EXPLANATORY MEMORANDUM TO

THE TOWN AND COUNTRY PLANNING (FEES FOR APPLICATIONS, DEEMED APPLICATIONS, REQUESTS AND SITE VISITS) (ENGLAND) (AMENDMENT AND TRANSITIONAL PROVISION) REGULATIONS 2026

2026 No. [XXXX]

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Matthew Pennycook MP, Minister of State for Housing and Planning at the Ministry of Housing, Communities and Local Government, confirms that this Explanatory Memorandum meets the required standard.

2.2 Lucy Hargreaves, Deputy Director for Planning Development Management at the Ministry of Housing, Communities and Local Government, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Stephen Gee at the Ministry of Housing, Communities and Local Government can be contacted by email at the following address with any queries regarding the instrument: PDMCorrespondence@communities.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 These Regulations amend the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (S.I. 2012/2920) ("the 2012 Regulations"). They increase the fees for planning applications payable to local planning authorities, by varying amounts, with the aim of achieving cost recovery of approximately 90% of the estimated costs of processing each application. They also simplify the structures of some fee categories that have multiple thresholds.

4.2 These Regulations also introduce a flat fee of £310 for prior approval applications which do not currently attract a fee. This includes provision for a new prior approval for the installation or replacement of larger electrical substations, should this permitted development right be brought forward.

4.3 In addition, the Regulations correct an omission in the fee indexation provisions introduced in the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2023 (S.I. 2023/1197) ("the 2023 Regulations") to ensure that fees for mixed-use outline

applications for more than one category of development are subject to annual indexation in line with inflation, consistent with all other planning fees.

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 Ensuring that local planning authorities are adequately resourced is essential to delivering timely, high-quality planning decisions and supporting the Government's objectives for economic growth and delivering 1.5 million new homes this Parliament. Increasing planning fees so that they recover a greater share of processing costs is a key step towards improving local planning authority resourcing, enabling faster decision-making, higher service standards, and stronger overall performance across the planning system.

5.2 Planning fees are currently set nationally, but despite previous increases do not fully cover the cost of delivering development management (planning application) services. This funding shortfall limits local planning authority capacity, which can lead to delays and reduced service quality. The Government wants to reduce this funding shortfall and improve the financial sustainability for local planning authorities. The Government's 2026 consultation indicates that developers and landowners were, in general, supportive of fee increases provided they are accompanied by improved performance and greater certainty in decision-making.

5.3 The Planning and Infrastructure Act 2025 (c. 34) ("the 2025 Act") introduced new powers for local fee setting which will enable local planning authorities to set their own planning fees through a 'local variation' model. Under this approach, a national default fee will continue to apply unless a local planning authority chooses to set a different fee to reflect its costs. The increase to national fees through these Regulations, will provide an immediate uplift for all local planning authorities and establishes a more robust baseline for the operation of future local fee-setting arrangements.

Increase to national planning fees

5.4 These Regulations increase planning fees, by varying amounts, with the aim of achieving approximately 90% of the estimated costs of processing each application. The cost estimates are informed by benchmarking data from a 2025 survey undertaken by the Local Government Association and the Planning Advisory Service for the Ministry of Housing, Communities and Local Government, published at: https://www.local.gov.uk/publications/planning-application-processing-fees-survey-councils-august-2025

5.5 The survey found that no planning fee fully recovers the cost of determining the application, with funding shortfalls ranging from around 18% to 60%. The increases to fees in these Regulations therefore vary by application type so that each application achieves approximately 90% of estimated costs. For example, the fee for householder applications for alterations to an existing dwellinghouse increases by £27 (around 8%), from £548 to £575, while the fee for major section 73 applications increases by

£1,074 (around 52%), from £2,076 to £3,150. The maximum fee would increase by £85,975 (around 25%), from £427,537 to £513,512. All fees will continue to be indexed annually in line with inflation to maintain their real value.

5.6 The Government has decided to increase planning fees to approximately 90% of estimated costs as this provides a meaningful and immediate uplift in resourcing for all local planning authorities. Lower levels of cost recovery would not deliver a sufficient improvement in resourcing, capacity or performance across the system. Full cost recovery is not proposed for two reasons. First, a single national fee may result in over-recovery for some local planning authorities. Second, setting fees below full cost recovery preserves an incentive for authorities to continue improving efficiency, including through digitisation, streamlined processes and modern project management systems.

