

Appendix 1 – Modernising Planning Committee Consultation Response

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

While the City Corporation appreciates the concerns of Government, we have concerns that the reforms as proposed could undermine the successful operation of those local authorities where a successful balance is being struck between determining applications speedily and predictably, and ensuring decisions on the most high-profile and strategically-significant schemes are given appropriate consideration by elected officials.

The City of London Corporation operates an effective and efficient planning committee. Since December 2022, 32 applications have been decided by committee¹. Of these, officers recommended 31 for approval and one for refusal. The planning committee refused three: one in line with the officer recommendation and two against officer recommendations. 94% of applications were decided in line with officers' recommendation. The City Corporation considers this to be evidence that the planning committee works well and is not the type of committee that the government is targeting with these reforms.

The City Corporation is unique in both its governance structure and in the type of planning applications it regularly deals with, and its planning committee is set up in response to both these factors. Some of the reforms suggested are already used by the City Corporation, for example all decisions are delegated unless a departure from the development plan is identified (or they are of broad interest or an objection threshold is met).

As detailed in response to the following questions, the blanket application of reforms could have perverse impacts on the City Corporation, including more applications going to committee. Consequently, the City Corporation thinks there should be some mechanism that allows well-functioning planning committee to maintain their current structure. Alternatively, the reforms could apply only to those LPA's that are failing on a specific set of metrics the Government would like to target (for example: rate of decisions against officer recommendations, approvals on allocated sites, reserved matters approvals, number of minor applications refused at committee).

¹ Listed building consents that accompany a full application have been discounted

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?

The City of London Corporation operates an efficient planning committee that rarely overturns an officer recommendation, and when it does so it has legitimate and robust planning reasons for its decision. Since December 2022, 32 applications have been determined by committee, and only two have overturned the officer's recommendation (in both cases a decision to refuse against an officer recommendation to approve). Both applications raised significant planning concerns and are good examples of a planning committee's ability to decide finely balanced planning judgements.

The City Corporation's current scheme of delegation is similar to option three, although the exemptions are different to the government's suggestions. Most applications are delegated by default, with only those that do not comply with the development plan, being of 'broad interest', or gaining more than nine objections being sent to committee.

It is noted that two of the three options presented rely on the concept of 'compliance with the development plan', and the Government identifies a potential hybrid system where the first stage is whether an application complies with the development plan. The working paper recognises that the judgement on compliance with the development plan is often complex, particularly where a specific policy may not be fully met, or some policies are out of date.

Case law is clear that the legal phrase of 'in accordance with the development plan' does not mean that every policy is rigidly met in full. Policies often pull in different directions, and it is a matter of planning judgement for the decision maker. The relevant test is whether the application accords with the development plan when read as a whole. Again, this is the approach the City Corporation currently uses, and is one of the triggers for an application to go to committee.

Given this emphasis on an officer judgement on accordance with the development plan, clear guidance and processes should be produced by MHCLG if this framework is taken forward. This system works at the City Corporation partly because officers are trusted to make planning judgements, but also because there are two additional provisions in the scheme of delegation that trigger a decision by committee. If the only way for an application to reach committee is for officers to identify it as a departure from the development plan, there needs to be clear guidance on how this should be applied and considered, in order to avoid situations where there is extensive debate and efforts to influence judgement on this matter.

This would also have a specific impact in the City as it receives several high profile and nationally important applications per year, that often are judged to be in accordance with the development plan. In some of the Government's scenarios these would automatically be approved by officers despite their significance potentially warranting a committee determination. The role of strategic development committees is noted, however, due to the unique circumstances of the City Corporation they are unlikely to be a panacea.

Overall, the City Corporation's model is a good example of how option three could work. It is agreed that a departure from the development plan is a useful starting point to trigger a decision by committee, albeit with clear and up to date guidance on how this judgement is made with regard to the plan as a whole. However, there should also be the potential for some other provision, or 'safety valves' to account for local circumstances. This could be as generic as the 'broad interest' used in the City Corporation's scheme of delegation.

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?

There should exist the potential to create 'safety valves' that allow for applications to go to committee even if compliance with the plan is identified. As stated in response to the previous question, a planning judgment on accordance with the development plan is an appropriate first criteria for deciding if an application should be decided by committee. The subsequent options listed in the working paper would, in most cases, be redundant due to an officer's identification of compliance with the development plan

There should be some possibility of an application appearing at committee, even if officers identify compliance with the development plan. This is because a planning judgement call is subjective, and in some cases, it can be a finely balanced decision that may benefit from determination by committee.

