

**Council - 10 July 2025****Question 1: Do you agree with the principle of having a two-tier structure for the national scheme of delegation?**

Partly. Given the legislative changes being made to change how Planning Committees work alongside a National Scheme of Delegation it is agreed that a tiered system would help set clarity on the types and circumstances of applications that will, in the future, be determined differently. However, the Council feels that two tiers is not enough to manage the complexity of applications.

**Question 2: Do you agree the following application types should fall within Tier A? a) applications for planning permission for Householder development, minor commercial development and minor residential development b) applications for reserved matter approvals c) applications for non-material amendments to planning permissions d) applications for the approval of conditions including Schedule 5 mineral planning conditions e) applications for approval of the BNG Plan f) applications for approval of prior approval (for permitted development rights) g) applications for lawful development certificates h) applications for a Certificate of Appropriate Alternative Development?**

Some of these application types already fall within the Maldon District Scheme of Delegation and it is agreed that they represent a suitable decision-level for the local planning authority. However, the Council does not agree that minor residential or commercial development should be within Tier A and delegated to officers. Whilst in the national context, particularly if factoring in the bigger cities and towns, residential development of nine homes or less might be considered minor development, in a predominantly rural area with many smaller settlements they are locally considered more complex and lead to great public interest and therefore these should be in Tier B, which could come to 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?**

No. Whilst in the national context, particularly if factoring in the bigger cities and towns, residential development of between 10 and 50 homes might be considered to be a small development, in a rural area like Maldon District this could double or treble the size of some of our settlements and lead to great public interest and therefore these should be in Tier B, which could come to Committee.

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

Any applications which have a determination date less than 8 weeks, such as Pavement Licences should fall within Tier A so we can issue prompt decisions.

**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?**

Yes. The loss of the ability to call-in planning applications to Committee will undermine public confidence that there are enough checks and balances in the planning system and its decision-making. Maldon District Council propose that a Call-In mechanism is kept for applications that are not allocated in the Local Plan (so have not already been through public scrutiny at plan-making stage) and where there has been significant public representations

made. The decision taken by the Committee may well be the same as that if taken by Officers under Tier A, but through this more open approach, we would be able to ensure that those applications that are more contentious are scrutinised in public by Committee under Tier B. This could be done by adding a further question along the lines of “Is the application on an allocated Local Plan site and have significant public representations been made?” to the proposed Gateway Test for applications of this nature.

**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?**

The Council currently consider the Gateway Test proposal to be acceptable in principle as a way of managing which applications in Tier B are referred to the Planning Committee. It is considered however, that the information available on how the Gateway Test would work is too vague but it would increase the administrative burden on how decisions are made not just for Officers, but also the Chair of Planning Committee. The Council is concerned that without statutory guidance the application of the Gateway Test, local planning authority to local planning authority will become inconsistent. What happens if there is no agreement on an application between the Chief Planner and Chair; how is it adjudicated and does this need to be recorded? For our current Call-In arrangements, the application must be referred to committee within 28 days of receipt to also help manage the openness and governance risks, so would the same apply to the Gateway Test?

**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 b) notwithstanding a), any application for planning permission where the applicant is the local authority, a councillor or officer c) applications for s73 applications to vary conditions/s73B applications to vary permissions**

The Council does not agree that all s73 applications should automatically fall within Tier B; this seems very restrictive compared to our current arrangements. If the parent application has been determined under Tier A, changes to conditions should be determined under Tier A too otherwise this will cause confusion. S73 applications should only go to Planning Committee to determine them if the decision and its condition was originally determined by a Planning Committee.

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

Reserved Matters, Minor residential (9 homes or less) or commercial development and if created, the new scale of application Medium Residential 10-50 should fall within Tier B.

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

For Advert Consents, if they are on or within the vicinity of Designated Heritage Asset or a protected landscape area, they should fall within Tier B to offer further scrutiny and openness.

**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?**

No. For applications reported to a Planning Committee that have a S106 agreement, all that is currently reported is the Heads of Terms to demonstrate how the legal planning obligation tests are being met. The detailed drafting of the S106 agreement and their commitment under seal are a legal process delegated to officers and should stay that way.

For S106 decisions not linked to a planning application, such as a Biodiversity Gain Sites required to deliver legal requirements under the Environment Act 2021 these are already delegated to officers and that should remain so, so they could fall within Tier A for consistency.

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

At present, only Direct Action is not delegated to officers given the greater level of public reputation, legal and financial risk that can be associated with such activities. The Council would question why this would need to be treated within the national Scheme of Delegation and why Councils could not continue to manage this themselves under their existing Constitutional arrangements.

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

The Council is happy with the proposal to set a maximum limit of 11 members for Planning Committees, however, it is felt that greater flexibility will be needed on the number of Members trained to take part in a Planning Committee so the Council can manage conflicts of interests or absence. The Council feel it would be more practicable to have a bank of substitutes trained that as well could be called upon to make up the Committee in these circumstances.

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

Not applicable (n/a)

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

No, but the Committee's Constitutional Terms of Reference should set out how many Members are needed to be quorate.

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

Yes. The Council feels that if certification is going to be a national requirement, then this should be delivered and administered at a national level to ensure consistency across the country and to add credibility to the additional effort and achievement of being certified.

**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?**

No. The Council understands why the national Key Performance Indicators exist and feel they already allow for the highest standards of decision-making to be maintained, however it is considered that to make changes to the KPIs before the system has had a chance to bed-in is excessive and premature.

**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?**

No. The Council understands why the national Key Performance Indicators exist and feel they already allow for the highest standards of decision-making to be maintained, however it is considered that to lower the KPI threshold before the system has had a chance to bed-in is excessive and premature and would undermine public confidence of the checks and balances in the planning system, not improve it.

**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.**

No.

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

n/a

**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?**

n/a