

<b>REPORT: MHCLG Planning Consultation Documents</b>	
<b>Executive Summary</b>	This report provides information on four Government Consultation documents and suggests how the Council may wish to comment on the proposals within the documents.
<b>Options considered</b>	This report does not consider options.
<b>Consultation(s)</b>	The report is a response to Government papers seeking views. The Council hasn't consulted others in the preparation of this Report. Other organisations and / or people could comment direct to the Government if they so wished.
<b>Recommendations</b>	That the Assistant Director for Planning be authorised to submit 'answers' to the various documents in accordance with the points contained within Appendix 1 of this report to Government as North Norfolk District Council's opinion(s) on the documents.
<b>Reasons for recommendations</b>	Prepared at the request of the Councillors.
<b>Background papers</b>	<p>The Government Papers referred to at paragraph 1.1 below.</p> <p>Development Committee Report titled: <i>MHCLG Working Paper – Planning Reform: Modernising Planning Committees</i> from 23<sup>rd</sup> January 2025.</p> <p>Planning and Infrastructure Bill 2025</p>

<b>Wards affected</b>	All
<b>Cabinet member(s)</b>	Cllr Andrew Brown
<b>Contact Officer</b>	Russell Williams

<b>Links to key documents:</b>	
Corporate Plan:	Customer Focus
Medium Term Financial Strategy (MTFS)	No direct links to the MTFS
Council Policies & Strategies	Not applicable

<b>Corporate Governance:</b>	
Is this a key decision	No
Has the public interest test been applied	N/A
Details of any previous decision(s) on this matter	None

## 1. Purpose of the report

- 1.1 In May 2025 the Government published 4 Consultation Papers related to 'Planning Reform'. The four papers are:
- (a) Planning Reform Working paper: Speeding Up Build Out – closing date 7<sup>th</sup> July
  - (b) Technical Consultation on Implementing Measures to Improve Build Out Transparency – closing date 7<sup>th</sup> July
  - (c) Planning Reform Working paper – Reforming Site Thresholds – closing date 9<sup>th</sup> July
  - (d) Technical Consultation – Reform of Planning Committees – closing dated 23<sup>rd</sup> July.
- 1.2 They are all publicly available at: [Policy papers and consultations - GOV.UK](#).
- 1.3 The published Papers (see paragraph 1.1 above) largely relate to work Government are undertaking that would take forward draft legislation as set out within the Planning and Infrastructure Bill – first published in March 2025. The original and most recent version of the Bill can be found at: [Planning and Infrastructure Bill - UK Parliament](#).
- 1.4 The final paper ((d) above) is a follow up paper to one published on 9<sup>th</sup> December 2024 – titled: *Planning Reform: Modernising Planning Committees*. That Paper was the subject of a report to Committee on 23<sup>rd</sup> January 2025 – where Committee authorised the Assistant Director for Planning to submit comments to the Government on behalf of the Council and in accordance with Appendix 2 to that report (which is included in this report – also as Appendix 2). That submission was duly made in January 2025.
- 1.5 Committee Councillors were notified of all four documents by email on 29<sup>th</sup> May 2025 (from the Assistant Director for Planning). Councillors were given an opportunity to contribute their thought on the documents by 13<sup>th</sup> June 2025. A draft of this report was shared with Councillors Brown (Portfolio Holder), Heinrich (Committee Chair) and Holliday (main opposition group Planning lead) prior to it being finalised and published.
- 1.6 Section 2 of this report focussed on the 4<sup>th</sup> Paper – around Reform of Planning Committees. Section 3 covers the other 3 Papers.

