Notes to MIF Members

The deadline to send comments back to Mobile UK is Tuesday 28th May

The consultation deadline is Thursday, 31st May 2024.

Please note that this is an ONLINE SURVEY, so there will only be an opportunity to comment where commentary is suggested.

Consultation Weblink


Summary

This consultation sets out a range of options that could improve the capacity of the Scottish planning system, particularly planning authorities, in the coming years.
Overview of Proposals

Ongoing Action

- Introduction of Chief Planning Officers
- Continued collaboration through High Level Group on Planning Performance, Applicant Stakeholder Group and Key Agency Group
- Embed role of the National Planning Improvement Champion
- Revamp performance monitoring through the introduction of the National Planning Improvement Framework
- Digital innovation
- Move to longer development plan review period
- Extending permitted development rights
- Introducing masterplan consent areas
- Provision of student bursaries
- Toolkit to encourage people into planning
- Consider a graduate apprenticeship scheme
- Encouraging practice based planning degrees
- Developing a skills strategy for planning
- Promotion of planning in schools
- Training for elected members

New Proposals

- A central planning hub to support authorities
- Short term working group to look at proportionality of assessments
- Taking stock of the use of processing agreements
- Improved cross council working to better align consents
- Developing templates for Section 75 agreements
- Devolving power to authorities to locally set planning fees
- Introducing an annual inflationary increase in planning fees
- Increasing discretionary charging including processing agreements, sites not allocated in the development plan and masterplan consent areas
- Introducing fees for appeals
- Service charge for submitting applications online
- Considering the potential to alter the threshold for applications under the Electricity Act
- Introducing a fee category for hydrogen projects
- Increased fees for prior notification and approval categories.
- Consistent approach to fees for shellfish farming.
About the Mobile Infrastructure Forum

The Mobile Infrastructure Forum is comprised of four participant organisations that operate large-scale portfolios of shared macro mobile infrastructure throughout the UK.

The members of the Mobile Infrastructure Forum are Cellnex UK, Cornerstone, Mobile Broadband Network Limited (MBNL), and the Wireless Infrastructure Group (WIG).

Introduction

The Mobile Infrastructure Forum welcomes the opportunity to respond to the Scottish Government’s consultation on an Efficient, Effective and Well-Resourced Planning System.

Summary of Response

- To be completed.
Mobile Infrastructure Forum Response

The Mobile Infrastructure Forum and its members have the following comments and feedback to offer on the current document for consideration:

**Question 1: Which assessments might benefit most from improved proportionality?**

The question is far too broad and, as such, is unable to take into account other matters that impact upon the industry. MIF members have highlighted a growing insistence from local authorities for alternative site justification, even where an MNO is already operating from an existing site. The continuing lack of resources and growing skills gap that this has caused often means that requests for alternative sites are made without an adequate understanding of the radio physics and/or impact on the existing networks which will have been factored into industry assessments. Further, improved proportionality fails to take into consideration operator requirements to upgrade existing sites for operational reasons, such as adding capacity and enhancing service levels, which invalidate alternative site options. If a proposal has also been deemed acceptable in terms of siting and design, it would nullify the need for alternative sites. It should also be noted that appeal decisions have provided rulings that cite alternative site justifications should carry less weight.

**Question 2: To what extent do you agree that processing agreements are an effective tool for creating certainty in planning decision making timescales?**

**Partially agree**

In general processing arrangements, or Planning Performance Agreements (PPA), are used only sparingly within the mobile industry as individual applications do not fit the designation of major development. As such, in their present form they would be considered too expensive and expansive to fit within delivery cost models. Individual local-level developments would normally utilise pre-application engagements.

However, while on an individual application level, they would not be suitable on a more strategic level, such as projects like the Shared Rural Network, there could be situations where PPAs could be considered. This could also involve an example where an operator/provider could be submitting multiple applications within a designated area and within a specified timeframe.

One example of the use of PPA has been provided by Cellnex in England to support engagement with challenging LPAs for the Brighton Mainline rail coverage contract. In this instance, the councils indicated that they would not be able to adequately resource ‘standard’ pre-application engagements. Cellnex negotiated the management of a single point of contact for all the required sites, dedicated meeting dates, and response timescales with a clear steer towards the prospect of planning success.

