



BPF RESPONSE TO MHCLG'S TECHNICAL CONSULTATION ON REFORM OF PLANNING COMMITTEES

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 this latest MHCLG consultation on reforming planning committees. We support the broad intent of the proposals to create a more consistent national framework for determining which applications require committee consideration and which can be delegated to planning officers. We also support the proposal to introduce mandatory training for councillors sitting on planning committees.
3. However, we believe this consultation represents a missed opportunity to improve the overall functioning and effectiveness of planning committees. The BPF shared a range of ideas on this subject in response to the earlier MHCLG working paper on planning committee reform, and we have included these again in Annex 1 to this submission.

General Comments

4. As noted, the BPF is strongly supportive of introducing a national scheme of delegation through the Planning and Infrastructure Bill. By streamlining the process and ensuring that only applications requiring genuine committee scrutiny are brought to committee, the proposal should improve decision-making efficiency. It will also allow committee members more time to review the schemes that do come before them in greater detail. A national approach will promote consistency across the country, in contrast to the current system, where schemes of delegation vary widely from one authority to another. The intended effect should be to enable planning committees to focus on applications that genuinely warrant committee-level scrutiny while empowering planning officers to determine important applications. This will help to strengthen the status and professionalism of the local authority planning function.
5. We also support the plans to introduce mandatory training for councillors sitting on planning committees. Introducing this nationally through a certification scheme is the right approach and should help ensure consistency across local authorities. We also believe the councillor training presents an opportunity to raise awareness of types of development beyond traditional volume housebuilding, which tends to dominate national discussions about planning and development. For example, training should include material on the economics of the development process, planning for key employment uses such as logistics, and newer forms of housing such as build to rent, purpose-built student accommodation, and retirement living.

6. However, we believe this consultation also represents a missed opportunity to go further in improving the functioning and effectiveness of planning committees. A number of interesting ideas were discussed in the earlier MHCLG working paper, including the suggestion that planning committees could benefit from more expert input during decision-making. Several members are also strongly supportive of placing the position of Chief Planning Officer at LPAs on a statutory footing through the Planning and Infrastructure Bill. Members also feel there needs to be greater focus from government on the speed and regularity of planning committee meetings. Some applicants are currently waiting up to three months for a committee meeting, which is widely regarded as too long.

We have included the BPF's earlier ideas for improving planning committee effectiveness (submitted as part of the previous consultation) in Annex 1 of this submission.

7. Further general comments from members focused on the potential unintended consequences of the proposals. With a greater proportion of decisions delegated to local planning officers, there is the potential for officers to face political pressure within their local authority. This reinforces the importance of the proposed councillor training, the value of a national approach to conduct, and the case for a formal code of conduct for councillors on planning committees to help maintain high standards of behaviour.

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

8. The BPF is generally supportive of the government's proposal to have a two-tier structure for the national scheme of delegation. We welcome the government moving away from using compliance with the relevant local development plan as the key test for whether an application should go to committee or be delegated. As noted in our response to the earlier working paper, members felt that compliance with the local plan is too subjective and could result in inconsistent practice or increased risk of judicial challenge.
9. Members also suggested that there would be value in government creating a third tier to specify the types of applications that should automatically go to committee, in order to provide further clarity.
10. On the proposed Gateway process, where a discussion between the Chief Planner and the Chair of the Planning Committee could result in a Tier B application being referred to committee, members emphasised that this procedure must be robust and applied consistently across the country. It should not amount to a private conversation between the Chair and the Chief Planner. There must be transparency for applicants and communities in how and why these decisions are made.

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

11. Members felt the proposed list of Tier A applications is too focused on residential development. There would be value in further guidance on minor commercial applications that can fall within Tier A. We would also welcome consideration of whether some slightly larger but non-contentious commercial schemes could also be determined under Tier A.
12. There was strong support for reserved matters applications being kept out of committee. Members also noted that the nature of modern development means developers often revisit schemes late in the process, for example to respond to evolving fire safety standards or to incorporate sustainability upgrades. These kinds of applications do not need to be referred to committee, and streamlining them through officer delegation would help to accelerate delivery.

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?

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

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?

