Kensington Society's answers to the online consultation on proposed reform of planning committees, from the Ministry of Housing, Communities and Local Government

Submitted 20 July 2025

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

Reply: No. *What is proposed if far too rigid and absolute – a one-size-fits-all straitjacket.*

By dictating that tier A applications "must be delegated in all cases", it is a total ban which leaves no room for any exceptions either by type of case or by local circumstances. This is an extreme position based on the belief that there cannot and will not be any such cases.

The use of the word "must" with the addition of "all" suggests that to do so would be breaking the law. Is this meant to be legal issue or a matter of policy? If it is the latter, then a local authority should, if justified by local circumstances, be able to "recover jurisdiction". This is and should be a case-by-case decision.

If this is to be legal issue, this "ban" represents a major departure from the way the English planning system operates and would remove democratic oversight. There may be cases where the option of treating them as tier B applications should be available, such as where an application, which would normally be regarded as one that should be delegated, might raise issues that may justify "recovering jurisdiction" after consideration by the chief planning officer and the chairman of the planning committee. Whilst it would be possible to list criteria for recovery, this should not be a matter for a detailed direction from the government but should be in the local scheme in the authority's constitution.

We consider that there should be scope, based on local circumstances, for Kensington and Chelsea to maintain its current practice of bringing cases to committee. There should be some flexibility, especially if this would not prevent the delivery of housing.

In practice, applications in Tier A, except the first three types, will already be delegated by the borough's scheme of delegation in its constitution. The key issue is whether the instruction that all these applications must be delegated in all cases is essentially "forbidding" local planning committees from considering such applications regardless of the circumstances. This removes any flexibility that would recognise local concerns.

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

Reply: No. *Whilst we accept that the list contains the same types of cases that are in most current schemes of delegation, we object to the mandatory nature of the proposed treatment of all Tier A applications listed above.*

There is a difference between applications for planning permission, which have a legal requirement to be advertised and have specified consultation periods, and those for which there are no advertisement or consultation requirements.

In areas where there is a high coverage of conservation areas and a large number of listed buildings, the duty to conserve or enhance the character or appearance of the conservation area or to preserve or enhance the character or setting of a listed building, will be a matter of judgement.

Just as there are exceptions to relaxing planning controls, such as for article 2(3) land, such as national parks, areas of outstanding natural beauty, world heritage sites and conservation areas, certain types of tier A applications that may cause harm or raise controversy locally, may need to be decided in public.

A further complication can be the development pressures in areas of high land values where development proposals and developers challenge the policies. These developments may be controversial and the decisions need to have regard to local acceptability of the scheme. These are just the kind of cases where the decision might best be decided by a planning committee.

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?

Reply: No. *Definitely not. In Kensington and Chelsea, apart from a very small number of large sites, there are very few sites in the 10-50 dwellings size range, especially when the net additional number of homes is considered – for example a current scheme producing 24 homes, after redeveloping a site with 20 homes will only produce an additional 4 units. In terms of its context this is a big scheme, but in terms of this proposal, being in the 10-50 range, it would be in tier A. A scheme of this size, involving a major redevelopment in a conservation area, is very disruptive, even though in terms of net additional units it is very small. In terms of the current proposal, this is just the sort of scheme that should be classified as tier B using the gateway route. There are other such examples. The lack of flexibility is unacceptable.*

See also our answer to question 5.

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

Reply: No.

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?

Reply: Yes. *This could be by having the flexibility that is proposed for tier B applications for the type of cases that are agreed by the LPA's chief planning officer and the chairman of the planning committee to be decided by that committee. This would enable the special circumstances, the character of the area and local controversy to be reflected in decisions to recover jurisdiction for the planning committee to decide.*

We also recognise that that there may be what might otherwise have been classified as tier A cases, but

- *where the application raises an economic, social or environmental issue of significance to the local area*

- *where the application raises a significant planning matter having regard to the development plan*
- *where the "jurisdiction" needs to be recovered by the planning committee by transferring it to tier B.*

Examples of controversial applications include:

- *Basements*
- *Multi-storey upward extensions*
- *Applications requiring a fire strategy*
- *Large digital internally illuminated advertisement hoardings*
- *Cases where the applicant's assessment of viability of the current use is being challenged, such as change of use of a pub.*
- *Controversial uses, such as betting shops, fast-food outlets and gaming centres.*

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?

