

## Appendix 1 - Reform of Planning Committees: Technical Consultation

### Analysis and recommended responses from Epsom and Ewell Borough Council

Question	Implications for EEBC	Recommended Response
<p>Question 1: Do you agree with the principle of having a two tier structure for the national scheme of delegation?</p> <p>(Note: refer to Question 2 for an explanation of tiers)</p>	<p>Tier A would result in all types of applications as listed in Question 2 being delegated to officers for determination.</p> <p>Tier B applications would still be delegated to officers <u>unless</u> the chief planning officer (i.e. Head of Place Development) and Chair of Planning Committee agree that an individual application should be taken to committee.</p> <p>As the Council has an up to date scheme of delegation, it is considered that it would be preferable to use that as a basis for determining delegation, alongside Members having call in powers for larger applications similar to the existing situation, rather than creating a new Tier of applications where the Head of Place Development and Chair of Planning Committee would need to agree delegation on individual applications.</p>	<p>The two tier system does appear to create unnecessary complications – if the government is determined to press ahead with these reforms, it may be simpler to have a tier of applications which are delegated, and then the remainder of applications could be delegated/taken to committee in accordance with new schemes of delegations for each local authority.</p> <p>This approach would enable each authority to tailor delegations to their circumstances.</p>
<p>Question 2: Do you agree the following application types should fall within Tier A?</p> <p>applications for planning permission for:</p>	<ul style="list-style-type: none"> <li>Householder development – currently delegated but a Member may call in a householder application; however, this is generally rare and there are only one or two householder applications per year which are considered by planning committee.</li> </ul>	<p>AGREE.</p>

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<ul style="list-style-type: none"> <li>• Householder development</li> <li>• Minor commercial development</li> <li>• Minor residential development</li> <li>• applications for reserved matter approvals</li> <li>• applications for non-material amendments to planning permissions</li> <li>• applications for the approval of conditions including Schedule 5 mineral planning conditions</li> <li>• applications for approval of the BNG Plan</li> <li>• applications for approval of prior approval (for permitted development rights)</li> <li>• applications for lawful development certificates</li> <li>• applications for a Certificate of Appropriate Alternative Development</li> </ul>	<ul style="list-style-type: none"> <li>• Minor residential development – currently delegated but a Member may call in a minor (i.e. up to 10 units) residential application. A relatively high number of minor residential schemes are called in to planning committee every year, generally as a result of objections raised by residents.</li> </ul>	<p>DISAGREE. Removal of the ability to call in applications would reduce political oversight of potentially locally important applications and disenfranchise residents who may well raise valid concerns in respect of these types of schemes. Whilst these types of application should <u>generally</u> be delegated to officers, there needs to remain the ability for individual applications to be called to Planning Committee.</p>
	<ul style="list-style-type: none"> <li>• Applications for reserved matter approvals – currently under the Council’s scheme of delegation these are delegated to officers, but larger applications for reserved matters are often either called in to planning committee or brought to committee through discretion of Head of Place Development &amp; Chair of Planning Committee.</li> </ul>	<p>DISAGREE. Whilst these should be generally delegated, there should remain the ability for individual applications to be called to Planning Committee. Although the principle of development will have been established by the Outline permission, given the potential for significant issues to remain, these applications should be able to be called in where necessary.</p>
	<ul style="list-style-type: none"> <li>• Applications for non-material amendments to planning permissions – these are generally non-controversial and dealt with by officers under the Council’s scheme of delegation.</li> </ul>	<p>AGREE.</p>
	<ul style="list-style-type: none"> <li>• applications for the approval of conditions including Schedule 5 mineral planning conditions – these are generally non-</li> </ul>	<p>AGREE.</p>

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	controversial and dealt with by officers under the Council's scheme of delegation.	
	applications for approval of the BNG Plan – these are generally non-controversial and dealt with by officers under the Council's scheme of delegation.	AGREE.
	<ul style="list-style-type: none"> <li>• applications for approval of prior approval (for permitted development rights) – these are generally time limited applications dealt with by officers under the Council's scheme of delegation.</li> </ul>	AGREE.
	<ul style="list-style-type: none"> <li>• applications for lawful development certificates - these relate to matters of fact and are dealt with by officers under the Council's scheme of delegation.</li> </ul>	AGREE.
	<ul style="list-style-type: none"> <li>• applications for a Certificate of Appropriate Alternative Development – the Council has not received this type of application for a number of years.</li> </ul>	AGREE.
<p>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?</p>	<p>Whilst some larger authorities regularly receive applications of 50+ units, EEBC rarely does and so a restriction on schemes of under 50 units would not severely limit the number of applications considered by Planning Committee</p>	<p>No. 'Smaller' Major schemes (10-50 units) often raise significant issues affecting local communities and the opportunity for these locally important schemes to have appropriate democratic oversight should remain.</p>

