



<b>Title of Report:</b>	<b>Fee Exemptions</b>
<b>Committee Report Submitted To:</b>	<b>Planning Committee</b>
<b>Date of Meeting:</b>	<b>22 January 2025</b>
<b>For Decision or For Information</b>	<b>For Decision</b>
<b>To be discussed In Committee YES/NO</b>	<b>No</b>

<b>Linkage to Council Strategy (2021-25)</b>	
Strategic Theme	Cohesive Leadership Improvement and Innovation
Outcome	Note position on commencement of development
Lead Officer	Head of Planning

<b>Budgetary Considerations</b>	
Cost of Proposal	Planning Budget
Included in Current Year Estimates	<b>YES</b>
Capital/Revenue	As per budget
Code	5301
Staffing Costs	As per budget

<b>Legal Considerations</b>	
Input of Legal Services Required	<b>NO</b>
Legal Opinion Obtained	<b>NO</b>

<b>Screening Requirements</b>	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	No	Date:
	EQIA Required and Completed:	No	Date:
Rural Needs Assessment (RNA)	Screening Completed	No	Date:
	RNA Required and Completed:	No	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	No	Date:
	DPIA Required and Completed:	No	Date:

## **1.0 Purpose of Report**

- 1.1 This Report is to advise Members of the introduction of a further Development Management Information Note about Fee Exemptions. “Fee exemption” is the term commonly used where a planning application is accepted for processing without an application fee.

## **2.0 Background**

- 2.1 Planning legislation, specifically Regulations 4, 5 and 6 of The Planning (Fees) Regulations Northern Ireland 2015 (as amended) set out the circumstances where a fee exemption applies. These circumstances are prescribed and the Council has no discretion to vary the circumstances in which a fee exemption applies.
- 2.2 There are three main types of fee exemption. Regulation 4 allows a fee exemption for “disabled persons”. In the context of a dwellinghouse, Part (1) of the fee exemption applies to the carrying out of operations for either the alteration or extension of an existing dwellinghouse or operations in the curtilage of a dwellinghouse (excluding the erection of a dwellinghouse). In both instances, the Regulation prescribes that either a means of access or provision of facilities are designed to secure that person’s greater safety, health or comfort. This Regulation allows the disabled person to be either resident or proposing to be resident in the subject dwellinghouse. Part (2) of this Regulation additionally allows a fee exemption for operations for the purpose of providing a means of access for disabled persons to a public building.
- 2.3 Regulation 5 allows a fee exemption for a variation of condition application (a Section 54 application) which is only necessary by reason of a specific condition on a grant of planning permission.
- 2.4 Regulation 6 allows a fee exemption for the provision of community facilities. The Regulation requires the applicant to be a club, society or other organisation (including any persons administering a trust) which is not established or conducted for profit. Additionally, the Regulation requires the Council to be satisfied that the development is to be carried out on land which is, or intended to be, occupied by the club society or other organisation and that it is to be used wholly or mainly for the carrying out of its objects.

### **3.0 Content of the Information Note**

3.1 The Information Note provides information on the following:

- Types of fee exemptions.
- Evidence required to allow a fee exemption.
- How to apply for a fee exemption.
- The circumstances in which a fee exemption applies.
- Requests for retrospective fee exemptions.
- The appeal process when an application is made invalid owing to not accepting a fee exemption.

### **4.0 Proposals**

4.1 To publish a Development Management Information Note on Fee Exemptions (See Appendix 1).

### **5.0 Recommendation**

**It is recommended** that the Committee considers the attached Information Note and agrees to its publication on the Planning Section of Council's website.

## **Fee Exemptions**

### **Purpose**

The purpose of this guidance is to set out when the Council will accept submission of a planning application without a fee. This is commonly referred to as a “fee exemption”. Additionally, this guidance explains what evidence is required, if any, to be submitted to qualify for a fee exemption.