A hybrid approach could allow for this. By default all applications that comply with the development plan are delegated, and then there are additional 'safety valves' that allow for a committee decision, even if compliance is identified. The City Corporation scheme of delegation allows for any application of 'broad interest' to go to committee. Broad interest is a generic term but works well in a City context . There is a risk to being overly prescriptive since planning is a context driven and subjective activity.

This is particularly important if the direction of travel with regards to objections is maintained (see question below).

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

It is noted that the working paper takes a negative view of having a threshold of objections that would trigger a decision by committee. While the City Corporation usually does not usually encounter large and organised opposition groups, the removal of this trigger should be carefully considered in light of the additional pressure placed on a judgement of compliance with the development plan. An objection threshold is one potential way to assess the significance of a proposal, even if officers judge it to comply with the development plan.

While it is agreed that any threshold will encourage objectors to meet whatever threshold is set, objections can still be material considerations. There are ways to reduce the importance of objections

without removing them entirely. One option could be to set an objection threshold for major applications only, therefore enabling small developments that sometimes generate severe local opposition but have negligible wider impacts to avoid a committee debate. This would also support SMEs who often develop small sites.

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

The planning committee at the City Corporation already operates in a quasi-strategic manner. Given the average size of the proposals the City Corporation receives, only the very largest go to committee. Therefore, for strategic development committees to be effective the threshold for a 'strategic' application must be carefully set and take into account the geographic variation in type and scale of development. It should not be set nationally. The criteria for referral to the Mayor of London is a good precedent as it contains specific thresholds for the City of London, distinct from central London and the rest of London.

It is also noted that the City Corporation does not process the type of applications the working paper suggests a strategic development committee is designed to decide. Due to the relatively small size of all development plots, the City Corporation rarely receives outline applications, and all development is usually brought forward as a single phase, often as a single building. Therefore, the long term strategic oversight that is needed for a new town, urban extension or masterplan does not occur in the City.

The City's unique circumstances mean that a strategic development committee is unlikely to have any benefits, especially since the current planning committee already works efficiently. In fact, if the threshold is set poorly it may result in a higher volume of applications going to committee, with all of these being decided by the strategic committee. This would protract the decision making process for additional applications, delay development, and have the opposite effect to the Government intentions. Consequently, the City Corporation is of the opinion that a strategic development committee should not be mandatory if the LPA can demonstrate the effectiveness of its standard planning committee. If the Government proceeds with mandatory strategic development committees, the City of London should have its own threshold for a 'strategic' application, in line with the referral criteria to the Mayor of London.

Another option could be to exempt LPAs from the strategic development committee requirement if they are subject to a Spatial Development Strategy. In London, applications of potential strategic importance are already referred to the Mayor of London, who assesses the strategic implications of the proposal. Therefore, there is already a layer of strategic oversight, managed by the authority that specializes in strategic development across London. The Mayor has the power to call in strategic applications. This potentially renders the type of strategic development committee envisaged in the working paper unnecessary in London.

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

The City Corporation does not have substantive comments on the size of a strategic development committee, although it believes that other factors such as commitment, training and engagement are potentially more likely factors that would influence consistent decision-making more than the size of the committee.

The City Corporation is in a unique position where most of its elected members are already politically independent. Its committee includes members with a broad range of expertise in matters related to or that effect planning and the built environment. This likely contributes to the efficiency and quality of committee decisions at the City Corporation.

How should we define strategic developments?

As highlighted in response to the earlier question, the definition of 'strategic' is crucially important. A poor definition would lead to more applications being decided by committee given the volume of large and very large applications the City Corporation receives. At the very least the definition of strategic development should be decided in line with the strategic geographies of each area. This would likely mean that each city region has its own definition, as well as other strategic clusters such as the Oxford-Cambridge arc, or regional blocks.

The City Corporation views the criteria for referral to the Mayor of London as a good example of how this could work, especially since this includes different thresholds for different parts of London (the city of London, central London, outside central London).

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

The City Corporation provides both in house and Planning Advisory Service training to planning committee members. It also runs a continuous program of training on new and evolving planning matters. Therefore, the City Corporation welcomes the Government's thoughts on mandatory training and would support an official, nationwide training provider.

Extending training to more in depth planning matters would also be beneficial, particularly where this relates to new requirements (for example Biodiversity Net Gain). There could be a system of mandatory basic training and then a series of further modules that elected members can do if they wish, with regard to the specific issues that commonly occur in their area.