

Planning Reform Working Paper: Planning Committees Historic England Response

Historic England is the Government's statutory adviser on all matters relating to the historic environment in England. We are a non-departmental public body established under the National Heritage Act 1983 and sponsored by the Department for Culture, Media, and Sport (DCMS). We champion and protect England's historic places, providing expert advice to local planning authorities, developers, owners, and communities to help ensure our historic environment is properly understood, enjoyed, and cared for. We welcome the opportunity to submit views following publication of the *Planning Reform Working Paper: Planning Committees*.¹ We understand this is not a formal consultation, as such, and is designed to inform further policy development in collaboration with the wider sector. We look forward to exploring the issues further with you.

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

A national scheme of delegation would bring a welcome degree of consistency and would help Members' target their attention on the most sensitive cases. Mandatory training would significantly improve decision making and lend a degree of consistency.

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?

We support the principle of a national scheme of delegation, as it would bring a degree of consistency and certainly for applicants and decision-makers. However, for the proper democratic process to be exercised, the national scheme of delegation will need to allow a degree of flexibility based on local variation and community priorities.

Option 1 – Delegation where an application complies with the development plan

Committee overturns of plan-compliant cases can increase the risk of costly, unsuccessful appeals, so this approach may bring some efficiencies. However, it raises the question as to what is meant by 'compliant with the development plan'. Plans should be taken as a whole, but in practice this means that cases which largely comply with the plan, but not fully, are taken to be plan compliant. There is a risk that heritage would be seen as an area of departure when determining whether a proposal is, on the whole plan, compliant. Committees will need an element of flexibility to ensure that all relevant planning issues are considered at committee level where appropriate.

Option 2 – Delegation as default with exceptions for departures from the development plan

Whilst we agree, as per the scenario in Paragraph 17b, that too much discretion in setting locally specific circumstances could undermine the objective of improving consistency, the

¹ <https://www.gov.uk/government/publications/planning-reform-working-paper-planning-committees/planning-reform-working-paper-planning-committees>

range of ‘special circumstances’ in paragraph 15 needs to be clarified to provide sufficient understanding of when criteria would be met. More broadly, there needs to be a clear definition of what is meant by ‘departure from the development plan’, and purely focusing on the plan could prevent other material considerations being properly considered.

Option 3 – Delegation as default with a prescriptive list of exceptions

This option would potentially have the benefits of providing certainty, although the criteria would have to be very carefully considered, and provisions may need to be set out for exceptional circumstances outside the nationally set list.

The use of substantial harm to designated heritage assets as a criterion is problematic. This is a high test and may not arise in many cases². Given the great weight attached to conservation of designated assets, there will be instances where less than substantial harm is not acceptable. An example might be an application in a World Heritage Site which would result in less than substantial harm to the individual asset but resulting in unacceptable harm to the Outstanding Universal Value of the World Heritage Site.

Other instances may also warrant consideration by committees. For example, some minor material amendment applications (s.73) can negate elements that formed the basis of permission granted by committee (such as outstanding design), and so there should be consideration as to whether the amendment is one best dealt delegated or determined by committee.

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

Yes. Further consideration should be given to a model factoring in the *nature* of objections or concerns, ensuring they are legitimate planning matters.

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

Yes. However, it would be beneficial for targeted committees to have a cross-disciplinary profile of members with specialisms, including heritage and design.

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

No comment.

g. How should we define strategic developments?

We do not have a strong view, but it might be straight-forward to define strategic development in line with paragraph 21 of the NPPF which describes the nature and content of strategic policies.

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

Yes. Mandatory training is essential to improving decision making. It should cover general planning matters and specialist areas, including protection of the historic environment.

² [Planning Practice Guidance: Historic environment](#). Paragraph 018.

Members must also be aware of statutory obligations (e.g. through the Planning (Listed Buildings and Conservation Areas Act) 1990) and, for World Heritage Sites, of implications of the 1972 World Heritage Convention.³

Given that committee overturn against officer advice is often harder to defend at appeal, they should also have access to legal advice to ensure decisions are based on substantiated planning reasons, whilst weighing up local perspectives. Alternatively, given potential resource implications, planning law and the operation of policies could form a core training component

Historic England has extensive experience providing historic environment training, including freely available resources for local planning authorities. Our Essentials programme covers a range of core topics including heritage significance, heritage in planning, evaluating heritage information and setting in practice. This could easily be adapted for members, and we are in conversation with the Local Government Association and the Planning Advisory Service on extending the reach of our offer.

*Historic England
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³ <https://whc.unesco.org/en/conventiontext/>