



Reform of planning committees: technical consultation

1. Purpose of this Report

1.1. The purpose of this report is to set out the Council's responses to the questions posed within the Reform of planning committees: technical consultation, published by The Ministry of Housing, Communities & Local Government (MHCLG) in May 2025.

1.2. The Council's Scheme of Delegation delegates responses on behalf of the Council to consultations from Government, so long as:

"(i) it is not possible to assess and present the matter to the PCttee within the prescribed time for response; or, (ii) the matter is considered to be of a relatively minor or straightforward nature not requiring prior debate by the PCttee. This report summarises the background and context of the technical consultation. It outlines the questions asked within the consultation in boxes, with the Council's proposes responses presented below each question."

1.3. Owing to the nature of the consultation and the direct impact it would have on the planning committee, in accordance with the Council's Scheme of Delegation, officers are seeking the committee's approval and input to the technical consultation.

2. Background

2.1. The Ministry of Housing, Communities & Local Government (MHCLG) published a technical consultation relating to reform of planning committees. This consultation is included in full in Appendix A of this report. MHCLG outline that *“This consultation seeks views on proposals around the delegation of planning functions, the size and composition of planning committees and mandatory training for members of planning committees.”*

2.2. The Consultation asks a series of questions, linked to the published Planning Reform Working Paper - Modernising Planning Committees and relating to measures in the Planning and Infrastructure Bill, introduced into Parliament on 11 March 2025. These measures include:

- “- a new power for the Secretary of State to set out which planning functions should be delegated to planning officers for a decision and which should instead go to a planning committee or sub-committee;*
- a new power for the Secretary of State to control the size and composition of planning committees; and*
 - a new requirement for members of planning committees to be trained, and certified, in key elements of planning.”*

2.3. The MHCLG Consultation sets out that *“The Planning and Infrastructure Bill will, subject to parliamentary approval, give the Secretary of State the power, through regulations, to set out which planning functions should be delegated to planning officers for a decision and which should go instead to a planning committee or subcommittee.”* The Consultation proposes to introduce a scheme of delegation which categorises planning applications into two tiers defined within Paragraph 16 of the consultation.

Question 1: Do you agree with the principle of having a two-tier structure for the national scheme of delegation?

Proposed Council Response:

Distinguishing between application types within a national scheme of delegation is appropriate, however, this may represent an oversimplification of the system. It is acknowledged that it will be necessary to for the scheme to create a distinction between application types. In principle, there is no objection to a two tier structure.

Question 2: Do you agree the following application types should fall within Tier A?

Applications for planning permission for:

- Householder development
- Minor commercial development
- Minor residential development
- applications for reserved matter approvals
- applications for non-material amendments to planning permissions
- applications for the approval of conditions including Schedule 5 mineral planning conditions
- applications for approval of the BNG Plan
- applications for approval of prior approval (for permitted development rights)
- applications for lawful development certificates
- applications for a Certificate of Appropriate Alternative Development

Proposed Council Response:

In principle, the suggested Tier A applications are appropriate. Consideration should be given to adding S.73 applications to those application types contained within Tier A.

Question 3: Do you think, further to the working paper on revising development thresholds, we should consider including some applications for medium residential development (10-50 dwellings) within Tier A? If so, what types of application?

Proposed Council Response:

It is common for medium residential developments in rural areas to generate significant public interest ,which may still warrant consideration at Planning Committee. Including such decisions in Tier A may lead to the perception of less transparency in decision making . This would be of particular concern with cases such as medium sized developments in smaller settlements, where such proposals could lead to significant local impacts and concern.

Question 4: Are there further types of application which should fall within Tier A?

Proposed Council Response:

S.73 applications where the original scheme was a Tier A development.

Question 5: Do you think there should be a mechanism to bring a Tier A application to committee in exceptional circumstances? If so, what would those circumstances be and how would the mechanism operate?

Proposed Council Response:

Yes. It is essential that any national scheme of delegation includes a mechanism to enable Tier A applications to be considered at Planning Committee. Rural districts such as the Cotswolds experience a high number of smallscale major development and minor residential development which can often generate a significant amount of public interest; and can include balancing a number of contentious considerations and constraints including heritage and landscape impacts. It is essential that a mechanism exists to capture those applications that require the transparency in decision making.

Options could include:

- *Ward Cllr Referral - a common existing practice where a local ward councillor can request that an application be determined by the planning committee. This could be based on certain exceptional circumstances set out within the Scheme of Delegation,, and considered as part of the gateway test referred to later in the consultation.*

- *Chief Planning Officer Referral - the Chief Planning Officer (possibly in conjunction with the Chair of the Planning Committee) could have a discretionary power to refer an application to committee if it meets a gateway test for exceptional circumstances.*

The exceptional circumstances test could include: Where an application raises complex or contentious interpretations of local or national planning policy that require a broader democratic debate (departures) and or; if an application significantly conflicts with a recently adopted or emerging Neighbourhood Plan.

Question 6: Do you think the gateway test which requires agreement between the chief planner and the chair of the planning committee is suitable? If not, what other mechanism would you suggest?