## 2. Technical Consultation – Reform of Planning Committees

- 2.1 The Government's consultation includes the following statements:

*"In December 2024, we published [Planning Reform Working Paper - Modernising Planning Committees](#) to seek views on 3 proposed actions to reform planning committees:*

- introducing a national scheme of delegation so there is greater consistency and certainty about which decisions go to committee;*
- requiring separate, smaller committees for strategic development so there is more professional consideration of key developments; and*
- introducing a requirement for mandatory training for all planning committee members so they are more informed about key planning principles.*

After careful consideration of the responses, the government has included the following measures in the [Planning and Infrastructure Bill](#) which was introduced into Parliament on 11 March 2025:

- a new power for the Secretary of State to set out which planning functions should be delegated to planning officers for a decision and which should instead go to a planning committee or sub-committee;
- a new power for the Secretary of State to control the size and composition of planning committees; and
- a new requirement for members of planning committees to be trained, and certified, in key elements of planning.

We recognise that some planning committees may discharge certain plan making functions (e.g. the approval of supplementary planning documents) which fall under Schedule 3 of the regulations which covers functions which must not be the sole responsibility of the executive. We do not intend to regulate these functions.

Having taken account of the responses, the government is proposing to introduce a scheme of delegation which categorises planning applications into two tiers:

- **Tier A** which would include types of applications which must be delegated to officers in all cases; and
- **Tier B** which would include types of applications which must be delegated to officers unless the Chief Planner and Chair of Committee agree it should go to Committee based on a gateway test.

This approach will replace the many different approaches across the country, including where individual councillors can call in any application to be considered by committee<sup>[1]</sup>:

In all cases Tier A applications must be delegated to officers.

We propose the following types of applications would be in Tier A. This is in recognition that they are either about technical matters beyond the principle of the development or about minor developments which are best handled by professional planning officers:

- applications for planning permission for:
  - Householder development
  - Minor commercial development
  - Minor residential development
- applications for reserved matter approvals
- applications for s96A non-material amendments to planning permissions
- applications for the approval of 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

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<sup>1</sup> Parish and Town Councils were not mentioned in the Government's document.

*The starting point for Tier B is that all applications should be delegated to officers, subject to a gateway test through which the chief planning officer (or equivalent officer in LPAs without a chief planning officer) and chair of planning committee must mutually agree that they should go to committee if they are to depart from the assumed delegation.*

*We propose that the following types of applications should be in Tier B in recognition that it may be appropriate, in some circumstances, for these applications to be subject to committee scrutiny.*

<b>Type of decision</b>	<b>Rationale</b>
<i>Applications for planning permission not in Tier A</i>	<i>Planning permission is the key consent and there will be examples of applications in most categories of different development where committee scrutiny is warranted as the issue will be about the principle of development. This will include all significant new housing and commercial developments. It will enable controversial or complex applications to be considered by committee.</i>
<i>Notwithstanding Tier A, any application for planning permission where the applicant is the local authority, a councillor or officer</i>	<i>This type of application is included to ensure that there can be open scrutiny of applications closely linked to the local authority itself.</i>
<i>Section 73 applications to vary conditions</i>	<i>This type of application is included as, although there will be many instances where officers should consider the variation, there will be some applications which would alert the principle of development which require committee scrutiny. Significant changes to mineral developments are, for instance, made through section 73 applications.</i>
<i>Review of mineral planning conditions</i>	<i>Certain categories of mineral sites are subject to a review of their conditions to ensure these are still.</i>

*Engagement and best practice indicate a committee of 8-11 members is optimal for informed debate on applications<sup>21</sup>. We recognise that there is a need for some local flexibility to take account of political balance requirements and meeting abstentions. We are therefore, proposing to set a maximum of 11 members in the regulations. We will use the statutory guidance to provide a steer on best practice so that 11 members does not unintentionally become to be seen as the requirement. Committees may be smaller if that works best locally.*

<sup>2</sup> The Planning Advisory Service recently undertook a survey of planning committees, noting that majority of committees are between 9 and 12 members: [Modernising Planning Committees National Survey 2025](#).