5.7 In addition to increasing fees, these Regulations simplify aspects of the structure across a number of fee categories. This includes removing baseline fees for certain larger-scale developments to support easier fee calculation and adjusting fee calculation thresholds for residential development from 50 to 49 dwellings to align with proposed medium-sized development categories. This change is being applied now in order to provide appropriate futureproofing.

5.8 The Regulations also align the fee banding for agricultural buildings (category 3) more closely with other non-residential categories, and simplify fee bands for applications for exploratory drilling (category 9), the winning and working of oil and gas (category 10), other operational development (category 11), and the disposal and deposit of waste materials (category 13). These changes make the fee structures clearer, more consistent, and easier to apply.

Fees for applications for prior approval

5.9 Applications for prior approval are required for certain types of permitted development granted under Schedule 2 to the Town and Country Planning (General Permitted Development (England) Order 2015 (S.I. 2015/596) ("the GPDO"). They allow local planning authorities to assess and approve details relating to specific impacts of a development such as transport and flooding, before work can proceed. While these applications are generally simpler than full applications, they still place a resource demand on local planning authorities who are required to assess these applications in line with statutory requirements.

5.10 With the exception of prior approval applications for new dwellings, which already attract a fee per dwelling, and prior approvals for telecommunications development which attracts a higher fee due to its additional complexity, most other prior approval applications attract the same flat fee, which will increase to £310 under these Regulations. However, some prior approval applications currently attract no fee at all, despite placing a comparable level of demand on local planning authorities in terms of time and resources. These include, for example, Class D (toll road facilities) of Part 9 and Class A (development by gas transporters) of Part 15 of Schedule 2 of the GPDO.

5.11 In addition, in September 2025, the Government consulted on Electricity Network Infrastructure: Consents, Land Access and Rights[1], which included a proposal to amend the permitted development right at Class B of Part 15 of Schedule 2 of the GPDO to allow for the installation or replacement of larger electrical substations with the proposal that this right be subject to prior approval in certain protected areas. In

[1] https://assets.publishing.service.gov.uk/media/688a1d6a6478525675739039/electricity-network-infrastructure-consultation.pdf

response to this consultation some respondents suggested if the proposed changes are brought forward, the prior approval should be subject to a fee.

5.12 In recognition of the comparable resource demands on local planning authorities, these Regulations introduce a flat fee for all prior approval applications that are currently free, by including a reference to any other application under Schedule 2 to the GPDO. A flat fee of £310 is considered to represent a reasonable and proportionate contribution towards the costs incurred by local planning authorities in processing these applications, and provides simplicity and consistency across the regime. The amendments made by these Regulations would also enable a fee to apply for prior approvals for the installation or replacement of larger electrical substations under Class B or Part 15 if this is brought forward in the future.

Correction of error to indexation provision

5.13 These Regulations correct an omission in the fee indexation provisions introduced in the 2023 Regulations, which meant that mixed-use outline applications for more than one category of development, would not be uprated annually in line with inflation. The amendment ensures that these fees are brought within the scope of the annual indexation regime, so that all fee categories are treated consistently and updated annually in line with inflation.

What was the previous policy, how is this different?

5.14 Under the previous policy, planning fees were set nationally at levels below full cost recovery, contributing to a funding shortfall for local planning authorities and constraining their ability to deliver timely, high-quality decision-making. Some prior approval applications did not attract a fee despite requiring a comparable level of assessment, and mixed-use outline applications for more than one category of development were not subject to annual indexation, resulting in inconsistent treatment across fee categories.

5.15 These Regulations increase fees to achieve approximately 90% of estimated costs, establishing a revised national default fee schedule which also simplifies certain fee structures to make them clearer, more consistent, and easier to apply. The Regulations introduce fees for prior approval applications that were previously free, ensuring a more consistent and proportionate approach. These Regulations also bring mixed-use outline applications for more than one category of development, within the annual indexation regime so that all fees are updated consistently in line with inflation.

