

Reform of planning committees: technical consultation

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

No.

South Oxfordshire is opposed to a two tier system if it is tied to a national scheme of delegation where tier A applications cannot be heard by local planning committee. The council does not support arguments put forward in relation to a national scheme of automatic delegation. The current system works effectively and, therefore, we oppose these proposed changes in the strongest possible terms. MHCLG's own statistics show that the overwhelming majority of planning decisions in England are already delegated and that these proposed reforms are, therefore, unnecessary and will not improve the decision-making process. Indeed, they will make the decision-making process less transparent and will undermine a vital principle of local democracy.

We would particularly like to express our opposition to the removal of the right of councillors to call in an application to committee. It is a vital principle of democracy and transparency that applications can be called in by ward members in consultation with local stakeholders.

In our experience, this right does not cause undue work pressures, nor does it result in a high number of inappropriate items coming before planning committee. Moreover, it allows more controversial applications to be decided in an open and transparent way, with the public present at the meeting. Planning committees serve a vital role in local government ensuring that developments and applications throughout South Oxfordshire are effectively and transparently scrutinized. Councils are capable of developing their own constitutions that regulate processes by which officers and elected members can refer items to committee in a manner that is logical and responsive to local needs.

Nevertheless, if a national scheme of delegation is, unfortunately, introduced, then the council can see some logic behind a two-tier system as long as there is a mechanism for tier A applications to be heard in public by retaining a process for councillors and officers to refer tier A applications to committee. However, while the criteria for tier A are clear, those for tier B seem much more ambiguous. We would, therefore, appreciate further clarity from HM Government (especially in relation to S73 applications).

The council would also highlight the fact that the current proposals for a national scheme of delegation lack any guidance on how this would sit within the existing protocols that govern how planning committees are currently organised and administered e.g., who can speak and for what length of time. If HM Government's intention is to create a consistent and clear approach to planning across England, will this then also involve determining procedural matters?

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**

Disagree.

South Oxfordshire is opposed to a two tier system if it is tied to a national scheme of delegation where tier A applications cannot be heard by local planning committee, this will weaken democratic oversight and local faith in the planning system and is not wanted or needed.

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?

South Oxfordshire is opposed to a two tier system if it is tied to a national scheme of delegation where tier A applications cannot be heard by local planning committee, this will weaken democratic oversight and local faith in the planning system and is not wanted or needed.

If tiering were introduced then, we do believe that HM Government should consider including some applications for medium residential development within Tier A as long as suitable safeguards are brought in, such as councillor/officer call-in (see response to question 5).

We would suggest that in rural areas what may appear to be 'medium sized residential developments' nationally would at the local level be considered large scale and, therefore, could have substantial impacts on the community.

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

South Oxfordshire is opposed to a two tier system if it is tied to a national scheme of delegation where tier A applications cannot be heard by local planning committee, this will weaken democratic oversight and local faith in the planning system and is not wanted or needed.

If tiering happened then, S73 applications and variations of s106 agreements could also be in 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?

Yes.

South Oxfordshire is opposed to a two tier system if it is tied to a national scheme of delegation where tier A applications cannot be heard by local planning committee, this will weaken democratic oversight and local faith in the planning system and is not wanted or needed.

In the current system we do this and we would like to see councillors and the Planning Development Manager maintain call-in powers for the most controversial applications and those borderline applications to ensure that all information available is fully considered in public. However, South Oxfordshire notes that if a national scheme of delegation is created with a mechanism to bring Tier A applications to committee in exceptional circumstances, this undermines one of the central arguments behind the proposed introduction of a national scheme as it would override the whole tier approach and create inconsistencies. It reveals why the tiering system is flawed and poorly thought through.

As we have made clear the council is unconvinced by the proposals for introducing a national scheme for delegation. Under the current system, councillors can and do call in a limited number of applications to committee. This does not cause undue work pressures, nor does it result in a high number of inappropriate items coming before the committee. It is a vital principle of democracy and transparency that applications can be called in by ward members in consultation with local stakeholders and with the agreement of elected members, the Chair/Vice-Chair of planning. The current system enables positive working relationships between officers and councillors.

The council wishes to see planning decisions made in an open and transparent way – as we believe they currently are – with local representatives and decisionmakers being empowered to take choices that are right for their communities. We would, therefore, welcome any proposal that maintain the existing right of councillors to raise applications that are controversial and/or of concern to their residents.

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?

While we appreciate the principles behind the concept of a gateway test, the council reserves judgement on whether it is a suitable proposal. We would like to see further details on how such a mechanism would work in practice – for example, would these agreements need to be formally recorded for openness and transparency and would reasons need to be given as to why a specific determination was made?

Further, the council would request that, if such a mechanism is introduced, additional guidance would be required to help elucidate discussions and further 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

South Oxfordshire is opposed to a two tier system if it is tied to a national scheme of delegation where tier A applications cannot be heard by local planning committee, this will weaken democratic oversight and local faith in the planning system and is not wanted or needed.

The council has concerns about the inclusion of all S73 applications. We believe that in some cases it will be relevant to refer these to planning committee, while in other instances they should be delegated decisions. We would, therefore, request further clarification.

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

No.

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

- Tier A or
- Tier B?

Tier B.

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?

South Oxfordshire is opposed to a two tier system if it is tied to a national scheme of delegation where tier A applications cannot be heard by local planning committee, this will weaken democratic oversight and local faith in the planning system and is not wanted or needed.

If an application with S106 has been considered by Planning Committee then the Chair of Planning Committee should be notified at the point that an S106 agreement is signed and before decision issue. At this point, the Chair of Planning Committee should confirm that this agreement is in accordance with the Heads of Terms set out to Planning Committee. The S106 should not be referred back to committee for agreement, as this will delay the issuing of the planning permission. S106 not related to planning applications should be Tier A.

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

Tier A.

South Oxfordshire is opposed to a two tier system if it is tied to a national scheme of delegation where tier A applications cannot be heard by local planning committee, this will weaken democratic oversight and local faith in the planning system and is not wanted or needed.

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

No Comment.

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

No Comment.

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

No Comment.

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

No Comment.

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?

No.

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?

No.

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.