

Partial Regulatory Impact Assessment

1. Planning Committees

Options

1.1 Two options have been considered:

- Option 1: Do nothing i.e. allow LPAs to set the size of their planning committee.
- Option 2: Restrict the number of members that can sit on a LPA planning committee.

Option 1: Do nothing

Description

1.2 Option 1 would continue the existing practice whereby each local planning authority decides the size of its planning committee.

Costs

Welsh Government

1.3 As no secondary legislation would be required or any guidance produced, there would be no financial consequences for the Welsh Government.

Local Planning Authorities

1.4 Planning Committees in Wales vary considerably in size from 11 members in Merthyr Tydfil County Borough Council and Newport City Council to Neath Port Talbot County Borough Council which operates the largest single planning committee consisting of 45 members.

1.5 All 72 members of Swansea City Council are members of the planning committee. It is the sole LPA in Wales operating area planning committees (35 and 37 members) in addition to a strategic planning committee (72 members).

1.6 Whilst there is no publicly available data with regards to the cost of operating a planning committee in Wales, the costs in the table below have been estimated based on number of members on the committee, a minimum LPA staff presence and their associated cost (per meeting):

Table1: Current planning committee costs

Local Planning Authority	Number of Members	Estimated Staff & Member Cost (includes on-costs)
Merthyr Tydfil CBC & Newport City Council	11	£840
Neath Port Talbot CBC	45	£ 2,007

City of Swansea - Strategic Management Committee)	Development and Control	72	£2,807
- Area 1		35	£1,614
- Area 2		37	£1,678
			<u>£6,099*</u>

**Estimated total staff & member cost to the LPA when all 3 planning committees meet during a calendar month*

1.7 These illustrative figures demonstrate the variation in costs between existing LPA committees. LPAs which operate planning committees that consists of all or a large number of the elected members will continue to incur significant costs per meeting. These figures do not take into account the costs of providing training for members on planning committees.

Development Industry

1.8 Large committees can be slower and inconsistent when making decisions, contributing to delays in the planning process. Whilst it is difficult to estimate the exact cost, it is apparent that delayed planning decisions place a significant financial burden on developers and the Welsh economy. The costs to the UK economy associated with delays in the planning system are estimated to cost between £700 million - £3billion a year¹

Benefits

Welsh Government

1.9 This option would not give rise to any benefits to the Welsh Government in terms of improved performance.

Local Planning Authorities

1.10 Members who form part of planning committees consisting of all elected members, or part of a committee that would exceed the recommend size, would retain their influence in the planning application decision making process.

1.11 However an opportunity to create consistency throughout Wales at Planning Committees to improve the decision making-process would be lost.

1.12 Additionally, the role of the local member in the planning process becomes more constrained at those authorities with larger planning committees. This is due to the protocols that govern members who sit on the committee, especially in relation to the issue of pre-determination. Members must not put themselves in a situation to be accused of bias (having a closed-mind) when it comes to their role as decision-maker. Furthermore, whilst members have a responsibility

¹ <https://www.gov.uk/government/speeches/planning-reforms-boost-local-power-and-growth> & The Killian Pretty Review, Final Report, November 2008 www.planningportal.gov.uk/uploads/kpr/kpr_final-report.pdf

to their constituents, in their role as a member of the planning committee, their overriding duty is to the whole Country.

Development Industry

1.13 Delays and inconsistency in the decision making process would remain and consequently there are no benefits to this sector.

Option 2: Restrict the number of members that can sit on a LPA planning committee

Description

1.14 Utilising the provisions in the Planning (Wales) Bill, option 2 will prescribe the size and composition of planning committees through subordinate legislation to achieve a more consistent approach in terms of how planning committees operate and their size.

1.15 The intention is to implement recommendation 5 of the report “Study into the Operation of Planning Committees in Wales”², which states “legislation should be introduced to define the size of the planning committee:

- to a minimum of 11 members and a maximum of 21 members (but no more than 50% of the authority members, excluding National Park Authorities);
- to avoid having all ward members (where wards have more than one elected member) sitting on the committee in order to allow some members to perform the representative role for local community interests;
- introduce a quorum for decision-making which should be a minimum of 50% of the committee (rounded up where an odd number); and
- the use of substitute members should not be allowed.

