

WEST DUNBARTONSHIRE COUNCIL

Report by Planning, Building Standards and Environmental Health Manager

Planning Committee: 11 October 2023

Subject: Scottish Government Building Warrant Fees Consultation

1. Purpose

- 1.1 To seek agreement of the Committee to submit a response to the Scottish Government consultation on Building Warrant Fees.

2. Recommendations

- 2.1 It is recommended that the Committee agree the proposed Council response set out in Appendix 1.

3. Background

- 3.1 This consultation forms part of the work undertaken by the Verification Delivery Model work stream, which is one of the seven work streams being directed by the Building Standards Futures Board. The consultation seeks to obtain views on proposed increases to the building warrant fees required to deliver change to strengthen the building standards system and the development of a new building warrant fees model in Scotland. It intends to gather views and opinions from a range of stakeholders, construction sector organisations and businesses, and the general public.

- 3.2 The consultation was published on 21 July 2023 and closes on 24 October 2023.

4. Main Issues

- 4.1 The consultation: [Building Warrant Fees: consultation - Scottish Government consultations - Citizen Space](#) covers four main areas, as follows:

- Overview of building warrant fees
- Building warrants fees for High Risk Buildings (HRBs)
- Local authority building standards enforcement
- Devolved building warrant fees

- 4.2 The proposed changes outlined in the consultation aim to increase the building warrant fee income for building standards verifiers to sustain, strengthen and improve the system in Scotland. This will include raising additional income to support the proposed changes to the building standards system, brought through the work of the Futures Board work streams, which put an additional resource requirement on verifiers,

certifiers and the Scottish Government Building Standards Division. It is intended that it will introduce a building warrant fees model that can be used flexibly in the future and put in place an annual uplift across all fees, initially for a 3-year period.

4.3 The consultation seeks to obtain views on an increase in building warrant fees and on increased fees specifically for new and enhanced verification requirements for High Risk Buildings, to support the Building Standards Hub, enhanced Scottish Government Building Standards Division (BSD) monitoring and auditing and if the local authority Building Standards enforcement role should be funded by building warrant fees. It also seeks views on whether building warrant fees should be devolved or set nationally.

4.4 The proposed response to the consultation paper is set out in Appendix 1 and comprises of 12 questions related to:

- Part 1: Building Warrant Fees
- Part 2: High Risk Buildings
- Part 3: Building Standards Enforcement
- Part 4: Devolved Fees
- Part 5: Impact Assessments

4.5 Part 1: Building Warrant Fees

The building standards system in Scotland operates under the Building (Scotland) Act 2003, introduced in 2005. Verifiers are appointed by Scottish Ministers and the 32 local authorities are currently appointed to deliver the building standards service in their own geographical areas. Their role is to protect the public interest by providing an independent check of applications for building warrants. The current verification service fee structure was initially established in the Building (Fees) (Scotland) Regulations 2004. Building warrant fees are set on a sliding scale and are based on the 'value of work' of the project being undertaken. In July 2017 there was a change to the building standards fee levels to increase the income of the system to achieve full cost recovery for verification. Before that, the fees had not been changed since 2005.

4.6 Building warrant fees are used by verifiers to deliver the building standards verification (building warrant) service. Funding is also provided via Grant Aided Expenditure calculations (GAE) to support the building standards statutory enforcement role. The verification service is intended to be self-financing and as such, it is expected that fee income should cover the cost of providing the verification service. It is however, at the discretion of local authorities how the fee income is used to fund the verification process, to meet the requirements of Scottish Government's Building Standards Performance and Operating Frameworks for Verifiers.

- 4.7** A number of changes to the building standards system are currently being developed through the Building Standards Futures Board work streams. It is intended that these changes will strengthen and sustain the building standards system and will be introduced over the next few years. It is crucial that sufficient funding to local authority verifiers to prepare accordingly as the proposed changes will place an additional resource requirement on verifier staff, in relation to cost and time. Work is being progressed through four main work streams: Compliance Plan Approach for High Risk buildings; the Verification Delivery Model Working Group – the creation of a permanent Central Building Standards Hub (BSH) which would support delivery of the verification service such as the Scottish Type Approval Scheme (STAS, Technical & Procedural Information Papers and the Customer Dispute Resolution Process); the Digital Transformation work stream is investigating options for the digital transformation of the building standards system in Scotland; and the Workforce Strategy work stream - sustainable workforce, skilled workforce, professional framework, and a profession for everyone.
- 4.8** The Scottish Government Building Standards Division (BSD) commissioned two linked research projects on the building standards fees system to review the building standards income and level of reinvestment in service delivery, and to provide a building warrant fees model, which is flexible to allow changes to building standards fees over a 3-year period.
- 4.9** The proposal to increase fees will also introduce requirements for enhanced monitoring, auditing and reporting by the BSD to provide assurance to Scottish Ministers that the strengthened system is being implemented and delivered as planned by local authority verifiers. The resources needed to support the implementation phase and for further development of the system will also be considered with the fees research providing a breakdown of the likely increased future cost of the building standards verification service. It also identifies potential increases to building warrant fees to fund the proposed changes.
- 4.10** The consultation seeks comments on the proposals to increase fees across all 'value of work' bands, add an annual inflation uplift and introduce a new fee calculation model that allows for future adjustments within the 3 year lifespan of the model that may be made on the basis of further research, evidence and reporting. The Council's response is supportive for the increase of building warrant fees in line with inflation especially if the verification function is to be self-financing.

