.11 A CLUD application by or on behalf of a club, society or other organisation (including any persons administering a trust) which is not established or conducted for profit is subject to a fee exemption if it complies with Regulation 6 of the Fees Regulations.

8.0 Fees for deemed planning applications

- 8.1 Regulations relating to fees, exemptions and refunds for deemed planning applications are included in separate legislation²⁰ made by the Office of the First Minister and Deputy First Minister (OFMDFM).

9.0 Fees for applications for planning permission and approval of reserved matters for mixed development

- 9.1 Regulation 3 (1) and (2) of the Fees Regulations lays down the requirement for a planning fee to be paid in relation to applications for planning permission and approval of reserved matters²¹.

²⁰ The Planning Fees (Deemed Planning Applications and Appeals) Regulations (Northern Ireland) 2015 and any subsequent amendment regulations.

²¹ Refer to section 4.0 (of this document).

9.2 **Paragraph 7 of Part 1 General Provisions of Schedule 1** as amended²² sets out the provisions for the calculation of planning fees where a planning application includes more than one of the categories of development (i.e. mixed development) specified in Part 2 Scales of Fees.

9.3 Paragraph 7 is as follows:

‘(1) Where an application for planning permission includes more than one of the categories of development specified in Part 2 the fee for that application shall be calculated in accordance with the following provisions.

(2) Unless the application includes any of categories 6, 8 and 9 an amount shall be calculated in accordance with the provisions of Part 2 for each category of development included in the application and the total of the amounts calculated for each of the categories of development shall be the fee.

(3) Where the application includes any of categories 6, 8 and 9 an amount shall be calculated in respect of each category of development included in the application and the highest of the amounts so calculated shall be the fee.

(4) Where a building is to contain floor space which it proposes to use for the purposes of providing common access or common services or facilities for persons occupying or using that building for development within category 3 and for persons occupying or using it for development within category 5 and/or category 7 (such floor space being referred to below as “common floor space”), the category 5 and/or category 7 floor space shall be assessed, in relation to that building, as including such proportion of the common floor space as the category 5 and/or category 7 floor space in the building bears to the gross floor space in the building.’

²² Regulation 2 of the Amendment Fees Regulations 2015.

- 9.4 All the relevant categories of development in an application should be identified when applying Paragraph 7 of Part 1 General Provisions in order that the correct fees are calculated and paid.
- 9.5 Under Paragraph 7 (2), for a planning application for development that includes more than one of the categories of development (i.e. mixed development) in Part 2 Scales of Fees but does not include categories 6, 8 and 9 (which are site area based categories), an amount shall be calculated for each category of development included in the application and the total of the amounts calculated for each category of development shall be the fee. This establishes a broad rule which means that fees are calculated for each applicable category of development included in a planning application and they are added together to obtain the fee payable, but only if categories 6, 8 and 9 are not included in the application.
- 9.6 Under Paragraph 7 (3), for a planning application for development that includes more than one of the categories of development (i.e. mixed development) in Part 2 Scales of Fees and includes any of categories 6, 8 and 9 (which are site area based categories), an amount shall be calculated for each category of development and the highest of the amounts so calculated shall be the fee. This establishes an exception to the broad rule referred to above which means that fees are calculated for each applicable category of development included in a planning application, but where the application includes any of categories 6, 8 and 9, the highest of the amounts so calculated shall be the fee payable.

- 9.7 Note, in some instances the additional fee for EIA development as per Regulation 11 of the Fees Regulations may apply to applications for mixed development that is EIA development²³.

Common floor space

- 9.8 Under Paragraph 7 (4) of Part 1 General Provisions of Schedule 1 as amended²⁴, where a building includes common access or common services or facilities floor space areas (i.e. common floorspace such as foyers serving development within category of development 3 (unit based fee) and categories 5 and/or 7 (floor space based fees), these category 5 and/or 7 floor space areas shall be assessed and include such proportion of the common floor space as being pro rata the gross floor space for categories 5 and/or 7 in the building. This ensures that such common floor space areas are included in fee calculations and fees are correctly charged.