Costs

Welsh Government

1.16 Procedural guidance on the delivery of all Development Management proposals resulting from the Planning (Wales) Bill will be developed for LPAs.

1.17 The guidance will be published bilingually on the Welsh Government website and communicated using existing channels and a small number of events. The one-off cost of developing and disseminating the guidance is estimated at £47681

Local Planning Authorities

² RTPI Cymru. Study into the Operation of Planning Committees in Wales. Final Report. Fortsimere Associates with Arup. July 2013

1.18 It is estimated that LPA staff and member costs for a planning committee, based on the maximum and minimum numbers would be between £840 (11 member committee) and £1,162 (21 member committee) respectively per meeting.

1.19 Table 2 illustrates the potential savings (in respect of member costs per 2 hour meeting) that could be achieved by the LPAs referred to in Table 1 by implementing the proposed changes to the size of their planning committee:

Table 2: Proposed planning committee costs

LPA	Existing number of members	Proposed min number of members	Proposed max number of members	Existing estimated staff cost	Proposed min number of members - saving	Proposed max number of members - saving
Merthyr Tydfil CBC & Newport City Council	11	11	21	£840	+£0.00	-£322
Neath Port Talbot CBC	45	11	21	£2,007	+£1,167	+£845
City of Swansea Strategic Development Management and Control Committee)	72	11	21	£2,807	+£1,967	+£1,645
Area 1	35	11	21	£1,614	+£774	+£452
Area 2	37	11	21	£1,678	+£838	+£516
				£6,099*	+£3,579†	+£2,613†

**Estimated total staff cost to the LPA when all 3 planning committees meet during a calendar month*

†Estimated total staff cost saving to the LPA when all 3 planning committees meet during a calendar month

1.20 Provision has been made within the Planning (Wales) Bill to enable local authorities (should they choose) to delegate decision-making powers to sub-committees. However, the size and make-up of those committees/sub-committees will have to comply with the prescribed requirements to be detailed in the regulations.

1.21 Whilst it is noted that potentially the cost of the planning committee could slightly increase at those LPAs who currently operate within the proposed parameters and choose to increase their committee size to the maximum permitted under the regulations (maximum of 21), this would not result in any additional financial cost to the LPA.

- 1.22 The costs shown in Table 2 are based on the cost of member and LPA staff time, calculated using their salaried hourly rate. The salaries paid to members and LPA staff are a fixed cost to the LPA and would not be affected by the proposed changes.
- 1.23 Whilst the table illustrates potential savings, implementing the proposed changes to the size and make-up of planning committees would not result in a tangible monetary saving to the LPA. The saving that could be achieved is in respect of member and officer/staff time and resources which could be utilised elsewhere on other Council areas of interest and member involvement in community activities in their role as a local representative.
- 1.24 Each LPA will be required to amend the relevant sections of their constitution to take account of the proposed changes to planning committee structures. It would be anticipated that this would normally be an agenda item in a routine council meeting and hence not impose an additional cost.

Development Industry

- 1.25 Implementing the proposed changes would have no direct monetary cost to this sector.

Benefits

Welsh Government

- 1.26 Smaller planning committees are likely to provide a consistent, fairer, more transparent planning service. They will facilitate a culture of better informed evidence-based decision making through the creation of an informed group of councillors with the necessary skills and knowledge. This will improve consistency across Wales.

Local Planning Authorities

- 1.27 Planning committee sizes and LPA resources vary. However, prescribing the number of members who can be part of the committee will reduce cost and administrative overheads, particularly at LPAs whose planning committees exceed the size/composition requirements. Reducing the size of planning committees will release those members who no longer form part of the committee. Large committees result in an inefficient use of councillor resources by compulsory attendance at committees and related tasks, such as attending site visits and reading reports.
- 1.28 The RTPI research acknowledged the tension between the role of members upholding the wider public interest versus the role of the local member representing the views of the community³. Reduced committee sizes will enable members who no longer form part of the planning committee to perform the

³ RTPI Cymru. Study into the Operation of Planning Committees in Wales. Fortismere Associates with Arup. 2013. Page 42

representative role for local community interests and therefore enhance the democratic process. Councillors acting as community representatives are vital to the planning process.

