



BPF RESPONSE TO MHCLG'S WORKING PAPER ON MODERNISING PLANNING COMMITTEES

CONSULTATION RESPONSE

PREPARED AND SUBMITTED BY

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British Property Federation

1. The British Property Federation (BPF) represents the real estate sector – an industry which contributed more than £116bn to the economy in 2020 and supported more than 2.4 million jobs. We promote the interests of those with a stake in the UK built environment, and our membership comprises a broad range of owners, managers, and developers of real estate as well as those who support them. Their investments help drive the UK's economic success; provide essential infrastructure and create great places where people can live, work, and relax.
2. We welcome the opportunity to respond to MHCLG's working paper on modernising planning committees. Our comments respond to the specific proposals outlined in the paper as well as noting wider ways in which planning committees can be improved for applicants, local planning authorities and communities more broadly.

a. Do you think this package of reforms would help to improve decision making by planning committees?

General comments

3. The BPF strongly supports the main proposal outlined in the working paper to introduce a national scheme of delegation. By streamlining the process and ensuring that only applications that truly require committee consideration are brought to it, the proposal should improve decision-making efficiency. It will also allow more time for committee members to thoroughly examine the schemes that do come before them, ensuring more detailed consideration. We believe a national approach to delegation is the right path forward, as it will promote consistency across the country, in contrast to the current system where local schemes of delegation vary significantly from one authority to another. The effect of this should be to not only enable planning committees to focus on matters that truly need committee assessment but also empower local authority planners to take important decisions, ultimately enhancing the pride and prestige of the local planning profession.
4. Planning applications determined by officers as opposed to members carry less of a judicial review risk, in our view, as applications are more likely to be determined objectively on the basis of the local plan policies and other material considerations, rather than on subjective or politically motivated reasons. However, members expressed concern that the greatest risk of Judicial Review could arise when an officer needs to decide whether an application complies with the development plan and therefore the procedure to be followed i.e. whether an application is delegated or taken to committee. We expand further on this in our response to question B.
5. As mentioned earlier, while the working paper's focus is on moving appropriate decisions away from planning committees through the national scheme of delegation, it is equally important to consider how to improve the effectiveness of planning committees for large and complex development schemes that will inevitably require committee consideration. The mandatory training proposal highlighted towards the end of the working paper is strongly supported by BPF. We provide further comments on

this in our response to question H and outline additional ideas on how planning committees can be enhanced more broadly.

b. Do you have views on which of the options we have set out in regards to national schemes of delegation would be most effective? Are there any aspects which could be improved?

c. We could take a hybrid approach to any of the options listed. Do you think, for instance, we should introduce a size threshold for applications to go to committees, or delegate all reserved matters applications?

6. Members expressed strong concerns regarding Options 1 and 2, particularly about using compliance with the development plan as the key criterion for delegation. It was noted that many local development plans contain competing policies, making it difficult for large, complex planning applications to fully comply with every aspect of the plan due to the range and complexity of these policies.
7. Members also pointed out that local authorities or objectors could always find an aspect of an application that is arguably not fully compliant with the development plan, which would then justify bringing the application to committee. This subjectivity around compliance with the development plan limits the effectiveness of Options 1 and 2, introducing unnecessary complexity and uncertainty into the system. If Option 2 is pursued, it was stressed that careful consideration must be given to who determines whether a scheme is "in accordance with" the plan, and it is essential to avoid politicising the role of senior planners at local authorities. Further, the procedural decision of whether an application is determined at officer or committee level is vulnerable to judicial review, particularly given that local communities may consider that there has been a democratic deficit if a decision has not been made by members.
8. For the reasons outlined above, a number of members were in strong support of Option 3. This option provides a prescriptive national list of exemptions, which would clearly define which applications are delegated and which would always require committee consideration. By doing so, it removes the subjectivity and uncertainty associated with Options 1 and 2 but on the downside is much more prescriptive (as recognised in the working paper itself).
9. Members also expressed support for the hybrid approach outlined in the working paper, as it would add flexibility to the process. Specifically, there was strong backing for combining elements of the proposed options as well as the proposal to delegate all reserved matters applications to officers once the principle of permission is established. Additionally, it was suggested that all Section 73 applications could also be included in this hybrid approach.
10. Comments from members also focused on the criteria for the national scheme of delegation, with suggestions such as setting size thresholds (e.g., less than 10 units or 1,000 sq m) for delegated applications as the default. Enabling faster and more reliable decision-making for smaller applications would be very positive in improving the overall planning decision-making process.

11. Further comments from members focused on the potential unintended consequences of the proposals. For example, it was highlighted that creating a system based on compliance with an up-to-date local plan could inadvertently discourage local plan-making. If having an up-to-date plan results in more decisions being delegated and less councillor involvement in development management, it could create perverse incentives, with local authorities potentially deprioritising the plan-making process.

d. Are there advantages in giving further consideration to a model based on objections?

12. No. Introducing, for example, an objections threshold for committee is likely to be problematic and open to gaming.

e. Do you agree that targeted planning committees for strategic development could facilitate better decision making?

13. Members believe that the concept of strategic committees aligns well with the broader reorganisation of local government currently underway, offering an opportunity for a more streamlined and efficient approach to decision-making for complex projects.

14. It was noted that smaller, dedicated committees would have the capacity to engage more deeply with large, complex development schemes—something that is often difficult to achieve in a standard planning committee setting. For example, a smaller, strategic planning committee could receive more detailed briefings from applicants and even conduct site visits, ensuring that members have a fuller understanding of the planning considerations before making a decision. Members also discussed the potential for forming strategic committees for specific development schemes where the scale and complexity of the development justifies this approach.

