POLICY NOTE

THE TOWN AND COUNTRY PLANNING (FEES FOR APPEALS) (SCOTLAND) REGULATIONS 2025

SSI 2025/124

The above instrument was made in exercise of the powers conferred by section 252 of the Town and Country Planning (Scotland) Act 1997 and all other powers enabling them to do so. The instrument is subject to negative procedure.

Summary Box

The Town and Country Planning (Fees for Appeals) (Scotland) Regulations 2025 set out the fees which Scottish Ministers can charge for appealing planning decisions.

Policy Objectives

It is important to ensure that the planning system is appropriately resourced. While most calls for additional resources financed through fees have been focused towards income for planning authorities, Scottish Ministers through the Planning and Environmental Appeals Division ('the DPEA') of the Scottish Government play a crucial role in making decisions on appeals. On the same basis, we consider that they too should be appropriately resourced through fee income.

Appellants enjoy the benefit of an appeal right where the planning merits are considered afresh on appeal by an independent decision maker. At present, the costs of running this appeals system (as a proportion of the DPEA workload) are borne by the taxpayer at large. We consider that appellants should bear a reasonable and proportionate share of such costs.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the The Town and Country Planning (Fees for Appeals) (Scotland) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

The introduction of fees for appealing planning decisions has featured in 3 public consultations in 2017[1], 2019[2] and most recently from February to May 2024[3]. Views have

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1 Places, people and planning - https://www.gov.scot/publications/places-people-planning-consultation-future-scottish-planning-system/

2 Planning performance and fees: consultation - gov.scot - https://www.gov.scot/publications/planning-performance-fees-consultation/pages/6/

3 Investing in Planning - https://www.gov.scot/publications/investing-planning-consultation-resourcing-scotlands-planning-system/

been sought on the principle of introducing fees for appealing decisions and the detail of how fee levels should be set.

Some respondents to the Investing in Planning Consultation stated their opposition to the introduction of fees for submitting a planning appeal. Those opposing the introduction of fees for appealing planning decisions considered that this could act as a barrier to justice and investment, and one respondent considered that introducing fees would create a two-tier system where only those who can afford to can appeal a decision.

Of those in support, many highlighted that this would help cover the administrative costs involved in administering the appeal process and that it may encourage the submission of better quality applications and collaboration with the planning authority to make proposals acceptable.

We consider it is important to ensure that the planning system is appropriately resourced and that applicants rather than the taxpayer contribute to the costs of the determination of appeals which has until now been provided free of charge.

Impact Assessments
The full range of impact assessments has been considered during the consultation process and in drafting these regulations. We sought views on draft impact assessments during the consultation, including our decision to screen out the following impact assessments: Data Protection Impact Assessment; Child Rights and Wellbeing Impact assessment; Consumer Duty; Equality Impact Assessment; Fairer Scotland Duty; Islands Communities Impact Assessment; and Strategic Environmental Assessment. The views provided in response to the consultation have not led to us change our decision and the impact assessments have been screened out and the relevant documentation completed.

Financial Effects
A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The impact of this policy on business is that an applicant who wishes to appeal against a planning decision taken by a planning authority will now be required to pay a fee in certain circumstances as set out in the regulations. It should be noted that this will only apply to a small proportion of proposed developments each year as recent statistics indicate that over 92% of planning applications are approved each year.

Scottish Government
Planning, Architecture and Regeneration Directorate

28 April 2025