Outline Applications

- 9.9 In the case of an outline application submitted to the council or, as the case may be, the Department, under category of development 1 the fee payable for all buildings (other than a single dwelling house) is based on the total application site area at a fee of £252 for each 0.1 hectare of the site area subject to a maximum of £10,066, i.e. the site outlined in red (or shaded in red) on a metric site plan is measured and a fee of £252 per 0.1 hectare is applied to calculate the fee payable.
- 9.10 In the case of an outline application for a single dwelling house under category of development 2, the fee payable is £425.

²³ Refer to Paragraphs 4.6, 4.7 and 13.13 (of this document).

²⁴ Regulation 2 of the Amendment Fees Regulations 2015.

- 9.11 In the event that both categories of development 1 and 2 are applicable in a development proposal in an outline planning application, the amount of fee payable for each category is calculated and added together to obtain the total fee payable in accordance with the provisions of Paragraph 7 of Part 1 of Schedule 1 of the Fees Regulations.

10.0 Other planning application fees matters

Fees for retrospective applications for planning permission

- 10.1 Under **Section 55 of the 2011 Act**, an application for planning permission can be made to a council or the Department for development carried out before the date of the application. The planning fee for such a retrospective application is the full amount that would be payable in respect of an application for planning permission for the development specified in the application.

Fees for alternative development proposals on the same site

- 10.2 Multiple applications for alternative development proposals on the same site may be submitted at the one time to the council or, as the case may be, the Department and a planning fee is required for each alternative application. This applies equally to full or outline applications for planning permission and for approval of reserved matters.

Fees for cross boundary applications

- 10.3 Where an application is a cross boundary application (i.e. it straddles the boundary / boundaries between two or more council areas), the appropriate councils will have to decide how to handle such an application and the fees

payable and make this known to the applicant, or agent if acting on behalf of an applicant.

Fees for an interested council to develop their own land

- 10.4 Under **section 79 of the 2011 Act** and **Regulation 3 of The Planning General Regulations (Northern Ireland) 2015**, referred to hereafter as the “General Regulations”, an application for planning permission by an interested council²⁵ wanting to develop any land of that council, or for development of any land by an interested council jointly with any other person, attracts planning fees in accordance with the Fees Regulations.

Fees for crown development

- 10.5 Under **section 211 of the 2011 Act**, the Act applies to the Crown except for a few provisions. Consequently, the Crown has to submit applications for planning permission and such applications attract planning fees in accordance with the Fees Regulations.

11.0 Fees for appeals

- 11.1 The provision for paying a fee for an appeal to the Planning Appeals Commission, referred to hereafter as the Commission, is included in separate legislation²⁶ made by the OFMDFM.

- 11.2 Further information on the Commission and the appeals system may be found on the Commission’s website at www.pacni.gov.uk.

²⁵ Refer to section 79 (6) of the 2011 Act for the meaning of an interested council.

²⁶ The Planning Fees (Deemed Planning Applications and Appeals) Regulations (Northern Ireland) 2015 and any subsequent amendment regulations.

12.0 Method of calculation for planning fees

- 12.1 An application site is identified on a metric scale location plan accompanying an application and is normally shown edged in red as one continuous line or shaded in red. Other lands under the control of an applicant are normally shown edged in blue. Further information²⁷ about completing and submitting applications, including plan drawings, can be accessed on the Planning Portal at www.planningni.gov.uk.
- 12.2 Under the Fees Regulations the calculation of planning fees is based on the site area, gross floor space area, the number of dwelling units proposed or a flat rate fee or a combination of such depending upon the category or categories of development involved. The unit of measurement for each category of development is set out in the fee payable band column of Part 2 Scales of Fees.
- 12.3 The dimensions on all drawings should be shown in metric measurement. Drawings marked “do not scale or not to scale” must not be used to calculate planning fees.

