

Reform of Planning Committees: Technical Consultation

HBF Response

The Home Builders Federation welcomes the Government's objectives of accelerating planning outcomes and improving the quality of decision making. Planning is a local activity, however in too many cases applications that comply with the Development Plan and are not overly contentious are decided by committee. This leads to delays in decision making, additional burdens on officer time and can impact on the quality of those decisions.

Overall, HBF is supportive of the proposed national scheme of delegation, however, it is considered that there are categories of application that have not been considered and there are some that should be included in Tier A. In addition, it is unclear why certain Local Planning Authority (LPA) structures are excluded from the reforms in regard to the scheme of delegation and the size of planning committees.

Crucially, for the triage system to be used correctly it is necessary for all Local Authorities to have a Chief Planner to provide the level of professional integrity and seniority necessary to make informed decisions about what should be considered by committee. In addition, there needs to be a process for monitoring the type and number of applications that are decided by planning committees and it is recommended that this is included in the performance regime for LPAs to ensure that the objectives of Government are not hampered by the implementation of the gateway for Tier B applications.

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

Yes. In order to achieve the objectives of modernising the planning system and accelerating decision making, it is important that there are some applications that cannot be decided by the planning committee. To include subjective considerations, member call-in or a certain number of objections would completely undermine the purpose of the scheme of delegation.

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. HBF also considers that other applications should be included (see response to Q.4).

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. HBF welcomes the introduction of a 'medium' development category. Where these are allocated in the Development Plan and reflect the scale and type of development in the allocation, they should be considered Tier A applications. This will contribute towards achieving the government's aims of assisting SME home builders and reversing the long-term trend in small builder activity in the sector.

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

Yes. Whilst HBF recognises the difficulty of including major applications in Tier A without referencing the number of objections connected to a scheme, however if an application is for an allocated site and reflects the scale and type of development referenced in the allocation, it would be appropriate for it to be in Tier A. This would not take away from the democratic process because of the opportunities for consultation during Local Plan making.

In addition, it would be appropriate for Section 73 applications to vary or remove conditions to be Tier A. Taking those applications to committee results in delay and uncertainty for developers, usually during the build phase which can delay the delivery of new build properties. By their very nature, s73 applications do not go to the principle of development or the heart of what has been permitted, so it should not be necessary for those to be considered by committee.

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?

No. To introduce a mechanism to bring Tier A applications to committee would, if not, immediately, gradually weaken the purpose of there being a two-tier system. Over time there would inevitably be an increase in those applications being considered by committee if the assessment of 'exceptional circumstances' was a consideration for the Chair of committee and the Chief Planner. There would be too much political influence over the type of applications being brought to committee. Including such a provision would run the risk of effectively introducing an additional step into the planning process with more interventionist LPAs seeking to build a case for planning committee consideration of the application.

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. However, this gateway test requires all authorities to have a Chief Planner. A Chief Planner in all Local Planning Authorities is necessary to give the highest standard of professionalism and seniority to provide the correct judgement on what should be considered at committee.

In respect of what should be used in 'triaging' such cases, the suggestion of applications that raise 'significant' planning matters and or "an economic, social or environmental issue of

significance to the local area” will require further guidance to be given to Local Authorities to avoid misuse of the gateway test.

In addition, it is recommended that the number of applications being heard at committee is monitored to ensure that it remains the case that in the first instance the starting point is that all Tier B applications are delegated to officers.

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

No. See response to question 4. If s73 applications are to be categorised as Tier B, there needs to be clear guidance provided to Local Authorities to set out circumstances in which those applications would be considered by committee.

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

Yes. S73A applications should be dealt with in the same way as s73/s73B.

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

- Tier A or
- Tier B?

Tier A. these applications either include assessment by specialist officers i.e. listed building consent and tree preservation orders or have limited matters of consideration i.e. advertisement consent. To make them Tier B may encourage councillors and their authorities to bring other matters into consideration. Where there is an associated application that is Tier A, it would be appropriate for the special control application to be considered at the same time.

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?

Section 106 decisions should be Tier B.

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

Tier A. Local Authorities should be required to provide an update on enforcement matters at committee.

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

Yes. This number will ensure there is adequate debate amongst members but that the debate isn't circular and the decision-making is efficient.

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?

No.

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, however, there should be a local component which will require a second level of certification which should follow a national model. Without the inclusion of a local level competence there will remain uncertainty as to level of understanding and knowledge of local policies.

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 but it is also crucial to review the speed of decision making and how local authorities use extensions of time and planning performance agreements to circumvent the standards required by Government.

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?

Yes. However, it will be imperative that there is appropriate resourcing of the Planning Inspectorate to deal with an increase in s62A applications.

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.

No.

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

N/A

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?

No.