Cellnex found that application decisions were made relatively quickly on the back of the PPA and that in all cases the outcome did not deviate from the support and concerns expressed throughout the PPA. Therefore processing agreements offered more certainty around the levels and frequency of engagement, quality of service, likely outcome (positive or negative) and decision timescales.
Question 3: Do you consider that current resourcing issues are impacting on the use of processing agreements?

Partially agree

As outlined above, the use of processing arrangements (PPAs) is rare within the industry. However, the evidence provided by MIF members is that where they have been used, they have been relatively successful, but it should be noted that the use of PPAs has often come about because of the lack of resources within the planning system. The suggestion should not be that PPAs become the norm simply to inject additional resources into the system, as it is important that the planning system is properly resourced at the baseline.

It should also be noted that the permitted development for mobile infrastructure deployment has shown to be the most effective solution for deployment. This provides certainty to the industry and in providing set timescales also means that it provides an effective tool to deploy mobile infrastructure quickly and effectively and reduces the time and resources for both the LPA and operators, which in turn enables greater investment in mobile networks.

Question 4: Would you be prepared to pay a discretionary fee to enter into a processing agreement?

Yes

As outlined above, the industry is prepared to pay fees for such agreements where appropriate. However, this is on the explicit understanding that this provides for improved resourcing on the side of the LPA with agreed service levels to facilitate better engagement, quicker turnarounds, quality of service, and ultimately better outcomes (positive or negative).

It should be reiterated that processing arrangements should only be considered for larger projects or in cases where a large number of applications can be grouped together over a designated timescale (e.g., the Shared Rural Network).

Question 5: What additional actions can we take to improve certainty in the planning process?

It is highly important to the industry that LPAs provide consistent pre-application advice, with more standardised validation requirements. This should be the foundation of any arrangement seeking to charge fees to the industry. It provides more certainty to the industry and facilitates better outcomes.

MIF members have reported that on too many occasions, LPAs have provided limited added value, for instance, simply quoting planning policy rather than providing useful advice for which operators/providers will already be cognizant.

Pre-application engagement, whether through normal channels or Processing Agreements, has to be collaborative and seek to achieve a position where
development can be supported, unless there are clear planning reasons not to support.

**Question 6: Do you have further ideas on opportunities for streamlining, alignment or standardisation?**

The use of delegated powers is encouraged by the industry. However, these powers must be used on the basis of making decisions that, when contentious, are based on exploring solutions with the industry to make an application suitable. They cannot and should not be utilised simply to reject an application to meet targets or time-limited deadlines. MIF members have raised concerns in previous consultations about decisions being made that have not reflected earlier discussions or where options for further engagement have not been sought.

Further to the above, delegated powers must also be balanced so that contentious decisions are not simply pushed to, or ‘called in’ to, Committee. This practice has often been used when dealing with issues which are not material considerations, such as health and safety concerns, and for which all necessary ICNIRP (International Council on Non-Ionizing Radiation Protection) and related documentation have been provided and meet all policy requirements. In such cases, and where a negative decision has been arrived at, it is often the case that the decision is overturned at appeal and/or within the courts. This only adds time and cost to both the industry and the LPA and delays both the deployment of mobile networks but also inward investment into areas.

The industry already offers a degree of standardisation for consistency as part of its planning submissions, such as the provision of a Supplementary Information Template (SIT). However, we understand that there can be some criticism at times of the information within the SIT, and sometimes, the industry provides too much information and sometimes too little. As an industry, MIF is willing to work further with LPAs / Scottish Government to help standardise industry information further if this provides a better framework for LPA decision-making and consistency.

It is also important that the Scottish Government offers regular reviews of Planning Law to ensure that it evolves alongside the technology of mobile communications and that the industry can adapt to current and future demand. With data demand growing 40% year on year and the growth of the Internet of Things (IoT), it is expected there will be 30 billion connected devices globally by 2030 (up from 15 billion today). Further, expectations on the industry to deliver 5G Standalone to the majority of populated areas and the rollout out of the Shared Rural Network will only precipitate increased use of the planning system. Planning regulations need to be kept up, and resourcing must be planned with this in mind.