Site area

- 12.4 Under Paragraph 5 (a) of Part 1 General Provisions of Schedule 1 of the Fees Regulations, in relation to the calculation of fees, site area means ‘the site area to which the application relates’. The site area based categories of development under Part 2 Scale of Fees of Schedule 1 are 1, 6, 8 and 9.

²⁷ Includes the ‘Explanatory Notes on Applying for Planning Permission, Approval of Reserved Matters and Other Types of Planning Consent’, the ‘Applicant Advice for Completion of Planning Application Form (Form P1)’ and the ‘Planning Fees - Explanatory Notes for Applicants’ documents.

Gross floor space area

12.5 Under paragraph 6 (1) of Part 1 General Provisions of Schedule 1 of the Fees Regulations in relation to the calculation of fees for categories of development 5, 7 and 12 (b), 'the area of gross floor space to be created shall be ascertained by external measurement of the floor space, whether or not it is bounded (wholly or partly) by external walls of a building'.

12.6 Gross floor space area includes all the storey's to be created by buildings shown within the application site. When measuring gross floor space area, party walls should be measured to their centre line. The measurement of gross floor space does not include areas inside a building which are not readily usable e.g. loft spaces.

12.7 For fee purposes gross floor space includes:

- perimeter wall thickness and projections;
- areas occupied by internal walls and partitions;
- columns, piers, chimney-breasts, stairwells and the like;
- lift rooms, plant rooms, tank rooms and fuel stores whether or not above the main roof level; and
- open sided covered areas and enclosed car-parking areas.

12.8 For fee purposes gross floor space excludes:

- open balconies;
- open covered ways or minor canopies;
- open vehicle parking areas;
- terraces and the like;
- domestic outside WCs and coalhouses; and
- areas with a headroom of less than 1.5 m (except under stairways).

- 12.9 The calculation of fees for categories of development 5, 7 and 12 (b) is dependent upon the area of gross floor space to be created by a building development within an application site. The calculation of such fees is not affected where there is also an existing building or buildings to be demolished on an application site.

Rounding up the site area / floorspace

- 12.10 Where the site area is not an exact multiple of the unit of measurement, the amount remaining is to be taken to the next whole unit for fees purposes, i.e. rounded up, in accordance with Paragraph 5 (b) of Part 1 General Provisions of Schedule 1 of the Fees Regulations.
- 12.11 Where gross floor space for development within category of development 5 or 12 (b) is not an exact multiple of 75 sq.m, the area remaining shall be treated as 75 sq.m for fees purposes, i.e. rounded up, in accordance with Paragraph 6 (2) of Part 1 General Provisions of Schedule 1 of the Fees Regulations.
- 12.12 Where gross floor space for development within category of development 7 is not an exact multiple of 500 sq.m, the area remaining shall be treated as 500 sq.m for fees purposes, i.e. rounded up, in accordance with Paragraph 6 (3) of Part 1 General Provisions of Schedule 1 of the Fees Regulations.

13.0 Payment of planning fees and related matters

- 13.1 The following sub-sections provide guidance for users of the planning system in relation to the payment of planning fees and related matters.

When should planning fees be submitted?

- 13.2 Where an application is made to a council or, as the case may be, the Department, a planning fee is paid where prescribed in planning legislation (i.e. under Regulations 3, 9, 10 and 12, Regulation 11 for EIA development and Schedules 1 and 2 of the Fees Regulations).

To whom are planning fees payable?

- 13.3 Applications that attract planning fees must be paid to the appropriate council or, as the case may be, the Department in accordance with the 2011 Act, the **Planning (General Development Procedure) Order (Northern Ireland) 2015**, referred to hereafter as the GDPO, the Development Management Regulations and the Fees Regulations as follows:

- Applications and accompanying fees are submitted to the council for planning applications for local and major development²⁸, applications for certificates of lawful use or development and applications for consent to display advertisements. This also includes applications for hazardous substances consent, except that any application by a council for hazardous substances consent shall be made to the Department²⁹.
- Applications and accompanying fees are submitted to the Department include planning applications for regionally significant development³⁰ and applications by a council for hazardous substances consent.