- 1.29 Decisions will also be more democratic through a reduction in political tensions around debating and voting that can occur at larger committees where votes may be on political lines. The RTPI research showed that a large committee was felt by some to be unwieldy and did not allow for the full engagement of all committee members in the debate⁴.
- 1.30 Member training would be more focused resulting in well trained and robust committees who have the knowledge and understanding of planning issues enabling them to make more informed decisions in the public interest.

Development Industry

- 1.31 The creation of smaller, well-trained committees who have the knowledge and ability to debate and assess complex development proposals to make well informed decisions in a timely manner will be of significant assistance in addressing some of the delays in the existing system which contributes towards the costs outlined in paragraph 1.8.

The Community

- 1.32 The public will also benefit from clearer demarcation of roles and responsibilities of members whether representing local interests or the wider public interest.
- 1.33 Greater consistency in committee membership through the introduction of a quorum will also contribute towards improved consistency in decision making. With larger committees, particularly where the planning committee comprises of all Council members, its make-up can therefore vary considerably from one meeting to another, which can result in inconsistency in decision making.

Summary and Preferred Option

- 1.34 Option 1 does not change the existing arrangements, so inconsistency and potential delay within the decision making process would remain. The retention of large planning committees would result in the continuation of unnecessary demands on scarce member resources, requiring training and attendance at committees and the time needed to consider the agendas. It can also prevent the valuable role that members can play in the planning process by stopping them from taking a proactive role in planning applications that affect their constituents, given the protocols that govern Planning Committees.
- 1.35 Irregular attendance at larger committees would continue to impact upon the consistency of decision-making. In addition, it can also lead to less 'democratic' voting with greater importance being placed on the views of the local member

⁴ RTPI Cymru. Study into the Operation of Planning Committees in Wales. Fortismere Associates with Arup. 2013. Page 55.

and the political tensions that can exist around debating/voting rather than fully assessing the merit of the application.

- 1.36 Option 2, which is the preferred option, prescribes the size and make-up of planning committees to ensure greater consistency across Wales. This will ensure that smaller planning committees operate across Wales in creating a robust cohort of well trained members with a clearly defined role of representing the wider public interest. This will lead to a better culture of informed evidence-based decision making and providing a consistent, fairer, more transparent planning service throughout Wales. The introduction of a quorum for decision making will also ensure greater consistency in committee membership which will consequently improve consistency in decision making.
- 1.37 Smaller, well-trained committees would also benefit the development industry by having the skills, knowledge and continuity of membership to make well-informed and consistent decisions in a timely manner, which will be of significance in addressing delays in the development process.
- 1.38 Additionally, there is an opportunity to enhance the members role as a local representative. Those members who are not planning committee members can therefore become more involved in planning applications that affect their constituents including taking up a campaigning role. In this role they may express support for a particular opinion in advance of the matter being considered by the planning committee and campaign in accordance with the opinion without the threat of predetermination.

2 National Scheme of Delegation

Options

- 2.1 Two options have been considered
- Option 1 – Do nothing i.e. retain local discretion on delegation
 - Option 2 – Introduce a mandatory national scheme of delegation

Option 1: Do Nothing

Description

- 2.2 Option 1 would continue the existing practice whereby each local authority prepares its own scheme of delegation.

Costs

Welsh Government

- 2.3 As no legislative changes would be required or any guidance produced, there would be no financial outlay to the Welsh Government

Local Planning Authorities

- 2.4 This option would allow the LPAs to carry on with their existing delegation arrangements and therefore there would be no additional costs imposed on them.
- 2.5 In terms of current costs, a benchmarking exercise between Councils in England in 2012 found that the average cost to an LPA for taking an application to Planning Committee was £1,188 and the average costs for decisions made by officers under delegated powers was £530 (PAS/CIPFA benchmarking planning services exercise, 2012). These costs include the time spent on the activity, the cost per hour of the person carrying it out and an allocation of overhead cost to the activity.
- 2.6 Whilst there are no costs available specifically in relation to Wales, it is reasonable to assume that these figures are comparable to costs incurred in the Welsh system due to the similarity in processes and procedures between the two countries.
- 2.7 The table below provides a breakdown of the costs provided by the research. A GDP deflator adjustment factor of 1.06% has been applied to the 2012 figures to estimate the average costs for 2014.

