

REGULATORY APPRAISAL

TOWN AND COUNTRY PLANNING, WALES

TRIBUNALS AND INQUIRIES, WALES

THE TOWN AND COUNTRY PLANNING (COSTS OF INQUIRIES ETC.) (STANDARD DAILY AMOUNT) (WALES) REGULATIONS 2005

Purpose and intended effect

1. The effect of these Regulations is to prescribe the increase in the daily rate charged by the Planning Inspectorate for services provided by Planning Inspectors in holding public inquiries in respect of Unitary Development Plans (UDPs), local plans and simplified planning zones. The daily rate will be increased by £61, from £618 to £679 in relation to an inquiry or other hearing which opens on or after 1 April 2005.

Background

2. Each planning authority in Wales is required to prepare a UDP for its area. This plan will be the development plan for each county council or county borough council and each National Park authority. On adoption, it will supersede any other development plan for all or part of its area including any structure or local plan. The UDP comprises a Part I (in which the authority sets out its strategic and general policies) and a Part II (containing more detailed policies and proposals). When an authority has prepared a plan, it must advertise the fact and must indicate, among other things, by when and to where objections to the plan may be made. Depending on the level and scope of objection, the authority may decide that a public inquiry should be held with a Planning Inspector holding the Inquiry and reporting, with recommendations, to the authority on those objections.
3. The local plan was the predecessor to the UDP and had a similar advertising and objection regime. While it is unlikely that there would be any further work required on local plans which could result in an inquiry being held into it, that possibility cannot yet be ruled out.
4. A Simplified Planning Zone ("SPZ") is an area of land designated by the local planning authority subject to a scheme granting planning permission for the types of development it specifies, subject to any conditions or limitations attached. An SPZ allows the developer or landowner to avoid delay incurred in determining planning applications for successive stages of development. It also provides certainty on what is permitted and flexibility to make changes within the framework of the scheme. It can also create development value in land, which can make project funding more likely. For local planning authorities, SPZs can be a means of allowing them to provide development where they wish it to happen and of generating private sector interest in the area. This can be enhanced by appending to the scheme arrangements for other necessary consents and, for example, details of possible financial assistance. The setting-up of an SPZ provides the publication of, and consultation on, the proposed scheme and objections to the scheme may be heard at a public inquiry.

5. Section 303A of the Town and Country Planning Act 1990, together with the National Assembly for Wales (Transfer of Functions) Order 1999, authorises the Assembly to recover from local planning authorities the costs borne by it in relation to the appointment of Inspectors to hold public inquiries into objections against, among other things, UDPs, local plans and simplified planning zones. Although the level of the daily fee is set by the Assembly, the actual recovery of the costs is carried-out by the Planning Inspectorate.
6. The direction contained in the Treasury Fees and Charges Guide requires Government Agencies to aim to recover the full costs of their rechargeable activities. The assessment of full cost recovery requires an analysis of all the Inspectorate's costs, including overheads and allocating them against the main areas of activity. These overheads include, for instance, accommodation, training, rent or purchase of IT equipment together with corporate costs eg Finance, support branch costs. As an Executive Agency, the Planning Inspectorate is subject to annual scrutiny by the National Audit Office of the propriety of its expenditure and the charges it imposes to recover its costs.

Risk assessment

7. Failure to implement the increase will mean the rate of recovery of costs will fall further behind the target referred to above. Should that happen there would be increased pressure on the Planning Inspectorate's running costs budget. The pressure would have to be met within existing baselines and that would be at the expense of other Inspectorate activities, including its ability to meet targets for determining planning, and other, appeals. This pressure would be further increased should the Regulations not come into force on the intended date of 1 April 2005.

Options

8. In view of the direction from the Treasury it is considered that the option of 'do nothing' is not available. Consequently there are two options available:
 - (i) an increase less than that proposed
9. This would involve the local planning authorities in paying a smaller increase but would increase the possibility of pressure on the Planning Inspectorate's existing budget and, consequently, on the resources available for its other activities. It would also fail to satisfy the Treasury's requirement of full cost recovery.
 - (ii) the increase as proposed
10. This would involve higher costs for the local planning authorities than the first option but would enable the Planning Inspectorate to achieve full cost recovery, thereby removing the risk of resources having to be diverted from any of its other activities.