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<p>Question 4: Are there further types of application which should fall within Tier A?</p>	<p>This would further reduce the number of applications considered by Planning Committee</p>	<p>No.</p>
<p>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?</p>	<p>Some smaller applications can raise more significant issues and interest than larger applications and therefore a mechanism to allow exceptions is considered to be a good thing, however it may undermine the governments aim of making more decisions delegated ones.</p>	<p>Yes. The Council already has a provision for this arrangement in the Council's Scheme of Delegation.</p>
<p>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?</p>	<p>A gateway test would involve the Head of Place Development and Chair of Planning Committee triaging a Tier B application to decide if it should be referred to committee. The examples given of matters to consider are:</p> <ul style="list-style-type: none"> <li>- where the application raises an economic, social or environmental issue of significance to the local area</li> <li>- where the application raises a significant planning matter having regard to the development plan</li> </ul> <p>The Council's current scheme of delegation clearly sets out the application types that are considered by Planning Committee and also</p>	<p>No. It would be simpler and preferable to allow Council's to amend their existing scheme of delegations to determine the type of applications (beyond the Tier A applications) that are delegated to officers or determined by committee.</p> <p>For example:</p> <p><i>Should officers think it necessary or appropriate, they may at their discretion, refer any matter which is not classified as Tier A for consideration and / or determination by the Planning Committee, and shall inform the Chair of Planning Committee accordingly. The Chair of Planning Committee may call in</i></p>

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	<p>allows discretion for officers to refer matters to committee where necessary or appropriate and for the Chair/Members to call an item in.</p> <p>A modification to the current scheme of delegation would seem simpler and more appropriate than the system proposed.</p>	<p><i>a matter for determination by the Planning Committee in accordance with the procedure.....</i></p>
<p>Question 7: Do you agree that the following types of application should fall within Tier B?</p> <p>a) Applications for planning permission aside from:</p> <ul style="list-style-type: none"> <li>• Householder applications</li> <li>• Minor commercial applications</li> <li>• Minor residential development applications</li> </ul> <p>b) notwithstanding a), any application for planning permission where the applicant is the local authority, a councillor or officer</p> <p>c) applications for s73 applications to vary conditions/s73B applications to vary permissions</p>	<p>See above re amendments to a Council's existing scheme of delegation being preferable as a method of setting out how locally important applications are determined by Planning Committee.</p>	<p>A) No</p> <p>B) No. It would be appropriate where the applicant is a Councillor or is an officer who has potential influence over the decision (e.g. an officer who works within Development Management) for it to be Tier A in the interests of transparency.</p> <p>C) No</p> <p>It would be simpler and preferable to allow Council's to amend their existing scheme of delegations to determine the type of applications (beyond the Tier A applications) that are delegated to officers or determined by committee.</p>

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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?	These are applications relating to tree preservation orders, listed building consent, advertisement control etc which are delegated to officers under the Council's scheme of delegation.	Tier A
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?	S106 decisions made outside of the original planning application are generally delegated. There are mechanisms in place to ensure that changes to Agreements are taken to committee where they are likely to raise issues (e.g. were a developer proposing to lower the percentage of affordable housing and officers are minded to agree to the reduction).	Should generally be delegated unless they raise major issues e.g. reducing the provision of affordable housing.
Question 11: Do you think that enforcement decisions should be in Tier A or Tier B, or treated in some other way?	The supporting text to the consultation recognises that the Council's enforcement decisions are almost all delegated – the question relates to large scale and high profile cases. The current scheme of delegation does allow discretion for officers to refer matters to committee where necessary or appropriate	Enforcement matters can be dealt with under each Council's own scheme of delegation without requirement for Tier A/B etc.

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<p>Question 12: Do you agree that the regulations should set a maximum for planning committees of 11 members?</p>	<p>The Planning Committee is currently comprised of 10 members, inclusive of the Chair. A maximum of 11 members would not affect EEBC.</p>	<p>Yes.</p>
<p>Question 13: If you do not agree, what if any alternative size restrictions should be placed on committees?</p>	<p>Not applicable.</p>	<p>Not applicable.</p>
<p>Question 14: Do you think the regulations should additionally set a minimum size requirement?</p>	<p>The consultation suggests that between 8 – 11 members is preferable, so unlikely that EEBC would be affected.</p>	<p>No comments.</p>
<p>Question 15: Do you agree that certification of planning committee members, and of other relevant decisions makers, should be administered at a national level?</p>	<p>Annual training is currently administered by Democratic Services.  The proposal considers whether there could be a national certification (including online test etc), or a local based approach where the Council provides certification.</p>	<p>No. This appears to be creating the ‘red tape’ that the Government is looking to eliminate.  Whilst it is useful for Members to have an oversight of national context, the existing system of local training enables it to be tailored to local issues e.g. Green Belt, housing land supply, horse racing and training industry etc that national training wouldn't be able to focus on.</p>
<p>Question 16: Do you think we should consider reviewing the thresholds for quality of decision making in the</p>	<p>Currently government measures the performance of Planning Departments through speed of decision making (the number of Major, Minor and Other applications</p>	<p>No.</p>

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<p>performance regime to ensure the highest standards of decision making are maintained?</p>	<p>determined within 8 or 13 weeks) and the quality of decision making (the proportion of overall decisions subsequently overturned at appeal).</p> <p>At present the quality measure is a maximum of 10% of decisions being overturned, with the consultation seeking views on increasing this to 5% of decisions.</p> <p>The Council would be unaffected by the changes, but given the relatively small number of Major applications received, one or two appeal overturns has a disproportionately high impact.</p>	
<p>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?</p>	<p>The Council generally receives a low number of major applications in any quarter and a decision by the Planning Inspectorate that is contrary to that made by the Planning Committee will be unduly inflated in percentage terms. Reducing the threshold from 10% to 5% would result in a greater departure from the threshold.</p>	<p>No. There will always be different opinions on various matters within the decision making process and the current 10% threshold strikes the appropriate balance in allowing these opinions.</p>
<p>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</p>	<p>-</p>	<p>No comment</p>

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<p>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.</p>		
<p>Question 19: Is there anything that could be done to mitigate any impact identified?</p>	-	No comment
<p>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?</p>	-	No comment