6. Legislative and Legal Context

How has the law changed?

6.1 The power to charge fees for planning applications is contained in section 303 of the 1990 Act, which was substituted by section 199 of the Planning Act 2008 (c.29). Planning fees in England are currently set nationally by the Government in the 2012 Regulations.

6.2 These Regulations amend the 2012 Regulations as follows:

6.3 Regulations 3 to 11 amend the relevant regulations in the 2012 Regulations to increase all planning fees by varying amounts, with the aim of achieving approximately 90% of estimated costs for each application. The banding thresholds for certain housing-related applications have also been adjusted so that fees for residential development are based on schemes up to 49 dwellings, rather than 50 dwellings.

6.4 Regulation 4 amends regulation 14 of the 2012 Regulations, which prescribes the fees payable in respect of certain applications made under the GPDO for a local planning authority's determination as to whether prior approval is required. The effect of this amendment is to introduce a flat fee of £310 in respect of prior approval applications under the GPDO which do not currently attract a fee, by adding references to a reference to any other application under Schedule 2 to the GPDO. The amendment would also enable a fee to apply to prior approval applications for the installation or replacement of larger electrical substations under Class B of Part 15, should that permitted development right be brought forward in future.

6.5 Regulation 9 amends Regulation 18A(5) of the 2012 Regulations to rectify a previous omission so that fees for outline applications for more than one category of development are subject to annual indexation in line with inflation, consistent with all other planning fees.

6.6 Regulation 10 inserts new regulation 4A into Part 1 of Schedule 1 to the 2012 Regulations to introduce a flat fee of £825 for all permission in principle applications. The Housing and Planning Act 2016 (c.22) introduced permission in principle ("PiP"), an England-only form of planning consent for housing-led development which separates approval of in-principle matters from technical detail. A grant of PiP, when followed by a grant of technical details consent, results in full planning permission. At present, the fee payable for an application for PiP depends on site area and the category of development to which the application relates.

6.7 Regulation 12 makes related transitional provision. This includes provision to the effect that the annual increase in fees as provided for in regulation 18A of the 2012 Regulations applies to the fee amounts as amended by these Regulations from 1st April 2027.

6.8 Note that section 51 of the 2025 Act will amend section 303 of the 1990 Act to enable the Secretary of State to delegate to local planning authorities the power to set their own planning fees. The Government intends to implement this through a 'local variation' model, under which national fees will continue to apply unless a local planning authority chooses to set a different fee to reflect its costs. These Regulations do not implement the 2025 Act reforms, which will be brought forward through separate secondary legislation.

Why was this approach taken to change the law?

6.9 Planning fees are set out in regulations. Amending regulations is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 The proposals for all provisions in these Regulations were consulted on in the consultation *'Fees for Planning Applications'* which ran from 23 March 2026 to 18 May 2026. There were 173 responses to the consultation in total, of which 82 responses were from local planning authorities and 48 responses were from developers and landowners, other businesses and planning professionals. The government response to this consultation is available at: https://www.gov.uk/government/consultations/fees-for-planning-applications

Increase to national planning fees

7.2 The consultation received 167 responses on the proposed increase to national planning fees set at 90% of estimated cost, with a majority (59%) in support. Support was strongest among local planning authorities (68%), who viewed the proposal as an important step towards addressing longstanding funding shortfalls. Developers and landowners were more mixed but still broadly supportive overall (52%), particularly where higher fees would be accompanied by improved performance.

7.3 Some local planning authorities argued that fees should go further to achieve full cost recovery, while other respondents, particularly developers, raised concerns about the impact of higher costs and emphasised the need for clear links between increased fees and service improvements.

7.4 The Government has concluded that setting fees at approximately 90% of estimated costs represents a proportionate and balanced approach. This will provide a significant increase in resource for local planning authorities and should not place undue burdens on applicants, as fees typically represent a small proportion of overall development costs and improved resourcing should support faster and more reliable decision-making.