Table 3: Average costs of determining a planning application

	2012	2014
Average Delegated decision		
Receipt & validation, fees	£81	£82
Consultation & evaluation	£314	£317
Delegated reports & decision	£135	£136
TOTAL	£530	£536
Average Committee decision		
Receipt & validation, fees	£81	£82
Consultation & evaluation	£314	£317
Delegated reports & decision	£793	£801
TOTAL	£1,188	£1,201

- 2.8 The research suggests that it costs on average over twice as much to process an application that is presented to a planning committee compared to an application determined under delegated powers.

Development Industry

- 2.9 Some small-scale development proposals, involving small residential and commercial projects, and extensions would continue to be determined by

planning committee at those LPAs with restrictive delegation schemes leading to delay and uncertainty caused by the committee process.

2.10 Whilst it is difficult to estimate the exact cost, delayed planning decisions place a significant financial burden on developers and the Welsh economy. The costs to the UK economy associated with delays in the planning system are disputed, for example, DCLG contend that planning delays cost the UK economy £3billion a year⁵ whilst the RTPI Royal Town Planning Institute⁶ estimates the cost of planning delays to be at least £700 million per year

Benefits

Welsh Government

2.11 This option would not give rise to any benefits to the Welsh Government in terms of improved performance.

Local Planning Authorities

2.12 The degree of delegation to officers would remain at the discretion of the members of the local authority.

2.13 The delegation schemes can continue to reflect local circumstances and be amended when deemed necessary. An opportunity to add greater consistency throughout Wales in respect of the decision making–process would be lost.

Development Industry

2.14 Delays and inconsistency in the decision making process would remain with small-scale development which can be more efficiently considered under delegated arrangements continuing to be determined in some instances by committee. Consequently there are no benefits to this sector.

Option Two: Introduce a mandatory national scheme of delegation

Description

2.15 Subordinate legislation is created to introduce a mandatory national scheme of delegation which would deliver greater consistency and efficiency nationally in the decision-making process. A national scheme of delegation will be prescribed so that, the same type of planning application is dealt with in the same way (i.e. by committee or delegation) across Wales.

2.16 The national scheme of delegation would capture all applications for full and outline planning permission and applications for the approval of reserved matters made under Part 3 of the Town and Country Planning Act 1990, i.e. the

⁵ <https://www.gov.uk/government/speeches/planning-reforms-boost-local-power-and-growth>

⁶ <http://www.rtpi.org.uk/knowledge/core-issues/planning-myths/myth-number-3-planning-is-costly/>

bulk of applications that currently make up a planning committee's workload. Regulations would not prescribe how the LPA makes decisions about its other functions (such as discharging planning conditions, enforcement, TPO's etc.); these matters are to be left to each individual authority. For this reason, it is envisaged that the national scheme of delegation would form part of the authority's wider adopted constitution.

2.17 From the research undertaken, and taking account of the role of the planning committee as defined in paragraph 4.3 of the consultation, the Welsh Government considers that the national scheme of delegation should consist of the following exceptions:

- Departure/contrary to the development plan (and seeking to approve)
- Applications involving an Environment Impact Assessment
- LPA employee/Council member has an interest in the application
- Member call-in
- Development threshold
- Objection threshold

2.18 In regards to the overall structure of the national scheme of delegation, the Welsh Government is considering three options, which are shown in appendix 2 of the consultation. The main difference between the options is the extent to which member call-in is constrained

Costs

Welsh Government

2.19 The cost of producing and publishing procedural guidance is outlined in paragraphs 1.16 and 1.17.

2.20 The effectiveness of the national scheme of delegation in providing greater consistency and efficiency would be monitored as part of the existing Welsh Government Planning Performance Framework. Therefore, the Welsh Government would not incur any additional monitoring costs.

Local Planning Authorities

2.21 It is anticipated that there would be no additional costs to the decision making process should the national scheme of delegation be structured as per either option 2 or 3 as shown in appendix 2 of the consultation. The number of applications submitted is not expected to change as a result of the proposal. Planning officers would continue to assess applications in the same way as at present and prepare a report on those applications that, under either of these this options, would be considered under delegated arrangements (see benefits section). The cost incurred in attending the planning committee meetings to discuss the applications will also be removed. Officers already have the necessary experience of making decisions on applications and therefore there are no additional training costs.

