Planning Reform Working Paper: Planning Committees

Title: WDC Response to - Planning Reform Working Paper: Planning Committees

Version 1

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Introduction

On the 9th December, as part of a wider package of reforms to the planning system in England, the government proposed wide ranging reforms to the operation of planning committees. The working paper explicitly sets out that it is not a 'consultation', however views are sought in respect of a range of questions from local Councils and other stakeholders in the planning process.

The working paper can be read in full here - Planning Reform Working Paper: Planning Committees - GOV.UK

As the arrangements for this engagement are not a formal consultation, the response from the Council must be made using the Citizen Space web portal. The questions below are the answers the Council will make to each of the set questions.

The portal is open to all, so any member or any individual or group can choose to comment, using the following link - Planning Reform Working Paper: Planning Committees - Ministry of Housing, Communities and Local Government - Citizen Space

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

Possibly.

To expand a little further, this depends on the definition of 'improve'. The planning system is by its very nature controversial at times. Difficult decisions are asked of Councils and our Councillors, on behalf of our community. With different groups often seeking competing outcomes for a whole variety of reasons. Removing decision making powers from elected representatives, removes the community power from the decision. Does this mean quicker decisions? – probably. Does this mean more predictable decision for applicants? – probably. Does this mean fewer planning

applications refused? – probably. However none of these acknowledge the significant and profound anti-democratic nature of the proposed changes.

The idea of the principle of development not being up for debate multiple times over is, on the face of it, attractive. Few would argue that this is a sensible use of resources. However, as we explore in our other answers, there are times when things change between a long term local plan being adopted and a planning application being considered.

We consider that there are better ways of achieving the governments objectives without removing significant elements of democracy from the planning system.

Whilst we are supportive of the need to train committee members (indeed we already provide mandatory training for members) and can see the benefits of strategic committees, we consider that this should be a matter for local government to define, not something to be dictated by government.

One alternative option is to significantly streamline the appeals process so that the time from committee decision to inspector decision is shorter. This will help two fold – it reduces the impact on a developer for having such an appeal, whilst also reducing the potential political advantage to any planning committee of a refusal to simply delay a decision being made.

This could, in our view, be achieved through a significant reduction in the extent of new materials being produced for any appeal. If a planning officer/planning committee can make a decision based on the materials in front of them at the time of determination, why can an Inspector not be asked to do the same? Perhaps with an expressly limited statement of any changes of circumstances (EG NPPF publication, local plan consultation) but only by exception. This approach would also remove the ability of applicants to amend their application between Council refusal and appeal, putting the onus on a quality submission to the Council and public in the first place. Finally, this would also reduce the cost burden of the appeal system on all parties.

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?

Our starting point is that all of the presented options suffer from the same fundamental problems, namely –

- Defining what 'compliance with the development plan' means sounds straightforward, but is in effect the development management process. Even if we constrain this just to the relevant allocation policy of the development plan, there can be different views on compliance – indeed many planning appeals have been fought and won/lost on this basis. Widening it out to the whole development plan introduces an even bigger problem – that of competing policies – it is entirely common to have policies of the plan that conflict with each other to a lesser or greater degree. How is this resolved? Essentially, this approach is doomed to failure as it is trying to turn a system full of balance and shades of grey into a black and white code.
- None of the approaches makes allowances for national policy changes or to other material considerations – eg updates to the NPPF/PPG. This can be considered by officers, but it is anti-democratic to exclude elected members from having a say on the weight to be afforded and the overall planning balance to be struck.
- What if something physical has changed at or around the site? A fundamental piece of infrastructure has been lost, or not come forward as expected in the local plan. Development of a neighbouring site imposes a new constraint to development. Again, this can be considered by officers, but it is anti-democratic to exclude elected members from having a say on the weight to be afforded and the overall planning balance to be struck.
- Utilising the terms 'in accordance with the development plan' and 'departure from the development plan' are too blunt an instrument to address the concerns above. As paragraph 13 of the white paper acknowledges "may be complex and need some careful consideration of the issues, particularly where an application may not fully meet a specific policy", we agree.
- Any of these approaches risk creating a two-tier system, where major development is treated differently to small scale proposals. Experience tells us that scale of planning application is a poor proxy for local concern, impact on communities or economic growth potential.
- All of the options give rise to significant concerns related to pre-determination – where the Council must first decide if the application is policy compliant or not, in order to decide on the approach to delegation, before it makes a decision on the application – this feels likely to increase the risk and frequency of legal challenges that will only act to slow the overall process.

Without prejudice to these serious concerns, if the government was minded to move ahead, the Council's preference would be for option 3, but with an enhanced list of exceptions, to include –

- Remove the threshold for the number of objections. This places too much weight on those objecting to a scheme as opposed to those writing in support. It also places too much weight on the sheer number of letters, regardless of what they say and so as the consultation suggests, it will just encourage groups to target that number of letters, raising expectations that the planning committee will follow the 'public view' and this may well not be support by policy.
- Replace this threshold with a new exception linked to an outstanding objection from a statutory consultee. Such an exception would help to capture (though not fully resolve) concerns linked to changes in circumstance between the local plan and the planning application stages.
- Commercial development should be defined in this context by reference to specific use classes. For example, it could be argued that this is limited to Class E and not B, F uses or sui generis uses.

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?

No, as set out above, we have grave concerns about all three options and combining them does not help resolve these issues. On the specific examples given, we would reiterate that size of planning application (by site area or sq/m of development) is a poor proxy for local concern, impact on communities or economic growth potential. We also have significant concerns about the delegation of all reserved matters applications. By their nature these applications deal with matters that will have been subject of less debate and discussion at Local Plan stage and also where views on compliance with policy will likely be more subjective – for example what constitutes good design, neighbour or landscape impact etc. Different approaches to different types of applications will only encourage applicants to 'game' the system, rather than working with the Council and elected representatives to deliver positive outcomes for our community.

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

We would have significant concerns about a system that talked simply to the number of objections. Firstly, this assumes that the only public view that is important is those that are objecting to a proposal, not those that may support proposals, in part of in full. Secondly, any such approach is unlikely to improve the quality of any debate on a

planning application, but is much more likely to see more stock objections/petitions just to get to an arbitrary figure. Where an application does meet this arbitrary threshold the pressure will only have increased on local politicians to take what might be a difficult planning decision.

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

Yes. Our council is actively considering moving to this model at the time of writing. Whilst we consider that it is important the local members are who are close to their communities remain the decision makers, we believe that it is important that Councils have well trained committee members and that this requires a degree of additional specialism given the complex nature of the planning process. However, we believe that this is a matter for the Council and not something that should be dictated by government.

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

We believe that this is a matter for the Council and not something that should be dictated by government. The right number will depend on the size of the council and the wider arrangement for planning meetings.

g. How should we define strategic developments?

We believe that this is a matter for the Council and not something that should be dictated by government. The definition will vary by council, both in terms of the scale of development, but also by type of development depending on a range of local factors.

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

We believe that it is important that members are fully trained before they make planning decisions. To this end, our Council already runs annual mandatory training sessions covering the topics listed in the wite paper and others besides. We have concerns about a national approach to this training as there will be variations locally as to what is most important and therefore should be explored in greater depth. For example – it is important to understand where your Council's local plan is in its preparation and the weight to be afforded, not how this might apply if/when adopted etc. To provide the training on a national basis risks making it too generic and loosing the impact.

i. Finally, there is space for any further comments