²⁸ Refer to section 26 of the 2011 Act and Regulations 2 and 3 and the Schedule of The Planning (Development Management) Regulations (Northern Ireland) 2015.

²⁹ Refer to paragraph 6.1 (of this document).

³⁰ Refer to section 26 of the 2011 Act and Regulations 2 and 3 and the Schedule of The Planning (Development Management) Regulations (Northern Ireland) 2015.

- 13.4 If anyone is in any doubt as to where an application and fees should be submitted, then contact the appropriate council³¹ for assistance.

Are Planning Fees subject to Value Added Tax (VAT)?

- 13.5 Planning fees are not subject to Value Added Tax (VAT).

What are the methods of payment for fees?

- 13.6 An applicant, or agent if acting on behalf of an applicant, is advised to refer to the website of the appropriate council about the available methods of payment³² in relation to applications that are to be submitted to the council, or contact the appropriate council for assistance. An applicant, or agent if acting on behalf of an applicant, is advised to refer to the Planning Portal about the available methods of payment³³ in relation to applications that are to be submitted to the Department, or contact the Department for assistance.

Validation of applications and planning fees

- 13.7 Every application submitted to the council or, as the case may be, the Department is subject to validation, which involves checking that all the required information has been received, and this includes checking that the correct amount of planning fee has been submitted where required by the Fees Regulations. An application is not considered to be valid until the correct fee is received.

³¹ Council contact details are available via the Planning Portal homepage at www.planningni.gov.uk and via NI Direct at <https://www.nidirect.gov.uk/contacts/local-councils-in-northern-ireland>.

³² Refer to the 'Planning Fees - Explanatory Notes for Applicants' document available via the link on the Planning Portal homepage to the Planning Application Fees page.

³³ Refer to the 'Planning Fees - Explanatory Notes for Applicants' document available via the link on the Planning Portal homepage to the Planning Application Fees page.

13.8 Further to the requirements of the 2011 Act, specific requirements as to what applications should contain for the different types of applications that require fees are set out in subordinate legislation as follows:

- applications for planning permission, approval of reserved matters and certificates of lawful use or development – refer to the GDPO
- applications for consent to display advertisements – refer to the Advertisements Regulations
- applications for hazardous substances consent – refer to the Hazardous Substances Regulations.

13.9 Under **Article 3 (3) (i) of the GDPO** an application for planning permission must be accompanied by any fee payable under the Fees Regulations. **Article 20** of the GDPO establishes the time periods for decisions for applications made to the council under Articles 3 (applications for planning permission) and 11 (applications for CLUDs) and one of the events that has to occur to establish the date such applications were received is any fee required to be paid in respect of the application has been paid to the council.

13.10 An application that is not accompanied by a planning fee or where the fee is underpaid shall be made invalid³⁴ and returned, including the underpaid fee.

13.11 A planning fee is always determined on the basis of an application as made i.e. as submitted and accepted as valid by the council or, as the case may be, the Department.

13.12 It is recommended best practice that the council or, as the case may be, the Department should keep on the application file one copy of all drawings,

³⁴ Refer to Paragraph 13.16 (of this document).

including all superseded drawings (which should be clearly stamped 'superseded') received and used as a basis to calculate the planning fee at the time of validation. The one copy of drawings to be kept on file, including superseded drawings, must include the metric scaled site location map that identifies an application site by a continuous red line or shaded in red. This practice will allow an application planning fee to be checked and audited at any time.

- 13.13 With respect to EIA development³⁵ the council or, as the case may be, the Department should ensure that the EIA fee is requested, if not already received, following receipt of a voluntary Environmental Statement or following a positive EIA determination by the council or, as the case may be, the Department, or following a hearing by the Commission, that development is EIA development under the EIA Regulations.