Additionally, Scottish planning guidance on telecommunications, which was recently updated (replacing PAN62), must keep pace with technological advancement in the mobile sector and how this impacts the planning system. This guidance has to be regularly updated in collaboration with industry representations, such as MIF, to ensure it remains up-to-date and positively supports LPA decision-making and that LPAs utilise this guidance in their determination of applications.

Commented [SM1]: There must be a better way to engage and collaborate with statutory consultees like NatureScot and Historic Scotland etc (whom also need resource).

Currently this is messy (pre-app and mid-determination) and if there was a process to front load it it would mean better apps come forward and would negate the resource intense cycle of apply, consult via LPA, respond, provide more info to LPA, consult via LPA, respond over and over again...

Direct engagement with Stat consultees would save time and resource for all parties.
Also, there must be a better way to engage and collaborate with statutory consultees like NatureScot and Historic Scotland etc (who also need resource).

Currently this is messy (pre-app and mid-determination) and if there was a process to front load, it would mean that better applications would come forward and would negate the resource intense cycle of apply, consult via LPA, respond, provide more info to LPA, consult via LPA, respond over and over again. Direct engagement with Stat consultees would save time and resource for all parties.

Question 7: Are there any skills actions which you think should be prioritised?

We support all the initiatives set out.

Question 8: Are there any skills actions not identified which you think would make a significant impact?

Telecoms skills and awareness are important within the planning process to enable planners to engage with the industry and process applications. The industry is concerned that the planning system's stretched resources, age demographics, and limited opportunities are resulting in a dramatic skills loss, which is impacting both retention and throughput into the system.

The educational system should put a higher priority towards promoting the role of town planning. This must happen much earlier in the school curriculum.

It is not only town planners that require adequate training. The industry is also worried about the lack of awareness and understanding from elected representatives about both how mobile infrastructure works but also the societal and economic benefits it provides. This is compounded by an adversarial planning system that does not incentivise elected representatives to support mobile applications against public objections, often made upon equally limited awareness and understanding.

Industry initiatives such as Mobile UK’s Live Better Connected Campaign provide a number of resources to councils to better understand mobile connectivity, but this could be better disseminated and or replicated by local authority bodies such as COSLA, LGIU and others. LPAs should also look to use existing support that exists through other bodies like PAS (Planning Aid Scotland) which already provides this type of support to Councils and Community Councils.

The telecoms sector is relatively technical with many technical matters that dictate siting and design that Officers see in planning applications; education on those technical aspects would greatly help, so that Officers are better placed to consider telecoms applications.

More education on how telecoms infrastructure aligns with other Scottish Government economic and strategic policy imperatives (Digital Strategy) may also assist in weighting of material considerations in decision making.
Question 9: Do you think that the concept of a 'planning hub', modelled on the Building Standards Hub would support authorities and deliver improvement in the system?

Partially agree

The industry is supportive of any initiative across LPAs that helps share best practices and achieve better outcomes and consistency in planning and decision-making. A separate body of technical experts or overflow resources could be beneficial.

However, it is not clear how a resource hub of technical and other experts might be resourced if there is already a recruitment issue across Scotland. MIF members have raised concerns that there is not enough information as to how such a hub would work proportionately across several councils and any demand on the hub.

Suggestion

An option would be for the group of authorities to consider the types of technical skills or specialisms they lack within their departments and collectively agree on what should be a shared resource(s) and needed in a planning hub. So, for instance, if each LPA considers it lacks an ecologist to provide specialist guidance on planning applications but does not have a full-time need for such a post or cannot afford to fund such a post, they collectively fund that specialization via the hub. Such a resource could, in practice, be a third-party resource (specialist contractor) where it remains wholly independent, and there is no commercial conflict of interest.

