

## **APPENDIX 2**

### **Reform of planning committees: technical consultation**

The purpose of this paper is to set out the Council's responses to the questions posed within the 'Reform of planning committees: technical consultation', published by The Ministry of Housing, Communities & Local Government (MHCLG) in May 2025.

#### **Proposed Responses to the Consultation**

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

#### **Proposed Gedling Borough Council Response:**

Whilst the Council agrees in principle with a national scheme of delegation, there are some concerns relating the two-tier structure set out in the consultation. Primarily, given the critical role of the Chief Planner in this proposed delegation model, the role should be protected through statutory means.

It is clearly the Government's intention to give skilled planning officers an appropriate amount of trust and empowerment. However, key decision-making should be undertaken by a competent professional who is suitably qualified or experienced to do so. Chartered status as a member of the RTPI, or individuals working toward this, would be the most practicable way of ensuring that decision making is undertaken by a competent professional. This will improve quality of decision making and provide necessary safeguarding through adherence to the Code of Conduct.

Planning Committees play an important role, with the most contentious and large scale planning applications being debated in public and they provide a forum for the public to have their views heard and considered by the decision makers. As the Raynsford Review found, public trust in planning has declined partly because of the consistent drive to marginalise the voice of the public in decision making. Significantly bypassing elected members may reduce the ability of the public to be heard in person when a final decision is made. This removal of the public's right to have a voice at the point that final decisions are made has the potential to be divisive, and risks reinforcing the perception that decisions are made between professionals behind closed doors

If under a new proposed national scheme of delegation, a smaller number of more significant planning applications are to go to planning committees, consideration should be given to meaningful ways to better engage the public on those applications which will have a large impact on their area.

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

Proposed Gedling Borough Council Response:

Whilst the Council broadly agrees with the type of applications set out being suitable for automatic delegation, there are some concerns that the Tier A and Tier B approach make be overly simplistic. For example, certain proposals within application types, such as minor commercial and residential, may be significant and worthy of discussion at planning committees, but if were to be included in Tier B could constitute a significant volume of applications. This could therefore represent a high workload for the Chief Planner Officer and the Committee Chair if decisions were needed on each application within this type.

Some minor applications may result in significant impacts upon certain communities, for examples development in rural areas, where it may be beneficial for such proposals to be debated in the public realm

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?

Proposed Gedling borough Council Response:

As stated in the response to the previous question, it is common for medium residential developments in rural areas to generate significant public interest, which may still warrant consideration at Planning Committee. Including such decisions in Tier A may lead to the perception of less transparency in decision making. This would be of particular concern with cases such as medium sized developments in smaller settlements, where such proposals could lead to significant local impacts and concern from the community.

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

Proposed Gedling Borough Council Response:

S.73 applications where the original scheme was a Tier A development, applications for works to trees subject to a TPO or within a Conservation Area and applications for advertisement consent

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?

Proposed Gedling Borough Council Response:

Yes. It is essential that any national scheme of delegation includes a mechanism to enable Tier A applications to be considered at Planning Committee. Development proposals comprising small scale major development and minor residential development within rural areas can often generate a significant amount of public interest; and can include balancing a number of contentious considerations and constraints including heritage and greenbelt and landscape impacts. It is essential that a mechanism exists to capture those applications that require the transparency in decision making.

Options could include:

- Ward Councillor Referral - a common existing practice where a local ward councillor can request that an application be determined by the planning committee. This could be based on certain exceptional circumstances set out within the Scheme of Delegation
- Chief Planning Officer Referral - the Chief Planning Officer (possibly in conjunction with the Chair of the Planning Committee) could have a discretionary power to refer an application to committee if it meets a gateway test for exceptional circumstances.

The exceptional circumstances test could include: Where an application raises complex or contentious interpretations of local or national planning policy that require a broader democratic debate (departures) and or; if an application significantly conflicts with a recently adopted or emerging Neighbourhood Plan.

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?

Proposed Gedling Borough Council Response:

The proposed gateway test is a reasonable approach although, a mechanism would be necessary to ensure transparency in the decisions made. A more robust approach would be the use of a review panel, with a wider group of participants such as the Chair, Vice-Chair, Local Ward Cllr and Chief Planning Officer. This would enable a more robust approach, whilst also ensuring local views are represented in the decision-making process.