### **Legislative Background**

Planning legislation, specifically Regulations 4, 5 and 6 of The Planning (Fees) Regulations Northern Ireland 2015 (as amended) set out the circumstances where a fee exemption applies. These circumstances are prescribed and the Council has no discretion to vary the circumstances in which a fee exemption applies.

### **Types of Exemptions**

#### Regulation 4- Disabled Persons

This Regulation allows a fee exemption for “disabled persons”. For the purposes of the Regulation, “disabled person” is defined as a person who is within any of the descriptions of persons to whom Section 1 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 applies.

In the context of a dwellinghouse, Part (1) of the exemption applies to the carrying out of operations for either the alteration or extension of an existing dwellinghouse or operations in the curtilage of a dwellinghouse (excluding the erection of a dwellinghouse). In both instances, the Regulation prescribes that either a means of access or provision of facilities are designed to secure that person’s greater safety, health or comfort. This Regulation prescribes that the disabled person is either resident in or proposing to take up residence in the subject dwellinghouse.

Part (2) of this Regulation additionally allows a fee exemption for operations for the purpose of providing a means of access for disabled persons to a public building.

#### Regulation 5- Limitation of Use by Condition

This Regulation allows a fee exemption for a variation of condition application (a Section 54 application) which is only necessary by reason of a specific condition on a grant of planning permission.

The Planning (Use Classes) Order (Northern Ireland) 2015 sets out specific types of use of a building or other land and groups these uses within Use Classes.

Ordinarily, if planning permission is granted, the beneficiary can operate within that specific Use Class without the need to obtain planning permission for any proposed change within that Class. For example, if permission is granted for a manufacturing workshop, Class B3, and the initial operator manufactured steel gates, planning permission is not required for a subsequent operator to manufacture PVC windows. However, occasionally, for good planning reasons, a planning permission is granted subject to a condition which restricts the specific nature of use with a Use Class.

The most common example of this is a retail warehouse in an out-of-centre location which has been granted planning permission subject to a planning condition that the retail use is limited to “bulky goods”. In this instance, the Class A1 use is restricted for good planning reasons so that unfettered retailing does not have an adverse impact on a designated (town) centre.

The fee exemption applies where an applicant wishes to either remove or vary the condition restricting their ability to operate within a Use Class. Following the example given above, such an application would be to remove or vary the condition regulating retail use to the sale of “bulky goods” and Regulation 5 exemption would apply.

#### Regulation 6- Community Facilities

This Regulation allows a fee exemption for the provision of community facilities. The Regulation requires the applicant to be a club, society or other organisation (including any persons administering a trust) which is not established or conducted for profit. Additionally, the Regulation requires the Council to be satisfied that the development is to be carried out on land which is, or intended to be, occupied by the club, society or other organisation and that it is to be used wholly or mainly for the carrying out of its objects.

#### **Evidence Required**

A fee exemption under either Regulation 4 or 6 requires provision of evidence on the submission of a planning application. To satisfy the requirements of Regulation 4(1), we require evidence from a qualified medical professional such as a GP, consultant or Occupational Therapist to demonstrate that:



1. The development relates to the provision of facilities for a “disabled person” and;
2. Those specific facilities are designed to secure that person’s greater safety, health or comfort or provide a means of access within the dwellinghouse.

Where evidence is absent or insufficient, the Planning Department shall contact the agent/ applicant to provide the opportunity to submit (additional) information. Where the requirements of Regulation 4(1) are not met, an opportunity shall be provided to pay the requisite application fee.

There is no requirement for an application submitted under Regulation 4(2) (means of access for disabled persons to a public building) or Regulation 5 (Limitation of Use by Condition) to be accompanied by evidence.

Turning to Regulation 6 (Community Facilities), we require evidence in the form of correspondence on headed paper from the chairperson (or similar) of the club, society or other organisation (including any persons administering a trust) clearly setting out the evidence that the club, society or other organisation is not established or conducted for profit and details of the objects of the club, society or other organisation. Where evidence is absent or insufficient, the Planning Department shall contact the agent/ applicant to provide the opportunity to submit (additional) information. Further to this, the Planning Department shall consider whether the development comprised within the planning application is a “community facility”. Each application will be considered on a case-by-case basis taking into account the evidence submitted.

