

REFORM OF PLANNING COMMITTEES

CONSULTATION RESPONSE

Response from: BusinessLDN, One Oliver's Yard, 55-71 City Road, London EC1Y 1HQ

Prepared by: Sarah Bevan, Director, Planning and Development

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INTRODUCTION

1. BusinessLDN is a business membership organisation with the mission to make London the best city in the world to do business, working with and for the whole UK. BusinessLDN works with the support of the capital's major businesses in key sectors such as housing, commercial property, finance, transport, infrastructure, professional services, ICT, and education.
2. We welcome the opportunity to respond to this technical consultation on the reform of planning committees. We support the reforms in principle, particularly the objective of providing consistency across the country through a National Scheme of Delegation and the shift in emphasis to delegated decisions being the default position, with applications being referred to the relevant planning committee for decision in exceptional circumstances. Subject to some nuanced technical considerations, highlighted in our answers below, these reforms have the potential to significantly speed up the planning process and provide increased transparency and standardisation across the country.
3. For the avoidance of doubt, it is our understanding that the proposed National Scheme of Delegation is intended to apply solely to planning applications, heritage applications, and the special control applications identified within the consultation document. It is our understanding that any local arrangements in respect of Nationally Significant Infrastructure Projects (NSIPs) or Development Consent Orders would remain unchanged. Our comments are therefore made on that basis.

RESPONSES TO RELEVANT CONSULTATION QUESTIONS

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

4. Yes, the two-tier structure proposed is supported.

Question 2: Do you agree the following application types should fall within Tier A [...]?

5. Yes, the list of technical and minor development applications for Tier A, listed at paragraph 20 and in Question 2 of the consultation document, is supported.

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?

6. No, this is not supported. Separately, we shall be submitting a consultation response to the MHCLG Planning Reform Working Paper: *Reforming Site Thresholds* to recommend that the size of schemes within the medium category should be expanded beyond the limit of 50 dwellings to 100, and schemes of this size would not fall within the “technical and minor development” definition of Tier A.
7. Notwithstanding the above, even if the medium residential development category were to be introduced as currently proposed (at 10–50 dwellings), these applications should fall within Tier B. We do not support the argument in paragraph 22 that the scale of development in London warrants a different approach. Whilst the majority of medium applications should be decided under delegated powers in the new system, these types of schemes often involve a careful balance of complex planning issues and the option to be presented to committee in exceptional circumstances should exist.

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

8. Additional technical applications should be included in Tier A, namely applications for:
- Advertisement Consent
 - Listed Building Consent
 - Tree Preservation Orders

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?

9. No, this would overcomplicate the new system and erode its benefits. All Tier A applications should be dealt with under delegated powers to ensure clarity and certainty in the new system and maximise committee resource for relevant Tier B applications.
10. Where a Tier A minor application is an enabling application for a larger scheme and thus carries greater significance, the applications should be linked together in Tier B.

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?

11. The proposed gateway test for Tier B is largely supported, and the two bullet point criteria proposed at paragraph 26 of the consultation document should both be included.
12. However, given that the overall objective of these reforms is for the vast majority of applications to be decided under delegated powers, it would be disproportionate and an unnecessary resource burden on the chair of the planning committee to involve them in the decision-making process for all Tier B applications.
13. There should be an initial step introduced into the triage process whereby the applicant or the case officer can put forward an application for committee consideration. If there is agreement on both sides, the matter is immediately resolved, and it will be a planning committee decision. If there is disagreement between both parties, then the matter must be decided between the chief planner and the committee chair.

Question 7: Do you agree that the following types of application should fall within Tier B?

14. The list as proposed is supported, subject to our response to Question 8.
15. In regard to the Tier B applications, it is important to note that S73 and S73B applications are likely to be a type of Tier B application that requires the greatest deliberation and discretion in terms of the ability to take a decision under delegated powers or present the application to committee. The scale of the original planning permission should not be the deciding factor, but rather the significance of the changes proposed in the context of the original planning permission.

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

16. Tier B should also include applications for Conservation Area Consent. The expectation should be – as with all of Tier B – that the vast majority of these are decided under delegated powers; however, there will be some applications for Conservation Area Consent linked to medium and major planning applications that potentially have significant impact and should be presented to committee in conjunction with the planning application to which they are linked.

Question 9: Do you consider that special control applications should be included in Tier A or Tier B?

17. As per our response to Question 4, Tier A should include applications for:

- Advertisement Consent
- Listed Building Consent
- Tree Preservation Orders

18. As per our response to Question 8, Tier B should include applications for:

- Conservation Area Consent

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?

19. We do not believe that such a binary position can be taken on this. If an application requires a Section 106 (S106) agreement to mitigate its impact, then the agreement and the application are intrinsically linked. Therefore, where a decision is being taken on the original planning application (at which stage heads of terms for the S106 must have been agreed with the applicant), then it is agreed that the S106 should follow the treatment of the associated planning application, and often this could be a delegated decision.
20. Where it becomes more complex is in a scenario where a planning committee has considered the original application and issued a 'minded to grant subject to S106' decision. Following this, there should not be any need for the committee to reconsider the S106, or a variation of it, unless there is substantial deviation from the agreed heads of terms, either in the detailed drafting of the final agreement or Minor Material Amendments are sought through S73 or S73B.
21. With the current system, committee resource is unnecessarily wasted, and delays to delivery are incurred when deeds of variation to an original S106 agreement are automatically referred to committee when in fact they relate to straightforward and uncontentious S73 Minor Material Amendments. The new system should allow for these types of S106 deeds of variation to be dealt with under delegated powers by default unless they pass the gateway test for Tier B.

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

22. Yes, this is largely supported. It is not anticipated that all authority areas would need a committee as big as 11, so this should be clearly expressed as an upper limit rather than a

target, and local authorities should be encouraged to set a size that is commensurate to local circumstances. Committees should always comprise an odd number of members to allow majority voting to take place.

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

23. Whilst we support the principle of a consistent upper limit across the country, it is important that committees are of adequate size to allow for robust debate and political balance. We therefore also support the principle of setting a minimum size limit; however, local authorities are better placed to advise on where this should be set.

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

24. It is important that the scheme is administered at a national level to ensure consistency and compliance. However, there will need to be some degree of bespoke tailoring of the training administered to address locally specific issues. Sometimes these can be strategically very important matters, but they will only apply to a small number of local authorities – e.g. World Heritage Sites, tall buildings, and green belt release – with training tailored accordingly.