Underpayment / Overpayment of planning fees

- 13.14 If, during the processing of an application, it is discovered that there is an irregularity in the amount of the fee paid, either an underpayment or an overpayment, the council or, as the case may be, the Department may seek to redress the situation by either pursuing the underpayment or initiating a refund of the excess fee. It is recommended best practice that where an underpayment is pursued, processing of the application should not continue until the outstanding fee is received. Overpayments of planning fees should be refunded by the council or, as the case may be, the Department.
- 13.15 A planning decision should not be issued where it is evident that a fee, or part of a fee, is outstanding or where a query has been raised, for example, by the appropriate council's or, as the case may be, the Department's audit body and remains unresolved.

³⁵ Refer to Paragraphs 4.6, 4.7 and 9.7 (of this document).

Refunds of planning fees for invalid applications

- 13.16 Under **Regulation 3 (3)** of the Fees Regulations a fee for a planning application shall be refunded if an application is rejected as invalidly made to the council or, as the case may be, the Department. Furthermore, under Regulations 8 (2), 10 (2) and 12 (6), fees shall also be refunded if the types of applications referred to in these regulations are rejected as invalidly made.

No adjustment of fee payable for amendment of a current application

- 13.17 As stated earlier a planning fee is determined on the basis of an application as made i.e. as submitted and accepted as valid by the council or, as the case may be, the Department. There is no provision in the Fees Regulations to allow adjustment of fees either in the form of a refund or additional charge if a proposed development in a current application is amended, even by agreement. Note, the council or, as the case may be, the Department may have to consider and decide if the nature and scale of proposed amendments are so substantial as to constitute a different application warranting a fresh application accompanied by a planning fee.

No statutory provision for the waiving of a planning fee

- 13.18 The Fees Regulations has no statutory provision for the waiving of a planning fee in relation to applications other than the exemptions, reduced fees and refunds specifically provided for under the regulations.

Complaint

- 13.19 Anyone having a complaint in relation to a planning application being dealt with by a local council should check with the relevant council on how to make

a complaint³⁶.

13.20 Anyone having a complaint in relation to a planning application being dealt with by the Department should refer to its complaints procedure³⁷.

13.21 It should be noted that on 1st April 2016 the Assembly Ombudsman for Northern Ireland was replaced by the Northern Ireland Public Services Ombudsman³⁸ (NIPSO).

³⁶ Council contact details are available via the Planning Portal homepage at www.planningni.gov.uk and via NI Direct at <https://www.nidirect.gov.uk/contacts/local-councils-in-northern-ireland>.

³⁷ The Departments guide to its complaints procedure is available via the Department's website at <https://www.infrastructure-ni.gov.uk/dfi-complaints-procedure>.

³⁸ Refer to the NIPSO website at www.nipso.org.uk.

ANNEX A**The Planning (Fees) Regulations (Northern Ireland) 2015****Schedule 1****Regulation 3****Fees in respect of applications for planning permission or for approval of reserved matters****Part 1 General Provisions**

1. Subject to paragraphs 2 to 4, the fee payable under regulation 3(2) in respect of an application shall be calculated in accordance with the provisions of Part 2 and (where applicable) paragraphs 5 to 7. In the case of an application for approval of reserved matters references in this Schedule to the category of development to which an application relates shall be construed as references to the category of development authorised by the relevant outline planning permission.

2. Where an application relates to development carried out without planning permission, or in accordance with planning permission granted for a limited period or without complying with some condition subject to which planning permission was granted, the amount of the fee payable shall be calculated in accordance with the provisions of Part 2 as if the application were one for permission to carry out that development.

3. Where an application to renew planning permission is made, and the application has been submitted before the time limit imposed on the extant permission has expired, the fee payable shall be one-quarter of the amount that would otherwise be payable.

4.—(1) This paragraph applies where—

- (a) an application is made for approval of one or more reserved matters (“the current application”);
- (b) the applicant has previously applied for such approval under the same outline planning permission and paid fees in relation to one or more such applications; and
- (c) no application has been made under that permission other than by or on behalf of the applicant.