*Our working paper therefore, sought views on introducing mandatory training for committee members. The proposal was strongly supported and we are taking this forward, subject to Parliamentary approval, in the Planning and Infrastructure Bill.*

*One key feature (which is incorporated into the Bill's provisions) is the need for a member to have some form of training certification to ensure they can only make committee decisions if they have been trained. There are two basic options:*

- *a national certification scheme which would be procured by MHCLG and involve an online test for certification; or*
- *a local based approach where the local planning authority provides certification*

*Our preference is for a national certification scheme as it ensures independence and reduces the burden on individual local planning authorities, however it is likely to mean that the certification is based on national content only. We are aware of different views on this matter and would like to hear views before developing the training package with the sector.”*

2.2 The Paper seeks views on 20 different questions. These are all set out – with suggested answers in Appendix 1. They are written from a perspective that the Government has decided to introduce a ‘national scheme’ so our contribution should focus on trying to make it ‘as good’ a one as possible rather than challenging again the merits of such a scheme’s introduction. The Council’s more critical comments from January 2025 remain relevant and demonstrate that the Council doesn’t support the overall direction of travel. However this report focusses more on suggesting improvements to what the Government are clearly intent on introducing – despite our previously given views.

2.3 Headline elements of the suggested answers are set out below:

1. We would advocate that there should be a three-tier structure for where decisions should be made:
  - (A) Those that should be delegated to officers
  - (B) Those that should be subject to some form of ‘gateway review’
  - (C) Those that should always be considered by Committee.

In both Tier A and B in the above – there should always be discretion for the person with the delegated decision to choose to report a matter to Committee. If they choose to take that route, they should have to set out their reasons for the matter being considered by Committee.

2. The core premise of any scheme of delegation is that the person delegated to doesn’t have to make the decision and can report it ‘up the line’ (e.g. to Committee). It is considered vital that that discretion remains. If not – what happens when the individual doesn’t want to make the decision – or who is liable for any challenge to that decision (and the costs that that might result in).
3. While it shouldn’t automatically be a position that must be on a Council’s most senior management grouping – it is considered that the national scheme would work best if the role of Chief Planning Officer was a statutory role (with required qualifications like for the Section 151 Officer role).

4. Logically a gateway test as to what goes to Committee is sensible – but requiring both the senior professional and the senior politician to agree is a high bar. What if one simply won't agree – despite 'everyone else' thinking the item should go to Committee? It would probably be better as a two out of three scenario – or a third person involvement in the event of a difference of view between the initial two (this could be a role for the Portfolio Holder).
5. The evidence presented in the Consultation paper demonstrates that most committees were of the 8 to 11 range. It did not then demonstrate that that was the optimal range for 'informed debate on applications'. The size of a committee should be left to each Council to determine.
6. As local training will remain a key need it is believed that a 'national certification' system must be complimented by 'local training' prior to a Councillor participating on a Planning Committee.

### **3. Other Consultation Documents.**

3.1 As stated at paragraph 1.1 the other three Consultation Papers are:

- (a) Planning Reform Working paper: Speeding Up Build Out
- (b) Technical Consultation on Implementing Measures to Improve Build Out Transparency; and,
- (c) Planning Reform Working paper – Reforming Site Thresholds.

3.2 Realistically these three papers have considerably less day to day impact on the activities of the Development Committee. The following four paragraphs provides a short summary of what each of the Papers covers.

3.3 Speeding Up Build Out: This paper invites views on options the Government suggests that they could pursue to ensure the right incentives exist in the housing market, and local planning authorities have the tools they need, to encourage homes to be built out more quickly. In addition to the transparency and accountability measures set out in the technical consultation, this includes incentivising and supporting models of development that build out faster, such as partnership models, greater affordable housing, public sector master-planned sites, and smaller sites. They also invite views on giving local authorities the ability – as a last resort – to charge developers a new 'Delayed Homes Penalty' when they fall materially behind pre-agreed build out schedules.

3.4 Implementing Measures to Improve Build Out Transparency: This technical consultation seeks to gather views on the proposals within it and, in particular, seeks specific views on:

- the type of development these build out measures will apply to
- introducing and implementing build out statements
- implementing commencement notices
- implementing development progress reports
- sites where multiple developers are involved in build out
- implementing the power to decline to determine applications
- potential impacts of the proposed measures

3.5 Within this paper are proposals to introduce 'build out statements', 'commencement notices', 'development progress reports' and the 'power to decline to determine applications'.