Reply: Yes. *This happens already, where a proposed decision is "on balance" rather than clearcut, or where the case is seen as controversial and the chief planning officer proposes that a decision should be made by the planning committee. Indeed, as indicated above, some significant projects which might arbitrarily classified as tier A should, in the local context of Kensington and Chelsea, be able to be treated as if they were Tier B projects so the gateway test would apply.*

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

Reply: No. *Whilst many/most of these applications might well be Tier A, some, because of special/local circumstances of Kensington and Chelsea, may need to be recovered for decision by the planning committee if they are controversial. There needs to be some flexibility for jurisdiction to be recovered.*

b) notwithstanding a), any application for planning permission where the applicant is the local authority, a councillor or officer

Reply: Yes*. This is essential, for propriety reasons such decisions should be made in public.*

c) applications for s73 applications to vary condition s73B applications to vary permissions

No comment

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

Reply: Yes. *Applications where the recommendation is to grant consent contrary to the development plan.*

Question 9: Do you consider that special control applications should be included in Tier A or Tier B?

Reply: In Tier B. *Areas of special control, although proposed locally are approved by the Secretary of State. Given that they involve important issues they should be included in Tier B.*

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?

Reply: Yes, in principle. *Section 106 agreements cover a wide range of issues, such as securing residents parking car-free housing on redevelopment of non-residential uses and car-free new residential units.*

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

Reply: *These should be handled in accordance with existing schemes of delegations, which take account of local circumstances.*

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

Reply: No. *Whilst we would not expect to have planning committees with more than 11 members, we do not support the proposed power for the government to set the size and composition of planning committees is appropriate. Committees should reflect local circumstances.*

In Kensington and Chelsea there are only 5 members on both the planning applications committee and on the planning committee, which handles larger applications. However, such small committees mean that the majority party has both the chair plus three other members, whilst other parties only have one place. A review by the Planning Advisory Service (PAS) proposed that the number should be increased to 7 or 9 members, both for the range of views and a better political balance.

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

Reply: *We would agree with the proposals made by PAS to Kensington and Chelsea – for major planning applications a committee of 5 to 7 members. This will ensure that more members have training and maintain the base of trained committee members.*

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

Reply: No. *The size of committee should respond to local circumstances, although from our experience it is useful to have at least 5 members to cover a range of experience and views. We do not think the government should set minimum size. However, given that there must be an odd number and a political balance, we consider that there should be a minimum of 5 members, although a committee of 7 would be preferable. Nevertheless, we consider that this should be a local decision.*

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

Reply: Yes/No. *We strongly support the proposed mandatory training requirement for members of planning committees.*

However, we strongly oppose over-centralised control by MHCLG. Local or regional training and certification that takes account of local circumstances would be far preferable.

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?

Reply: *Any review should be based on evidence as to the nature and scale of problematic*

performance among local authorities.

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?

Reply: *No. Without evidence to support it, no. See our answer to question 16.*

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.

Reply: Yes. *The proposals amount to, and will be seen as, an attack on local democracy. As an active civic society, the Kensington Society takes an active role in scrutinising and commenting on planning applications, selecting those applications which raise issues of conformity with the local plan and applying local knowledge which the borough's officers often do not have because of the high turnover of staff and because they do not live in the area. The views of residents need to be heard to inform decision making.*

We welcome recent statements that the government wishes to encourage more engagement from residents in the development of local plans. Such engagement is challenging. The Kensington Society has played an active role, but we recognise that few residents are interested in the long process of developing local policy, and only get engaged once there are tangible proposals

The net effect of the current proposals will be to reduce effective engagement in areas where it is currently most common, especially if decision making ceases to be taken by their local councillors. Delegating decisions to officers for almost all cases will reduce trust in local government and local democracy will be significantly damaged.

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

Reply: Yes. *We oppose the rigidity of the proposals, the removal any flexibility to reflect local circumstances and loss of democratic oversight. This could only be achieved by retaining flexibility and abandoning the central control and dirigiste features of these proposals.*

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?

Reply: Yes. *There is potential for damage to all five principles, especially prevention and the precautionary principle.*