15. Appointing independent members with specific expertise, such as in viability or other technical areas, was seen as a positive step (as is the case for development corporation planning committees). The majority of the committee could be composed of independent members with the relevant expertise, ensuring that decisions are based on objective planning considerations. This approach would enhance the decision-making process and improve the overall quality of planning judgments.

16. A key consideration is whether strategic committees will be convened as often as needed. There is a concern that relying on these committees could potentially lead to delays for major schemes if they are only formed on an ad-hoc basis. It will be important to ensure that the formation of these committees does not introduce bottlenecks or slow down the decision-making process for critical developments.

f. Do you have a view on the size of these targeted committees?

g. How should we define strategic developments?

17. A committee size of 5 to 10 members is generally considered about right. However, the key factor is less about the size and more about the quality of the members and the quality of the chair. A skilled chair can help guide discussions effectively.
18. It is important to carefully consider how to define strategic developments. While there are lessons to be learned from the GLA thresholds, it was noted that these may not be universally applicable. Different regions or areas may require tailored approaches to what constitutes a "strategic" development based on local context.

h. Do you think the approach to mandatory training is the right one?

19. The BPF strongly supports the introduction of mandatory training for all councillors sitting on planning committees. It will be important that the training is not simply a "tick-box" exercise and there needs to be some form of proportionate assessment to ensure that the training is effective and genuinely prepares members for decision-making.
20. A standard, national syllabus for councillor training could help to ensure consistency across regions and authorities. It is also the case that it will be impossible for members to become experts in all aspects of our complex planning system and that is certainly not their role. The training should therefore cover the basics of all relevant aspects of our planning system and crucially focus on members' specific role in the process (such as the consequences of their decisions, including the potential for legal challenges, significant costs, and the impact on local services).
21. BPF members also highlighted the importance of planning committee members having a grounding in the stages of development, funding mechanisms, and the impact of wider economic factors on viability and deliverability. They noted that a better grasp of these challenges would enable more informed planning decisions, balancing deliverability with policy requirements.
22. The BPF also supports a clear code of conduct which should help address poor member behaviour. The code of conduct should emphasize the importance of respecting the opinions of planning officers, who are the subject matter experts.
23. Members also discussed the merit of in-person and online training. While online training can be practical, it was noted there should also be opportunities for in-person training, such as in-person workshops/away days, to ensure better engagement on the issues.
24. Members also noted the crucial role of the chair of the planning committee in determining its effectiveness. It was suggested the mandatory training should include specific training for committee chairs to help them effectively manage the committee and run meetings.

Members also discussed broader ways in which the operation and effectiveness of planning committees can be improved. Key points are summarised below:

25. **Bringing in Expert Witnesses and Specialists for Planning Committees:** Every planning committee could benefit from bringing in expert witnesses or specialists to address technical knowledge gaps, ensuring that all relevant information is considered before a decision on an application is taken.
26. **Training for members:** There is a recognition about the limitations of training on planning for committee members and the level of political judgement that inevitably comes into local planning decisions. Planning is not just a procedural task but requires sound judgment, and poor decision-making can have significant long-term consequences such as the under delivery of homes locally. There needs to be a clearer understanding of the consequences for poor decisions for local authorities and communities as well as the need to monitor instances where decisions are overturned on appeal or where costs are awarded against the council.
27. **Direct Q&A with Applicants:** Members noted members should have more opportunities to ask applicants questions directly, particularly when factual clarifications are needed at committee. Relying on written submissions or simply the local authority planner present does not always provide the full picture at committee. This is particularly the case for larger complex development schemes. When members are having a discussion about a scheme based on factual inaccuracies, then there should be a mechanism to enable applicants to interject to clarify the factual point.
28. **Transparency on Costs and Decision-Making:** Committees should be more transparent about costs awarded against councils. There should be clearer and more effective requirements for ensuring transparency in this sphere. This would improve communication and enhance overall transparency throughout the planning process. Furthermore, the government should consider introducing more national monitoring to track decisions that are overturned on appeal or where costs are awarded, helping to identify patterns of poor decision-making and improve accountability.
29. **National Framework for Committees:** A national framework for running planning committees could foster greater consistency in processes and help reduce poor decision-making. This would contribute to more fair and transparent planning decisions.
30. **Promoting Briefings for Committee Members:** Briefings for committee members, especially for larger schemes, should be actively promoted. These briefings will help ensure that members have all the necessary information ahead of the committee meeting when time is inevitably more limited.
31. **Concise and Digestible Committee Reports:** Committee reports should be shorter, clearer, and easier to digest, particularly for complex schemes. Simplifying the presentation of detailed information will enable members to make informed decisions more efficiently.
32. **Elevating the Role of the Chief Planning Officer:** Elevating the role of the Chief Planning Officer could help improve decision-making, particularly when there are disagreements between officers and

committee members. This would give the Chief Planning Officer the authority to stand up to members and ensure that planning judgments are respected and upheld. Putting the position of Chief Planning Officer on a statutory footing would be one practical way to enhance the role.

33. **Importance of Officer Expertise at Planning Committees:** It was noted that Officers are often asked to offer advice at planning committee meetings on matters such as viability, design, and deliverability, despite lacking formal training in these areas. If planning committee members are relying on Officers for guidance, it is essential that Officers have the necessary skills to understand the complexities of development. Ensuring that Officers are adequately trained to provide informed advice will support better decision-making and ensure that both Members and Officers have a clear understanding of the challenges involved.