- 3.6 **Reforming Site Thresholds:** This paper seeks views on reforming site size thresholds in the planning system to better support housing delivery on different types of sites. This means taking a graduated approach to the system as a whole – removing – in the Government's words - and streamlining disproportionate requirements on small and medium sites, while maintaining and strengthening requirements on major development. It explores how different site sizes could be treated within the planning system and considers the case for removing barriers specific to developers in this part of the sector. The paper primarily explores a simplification of planning requirements for the smallest of sites and the introduction of a medium-sized site threshold within the planning system – in recognition of the particular needs of this scale of development. These changes aim to provide certainty to the sector, ensure the planning system is more targeted and proportionate across different scales of development, and help small and medium builders (SMEs) deliver the homes our communities need.
- 3.7 Between the three Papers there are 46 separate questions. Realistically, drafting answers for all of these would not be a good use of officer time. It is considered that the following observations should be made in response to the papers:
- (i) Evidenced proposals that would encourage the speedier build of new homes will be welcomed and are much needed.
  - (ii) Requiring developers to provide better information to councils on build out plans and then progress with them would be welcome.
  - (iii) Providing that they don't detrimentally impact environmental standards, proposals that would simplify requirements for the SME development sector would be welcomed and should be brought forward speedily.
- 3.8 Those three points are made with an awareness that there will be a further round(s) of consultation and / or Parliamentary scrutiny before any of the main changes proposed within the papers are introduced.

#### 4. Corporate Priorities

- 4.1 The topic covered by this Report closely relates to parts of 'A Strong, Responsible and Accountable Council' Priority of the Corporate Plan 2023-2027.

#### 5. Financial and Resource Implications

- 5.1 There are no direct financial implications resulting from this report.

##### **Comments from the S151 Officer:**

*There are no direct financial implications arising from this paper as it is a response to Government consultations.*

#### 6. Legal Implications

- 6.1 While there are not thought to be any legal implications directly associated with this report, there would be implications – and potentially significant one's – for the way the Council operates if the Government bring forward mandatory changes to how our Development Committee – and planning decision making – processes operate.

- 6.2 Changes associated with other Papers are likely to be of a more technical nature and while they may result in significant changes to the way the Planning system operates – the changes to Committee and democratic involvement generally would be minimal.

**Comments from the Monitoring Officer**

*There is no obligation to respond to the Government Papers. They are Papers / consultations seeking views. This report sets out a suggested responses.*

**7. Risks**

- 7.1 The key risk is that the Government might make changes without considering the views of the District Council. This Report – if the recommendation is agreed – would ensure that the Government are made aware of the Council's views. That clearly doesn't mean that the Government wouldn't seek to continue with plans to make changes. If that were to be the case, it is believed that there would be – in many areas of the consultation - further and more formal consultation on specific proposals.

**8. Net Zero Target**

- 8.1 No implications for this update report.

**9. Equality, Diversity & Inclusion**

- 9.1 No impact identified with this update report.

**10. Community Safety issues**

- 10.1 No impact on community safety issues with this update.

**11. Recommendations**

- 11.1 It is recommended that:

- (i) the Assistant Director for Planning be authorised to submit the 'points' (contained within paragraph 3.7 and Appendix 1 of this Report) to Government as North Norfolk District Council's opinion on the Consultation Papers listed at paragraph 1.1 of this paper.



## Appendix 1

### Draft response on the Government's Technical Consultation from May 2025 entitled Reform of Planning Committees

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

No – we would advocate that there is a three tier structure:

- (D) Those that should be delegated to officers
- (E) Those that should be subject to some form of 'gateway review'
- (F) Those that should always be considered by Committee.

In both Tier A and B in the above – there should always be discretion for the person with the delegated decision to choose to report a matter to Committee. If they choose to take that route they should have to set out their reasons for the matter being considered by Committee.

