


Planning Reform Working Paper: Planning committees

16 December 2024  Ben Hunt

The Ministry of Housing, Communities and Local Government is consulting on reforms to how English local authority planning committees operate in making decisions on applications and related matters.

The stated objectives of the reforms are to:

- encourage developers to submit good quality applications which are compliant with plan policies;
- allow planning committees to focus their resources on complex or contentious development where local democratic oversight is required and a balanced planning judgement is made;
- ensure planning committee members get the training and support they need to fulfil their duties effectively; and
- empower planning professionals to make sound planning decisions on those cases aligned with the development plan.

To meet these laudable objectives, there are three broad proposals, each of which would require changes to primary legislation through the Planning and Infrastructure Bill:

1. **A national scheme of delegation** - dictating which planning applications are decided by a planning committee of elected members, and which are decided by professional planning officers.
2. **Dedicated 'strategic development' committees** – separate from the general planning committee, smaller in size, and focussed on the most important proposals.
3. **Mandatory training for planning committee members**.

Why is the Government consulting on planning committee reforms?

In its introduction, the Government identifies five issues with how committees operate:

1. **Lack of clarity/transparency in schemes of delegation** – so that applicants are uncertain whether their application will go to committee.
2. **Too much time spent considering local plan-compliant applications, or applications for post-permission matters** – especially on Local Plan allocated sites.
3. **Sometimes, a committee refuses an application against officer recommendation to approve, only for the proposal to be allowed** on a subsequent appeal.
4. **Insufficient understanding among committee members of planning law and principles** – making decisions more vulnerable to being overturned on appeal.
5. **A lack of transparency of committee decisions and their decisions** – especially where a successful appeal against refusal results in an award of costs against the local planning authority.

All of these issues can sometimes occur, leading to unnecessary expenditure, time, and sometimes delay and frustration in delivering much needed sustainable development. What is less clear is how widespread and significant the problems are – and therefore whether suggested solutions are proportionate. This is especially important when we are considering centralising some aspects of established

local controls. As the consultation acknowledges, democratic oversight is a fundamental element of the modern planning system, which was evolved to regulate the development of land in the public interest.

By way of context, local authorities already have powers to make a variety of planning decisions; and in some cases statute dictates whether those powers sit with full council, or for instance with a particular committee. Planning authorities also have powers to delegate decisions on applications to officers, and all have a scheme of delegation to set out the circumstances in which this will occur.

What are the planning committee reforms?

Below, I offer a few thoughts on the reforms, taking each proposal in reverse order to that in the consultation.

1. Mandatory requirement for training for planning committee members

The proposal is to require members to have undertaken certified training before they sit on a planning committee. Training would cover key areas such as planning legislation and the application process; national policy and the role of the development plan; propriety (code of conduct); and enforcement – but the list could be expanded. The consultation recognises that many councils already provide planning training of various sorts, and interest is expressed in learning more about this when developing certified packages.

Subject to consideration of costs and detail, it is anticipated that additional support for members will be widely welcomed as having potential to improve the quality of decision-making. My personal experience is that at local authorities where member training is thorough and regular, planning committees tend to be well run; with thoughtful and informed contributions from members – even where some decisions may not be entirely consistent with an officer recommendation. Although data is not readily available, I suspect that there may be correlations between the standard of existing member training and the number of officer-overtakes, success rates and awards of costs at appeal for each local authority.

2. Smaller, targeted / dedicated committees for ‘strategic development’

These would focus only on large scale proposals, urban extensions and area action plans which provide opportunities to deliver long term social and economic change to an area. Planning applications for these strategic developments would not be subject to the national scheme of delegation identified above. This proposed reform is based around the idea that smaller, dedicated committees would have a better opportunity to develop greater in-depth expertise and apply local knowledge. Committee members could provide both democratic oversight, and at the same time give a more direct and speedy response to applications and the preparation of policy documents such as design codes. The consultation seeks views on the general approach; what constitutes ‘strategic development’; and on the appropriate size and composition for such committees.

In principle, this reform has potential to both improve the quality of decision taking, in a similar way to that outlined in relation to member training. The largest strategic proposals often have a lot of different and complex moving parts, and take several years to get off the ground, let alone completion. Regular, focussed and medium-long term involvement by a small committee of members could offer continuity for developer teams, planning officers, and others such as infrastructure providers – whilst at the same time maintaining democratic oversight and points of contact for the wider community. It is important that the Government does not propose to subject these strategic developments to any mandatory scheme of delegation, whether or not the sites are already allocated in an adopted Local Plan.