A possible alternative would be for LPAs to share resourcing and expertise that already exists across the authorities and have a recharging process, for instance, if one authority has an ecology expert but another doesn’t, then that resource can be offered to another LPA as a potentially shared resource, where that LPA considers the resource is available for sharing. The lending LPA would charge out that service to the LPA wishing to use that service. The lending LPA could then potentially reinvest that payment into its planning service, which, if the shared demand (paid) increases, might mean they employ a second ecologist (or other town planning specialist) and become a centre of excellence on ecology matters across the group LPAs. Another LPA may have experts on other matters like telecommunications or retail, in that way they share out that resource for a charge. This mechanism may mean that each LPA could become a centre of excellence for some technical aspects of the planning service across the group of LPAs, but in a way that this shared resource is partially funded by each LPA as part of the use and recharge process.

Question 10: Are there other ways a hub could add value and provide support in the short and longer term?

MIF members have indicated that a planning hub could be a collaborative undertaking. The industry would be open to supporting such an initiative to help local planning authority planners better understand ‘new or evolving areas’ such as 5G and associated...
operational and technical considerations or the challenges in delivering connectivity to very remote rural communities.

The industry already provides awareness campaigns such as #5GCheckTheFacts and Live Better Connected (via Mobile UK). These campaign resources are available to local authorities, and Mobile UK and its partners have indicated that as part of these campaigns, they are willing to engage with local authorities to raise awareness and understanding.

We offer this suggestion because some LPA planning teams may not have the expertise to understand these technical issues, which can be overlooked when weighing up the merits of some planning applications.

There may also be an opportunity to access resources through other bodies, such as PAS (Planning Aid Scotland).

**Question 11: Which of the options do you think is most suitable, and why?**

**Within a host authority**

The host authority would be best placed to support this as they would be better aligned to local resourcing issues and have established LPA relationships.

**Question 12: How do you think a Planning Hub could be resourced?**

While a decision on resourcing is ultimately a policy decision for the Scottish Government, it is understood that planning fees might be a part of that consideration. As per our previous answers, the industry is willing to entertain such a consideration, but the increase in fees must facilitate better resourcing, outcomes and decision-making timescales.

Please also note previous comments regarding a use and recharge process for existing specialisms across a group of LPAs, as discussed in Question 9.

**Question 13: Do you agree that planning fees should increase annually in line with inflation?**

**Partially agree**

It is not unreasonable to suggest annual amendments to potential planning fees to account for inflation; however, much like pre-application fees, they should be fixed and set nationally to ensure consistency and certainty and to discourage increases that go beyond cost recovery.

**Question 14: Is a calculation based on the 12 month Consumer Price Index the most appropriate mechanism?**

**Partially Agree**

RPI is a more appropriate index.

**Question 15: Should an annual inflationary increase apply to:**
iii. No view

Question 16: What would be your preferred approach to how planning fees are set in the future?

Planning Fees should be set nationally by the Scottish Government.

Locally set planning fees could lead to an unbalanced, inconsistent and uncertain approach to fee generation across Scotland and the UK. Fees should not become an economic development tool for a number of potential reasons, such as:

- A Council with significantly worse financial health compared to a neighbouring Council may look to increase fees to raise greater fee returns, but this may actually disincentivise development/investment in the Council area, so the Council loses out.
- LPAs may deliberately take a tactical approach to the fee structure, e.g. an urban authority may consider raising fees for housing development substantially, knowing that’s the type of development likely to be the greatest pressure on their planning resource, a rural council may increase agricultural fees to reflect a greater volume of such applications in those areas. This disproportionately affects certain development types.
- An LPA may increase fees as a disincentive to types of development they wish to keep out of their Council area or for those types of development that might be perceived as contentious, such as 5G telecommunications developments. There is a potential risk that some LPAs could disproportionately target certain forms of development through higher fees.

Question 17: Are there key principles which should be set out in the event that fee setting powers are devolved to planning authorities?

MIF does not support fee setting powers being devolved to planning authorities. Please note our answer to Question 16.

NB: We cite here that there may be scope for the Council to charge more for an “accelerated planning service” which is being considered in England [we can offer our representation to DLUHC].

Question 18: What other processes that support the determination of a planning application could authorities be given powers to charge at their discretion?