#### 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

With two exceptions that seems a sensible answer. The exceptions are:

- Major reserved matters submissions should be in Tier B. They can include matters of considerable public interest and matters which would have a wider bearing on the area – such as the location and type of the access junction, the proximity of buildings to neighbours and the heights of buildings;
- Variation of condition applications should fall into the Tier category of the original substantive approval that they are varying. It would seem illogical to have the original application determined under Tier A but the variation of one of the conditions of that approval determined under Tier B.

In addition, the Council believes that this would be a good moment to current an anomaly in the system whereby Lawful Development / Use Certificates do not require any form of public consultation / notification. We believe that these should be made publicly available so that there is ample opportunity for the public to put forward evidence that the planning authority should consider prior to determination.

#### 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?

No. In addition – the core logic of a standard national scheme is that it should be national and not set different thresholds for different places or types of place.

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

See answer to question 2

The consultation makes no reference to Regulation 77 applications (linked to the GPDO and Habitats Regulations) - these should be included in Tier A. Also, no mention of NSIP Requirement Discharges - these should be included in Tier A (bearing in mind the Government's aim to speed up NSIP schemes).

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?

The core premise of any scheme of delegation is that the person delegated to doesn't have to make the decision and can report it 'up the line' (e.g. to Committee). It is considered vital that that discretion remains. If not – what happens when the individual doesn't want to make the decision – or who is liable for any challenge to that decision (and the costs that that might result in).

While it is recognised that that might bring inconsistency in how it operates – to not have it as an option would bring all sorts of legal issues to bear – and bring into question the protections and required qualifications for the 'Chief Planning Officer'.

While it shouldn't automatically be a position that must be on a Council's most senior management grouping – it is considered that the national scheme would work best if the role of Chief Planning Officer was a statutory role (with required qualifications like for the Section 151 Officer role).

Government should also have regard to the fact that all councils will be likely to have schemes of authorisation that flow from the person delegated to other officers who can then make (certain types) of decision on that individuals behalf. Continuing this will need to be factored into the wording of any National Scheme.

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?

Logically a gateway test is sensible – but requiring both the senior professional and the senior politician to agree is a high bar. What if one simply won't agree – despite 'everyone else' thinking the item should go to Committee? It would probably be better as a two out of three scenario – or a third person involvement in the event of a difference of view (this could be a role for the Portfolio Holder).

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

Generally – yes – subject to the following three points:

- (i) Some s73 variation applications should be in Tier A – see the answer to question 2 above.
- (ii) There should be a Tier C where applications must be considered by Committee (that could be for the major schemes (if a medium level is introduced)
- (iii) There needs to be more finesse to (b). Any application where the Councillor has a disclosable pecuniary interest should be considered at Committee – and likewise any application with the same level of interest of a Council Chief Officer, Deputy Chief Officer or employee in the planning service should be considered at Committee. Major applications by the Council should be Committee items. Minor Council applications and those by other Council employees should be in Tier B.

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

Some reserved matters applications – see the answer to question 2 above.

Question 9: Do you consider that special control applications (Tree Preservation Orders, Listed Building Consent of Advertisement Consent) should be included in:

- Tier A or
- Tier B?

Assuming the scheme allows for appropriate discretion for all matters to be reported to Committee then all three (with the exception highlighted below) should be in Tier A. If such discretion isn't allowed, then they should all be in Tier B.

The exception is that the Council believes that proposals for TPOs that would involve the felling of an individually protected tree, the felling of more than 50% of a protected Group or the felling of more than 50% of a protected Area should be in Tier B – recognising that such proposals can often generate significant interest and have major impacts on visual and natural amenity.

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?

The decision to sign a Section 106 should be a Tier A function. However, the agreement of 'heads of terms' (to be nationally defined) should be linked to the Tier of the related application(s).

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

Assuming the scheme allows for appropriate discretion for all matters to be reported to Committee then this should be in Tier A.

