

MHCLG Reform of planning committees: technical consultation

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

- Agree
- Disagree

Please explain your answer

Yes. A two-tier system would adequately distinguish between applications to be considered by planning officers and committees. As the consultation points out, a two-tier structure is also commonplace in existing local planning authority-level schemes of delegation, so the principle is already adopted and familiar in many cases.

Designed and implemented correctly, a two-tier system could:

- Accelerate the planning process by appropriately triaging minor or technical applications to planning officers, thereby freeing up committee capacity for more complex or contentious applications
- Offer developers greater certainty about the level and type of scrutiny likely to be applied to their applications, irrespective of the local planning authority involved
- Reduce political unpredictability and enhance the transparency of the decision-making process.

Introducing further tiers or categories would complicate decision-making, reducing the likelihood the new national scheme of delegation would have the desired effect in standardising treatment of planning applications across local authorities.

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

- a) applications for planning permission for Householder development, minor commercial development and minor residential development
- b) applications for reserved matter approvals
- c) applications for non-material amendments to planning permissions
- d) applications for the approval of conditions including Schedule 5 mineral planning conditions
- e) applications for approval of the BNG Plan
- f) applications for approval of prior approval (for permitted development rights)
- g) applications for lawful development certificates

h) applications for a Certificate of Appropriate Alternative Development

- Agree
- Disagree

Please explain your answer

Yes, these application types should be included in Tier A. However, other application types could also be included. See our responses to Q3 and Q4.

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
- No

Please explain your answer

Yes, most applications for medium size sites should be included in Tier A, regardless of conurbation size. Assigning the majority of such sites to Tier A regardless of conurbation size would ensure the national scheme of delegation has the desired policy effect of standardising practice across local planning authorities.

Including most medium-sized residential development in Tier A would also support Government's ambition to streamline planning requirements for medium sites outlined in its recent Reforming Site Thresholds Working Paper, producing a more coherent planning strategy.

The only exception should be schemes qualifying as Environmental Impact Assessment (EIA) developments. These should fall within Tier B as they warrant greater oversight by planning committees.

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

- Yes
- No

If yes, which application types?

Yes. Applications for planning permission on sites already allocated through the local plan should also be included in Tier A. Planning committee (and full council) would have considered these sites as part of the plan making process. Therefore, the principle of development has already been accepted by the council, eliminating the need for further committee involvement.

Consideration should also be given to delegating planning applications for phone masts and other telecommunications applications (for, example those that fall outside the scope of prior approval).

Please also see our response to Q8.

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
- No

No. If the national scheme of delegation is to have its desired policy effect, Tier A applications should always be determined by officers rather than committee. Any 'exceptional circumstances mechanism could be subject to misuse, which would mean the new scheme offers little practical benefit over the current locally determined approach.

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
- No

We believe the gateway test is a reasonable approach in principle.

However, the proposed pair of criteria are too vague and could lead to many local planning authorities continuing to divert applications to committee when these could justifiably be determined by officers.

For example, the first of the suggested criteria refers to economic, social or environmental issues of "significance" to the local area. This term is ambiguous and open to interpretation. Clear guidance would therefore be required to clarify the meaning of significance.

We believe a better alternative would be to direct chief planners and committee chairs to direct applications to committee where:

- the application has been called in by a ward councillor or committee member
- the council has received a petition against the application, which has a set number of signatures (for example, 50) and this exceeds any pledged to a supportive petition
- the balance of sentiment expressed in representations about the application is net negative (e.g., the number of representations expressing opposition significantly outweighs those in support).

How many of these criteria an application needs to satisfy would depend on the nature of the application. For instance, it would be reasonable to expect s73 applications to have to satisfy all three criteria to be considered by committee since they relate to amendments to an existing planning permission. For applications where the council, a councillor or an officer is the applicant, only one of the above criteria would need to be satisfied to direct the application to the planning committee to ensure appropriate scrutiny of applications closely linked to the local authority itself.

The above criteria are less open to interpretation than those proposed in the consultation and would be more effective in ensuring the maximum number of applications are determined under delegated powers.

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

- Agree
- Disagree

a) No. Please see our response to Q4 and Q8.

b) Yes, subject to the suggested criteria set out in our response to Q6.

c) Yes, subject to the suggested criteria set out in our response to Q6.

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

- Yes
- No

Applications which depart from the development plan (for example, those for a different form of development than the site is allocated for), should also need to go before the Planning Committee.

Please also see our responses to Q4, Q6 and Q7.

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

- Tier A
- Tier B

These application types should fall within Tier A unless they are related to an application within Tier B. For example, where an application for listed building consent is submitted to facilitate the conversion of a complex of historic buildings to create more than 50 flats, the conversion would be subject to a planning application falling within Tier B, therefore rendering the listed building consent a Tier B type application.

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?

No. Once a scheme has received a resolution to grant from a planning committee, s106 negotiations should be delegated to planning officers in all circumstances. The planning committee report should specify draft heads of terms for the committee to consider. Officers should then be able to negotiate the details with developers without further input from the planning committee.

The only exceptions to this should be where the main heads of terms change. For example, where a committee resolves to grant subject to a transport contribution, if officers or the developer later consider that this type of contribution is no longer appropriate/justified/required, the change to the heads of terms should either go before the planning committee for approval or be agreed by the chair of the planning committee.

Section 106 decisions not linked to a planning application should fall within Tier A. This would ensure greater certainty for all parties involved, speed up the decision-making process and facilitate the delivery of new affordable housing. Assigning such decisions to Tier A would also support Government's ambition to encourage housing associations to purchase more units through section 106 following the welcome package of capacity building measures announced in June's spending review.

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

- Tier A
- Tier B
- Another way

Please explain your answer

Enforcement decisions should be categorised according to a similar tiered system. For example, breaches of planning control relating to an individual dwelling should fall within

Tier A. Breaches relating to a major housing scheme should fall within Tier B. Similar criteria to that set out in our response to Q6 could also be applied to help determine whether a scheme should go before the planning committee. For example, the number of complaints received about the breach of planning control. If the gateway test is based on the proposed pair of criteria, clear guidance will be required to ensure the chief planner and committee chair are well placed to determine whether an application goes before the committee.

Size and composition of committees

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

- Agree
- Disagree

Yes. This seems like a reasonable approach and should prevent the very large committees currently found at some councils, which can be overly politicised.

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?

- Yes
- No

A minimum size requirement would seem a necessary safeguard. Three might be an appropriate number, although we note the consultation's suggestion eight to eleven members is optimal for informed debate on applications.

Mandatory training for planning committee members

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

- Agree
- Disagree

Yes. A national certification scheme is our preferred option. A nationally administered scheme would help achieve the standardisation and consistency Government is seeking to

achieve through its planning committee reforms. By contrast, a local based model risks local authorities adopting a patchwork of different approaches, which would potentially undermine the policy objective.

Local planning authorities could train their members on any local considerations (e.g., on the local plan), with the national certification scheme providing the core learning on the likes of the National Planning Policy Framework.

Government will need to ensure adequate resourcing for the national certification scheme.

Delegated decision making

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?

- Yes
- No

Yes. We can see benefit in reviewing the thresholds for assessing the quality of decision making. A review will ensure the criteria remain up to date and respond to changing circumstances.

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?

- Agree
- Disagree

Possibly. The future threshold should be determined following the proposed review of quality of decision-making thresholds.

Public Sector Equality Duty and Environmental Principles

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.

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

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?