3. National scheme of delegation

This would require all local authorities to take the same approach regarding which planning applications and related matters are decided by a planning committee of elected members, and which would be dealt with by professional planning officers. Currently, each local authority has its own scheme of delegation, with varying approaches across the country.

The consultation reports that some 96% of decisions by district level planning authorities were made by officers in Q2 2024. If this level had been consistent between Q3 2023 – Q2 2024, then out of a total of roughly 327,000 planning applications decided over those 12 months, some 314,000 would have been delegated to officers. The remaining 13,000 decided by planning committees would be (albeit unevenly) spread across approximately 315 planning authorities, at an average of 42 each.

It is unlikely that anyone would disagree with steps to ensure local government schemes are clear (issue 1. above). But the overwhelming majority of decisions are already made by officers under delegated powers; and if proposals for dedicated strategic committees (see above) go ahead, the number left to be dealt with by general planning committees will be even smaller. The reality is that most applicants and advisors for larger scale development proposals know that their scheme is likely to raise some issues and opposition; and that as a result elected members will probably decide the matter at committee. This will extend the period before a decision is made by a few

weeks, in particular to allow for publication and committee administrative cycles. However, I would suggest that the main problems lie in how quickly the application gets to that committee, and the quality of the decision-making when it does – rather than uncertainty over whether or not the application goes to committee in the first place.

The Government invites comments on three main suggestions for a mandatory scheme of delegation, but also suggests that combinations might be appropriate also. The first two suggestions revolve heavily on whether an application is compliant with or a departure from the Local Plan and related policy such as adopted design guides. The underlying concept is that development plans have been through a process of democratic oversight and public examination prior to adoption – so there is no need for a committee to revisit the application, with details left to planning officers to assess.

A key difficulty here is that, as the consultation acknowledges, someone has to make a planning judgement regarding plan compliance. That is often not a simple exercise, as significant development proposals are rarely wholly compliant with every element of every plan policy – but may nevertheless be viewed as compliant with the plan when read as a whole. It is not as simple as, for instance, an application for residential development on an allocated site containing the number of dwellings anticipated by the plan. Local Plans are not blue-prints, and do not deal with important issues in any great detail. Local residents and their elected members may have legitimate concerns about that detail, which might impact them directly. Restricting many of these applications to delegated officer decisions would remove a level of public scrutiny, which may justifiably be seen by the local community as a diminution of the democratic basis for planning decisions.

The third option is to have a default of delegation to officers, unless the application falls within a prescriptive list of categories – which might include for instance major residential or commercial development proposals on an allocated site. Some of the criteria may be seen as entirely reasonable, some less so.

For all these options, it is arguable that a mandatory national scheme of delegation for determining planning applications is something of a contradiction in terms, in that the local planning authority would not be exercising its powers to delegate – it would be an imposed separation of powers. Also, it might be argued that it would effectively, though not strictly legally, make certain planning officers statutory officers. Perhaps the future changes to primary legislation (to which the consultation refers) will resolve these points.

Concerns regarding committee overturns of officer recommendations, consequent appeals and potential costs to the public purse are not unfounded. However, it should be pointed out that sometimes committees are subsequently proved right, and appeals are dismissed – or at least the matter was sufficiently finely balanced that costs are not awarded against the public purse. The appeals system is there as a check and balance, giving applicants an opportunity to test decisions. Whilst over-use is undesirable, in my opinion we should not view all appeals – including against committee overturns – as necessarily representing a failure of the planning system as a whole.

One final comment on the lack of transparency of committee decisions and their decisions (issue 5. above). Officials have a vital role to play at planning committee, including where members are minded to refuse an application despite a recommendation to approve. Officers should, and usually will, warn members of the attendant risks – including in respect of potential costs - and the need to state supportable planning reasons for refusal. However, the minutes of such meetings do not always record this advice. At statutory obligation to do so might help in this regard.

Overall, my view is that to improve the existing situation, the focus should be on helping planning authorities to enable local engagement and improve the quality of committee decisions. The proposals to introduce mandatory member training and the use of strategic committees have good potential to achieve this; and at the same time a low risk of undermining local democratic control which is a long-standing and valuable element of the planning system. By contrast, imposing a mandatory scheme of delegation to take more decisions away from planning committees appears overly complicated, and risks both members and the wider community feeling less engaged.

Contact

Ben Hunt

Senior Associate Planner

ben.hunt@brownejacobson.com

+44 (0)330 045 2817

Related expertise

Local government real estate

Planning

Public law

Real estate