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

No. The evidence presented in the paper demonstrated that most committees were of the 8 to 11 range. It did not then demonstrate that that was the optimal range for 'informed debate on applications'. The size of a committee should be left to each Council to determine.

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

The size of a committee should be left to each Council to determine.

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

No - The size of a committee should be left to each Council to determine.

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

Yes, but there should also be a requirement for local training to be undertaken as well.

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?

Yes – a review would be sensible but it should also factor in the number of appeals made and the proportion allowed as well as the current assessment against number of applications.

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?

Consideration of the answer to question 16 should come before discussion of the %ages that might apply if the basic measure remains unchanged.

For Councils with fewer Major planning applications over the assessment period, one or two appeal decisions allowed could result in the suggested 5% threshold being met or exceeded. Lowering the threshold may have unintended consequences – so setting a (small) number of allowed appeals may also be sensible as a second criteria (in addition to %ages) for this threshold.

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.

Removing discretion for matters to go to Committee may well have a negative impact on some people and / or groups. Interested parties often appreciate having the ability to “have their say” directly to Development Committee Members at a meeting. Complaints to the Council will likely increase (especially during the initial period of introduction of a national scheme of delegation) on the basis of people being denied their right to speak at and influence Committee outcomes.

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

Retain discretion for those given delegated decision-making responsibilities to report items to Committee.

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.

*[Note: The 5 principles as set out in section 17(5) of the Environment Act, are internationally recognised as successful benchmarks for environmental protection and enhancement. When making policy, and where relevant, ministers will need to consider the:*

- *integration principle*
- *prevention principle*
- *rectification at source principle*
- *polluter pays principle*
- *precautionary principle]*

## Appendix 2

### Response from North Norfolk District Council to Government Questions (January 2025)

The rest of this Appendix is taken from the 23<sup>rd</sup> January 2025 Development Committee report on MHCLG Working Paper – Planning Reform: Modernising Planning Committees. It was Appendix 2 within that report – and was endorsed by Committee as the basis for the Council's consultation response associated with that consultation document.

- a. Do you think this package of reforms would help to improve decision making by planning committees?

Answer:

Each 'Planning Committee' is different and the need for change to 'improve' decision making isn't uniform across the country. The experience in North Norfolk would suggest that significant reform isn't required and indeed it might well be counter-productive to the Government goal of 'better decision making'.

So the answer to the question would be 'No'.

The package put forward certainly has no regard to the differing scales and types of applications received by differing planning authorities and any introduction in national standards could well result in greater legal challenges to the form / level of decision – i.e. it isn't always clear cut as to what is a 'departure' from Policy and what isn't.

All the options put forward would almost certainly reduce the number of applications that would be considered by Committee at North Norfolk (with the average currently being less than 3.5 per meeting).

This would impact negatively on perceptions of the democratic accountability of the planning system and would probably result a higher likelihood of a higher proportion of decisions being reached contrary to recommendation – as councillors get involved in fewer items and become less experienced in dealing with a variety of applications.

It is also unclear how a national scheme of delegation would work in practice. Who would it require delegation to – noting that there isn't a 'statutory role' of Chief Planning Officer – and how would it operate in practice? Currently council constitutions include schemes of delegation that 'enable' officers to make certain decisions on behalf of their council, they do not 'require' those officers to make those decisions – i.e. officers can always decide to report a matter to a committee / councillors rather than exercise their delegation.

It is not clear how the Government are looking to address this point and it is not clear whether they even can do so legally. If Officers can choose not to exercise a delegation then they may very well choose that option from time to time - especially if they, and / or their employers, do not personally support the national schemes' provision. If the Government endeavour to require officers to have to make these decisions it will be interesting to understand how that requirement would be enshrined legally and how it would operate in contractual employment terms for the individuals being delegated to.

The proposals appear to be taking a sledge-hammer to crack something – but it really isn't clear what the something is - – and the main people that may well benefit from them are those opposed to whatever decision is reached (and the legal profession!).