13. Views were mixed. A significant number of members felt that allowing objectors to refer Tier A applications to committee would undermine the objective of creating a simpler and more efficient national framework. These members warned that a well-organised group of objectors could exploit any referral mechanism to delay or frustrate applications.
14. Other members supported a mechanism for referral in exceptional cases, in order to address concerns about a democratic deficit where there is local disagreement over an officer-determined application. If such a mechanism were introduced, members agreed it should also be available to applicants to challenge how their application has been classified, ensuring parity between applicants and objectors.
15. All members agreed that if such a referral mechanism is introduced, it must be governed by clear and robust national guidance, with a strong focus on consistency in application across the country.

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?

16. As noted above, members emphasised the importance of formalising the Gateway process. It cannot simply be an informal conversation between the Chief Planner and Committee Chair. There must be a consistent national approach, and applicants and communities must be given clarity on the reasoning behind such decisions.

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

17. Members noted that where the original application fell within Tier A, any subsequent Section 73 application should also remain in Tier A.

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

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

- Tier A or
- Tier B?

18. Members supported the inclusion of special control applications in Tier A, as these are generally fact-based and suitable for officer determination.

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?

19. Members generally support the approach of aligning Section 106 decisions with the associated planning application. However, if the applicant is seeking only minor amendments to a signed agreement, especially where there is no change to the agreed Heads of Terms, then the change should not require further committee consideration.

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

20. Tier A. Planning officers should be trusted to make these decisions in the public interest.

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

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

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

21. We support the proposal to set a planning committee size of between 8 and 11 members. This range should provide sufficient flexibility to reflect political balance at local level.
22. However, while this section is titled "Size and Composition" of planning committees, the questions focus solely on size. As noted in our general comments, there would be value in MHCLG revisiting the earlier proposal to introduce more expert input into committee composition.
23. More broadly, members observed that committee effectiveness depends more on strong leadership, particularly the Chair, than on size alone. Members also noted inconsistency across the country in how and when officers attend meetings online, and how authorities manage committee meetings around election periods. These variations may merit further MHCLG consideration.
24. Specifically on minimum size requirements, members noted potential unintended consequences. For example, a minimum requirement could increase the likelihood of committees being cancelled at short notice if a local authority cannot secure enough attendees on the day.

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

25. The BPF strongly supports the proposal for national-level certification of planning committee members. This would promote consistency and raise standards across the country.
26. Members suggested that MHCLG could take inspiration from the Magistrates system, which features mandatory training requirements and strong behavioural guidance. This system also provides useful examples of how to encourage members to accurately follow procedures, which is often lacking in local planning committee decision-making.
27. As outlined earlier, the certification scheme should go beyond traditional housebuilding and include development types such as logistics, build to rent, PBSA, and retirement living. The BPF would welcome the opportunity to work with MHCLG on impartial and factual training content covering these development types.
28. Training should also cover the roles and responsibilities of planning committee members within the development management process, including the consequences of poor decision-making. This should include the financial risks to local authorities when policy-compliant applications are refused and subsequently granted at appeal.

29. Members also highlighted the challenges that arise due to changes in committee composition following local elections. MHCLG should ensure new councillors receive training promptly after elections and that there are national processes for updating members on significant changes to national planning policy, such as updates to the NPPF or new guidance on the Grey Belt.
30. Training should also bridge the gap between technical expertise and policy decisions. While councillors are not expected to be technical experts, training should reinforce the importance of expert evidence, such as ecological reports or transport modelling, and the weight such evidence should carry in decision-making.
31. Members also cited a local pilot whereby, if a committee resolves to refuse a scheme that is officer-recommended and policy-compliant, there is a cooling off period before the formal refusal. This allows for further reflection and the opportunity to reconsider the scheme at the next committee meeting before it progresses to appeal.

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?

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?

32. We support lowering the threshold to 5% to improve the quality of planning decision-making. However, for this to be effective, MHCLG must ensure that poorly performing authorities face meaningful consequences in practice.

Annex 1 – BPF recommendations for improving the effectiveness of planning committees submitted as part of the consultation on the Reforming Planning Committees Working Paper

33. **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.
34. **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.
35. **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.
36. **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.
37. **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.
38. **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.
39. **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.

40. **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.
41. **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.