Proposed Council Response:

The proposed gateway test is a reasonable approach although, a mechanism would be necessary to ensure transparency in the decisions made. A more robust approach would be the use of a review panel, with a wider group of participants such as the Chair, Vice-Chair, Local Ward Cllr and Chief Planning Officer. This would enable a more robust approach, whilst also ensuring local voices are represented in the decision-making process.

Question 7: Do you agree that the following types of application should fall within Tier B?

a) Applications for planning permission aside from:

- Householder applications
- Minor commercial applications
- Minor residential development applications

b) notwithstanding a), any application for planning permission where the applicant is the local authority, a councillor or officer.

c) applications for s73 applications to vary conditions/s73B applications to vary permissions

Proposed Council Response:

Yes.

Question 8: Are there further types of application which should fall within Tier B?

Proposed Council Response:

No.

Question 9: Do you consider that special control applications should be included in:

- Tier A or
- Tier B?

Proposed Council Response:

Tier A - subject to the caveats that this should exclude applications where the applicant is the local authority, a councillor or officer.

Question 10: Do you think that all section 106 decisions should follow the treatment of the associated planning applications? For section 106 decisions not linked to a planning application should they be in Tier A or Tier B, or treated in some other way?

Proposed Council Response:

It is agreed that S.106 decisions should follow the treatment of its associated planning application. S.106 agreements not linked to planning applications should fall within Tier B and be subject to the gateway test.

Question 11: Do you think that enforcement decisions should be in Tier A or Tier B, or treated in some other way?

Proposed Council Response:

Generally, enforcement decisions should fall within Tier A. An option could exist for larger scale, high profile cases to fall within Tier B. This should be subject to clear criteria and should

reflect the public interest and need for transparency associated with such a case. Including enforcement cases within Tier B would require additional training for members and this should be addressed as part of the outcome of this consultation.

Question 12: Do you agree that the regulations should set a maximum for planning committees of 11 members?

Proposed Council Response:

There is no objection to planning committee's having a maximum of 11 members.

Question 13: If you do not agree, what if any alternative size restrictions should be placed on committees?

Proposed Council Response:

N/A

Question 14: Do you think the regulations should additionally set a minimum size requirement?

Proposed Council Response:

Yes – in order to ensure that all applications receive a fair and consistent assessment at Committee and that political balance is maintained, a minimum number of members should be required. This could simply take the form of a set minimum number, or a 'core group' for each committee.

Question 15: Do you agree that certification of planning committee members, and of other relevant decisions makers, should be administered at a national level?

Proposed Council Response:

Generally, there is support for the suggestion of a national certification for planning committee members. However, it is clear that there will always be a need for locally contextualised training and guidance to also be provided. As such, whilst a national certificate would be beneficial and would support LPA's in terms of the resources required for training, some form of hybrid arrangement that includes localised training would be the most effective solution.

Question 16: Do you think we should consider reviewing the thresholds for quality of decision making in the performance regime to ensure the highest standards of decision making are maintained?

Proposed Council Response:

Any revision to the thresholds for quality of decision making performance management should be accompanied by a thorough review of the quality of the Planning Inspectorates decision making. It is the experience of Cotswold District Council that the decision making of PINS is often flawed and inconsistent. It is essential that any such measures are fair and transparent.

Question 17: For quality of decision making the current threshold is 10% for major and non-major applications. We are proposing that in the future the threshold could be lowered to 5% for both. Do you agree?

Proposed Council Response:

Any proposed increase in the threshold must be accompanied by a review of the quality of decision making by the Planning Inspectorate. Additionally, it is essential that the following matters are taken into consideration when review the performance thresholds:

- Resource and Capacity - Many LPAs are already under significant financial and staffing pressures. Raising performance thresholds without addressing these constraints could result in a reduction in delays in decision making, owing to the increased risk for the LPA to make the correct decision without additional resources to facilitate this. MHCLH has acknowledged the need for additional support (e.g. Planning Skills Delivery Fund), but this may not be sufficient or*

evenly distributed and requires LPA's to provide training which placed greater pressure on resources.

- *Inequality – linked to the former point, such a change would disproportionately impact under resourced LPA's. A 5% threshold also does not account for case complexity or context, potentially penalizing authorities that take a valid stand on nuanced planning decisions and/or that have more heavily constrained districts/borough's/counties.*
- *Less flexibility, greater risk and slower decisions - A lower threshold may incentivize LPAs to refuse fewer applications, even when refusal is justified, to avoid the risk of being overturned at appeal. To avoid being overturned, LPAs may feel pressured to over-justify decisions, leading to longer reports and more cautious reasoning and a longer appeals process.*

Question 18: Do you have any views on the implications of the proposals in this consultation for you, or the group or business you represent, and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how.

Proposed Council Response:

Any such impacts are likely capable of being managed, however, the following should be taken into consideration as part of the outcome of this consultation:

- *Delegation of decisions to officers and smaller, more technical committees may reduce opportunities for public engagement, especially for groups who already face barriers to participation*

Question 19: Is there anything that could be done to mitigate any impact identified?

Proposed Council Response:

Ensuring transparency in decision making remains a core principle of a National Scheme of Delegation.

Question 20: Do you have any views on the implications of these proposals for the considerations of the 5 environmental principles identified in the Environment Act 2021?

Proposed Council Response:

No.