Benefits

11. An increase less than that proposed would benefit the local planning authority only insofar as it would not have to pay as much to the Planning Inspectorate. That benefit would be short lived in that future increases to ensure full cost recovery by the Planning Inspectorate would have to be greater than that proposed now. The Planning Inspectorate would benefit to a certain extent with increased payments but failure to

secure full cost recovery could still have adverse implications for its resources and activities.

12. The increase as proposed would benefit the Planning Inspectorate by enabling it to continue providing Inspectors to hold inquiries into UDPs, etc (which would also benefit local planning authorities) without any detriment to that requirement and without any other impositions or effect on its resources.

Costs

Impact on local government

13. The Town and Country Planning (Costs of Inquiries etc) (Standard Daily Amount) (Wales) Regulations 2002 (S.I. 2002/2801) (W.269) made in 2002, increased the daily fee for 2003/04 and 2004/05 (based on 2000/01 prices) to enable full cost recovery by 2004/05 and the consultation paper introducing those increases made clear that those fee levels would be subject to annual inflationary increases. Early in 2004 the Welsh Assembly Government concluded that it would be inappropriate to increase the fee (by the rate of inflation) in April 2004 as local planning authorities would already have been through their budget cycle without making allowance for any increase in this fee. It was decided that by increasing the 2004/05 fee only, and making that increase effective from 1 April 2005, that would provide for full cost recovery, including allowance for inflation. By basing the increase on an inflation rate of 9.9% over the four year period 2000/01 to 2004/05 (RPI adjusted to exclude mortgage payments), that would mean an increase of £61 (from £618- £679). Introducing the increase from 1 April 2005 would also enable local planning authorities to make allowance for it in their budget cycle.
14. The Inspectors' costs are a minor part of the overall cost of the plan process to local authorities and the increase will incur very small additional expenditure for local planning authorities – inquiries average about 177 Inspector days (involving preparation work, holding the inquiry and writing up his/her report), which means that the increased costs will be approximately £10,800 (177 days x £61) per authority for an inquiry that falls in 2005/06. Such inquiries happen about once every 5 years for each authority.

Impact on business

15. Should the increase proceed there will be no impact on business. Should the increase not proceed it is possible that business could be affected by the inability of the Planning Inspectorate to process appeals within target because of the pressure that failure to achieve full cost recovery would exert on its budget.

Competition assessment

16. The proposed increase in the standard daily amount will have no effect on competition.

Consultation

With Stakeholders

17. On 4 August 2004, officials issued a letter to the Chief Executives and Chief Planning Officers of all local planning authorities in Wales, the Royal Town Planning Institute in Wales, the Royal Institution of Chartered Surveyors in Wales, the Planning Officers' Society Wales and the Welsh Local Government Association seeking their views on changes that the Welsh Assembly Government proposed to make to regulations to increase the standard daily amount charged for inquiries into UDPs etc. by £61. The letter explained how the increase had been calculated and enclosed a copy of the draft Regulations.
18. Responses were requested by 29 September 2004 and 6 were received – from the Snowdonia National Park Authority, the Council of the City and County of Swansea, the Vale of Glamorgan Council, Gwynedd County Council, the Royal Town Planning Institute in Wales and the Welsh Local Government Association. There was the expected opposition not only to the increase but also to the principle of local planning authorities being charged anything at all for having to participate in the development plan process. There were also complaints about the level of this increase not being offset by a corresponding increase in the level of fee that local planning authorities can charge for handling applications for planning permission.
19. The principle of local authorities paying for the use of Inspectors holding the types of inquiry referred to is long established and was not the subject of the consultation exercise. In view of the Treasury's requirement to recover full costs, the increase is necessary and the amount of increase proposed is necessary. The purpose of the fee for planning applications is to cover the authorities' costs of processing the planning application for which the fee is charged and, consequently, has no relationship to the fee charged for UDP inquiries. In the light of the above comments, there is no reason not to implement the increase or to alter the proposed fee level increase.
20. The draft legislation takes forward the £61 increase on which consultation was based.
21. No changes were made to the draft Regulations following the consultation.

With Subject Committee

22. The proposed Regulations were notified to the Environment, Planning and Countryside Committee, via the rolling programme of forthcoming legislation on 6 October 2004 (item No.23). They were not identified for formal scrutiny.

Review

23. The standard daily amount will be reviewed annually, with the intention to subject it to any inflationary increase.

Summary

24. The effect of the proposed increase would be borne by local planning authorities but would enable the Planning Inspectorate to continue providing Inspectors to hold inquiries

into UDPs, etc without any detriment to that requirement and without any other impositions or effect on the Inspectorate's resources.