

Planning committee reform: statutory consultation on draft Regulations and guidance

Home Builders Federation Response

The Home Builders Federation (HBF) is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership, which includes multi-national PLC's, regional developers and small, local builders. In any one year, our members account for over 80% of all new "for sale" market housing built in England and Wales as well as a large proportion of newly built affordable housing.

The Home Builders Federation welcomes Government's continued objectives of accelerating decision making and improving the quality of planning decisions through the national scheme of delegation. Overall, HBF continues to be supportive of the proposed two tier approach set out in the draft Regulations, however, it is disappointing that Government has not taken a bolder approach. As set out the HBF response to the consultation in 2025, this overall of the determination of planning applications presents an opportunity to encourage greater involvement in the Plan making process, removing the ability for those whose aim it is to frustrate the development process to have several bites of the cherry. Not including allocated sites and or even all reserved matters will mean that the national scheme of delegation will fail to have the transformative impact on decision making timescales that it has potential to do.

Notwithstanding the above, it is vital that the adherence to the Guidance which supports the Regulations is monitored to ensure that over time there is not a gradual creep in the number of applications being determined at Planning Committee that should be delegated to officers for determination. HBF recommends that Local Authorities are required to submit annual reports to MHCLG stating the number and type of applications that are determined by committee.

Question 1: Do you have any comments on the draft Regulations?

The draft Regulations are clear and easy to interpret. However, HBF has a number of comments in relation to types of applications included in Schedule 2.

Specifically, in relation to applications falling under Schedule 2 (Applications that may be determined by a committee or by an Officer), there seems little justification to include Control of Advertisements applications.

There are only two considerations for these applications; public safety (usually highway safety) and amenity. As such, they are relatively simple to determine and given the limitations of the considerations should be left to officers to determine in order to avoid lengthy committee processes where members are guided significantly by officers in any case.

Moreover, listed building consent applications should be included in Schedule 1 where they relate to an application of the type listed in Schedule 1. These applications are specialised in nature and will be subject to comments from historic builders advisor and or Historic England. Given the associated planning application and development is not considered as part of the listed building application, only the works to the listed building are, there is no need for these applications to be referred to committee if the associated planning application falls within Schedule 1.

Again, if the original planning permission was secured under delegated approval, and the type of development would still fall within Schedule 1, there is no justification for the s73 application to fall within Schedule 2. As drafted, you could get a householder s73 being determined by planning committee which will do nothing to improve efficiencies in the system.

Moreover, it is considered that works to trees that are subject to a TPO should fall within Schedule 1. These are very specific applications that are subject to consultation by an arboriculturist who will advise on the extent of the works and the health of the tree. There seems no justification for these to be in Schedule 2 as there would be no circumstance in which the gateway tests would be satisfied.

Finally, in respect of the size of committees, it is disappointing that Government is not intending to limit the number of committees an authority can have. The ability to have sub-committees has resulted, in some instances, in Local Authorities have a hierarchy of committees, meaning that an application needs to progress from an area committee to a strategic or district level committee before being finally determined. This adds months onto the determination timescale. Even where there is not a hierarchy of committees in place, area committees cause problems with consistency of decision making.

Restricting the number of committees a Local Authority can have is also recommended by PAS as it not only improves efficiency but also the consistency of decision making. These regulations present an opportunity to streamline the process so Local Authorities only have one committee.

In respect of Reserved Matters application, please refer to the response in relation to Question 2.

Question 2: Do you agree with our proposed approach to phased reserved matters applications? If not, do you think we should return to the original position of reserved matters on phased development being delegated in all circumstances or should we instead consider delegating certain types of phased reserved matters applications?

HBF acknowledges that some outline planning permissions, as a result of their scale will be developed over many years and be subject to several reserved matters applications. However, there is no reason to think that later reserved matters applications need more democratic oversight than earlier ones. If anything, the reverse is true.

HBF considers that once an outline permission is granted, there should be no need for reserved matters to be in Schedule 2, provided they comply with the outline permission. This is particularly the case given the amount of information pertaining to the design of the proposals now included in outline planning applications through the Design and Access Statement, masterplan or accompanying design codes. Noting Government's increased focus on requiring site specific design codes, the certainty of the design of developments is known to a greater extent than ever, well before the first reserved matters is submitted.

It would be more sensible to require compliance statements to be submitted with reserved matters applications (as is routinely done already) to ensure that the proposals comply with the outline permission. This can be assessed by officers and delegated accordingly.

In the event that Government insists on pursuing this approach, HBF considers that it would be more efficient to have the first phase of development (excluding landscaping or access) application in Schedule 2, to enable oversight of design quality and later phases under Schedule 1. This would enable latter phases to be determined more quickly, allowing housing delivery to continue unfettered by slow decision making timescales whilst committee members are able to scrutinise (subject to the gateway tests) the initial phase.

Including latter phases in Schedule 2 increases the likelihood that there will have been changes in the leadership of the Council and new members on a planning committee, meaning that decisions will be less certain and lengthy debates will be had at committee, educating new members of the history of the

application site. This will lengthen decision making timescales, which is at odds with the aim of the national scheme of delegation.

Question 3: Do you have any comments on the draft guidance?

HBF has significant concerns about the extent to which Local Authorities will comply with the guidance in the long term. It is necessary for MHCLG to have continued oversight of compliance with the process and whilst the guidance includes a requirement for Local Authorities to keep a record of the cases that have been considered by the nominated officer/member and report that information internally, it should go further by requiring local authorities to submit that information and information on what applications got determined by committee to MHCLG on an annual basis.

In addition, whilst the guidance includes information about reporting the decision, as the decision as to whether a Schedule 2 application will be determined by committee is one of the Council it will be susceptible to Judicial Review. The JR period is 6 weeks from when the decision is made so it is imperative that there are timescale requirements imposed on LPAs regarding the publication of the decision. This should be on a standard form issued by MHCLG and be published alongside the delegated decision or with the committee agenda if the application is to be determined by committee. This will avoid the need to extend the JR period, which could impact on the ability of applicants to start on site and deliver much needed housing.

Moreover, the guidance needs to go further to ensure that decision making timescales are not prolonged by the referral process and require that the nominated member/officer meet at least once a month to discuss cases. Meetings can also be arranged outside of those times as well but without this period as a fall back, the national scheme of delegation could actually end up prolonging timescales on Schedule 2 applications by introducing an additional step that has to be gone through before applications can reach committee.

Guidance should also be clear that there should be no lobbying of the nominated officer/member in order to try and influence the decision of whether an application should go to committee. Whilst it may be implicit given the gateway tests, the nominated member/officer should not be influenced as to whether there are 'new material considerations' by a third party. However, it should be possible for the applicant to request that an application is determined by committee if they consider there is supporting evidence which may overcome officer reasons for refusal.

At paragraph 16, the guidance suggests that local authorities may wish to put in place a triage system. HBF suggests it would be beneficial to include details of what that system may comprise for clarity.

In relation to paragraph 20 of the draft guidance, bullet point 1 includes that "significant planning matters may arise if new material considerations are raised by an application". HBF suggests that this is removed as there are many instances whereby new material considerations arise but provided the application addresses them adequately there should be no need for the application to be determined by committee. For example, new guidance being issued or new national policy, which could mean that all applications are then referred to committee, which would completely undermine the purpose of the national scheme of delegation.