In NNDCs circumstances the proposals are likely to be counter-productive. Our Planning Service is now recognised as one of the very best in the country for speed and quality of its Development Management service - see: [North Norfolk identified as 'platinum' rated planning service by industry experts](#). This shows that our Planning Service was one of twelve nationwide recognised as being at a 'Platinum' (i.e. the top) level (and the second highest district authority). These proposals would threaten that status and our Committee 'performance' played an important role in helping us secure that accolade.

In that regard, the Council would like to draw attention to core statistics associated with its Development Committee over the last 9 months, i.e.:

- (a) 11 meetings of Development Committee took place (in 39 weeks – 1 every 3.55 weeks).
- (b) 35 different applications were considered by Committee – at an average of 3.1 per meeting.
- (c) 3 applications were 'deferred' at their first consideration at Committee (8.6%).
- (d) Two of those have since been reported back to Committee – meaning the 11 Committee meetings considered 37 reports (3.4 per meeting).
- (e) 7 'major' applications were considered by Committee – none of those were deferred.
- (f) All 7 'major' applications were approved – all in line with the Officer recommendation(s) (100%).
- (g) 28 of the 35 applications were recommended for approval (80%) and 7 for refusal (20%).
- (h) 5 of the 34 applications that were determined were determined contrary to the Officer recommendation (14.7%).
- (i) 4 applications where Officers had recommended refusal were approved (4 of 7 that have been determined – 57.1%).
- (j) 1 application where Officers had recommended approval was refused (1 of 27 that have been determined – 3.7%).
- (k) Of the 35 applications – 7 were advertised as a 'Departure from the Development Plan' (20%).
- (l) The proportion of applications determined at Committee was 1.74% (34 of 1954).

Whilst there may well be elements where North Norfolk's Development Committee could be better, the statistics above ((a) to (l)) demonstrate that there is not a clear issue that needs national intervention. Realistically enforced national change would run the risk of actually worsening performance – and in particular reducing the democratic input into decision making and then the mandate such input provides to any such decision(s).

- b. Do you have views on which of the options we have set out in regards to national schemes of delegation would be most effective? Are there any aspects which could be improved?

Answer:



Options 1 and 2 take an overly simplistic view as to what is a 'departure'. It isn't always clear cut as to what is and what isn't a departure. A legally defined system that relates to such judgement calls runs considerable risk of inviting Judicial Review applications for being considered under 'delegation' when objectors might argue it should have been considered at 'Committee' (or even vice versa). For instance, where would proposals be determined where there is a 'viability' issue – and some of those issues only become apparent during the course of an application (i.e. not at submission)?

These options also mean that really significant planning applications would be determined by officers – which misses entirely the significance of planning as part of our local democratic processes. It would also put significant pressure on relatively unaccountable officers and also run the risk of excessive pressure being applied on individual officers.

Option 3 is possibly the most attractive conceptually but getting the 'prescriptive list' right would be a huge challenge bearing in mind the differences between planning authorities in types and scales of application and place.

It is also difficult to see how any such list could factor in the contentiousness of an application (which isn't always defined by either scale or type).

- c. We could take a hybrid approach to any of the options listed. Do you think, for instance, we should introduce a size threshold for applications to go to committees, or delegate all reserved matters applications?

Answer:

It really isn't that clear what 'problem' the Government are trying to fix and collecting data on Committee performance would seem sensible. If that was then used to influence which authorities might be considered for 'Special Measures' then that might result in a lower propensity to refuse (or approve) applications contrary to recommendation or contrary to the Development Plan headline position on them (if those are the 'problems' the Government are trying to fix).

Reserved matters applications are often hugely significant and can be the first time major parts of the proposal are seen (e.g. access proposals, locations of buildings etc). Making all of those applications automatically 'officer' decisions wouldn't be appropriate.

- d. Are there advantages in giving further consideration to a model based on objections?

Answer:

Important applications should be considered by Committee. And importance isn't (solely) determined by the 'number' of – or 'type of' objections. In addition having a target – that by its very nature – would have to be arbitrary – would just act as an aim for well organised individuals / groups and might disadvantage individuals who could well have equally or even more valid planning points.