Fees for applications for prior approval

7.5 There were 123 responses to the proposal to introduce a new flat fee of £310 for prior approval applications, with 66% in support. Local planning authorities were strongly supportive (77%), reflecting the view that these applications require office time and should not remain unfunded. Developer and landowner respondents were broadly supportive in principle, subject to improvements in performance.

7.6 Some respondents raised concerns that a single flat fee may not reflect the wide variation in complexity between different types of prior approval, and suggested more graduated or banded approached. However, most respondents considered the proposed £310 fee to be broadly proportionate.

7.7 These Regulations introduce a flat fee for all prior approvals that were previously free of charge. We are also making changes to ensure a default flat fee of £310 is chargeable in respect of future prior approval applications. This approach provides a simple and consistent framework while ensuring a reasonable contribution towards the costs incurred by local planning authorities.

Fees for section 73 and section 73B applications

7.8 There were 138 responses on the section 73 fee structure, with mixed views on the current three-band approach (44% support; 38% oppose). Local planning authorities were more likely to consider fees too low, particularly for complex cases, while developers generally supported the existing structure for its clarity and proportionality. Some concern was raised that the proposed fee of £825 for section 73 applications for non-major development was too high and in some cases was higher than the equivalent full application fee.

7.9 On whether section 73 and section 73B applications should share the same fee structure, the majority of respondents (57%) were supportive, citing the benefits of consistency and simplicity. Some local planning authorities argued that section 73B applications could be more complex and may justify higher fees, while others noted that it is too early to determine the appropriate approach in practice.

7.10 Taking into account the responses received to the consultation, these Regulations retain the current banded structure for section 73 applications, but do not increase the fee for non-major section 73 applications in response to concerns raised about the level compared to full application fees. The Government intends to apply the same approach to section 73B applications. Fees for section 73B applications will be introduced through separate regulations at the same time as the introduction of regulations to implement section 73B.

Other measures

7.11 The consultation sought views on whether further structural improvements could be made to planning application fees. While a number of suggestions were received, they are not being taken forward through these Regulations. Instead, they will be considered as part of the wider programme of structural fee reform.

7.12 The consultation also sought views on the proposed planning fee surcharge for statutory consultees and on local fee setting. Responses to these questions will inform the ongoing development of policy in these areas, with further work and consultation to follow in due course.

8. Applicable Guidance

8.1 The Government has published guidance on Fees for Planning Applications at: https://www.gov.uk/guidance/fees-for-planning-applications. This will be updated and made available following the coming into force of this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is through increased planning fees, although this is not considered to be significant compared to overall development costs. Overall, businesses, charities or voluntary organisation who submit planning applications should benefit from improved resourcing for local planning authorities, which is expected to support more efficient service delivery and faster decision-making. This should help reduce delays and associated costs and support the timely delivery of projects.

9.3 The legislation also impacts small or micro businesses through increased planning fees. However, as with other business, small or micro businesses are expected to benefit from improved resourcing of local planning authorities, supporting more efficient service delivery and faster decision-making. No exemptions or mitigations are proposed, as the overall impact on such businesses is expected to be limited and it is appropriate that applicants meet the cost of processing their applications.

9.4 There is no, or no significant, impact on the public sector because the increase in planning fees provides additional resources to local planning authorities, supporting more effective and efficient processing of planning applications.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through routine engagement with the sector and key stakeholders.

10.2 The instrument does not include a statutory review clause for the reason that the Government has announced its intention to implement measures in the 2025 Act that will allow local planning authorities to vary or set their own planning fees. As the Government develops the details of this policy it will undertake a review of all planning fees.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 The instrument was initially laid before Parliament on 16th July 2026. It was withdrawn prior to formal consideration by the Joint Committee on Statutory Instruments and Secondary Legislation Scrutiny Committee. This amended instrument was laid on 1st September 2026.

11.2 The procedure for free issue has been applied as this instrument corrects an omission in S.I. 2023/1197 as set out in paragraph 5.13 and 6.5. The Ministry for Housing, Communities and Local Government have complied with the requirement to consult with the SI Registrar.

12. European Convention on Human Rights

12.1 The Minister of State for Housing and Planning, Matthew Pennycook MP has made the following statement regarding Human Rights:
"In my view the provisions of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment and Transitional Provision) Regulations 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").