Where the requirements of Regulation 6 are not met, an opportunity shall be provided to pay the requisite application fee.

## **Processing of Fee Exemptions**

### How do I apply for a fee exemption?

You must apply for a fee exemption at the time you submit your planning application or during the processing of your application by using the appropriate form on Public Access at <https://planningregister.planningsystemni.gov.uk>

Your application will require to be accompanied with the necessary information (if any) to qualify for the fee exemption.

### How soon do I know whether my fee exemption request has been accepted?

The Planning Department considers whether a fee exemption is applicable as part of the initial planning application validation process. If your planning application has been accepted with the fee exemption, you will receive an acknowledgement letter,



ordinarily within 5 working days from the date of submission. Likewise, if your application has not been accepted with the fee exemption, you shall be advised within the same timeframe.

Will you provide me with a further opportunity to substantiate my fee exemption if initially declined?

Yes, we will provide this opportunity and ordinarily specify a timeframe of 3 days or such longer period as may be agreed for submission of further information.

My application has been processed and has been approved. However, I did not know that it was eligible for a fee exemption. Can I apply for a fee exemption in retrospect?

No, fee exemptions can only be considered on submission or during the processing of an application. The onus is on the applicant to demonstrate that the fee exemption circumstances apply. A fee exemption cannot be considered after an application is determined.

Information regarding my status as a disabled person is private. Will this be viewable on Public Access?

No, this information is used solely to ascertain whether the application qualifies for a fee exemption. The information is confidential personal information and is not made available to the public or published on Public Register of the Northern Ireland Planning Portal.

My mother who is a disabled person currently lives on her own but plans to move in with me. Even though she does not live with me presently, is an application for a new extension to my dwelling eligible for a fee exemption at this stage?

Yes, providing the extension is to provide specific facilities to secure your mother's greater safety, health or comfort as a disabled person and that the necessary evidence is provided.

I am a disabled person and my Occupational Therapist has advised that I require a ground floor bedroom and shower room extension. However, as I will be getting building work done, I would also like my application to include a new sunroom extension. Will this qualify for a fee exemption?



No, a fee exemption for a disabled person applies solely to specific facilities to secure a disabled person's greater safety, health or comfort. You will either need to pay the application fee for your overall proposal or to avail of the fee exemption, remove the sunroom element.

I am a disabled person and my existing dwelling does not meet my requirements. Rather than provide an extension, my GP has recommended that my dwelling be replaced with a new modest dwelling to a specific specification. Will this qualify for a fee exemption?

No, a fee exemption for a disabled person does not include the provision of a new (including a replacement) dwelling. You will need to submit the appropriate fee for this proposal.

I am a disabled person and further to a recommendation from my Consultant, I obtained planning permission with a fee exemption last year for a ground floor bedroom extension. To date, this has not been built. My circumstances have changed and my Consultant now recommends that I have a larger ground floor bedroom extension. While I acknowledge this will necessitate submission of a new planning application, will this qualify for a fee exemption?

Yes, providing you submit the necessary evidence, there is no limitation to the number of planning applications you can submit with a fee exemption.

My sports club would like to build a new pavilion building to serve our playing field. This would provide facilities for our club members and the "away" team rather than the community generally. Would this qualify for a fee exemption?

Yes, providing you can demonstrate the Club operates on a not-for-profit basis. There is no requirement for the proposal to be available to the wider community.

My sports club would like to generate some revenue by securing planning permission for housing on part of our site and then putting this on the market. Would this qualify for a fee exemption?

No, while the applicant may be a not-for-profit organisation, the proposal for housing is not a community facility. You would need to submit the appropriate fee with such an application.





### **Right of Appeal**

If your fee exemption is declined, your planning application will be invalid. You can submit an appeal to the Planning Appeals Commission (PAC) under Section 60 of the Planning Act (Northern Ireland) 2011 on this basis. Further details are available from the PAC.