A discretionary charge to deal with minor material variations and a fee for the discharge of conditions could be considered; if the latter is set within a timescale, the LPA has to make a decision on any such conditions. Paying higher fees must result in a benefit to the applicant, in these cases, turning around quickly minor changes to schemes and speedier discharge of conditions.

Question 19: Do think the circumstances where a refund can be requested is set out as part of any published information regarding the introduction of a discretionary charge?
Yes

Question 20: Do you agree with the principle that authorities should have discretionary powers to increase fees for a proposal on an unallocated site within the development plan?

No view

Question 21: Do you agree that planning authorities should be able to recoup the costs of preparing a Masterplan Consent Area through discretionary charging?

No view

Question 22: Do you agree with the types of appeals that should incur a fee?

No

Question 23: Do you agree that setting the fee for applying to appeal the refusal of planning permission (to either DPEA or the planning authority) is set as a percentage of the original planning application fee?

Strongly Disagree

Appeals should not incur a fee. The existence of a fee could result in incentivising an LPA to reject an application in order to generate further fees revenue.

An alternative option could be to consider that where the applicant has engaged in meaningful pre-application engagement and paid a fee, they are excluded from any subsequent LRB appeal fee, if their application has been refused.

Question 24: If a percentage of fee approach to appeal charging was considered most appropriate, what level do you consider would be most appropriate to reflect volume of work by DPEA or the LRB?

30%

As an additional point, there is a strong argument that telecoms shouldn’t go through the LRB process but default to DPEA. Telecoms can be emotive due to unfounded health fears and this can lead to emotive objection and pressure on Cllrs from constituents - that can lead to poor planning decisions. We would ask that consideration/consultation be undertaken on this suggestion.

Question 25: Do you agree that an authority should consider waiving or reducing an appeal fee where they have offered such a waiver on the related planning application?

Strongly agree
Question 26: Do you have views on how a service charge for applying for planning permission or a building warrant online could be applied?

MIF members consider this to be a reasonable proposal if it ensures that the service is modernised and efficient and reflects changes already made to the English Planning Portal.

Question 27: What other options are there to resource the operation and improvement of the eDevelopment service?

No comment

Question 28: Should the current threshold of 50MW for applications for electricity generation which are to be determined by authorities be altered?

No view

Question 29: Should different thresholds apply to different types of generating stations?

No view

Question 30: What would be the resource implications of increasing the threshold for the determination of applications for onshore electricity generating stations?

No Comment

Question 31: If Scottish Government were to make a voluntary contribution equivalent to a percentage of the offshore electricity fee to authorities, what level of contribution would be appropriate to support some recovery of costs? Please provide justification for your answer.

No comment

Question 32: Should we introduce a new category of development for applications for hydrogen projects? If so, how should these fees be set/calculated?

No view

Question 33: Are there different considerations for hydrogen production when compared with proposals which are concerned only with storage and distribution?

No view

Question 34: Do you agree that the standard £100 which applies to most prior notification and approval applications is appropriate?

No
It should be noted that telecommunications developments that require Prior Approval of the LPA are already subject to a higher fee of £500.

Certain forms of outright permitted development require prior notification to the LPA under Class 67 of the General Permitted Development Order (GPDO), such as adding antennas to an existing communications mast. The LPA has no responsibility to determine such notifications or to even respond at all (although encouraged to do so if they have particular concerns or questions about the permitted development rights). These forms of telecommunication prior notifications attract no fee, and this should remain the same.

Question 35: Are there particular PDR classes where you think the current fee should be amended? If so, please explain why that is considered to be the case.

Telecommunications developments that require the Prior Approval of the LPA are subject to a fee of £500, which is the same fee as a planning application. There is no reason or rationale to increase the fee for a Prior Approval telecommunications application.

Question 36: Would a reduction of the current fee (£200 per 0.1 hectare) be an appropriate approach to resolving this issue?

No comment

Question 37: What would you consider to be a reasonable fee for shellfish farm applications? (Please elaborate on your answer using an average shellfish farm development (5 x 220m twin-headline longlines at 20m spacing with 30m end moorings) as an example.)

No comment

Question 38: Which proposal would you most like to see implemented?