(2) Where this paragraph applies and the amount of the fees paid as mentioned in sub-paragraph (1)(b) is not less than the amount which would be payable if the applicant were by their current application seeking approval of all the matters reserved by the outline permission (and in relation to the whole of the development authorised by the permission), the amount of the fee payable in respect of the current application shall be £554.

(3) Where—

- (i) this paragraph applies;
- (ii) a fee has been paid as mentioned in sub-paragraph (1)(b) at a rate lower than that prevailing at the date of the current application; and
- (iii) sub-paragraph (2) would apply if that fee had been paid at the rate applying at that date,

the amount of the fee in respect of the current application shall be £554.

5. Where, in respect of any category of development specified in Part 2, the fee is to be calculated by reference to the site area—

- (a) that area shall be taken as consisting of the site area to which the application relates; and
- (b) where the area referred to in sub-paragraph (a) is not an exact multiple of the unit of measurement specified in respect of the relevant category of development, the fraction of a

unit remaining after division of the total area by the unit of measurement shall be treated, for the purposes of calculating the fee, as a complete unit.

6.—(1) In relation to development within category 5, 7 or 12(b) specified in Part 2, the area of gross floor space to be created by the development shall be ascertained by external measurement of the floor space, whether or not it is to be bounded (wholly or partly) by external walls of a building.

(2) In relation to development within category 5 or 12(b) where the area of gross floor space is not an exact multiple of 75 square metres, the area remaining after division of the total number of square metres of gross floor space by the figure of 75 shall be treated as being 75 square metres.

(3) In relation to development within category 7 where the area of gross floor space is not an exact multiple of 500 square metres, the area remaining after division of the total number of square metres of gross floor space by the figure of 500 shall be treated as being 500 square metres.

7.—(1) Where an application for planning permission includes more than one of the categories of development specified in Part 2 the fee for that application shall be calculated in accordance with the following provisions.

(2) Unless the application includes any of categories 6, 8 and 9 an amount shall be calculated in accordance with the provisions of Part 2 for each category of development included in the application and the total of the amounts calculated for each of the categories of development shall be the fee.

(3) Where the application includes any of categories 6, 8 and 9 an amount shall be calculated in respect of each category of development included in the application and the highest of the amounts so calculated shall be the fee.

(4) Where a building is to contain floor space which it proposes to use for the purposes of providing common access or common services or facilities for persons occupying or using that building for development within category 3 and for persons occupying or using it for development within category 5 and/or category 7 (such floor space being referred to below as “common floor space”), the category 5 and/or category 7 floor space shall be assessed, in relation to that building, as including such proportion of the common floor space as the category 5 and/or category 7 floor space in the building bears to the gross floor space in the building.

Note: Schedule 1 Part 1 has been amended by Regulation 2 (2) of the Planning (Fees) (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015 No. 398).

ANNEX B**The Planning (Fees) Regulations (Northern Ireland) 2015
Schedule 1 Part 2 Scales of Fees****Regulation 3**

Category of Development	Fee payable
1. All buildings (other than a single dwellinghouse)	Outline Applications £252 for each 0.1 hectare of the site area subject to a maximum of £10,066.
2. Single dwellinghouse	Outline Applications, £425
3. The erection of dwellinghouses	<p>(a) Reserved Matters Where the application is for a single dwellinghouse, £425.</p> <p>(b) Full Where the application is for a single dwellinghouse, £851.</p> <p>(c) Full and Reserved Matters For 2 or more dwellinghouses-</p> <p>(i) Where the number of dwellinghouses to be created by the development is 50 or fewer, £1,000 for two dwellinghouses and £357 for each additional dwellinghouse;</p> <p>(ii) Where the number of dwellinghouses to be created by the development exceeds 50, £18,136; and an additional £106 for each dwellinghouse in excess of 50 dwellinghouses, subject to a maximum in total of £265,806.</p>

