

Consultation Response

*Reform of planning committees:
technical consultation*

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About CCN

1. The County Councils Network (CCN) represents 38 English local authorities that serve counties. The 21 county and 17 unitary authorities that make up CCN are the largest part of the local government family. They represent all four corners of England, from Cumbria to Cornwall, Durham to Kent, North Yorkshire to Suffolk, Derbyshire to Essex.
2. Our members bear differing planning responsibilities under existing planning regulations. Crucially, county councils lead on the provision of infrastructure, transport, flood risk, local nature recovery and climate change, and on economic development that supports housing and other developments in district local plans. CCN's unitary members are responsible for both development planning and infrastructure delivery.
3. The essential services our members provide touch on the everyday lives of residents and businesses across 86% of England's landmass and 47% of its population. The areas represented by our members constitute 38% of local government expenditure; 44% of total public expenditure; and generate just under half of all tax revenues. The economies of our areas contribute 38% of Gross Value Added (GVA) and 44% of employment.

Introduction

4. CCN welcomes the opportunity to respond to this consultation. Our member councils work hard to ensure that planning applications are determined sensitively and at the correct level. The majority of planning applications that are determined by CCN member councils are approved under delegated decisions.
5. CCN understands the general principle of introducing a two-tier structure to make it easier and simpler to understand how different types of application should be determined, but we believe that this is overly simplistic and does not reflect the nuances of development that comes forward that could have a significant impact on communities, regardless of size. This has the potential to undermine local democracy and faith in the planning system.
6. Therefore, instead of a national scheme of delegation, we would advocate that the Government sets out stronger guidance, or a series of parameters that could be used for best practice allowing authorities to determine how schemes of delegation should work in their authority. If a scheme of national delegation is pursued, we provide our thoughts about how this should be done within the responses to the consultation questions.
7. We are supportive of proposals to introduce a national scheme of training, believing that this could assist in improving consistency of decision making across the country. As we outline in our response, we believe authorities should be allowed to run their own training alongside a national scheme to ensure that local considerations can be introduced and discussed.
8. We respond to the consultation questions below. We would also encourage the department to read this response in conjunction with responses from our member councils.

Response to consultation questions

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

CCN understands the general principle of introducing a two-tier structure to make it easier and simpler to understand how different types of application should be determined, but we believe that this is overly simplistic and does not reflect the nuances of development that comes forward that could have a significant impact on communities, regardless of size.

For example, in many rural areas applications for minor developments of up to 9 houses can constitute significant development, and can have an impact on services. Under the proposed two-tier structure, applications of this type would be automatically delegated to officers to decide, and we believe this does not allow for sufficient recognition of local context or circumstances. This undermines local democracy and accountability and we believe it would further erode confidence in the planning system.

There are also situations where, for certain types of development, the default outcome when assessing applications against national or local policy would be to 'refuse' them. For example, alteration and changes to listed buildings. There was one recent situation in a CCN member council where a homeowner living in a listed building was applying to make alterations that would allow the home to be adapted so they could continue living there. Initially, the application was written up to be refused under delegated powers but was called in and approved at committee. The committee recognised that the decision would have a significant impact on the quality of life of the resident and therefore decided to call it in to approve rather than see it refused. This is exactly the type of democratic decision making that committees should exercise and would be lost under the proposed two-tier approach.

The majority of applications that are taken to committee are approved, and while we understand the desire to simplify the way committee work, we believe that the outlined approach would be overly simplistic and lead to poorer decisions. We therefore advocate that the Government sets out stronger guidance, or a series of parameters that could be used for best practice, and allowing authorities to determine how schemes of delegation should work in their authority.

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

Notwithstanding our response to Question 1, if a national scheme of delegation is to be taken forward, we do not agree that all of these application types should fall into Tier A. As outlined above, across rural areas minor applications can have significant impacts. This is why we advocate for locally determined schemes of delegation.

We would therefore suggest the removal of minor commercial development, minor residential development, reserved matters and prior approval to removed from Tier A should a national scheme be taken forward.

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?

CCN believes that all applications for medium scale residential development should be retained within Tier B allowing scrutiny at planning committee where necessary. This would allow for delegated decisions where appropriate but would offer the flexibility to allow them to be taken to committee where further scrutiny and debate is required.

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

There are no further types of applications that we believe should fall within 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?

If a national scheme of delegation is taken forward, we would strongly advocate for a mechanism to allow Tier A applications to be taken to committee. There could be certain 'trigger points' for this, such as an objection from a statutory consultee, however, we would suggest that the department works directly with councils to design this to ensure that it is workable and effective.

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?

We broadly agree with the approach to adopting a gateway test to allow the chief planner and chair of the planning committee to come to an agreement about how an application should be determined. This follows the practice that is adopted across many authorities.

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

As outlined above, CCN believes that minor commercial and residential development applications should be included within Tier B. Whilst many applications for this type of development are approved under delegated powers, we believe councils should have the right to bring them to committee where there are concerns or local nuances that need to be considered.

There are some instances, for example in small rural settlements, where a development of between 1 – 9 homes could constitute significant development. The system should allow for schemes such as this to be brought to committee, allowing councillors to fulfil their democratic duties.

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

Please see response to Question 7 above.

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

- Tier A or
- Tier B?

We believe that it should be for a council to determine whether applications are taken to committee, and would therefore suggest that Special control applications are placed within Tier B to allow this to happen.

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?

We agree that, generally, section 106 decisions should follow to the same route as their associated applications. However, we would call for the gateway test to apply to these decisions too, allowing them to be heard at committee where it is felt this would be appropriate.

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

As above, we believe that the majority of applications should fall within Tier B. As we have already outlined, while many applications considered by authorities are approved under delegated powers, we believe they should have the right to bring them to committee where there are concerns or local nuances that need to be considered.

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

CCN is broadly supportive of the proposals to establish a maximum committee size. The exact number should be worked through directly with planning authorities before regulations are made to ensure that it is workable. It may be that for large authorities, two or more committees are needed to ensure that members of the committee are familiar with the local area.

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

See above response.

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

There may be merit in setting out a minimum number for the purposes of committees. As above, this should be worked through directly with planning authorities before regulations are made to ensure that it is workable.

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

CCN supports certification of planning committee members, and decision makers, and agrees that this should be administered at a national level to ensure consistency. However, we also believe that councils should be allowed to provide additional local training that complements national training should they wish. This will allow for local considerations to be discussed and feature as part of the training.

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?

We believe the existing performance regime is adequate to ensure the highest standards of decision making. We therefore do not believe that a review of the existing thresholds is necessary.

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?

As above, CCN does not agree with this approach believing that the existing regime is sufficient.

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.

As we outline, we do not believe the proposed approach allows for enough nuance to ensure that planning decisions are being made in a democratic and accountable way, which could ultimately impact on groups with protected characteristics. We would urge the department to undertake and publish its own assessment before taking anything forward.

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

If a national scheme of delegation is to be brought forward, all applications should be permitted to be brought to committee via the gateway test, where this is deemed appropriate.

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?

We have no comments.