Reforming Planning Committees[1]

Questions

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

Yes, but given that it is recognised that "*decisions about what to build and where should be shaped by local communities and reflect the views of local residents*", there must be scope for exceptions to be addressed (please see our response to question 5).

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.*

Yes, except where "Minor" development is in a sensitive location or a national park. The triage system must be able to work both ways and move applications to Tier B in this scenario.

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?

Yes, those that fully meet policy requirements, and have not otherwise been called out as an exceptional case for Tier B (either by residents or by elected representatives), such as those that may cause significant environmental/ecological harm. Local residents and elected representatives must have the opportunity to call for sites to be covered by Tier B processes.

Furthermore, as we have pointed out in our responses to the Working Papers on Site Thresholds and Speeding-up Planning, there are locational and policy cases where sites of 10 dwellings may be considered major, such as in national parks or other sensitive locations. Simply using a numerical classifier (10-50 dwellings) does not have enough nuance for different situations.

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

See our response to question 9 below.

[1] https://www.gov.uk/government/consultations/reform-of-planning-committees-technical-consultation/reform-of-planning-committees-technical-consultation

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?

Yes, circumstances should include (as a minimum) applications that clearly do not fully meet policy requirements, applications that are the subject of significant resident objection, applications that may result in significant harms to environmental, ecological or heritage assets, applications that could result in health and safety issues for residents.

Such applications will typically be identified by the planners but there must be a mechanism for residents and elected representatives (similar to a 'call in' procedure), with an agreed time period for requesting that a Tier B assessment (with planning committee making the decision) is considered. If such a mechanism is not provided, it will result in more bias in the planning system than currently exists today, raising further concerns for communities.

Residents may also wish to highlight issues related to developer contributions that should be addressed by planning committee. The National Audit Office has recognised (in their Improving Local Areas through Developer Funding report[2]) that current policy is not reliably delivering the infrastructure funding required for new developments, even where it may be financially viable to do so. The report also raises the issue of the lack of funding and expertise for appropriately skilled planners to challenge developers. With this in mind, if communities have concerns, it would be inappropriate to deny them the option for planning applications to be considered by committee members and for residents to have the right to be heard.

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?

Yes. It must be possible, however, for residents to influence whether an application is considered by committee to ensure they have the right to be heard at planning committee, especially where there will be a direct impact on their lives or livelihoods.

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

Yes, except where "Minor" development is in a sensitive location or a national park. The triage system must be able to work both ways and move applications to Tier B in this scenario.

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

[2] https://www.nao.org.uk/reports/improving-local-areas-through-developer-funding/

Applications which may impact the health and wellbeing of local communities (including those that will result in a significant increase to air, noise, light, vibration or water pollution), applications that will result in hazardous substances being captured, stored, or transported (including those that put communities at risk from fire, toxic fumes and contamination), applications that may significantly affect irreplaceable habitats, conservation areas, water bodies, and other natural capital assets, applications that could increase local flood risk.

Question 9: Do you consider that special control applications should be included in: Tier A or Tier B?

Typically, such applications could be dealt with in Tier A, with the proviso that they can be included in the exceptions test if needed.

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?

As developers have the right to renegotiate these agreements, it is rather immaterial. They can typically be dealt with in the Tier associated with their planning application.

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

Policy should ensure that enforcement is always dealt with by committee. Developers should be actively encouraged (via penalties, if necessary) to ensure that they deliver their obligations in a timely fashion.

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

Yes.

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

n/a

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

A minimum size requirement is not necessary, but it would be helpful if policy guidance set out in detail what roles and responsibilities are expected to be covered and how accountability will be measured.

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

Yes.

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?

Not for Local Authorities/Planning Committees. We think the quality of decision-making should cover the whole of the planning ecosystem, including Ministers and Planning Inspectors. Decision-making should always be able to be measured against the Nolan Principles of Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, and Leadership.

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?

No. Local Planning Authorities do not refuse applications lightly. The reduction in the threshold will lead to poor applications being approved, rather than being challenged.

Having planning applications overturned by Planning Inspectors or the government reduces confidence at a local level and means that local democracy is undermined. If significant numbers of refused applications are overturned on appeal, it suggests an imbalance in the system.

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.

The key impact on citizens with protected characteristics, and others in the community, is the potential for a lack of opportunity to be heard, particularly when there are serious concerns about development. Any perceived reduction in democracy will lead to increased lack of trust in the planning system, and in politics more generally.

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

Yes, ensure the system remains fully democratic and that a citizen's right to be heard is not revoked.

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?

Integration principle: policy guidance should ensure that, where significant environmental damage may occur, environmental assessments are required, and that, in such cases, the planning committee will make the decision.

Prevention principle: similar to the above, policy should ensure that the planning committee is confident that the impact on ecology and biodiversity has been fully assessed, in accordance with the mitigation hierarchy, which commences with avoidance of harm. This may mean that, where irreplaceable habitats or conservation areas will be impacted (directly or indirectly), the planning committee should recommend that alternative sites are considered.

The guidance suggests that the "*prevention principle should generally be used in preference over the rectification at source principle or polluter pays principle, as these principles are used in instances when prevention cannot be achieved*". Given the range and scale of sites, policy should confirm that planning committees make decisions where either principle (rectification and/or polluter pays) is relevant and needs to be applied.

The precautionary principle is also applicable, and policy guidance should reflect the need for planning committees to minimise the risk to our natural capital assets from development.

This is one of a number of Planning Reform Working Papers and Consultations, amounting to major changes overall. Their cumulative impact should be considered, both in terms of the Environmental Principles Policy Statement and the Public Sector Equality Duty.