<p>4. The extension, improvement or alteration of an existing dwellinghouse, including the erection of a building or the carrying out of other operations within the curtilage of a dwellinghouse for purposes ancillary to the enjoyment of the dwellinghouse as such, or the erection or construction of gates, fences, walls or other means of enclosure along a boundary or a curtilage of an existing dwellinghouse.</p>	<p>£285 for each dwelling.</p>
<p>5. The erection of industrial, commercial, community and other buildings, other than dwellinghouses or buildings covered by category 4.</p>	<p>Full and Reserved Matters</p> <ul style="list-style-type: none"> (a) Where no floor space is to be created by the development, £181; (b) Where the area of gross floor space to be created by the development does not exceed 40 sq. m., £181; (c) Where the area of the gross floor space to be created by the development exceeds 40 sq.m., but does not exceed 75 sq.m., £357; (d) Where the area of gross floor space to be created by the development exceeds 75 sq.m., but does not exceed 3,750 sq.m., £357 for each 75 sq.m., of that area; (e) Where the area of gross floor space to be created by the development exceeds 3,750 sq. m., £17,930; and an additional £106 for each 75 sq. m., in excess of 3,750 sq.m., subject to a maximum of £265,806.

<p>6. The erection, alteration or replacement of plant and machinery including telecommunications/ datacommunications equipment, a single wind turbine and wind farms.</p>	<p>(a) Where the site area does not exceed 5 hectares, £357 for each 0.1 hectare of the site area;</p> <p>(b) Where the site area exceeds 5 hectares, £17,824; and an additional £106 for each 0.1 hectare in excess of 5 hectares, subject to a maximum in total of £265,806.</p>
<p>7. The erection, on land used for land purposes of agriculture, of buildings to be used for agricultural purposes and for agricultural and commercial glasshouses.</p>	<p>£949 for each 500 sq. m. of floorspace subject to a maximum of £12,582.</p>
<p>8. The winning and working of peat.</p>	<p>£1,887 for each 5 hectares of the site area subject to a maximum of £33,971.</p>
<p>9. (a) The winning and working of minerals (other than peat). (b) The carrying out of any operations connected with exploratory drilling for oil or natural gas. (c) The use of land for the disposal of refuse or waste materials or for the deposit of material remaining after minerals have been extracted from land or the use of land for the storage of minerals in the open. (d) The carrying out of any other operation not coming within any of the above categories.</p>	<p>£365 per 0.1 hectare of the site area subject to a maximum of £40,828.</p>

10. The construction of single level car parks, service roads and other means of access on land used for the purpose of a single undertaking, where the development is required for a purpose incidental to the existing use of the land.	£252
11. (a) The continuance of a use of land or the retention of buildings or works on land, without compliance with a condition subject to which a previous planning permission has been granted (including a condition requiring the discontinuance of the use or the removal of the building or works at the end of the specified period). (b) An application to develop land without compliance with a condition subject to which a previous planning permission has been granted.	£252
12. An application for a material change of use.	(a) Where the application relates to a dwellinghouse, £692 for the first dwellinghouse and £252 for each additional dwellinghouse subject to a maximum of £12,582. (b) For any other change of use, £252 for each 75 sq. m. of floor space subject to a maximum of £12,582.
13. Any other applications not falling within categories 1-12.	£831.

Note: Part 2 Scales of Fees, category of Development 5(d) has been corrected by the legislative Correction issued March 2015.

ANNEX C**The Planning (Fees) Regulations (Northern Ireland) 2015
Schedule 2 Fees for Hazardous Substances Consent****Regulation 10**

<i>Category of Development</i>	<i>Fee payable</i>
1. Presence of hazardous substances consent on, over or under land.	<p>(A) (i) where section 111 (1) of the 2011 Act applies (new consent without previous conditions), £340;</p> <p>(ii) where section 111 (1) of the 2011 Act does not apply and the quantity specified in the application as the maximum quantity proposed to be present exceeds twice the controlled quantity, £427;</p> <p>(iii) in all other cases, £340.</p> <p>(B) a fee of £680 shall be payable to the council in respect of an application for the continuation of hazardous substances consent under section 116 of the 2011 Act.</p>



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