- 4.11** Following the tragic events at Grenfell Tower, London in June 2017 a Ministerial Working Group (MWG) was set up to oversee a review of building and fire safety through the creation of two expert Review Panels. One panel considered Fire Safety and the other focussed on Compliance and Enforcement. The Review Panel on Compliance and Enforcement in Scotland concluded that the Scottish system is not broken but that evidence clearly shows that there was a need to strengthen the system. The Review Panel concluded that, whilst maintaining the core elements of the system some reshaping would be advised to ensure that it addresses the identified weaknesses. Both Review Panels identified the potential for a 'national or central hub' that would provide expertise in specialist and safety critical areas of the design of complex buildings.
- 4.12** The establishment of a new Compliance Process for High Risk Buildings through the introduction of a Building Warrant Compliance Plan, a Compliance Plan Manager (CPM) role and a pre-application assessment process is proposed. Going forward the Compliance Plan process will also be tailored to suit building warrant applications for residential buildings with any storey at a height of more than 11 metres; educational establishments (Schools, colleges and universities), community/sport centres and non-domestic buildings under local authority control/where they have an interest in a building; hospital and Residential Care buildings.
- 4.13** This proposal introduces an additional, enhanced fee for building warrant applications for High Risk Buildings to cover additional costs experienced by verifiers on the introduction of the High Risk Buildings compliance plan process including the requirement to pro-actively monitor these applications. Again the Council is supportive in principle of an enhanced fee which should be proportionate and fair to the additional work required for High Risk Buildings.

Part 3: Building Standards Enforcement

- 4.14** The statutory obligations relating to building standards for which fees are not charged include enforcement and the maintenance of the building standards register. The majority of local authority verifier teams are expected to fund both the verification and local authority statutory enforcement roles through building warrant fee income. The consultation seeks views to provide enhanced and consistent enforcement activity within the building standards system and formally funding the building standards statutory enforcement role through the building warrant fee. The recommended response recognises that Building Standards Enforcement is a statutory function which is currently funded by annual grant aided expenditure. It is unfair to penalise the majority who comply with the system by having them pay more in fees to cover the costs of those who do not. The Building Warrant fee needs to be proportionate to the development and it

cannot sustain a wide range of building standards functions without impacting negatively development viability and potential income.

Part 4: Devolved Building Warrant Fee

4.15 Currently, the structure of fees for building warrants is set centrally by the Scottish Government and provides for consistent and predictable costs nationally. The payable fee to the local authority verifier depends on the value of the building warrant work and other factors such as any certification discounts and surcharges. The research reviewed the fee system in England and Wales that is set by each individual local authority or approved inspector and explored the advantages and disadvantages of three main options. It is considered that a devolved system (in full or part) would introduce variations in fee levels and approaches across Scotland, which could cause complication for those users who operate across several authorities and cause significant challenges for Local Authorities delivering Building Standards. One of the purposes of setting building warrant fees locally is full cost recovery. This would be a complex exercise for Building Standard Authorities to engage with, taking up officer time and there would remain the inability to estimate what level of income will be received in any given year so full cost recovery could not be guaranteed. There are further complexities to consider if Building Warrant fees are set locally not least how the centralised functions like the Central Hub would be fairly funded from each Local Authority, economies of scale for smaller local authorities and higher fees in a local authority could discourage development.

5 People Implications

5.1 The consultation proposals if implemented would place additional resource requirement on verifiers. The additional income from increased building warrant fees would be required to offset the additional resources required to meet these duties. It is recognised at a national level that there is a shortage of experienced building standards officers, which make recruiting additional, knowledgeable staff very challenging.

5.2 The increased requirements and levels of knowledge to fulfil the proposals will require additional resources to train existing staff and to expand the building standards team to fulfil all the additional duties required.

6 Financial Implications

6.1 A strengthened and sustained building standards section will require more financial resources to employ, train and retain staff. This is

recognised by the Scottish Government and is one of the main purposes of this consultation. An average increase of resources of 30% was assumed, but this will be subject to further research and refinement over the planned 3 year staged fee increases, with the intention that the necessary funding for the strengthened system is identified and fully delivered by year 3. It is difficult to accurately predict the actual effect that the proposed fee changes would have for the Council. It is expected that the outcome of this consultation will result in a likely increase in building warrant fees for the Council. It is likely that some, or all, of the additional income would be required to be invested back in the service to help support the building standard function and the additional responsibilities.

6.2 The building standards system is designed to be self-financing and it is expected that the Building Standards Hub would be financed from building standards fees.

6.3 The proposal to increase fees will also introduce requirements for enhanced monitoring, auditing and reporting by the BSD to provide assurance to Scottish Ministers that the strengthened system is being implemented and delivered as planned by local authority verifiers.

7. Risk Analysis

7.1 If the building standards system is to be self-financing as well as cover costs for a central Building Standards hub and additional responsibilities for high risk buildings it is essential that the building warrant fees are of a scale and level to ensure this.

7.2 Building Warrant fee income can vary from year to year depending on the national and local economy and development taking place in the area. If the additional income does not materialise the Council will have this additional cost that is in effect a cut to their income at a time when Local Authorities are under severe financial constraints. These monies will have to be found from the local authority budget, resulting in reduction in the Building Standards budget and quality of service.

8. Equalities Impact Assessment (EIA)

8.1 The Scottish Government has undertaken an equalities impact assessment of the consultation documents.

9. Consultation

9.1 The Chief Officer: Resources and Legal Services have been consulted in the preparation of the report.

10. Strategic Assessment

10.1 The proposals are in keeping with the Council's Strategic priorities.

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Appendix: Appendix 1 : Response to Scottish Government consultation on Building Warrant Fees

Background Papers: Scottish Government Consultation on Building Warrant Fees. The consultation can be accessed here:
[Building Warrant Fees: consultation - Scottish Government - Citizen Space](#)