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

Proposed Gedling Borough Council Response:

Yes, but Section 73 applications should be included within Tier A if the original application was considered to fall within this tier.

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

Proposed Council Response:

No.

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

- Tier A or
- Tier B?

Proposed Gedling Borough Council Response:

Such applications should be included within Tier A – subject to the caveats that this should exclude applications where the applicant is the local authority, a councillor or officer.

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?

Proposed Gedling Borough Council Response:

It is agreed that S106 decisions should follow the treatment of its associated planning application. S106 agreements not linked to planning applications should fall within Tier B and be subject to the gateway test to ensure the most controversial proposals are able to be debated democratically

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

Proposed Gedling Borough Council Response:

Generally, enforcement decisions should fall within Tier A. An option could exist for larger scale, high profile cases to fall within Tier B. This should be subject to clear criteria and should reflect the public interest and need for transparency associated with such a case. Including enforcement cases within Tier B would require additional training for members and this should be addressed as part of the outcome of this consultation.

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

Proposed Gedling Borough Council Response:

There is no objection in principle to planning committee's having a maximum of 11 members but careful consideration needs to be given to ensure there is proportionate political representation and to ensure meetings are always quorate having regard to holidays, sickness and other Councillor commitments

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

Proposed Gedling Borough Council Response:

No comment to make in respect of this question

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

Proposed Gedling Borough Council Response:

Yes – in order to ensure that all applications receive a fair and consistent assessment at Committee and that political balance is maintained, a minimum number of members should be required. This could simply take the form of a set minimum number, or a 'core group' for each committee. This would then account for illnesses, holidays and absences, ensuring planning committees can be conducted with an appropriate quorum of attendees

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

Proposed Gedling Borough Council Response:

Generally, the suggestion of a national certification for planning committee members is supported. However, it is clear that there will always be a need for locally contextualised training and guidance to also be provided. As such, whilst a national certificate would be beneficial and would support LPA's in terms of the resources required for training, some form of hybrid arrangement that includes localised training would be the most effective solution.

The scope of the training needs to reflect the skills necessary for planning committee members to competently discharge their duties. This will include an understanding of the roles of actors in the system, planning process and materiality alongside general analytical skills.

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?

Proposed Gedling Borough Council Response:

It is considered that any revision to the thresholds for quality of decision making performance management should be accompanied by a thorough review of the quality of the Planning Inspectorates decision making. The decision making of PINS is often flawed and inconsistent. It is essential that any such measures are fair and transparent.

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?

Proposed Gedling Borough Council Response:

No. If the current threshold were to be lowered, existing performance statistics show it could place a significant number of LPAs in special designation status. Additionally, it is essential that the following matters are taken into consideration when review the performance thresholds:

- Resource and Capacity - Many LPAs are already under significant financial and staffing pressures. Raising performance thresholds without addressing these constraints could result in a reduction in delays in decision making, owing to the increased risk for the LPA to make the correct decision without additional resources to facilitate this. MHCLH has acknowledged the need for additional support (e.g. Planning Skills Delivery Fund), but this may not be sufficient or evenly distributed and requires LPA's to provide training which placed greater pressure on resources.
- Inequality – linked to the former point, such a change would disproportionately impact under resourced LPA's. A 5% threshold also does not account for case complexity or context, potentially penalizing authorities that take a valid stand on nuanced planning decisions and/or that have more heavily constrained districts/borough's/counties.
- Reduced flexibility, greater risk and slower decisions - A lower threshold may incentivise LPAs to refuse fewer applications, even when refusal is justified, to avoid the risk of being overturned at appeal. To avoid being overturned, LPAs may feel pressured to over-justify decisions, leading to longer reports and more cautious reasoning and a longer appeals process.

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.

Proposed Gedling Borough Council Response:

Any such impacts are likely capable of being managed, however, the following should be taken into consideration as part of the outcome of this consultation:

- Delegation of decisions to officers and smaller, more technical committees may reduce opportunities for public engagement, especially for groups who already face barriers to participation

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

Proposed Council Response:

That ensuring transparency in decision making remains a core principle of a National Scheme of Delegation.

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?

Proposed Gedling Borough Council Response:

No views in this respect