Experienced officers that decide which applications should be considered by Committee will invariably have some regard to the level of interest in them - but setting a national rule / numbered based approach would be counter-productive. What is deemed 'a lot' of objections is likely to vary from place to place in any event.

- e. Do you agree that targeted planning committees for strategic development could facilitate better decision making?

Answer:

Councils already have the flexibility to set up separate Committee if they so wish – but a prescribed model is unlikely to result in uniformity of better decision making. It is understood that the current legislation already allows Councils to do this – i.e. if they set out appropriate ‘terms of reference’ for such a committee within their individual constitution.

Many of the more major applications that it might be argued would be suitable for such committees might also be ‘in conformity’ with the Development Plan – and therefore potentially fall within any delegated list as required by the ‘national scheme’ put forward (be that Option 1, 2, 3 or hybrid).

There are myriad complications to this notion that would need to be thought through – e.g. could Councillors sit on ‘normal’ and ‘strategic’ committees – could applications be ‘bumped’ from one Committee type to another – what might the role of Cabinet members be on strategic committees.

- f. Do you have a view on the size of these targeted committees?

Answer:

One of the strengths of the Planning Committee system is its political proportionality and – in most cases – political neutrality. Having a far smaller committee would risk these two elements and having more than one large committee would be a challenge in terms of numbers of Councillors, training and ensuring requisite experience on both committees.

- g. How should we define strategic developments?

Answer:

As North Norfolk’s view is that such Committees shouldn’t be prescribed – then this should be a matter for individual Councils – if they decide to set up a ‘strategic committee’. The Government could provide guidance as to when they might think such committees are appropriate but leave it to local places to decide.

- h. Do you think the approach to mandatory training is the right one?

Answer:

Most places – including NNDC – do not have a track record of repeated contentious over-turning of recommendations. What is the evidence to suggest mandatory national training would result in different outcomes for those that do?

In addition, mandatory training – depending on what is proposed and how it would be delivered – may cause serious delays to decision making after each election cycle. The Paper appears to advocate this training being provided at national level and via online learning – which may disadvantage some – and would certainly miss out any component of local training (e.g. around local committee processes and / or local planning policies).

Laying on national courses and / or producing national material that could be delivered locally would be helpful but anything that is purely national would never pick up on local nuances, policies and issues.

It may be that there could be a national scheme of training for committee chairs that would be useful – e.g. where the training needs to be completed within a set period by existing chairs and where each council could put forward a number of people to attend.

Locally organised training before Councillors attend their first meeting could be a recommendation from Government. This already happens at North Norfolk and is mandated within our constitution.

Maybe part of the 'Special Measures' process could include mandatory training for councillors in those councils.

### Additional Points

The Paper makes no reference to a range of factors that tend to be important locally – such as the fact that most – but not all - councils have some scope for 'Councillor Call In' and some also facilitate a greater role for Town and Parish Councils in the process – including some form of influence over what does and doesn't go to Committee.

Any such flexibility would appear to be missing from all the Options being put forward by the Government. Both are considered to be democratically sensible and while arguably such systems could be open to mis-use that isn't the experience at North Norfolk.

Fundamentally, whilst some standardisation might not be a bad thing – getting rid of all areas of local democratic input into what can and can't go to Committee is considered a step too far.

In terms of other ideas that aren't mentioned in the Paper the Government may wish to consider:

1. Some national standardisation(s) around the role(s) that ward councillors should be able to play in applications in their areas might well be worth considering – e.g. why not standardise whether they can or cannot take part in decision making on those applications.
2. Some 'national good practice' guides would be helpful for each Council to consider and would be a lower key way forward – e.g.
  - public speaking at Committee procedures; or,
  - the role of Town and Parish Councils; or,
  - local councillor training schemes; or,
  - model schemes of delegation; or,
  - good practice advice on report formats and presentations to Committee; or,
  - good practices guides to stakeholder attendance at Committees; or,
  - time suggestions for each item and the number of items each Committee should consider.