MNOs and MIF members’ greatest concern is inadequate resourcing within the planning system and its subsequent negative impacts, many of which have been mentioned in this response.

Therefore, it is important that the proposals here are primarily designed to significantly increase the availability of planning staff with and across the LPAs, enabling quicker, more collaborative, more informed, and outcome-driven planning services.

Question 39: Do you have other comments on the cumulative impact of the proposals?

No comment

Question 40: Do you have other ideas to help resource the planning system?

Please set out how you think the proposal could be resourced.

MIF members believe that greater collaboration with industry and the private sector is an important way to support the planning system. Those industries that deliver a
specialist service, like telecommunications, have specialist delivery, acquisition, technical and town planning expertise, and this consultation raises the prospect of opportunities for industry sectors to offer learning and awareness sessions to Council officers and representatives. Further, as has been highlighted throughout this document, the industry offers several resources that are available to Councils through its #5GCheckTheFacts and Live Better Connected campaigns. The closing of the knowledge gap in LPAs will lead to better informed planning decisions.

Planning teams in LPAs should also seek advice and expertise from elsewhere in the local authority, such as Digital Champions, who may already be engaged with telecommunications operators or the industry. Digital Champions should have an active role in telecommunication application decision-making.

Ultimately, any ideas or proposals that will assist LPAs in better understanding the telecoms industry’s requirements and better weigh up the public benefits of telecoms applications will garner positive support from the industry.

**Question 41:** Please provide any information on the potential impacts of our proposals to assist with the preparation of the following impact assessments:

Large-scale investment in mobile infrastructure is needed to meet the demands of a growing population, the ever-increasing use of digital devices, and the UK and Scottish Government’s connectivity targets.

The local planning system too often acts as a barrier to this investment. This makes the economy weaker and society less inclusive. The industry has provided evidence here and in previous submissions that the entire planning system is dysfunctional, and this can be expected to worsen if adequate resourcing is not made available to the system, which itself leads to:

- Planning departments have experienced a significant funding squeeze
- There is a workforce crisis in the planning profession
- There is uncertainty about planning policy and delays in decision-making

Mobile networks need non-stop investment and demand for fast and reliable mobile connectivity is increasing:

- Our population is getting larger. Around 7 million more people are expected to live in the UK in 2036 than they did in 2021.
- Use of digital devices is growing rapidly. The number of Internet of Things (IoT) devices forecast to almost double between 2019 and 2030 to reach 30 billion globally.
- Mobile only homes and mobile only internet accessibility is growing. With 21% of adults using their mobiles as their only means of accessing the internet.

The economic and societal benefits of mobile infrastructure

- The investment of MNOs generates £5 for every £1 invested and fosters growth and innovation across both private and public sectors.
• The shift to 5G alone is projected to increase UK productivity by over £150bn by the year 2030.
• The public services that are under the greatest strain will benefit from mobile connectivity. One study has calculated telemedicine has the potential to free up 1.1m GP hours per year.
• Average mobile phone costs have been falling over time and mobile connectivity makes up less than 2% of household weekly spending.
• 21% of people use a mobile device as their only route to the internet

The following policies will improve the planning system and the rollout of mobile infrastructure:

• Increase funding for planning services—a range of policies are in place to combat this, but they need to be delivered, and additional financial support is needed.
• Recognise the importance of mobile infrastructure – building super squads of mobile infrastructure specialists, creating barrier-busting taskforces, fast-tracking planning in key growth areas and exploring mobile connectivity considerations in redevelopments.
• Hire Digital Champions to support the planning process – helping to align decision-making within local authorities around digital connectivity, and acting as a single point of contact for the mobile infrastructure industry.
• Do more to attract and retain talent – local authorities, government departments and professional bodies should build upon programmes like Pathways to Planning; steps to reverse recent pay erosion for planning professionals will help to retain talent.
• Improve policy frameworks – reviews of the National Planning Policy Framework should be delivered as soon as possible, given specific consideration given to telecommunications.
• Foster proactive digital leadership within councils – by working with local government representative bodies to ensure debates around local infrastructure are evidence-based.