- 2.22 It is acknowledged that implementing and operating a delegation panel (option 1 as shown in appendix 2 of the consultation) will have costs in respect of additional pressure on valuable member time (and officer/technical support staff) and could add delay to the decision-making process.
- 2.23 Additionally, each LPA will be required to amend the relevant sections of their constitution to take account of the changes to the delegation scheme. It would be anticipated that this would normally be an agenda item in a routine Council meeting and not impose an additional cost.

Development Industry

- 2.24 It is anticipated that implementing a national scheme of delegation structured as per option 2 or 3 as shown in annex 2 of the consultation would have no direct cost to this sector. The introduction of a national scheme of delegation would not alter the application process that developers and home-owners currently follow when submitting a planning application.
- 2.25 There is the potential for some delay to the decision making process (above that which would occur through the implementation of either options 2 or 3) should delegation panels be introduced to validate member call-in requests (option 1 as shown in annex 2 of the consultation). Whilst it is envisaged that delegation panel meetings would be scheduled appropriately within a LPA's committee calendar to ensure that those applications which ultimately do get put forward to the planning committee for determination can go before the next available planning committee, this may not be possible in some instances. The subsequent delay would impact upon the lead time for development which could subsequently result in additional costs to this sector.

Benefits

Welsh Government

- 2.26 The decision making process for the whole of Wales would be streamlined, with the ability to accurately record, monitor and analyse LPA performance. The introduction of a national scheme of delegation will contribute towards establishing a consistent, fairer, more transparent planning service.
- 2.27 The improvements to the speed and consistency of the planning system are also likely to benefit business confidence and could assist economic growth.

Local Planning Authorities

- 2.28 The implementation of the proposed national delegation scheme would result in planning committees determining solely those applications that are locally strategic, major applications and those where there is a clear public or policy interest. All small-scale development proposals would be delegated to officers where they can be more efficiently determined.

- 2.29 It is also noted that there is a potential cost saving as a by-product of increasing the number of delegated decisions. The research suggests that it costs on average over twice as much to process an application through a planning committee than an application determined under delegated powers. Whilst the research does not differentiate between the cost of planning committees determining a major application and a minor application (the applications targeted by the proposed national delegation scheme), it is reasonable to predict that by implementing the proposed national scheme of delegation and subsequently reducing the amount of applications that would be determined by planning committees, there would be a cost saving for LPAs.
- 2.30 A reduction in the amount of applications being determined by committee should also result in shorter committee meetings. Currently, the length of committee meetings varies significantly, from an average of 32 minutes for Merthyr Tydfil to an average of 240 minutes for Brecon Beacons National Park Authority⁷, despite less than 3% of overall applications submitted to LPA's being major applications.
- 2.31 Reducing the length of committee meetings would also result in a resource opportunity by enabling members and staff (who participate at planning committee meetings) to utilise any saved time on other Council business.
- 2.32 Greater delegation would also result in an increase in the proportion of decisions made within the target period for determination, therefore reducing delays in the current system. Planning Committee meetings are typically once a month with reports for each meeting prepared up to 3 weeks in advance. Whilst an LPA may have all the relevant information to determine an application, they are unable to issue a decision due to having to wait for the next available committee. Increasing delegated powers would remove this delay with officers being able to determine all applications that fall within the national scheme at any point once the LPA has all the relevant information to make a decision.
- 2.33 Additionally, the adoption of a national scheme would ensure that all LPAs have a scheme of delegation and lifts the burden of each LPA having to keep schemes updated.

Development Industry

- 2.34 A national scheme of delegation will create greater certainty and consistency for applicants and developers, particularly those who operate over several local planning authority areas
- 2.35 Introduction of a national scheme of delegation structure as per any of the options shown in annex 2 of the consultation would reduce delays and the associated costs incurred from non-major and non-controversial applications being held up in the planning committee process. Enabling such applications to

⁷RTPI Cymru. Study into the Operation of Planning Committees in Wales. Fortismere Associates with Arup. 2013. Table 1: Planning Committee meetings by local planning authority 2012/13. Page G2

be determined by officers and not having to wait for a planning committee meeting will result in faster decisions, reducing the lead time for development.

Summary and Preferred Option

- 2.36 Option 1 would see no changes to the existing arrangements. Inconsistency would continue and the role of the planning committee would remain unchanged.
- 2.37 Planning committees would continue to determine small-scale development proposals, which could be more efficiently and effectively determined by officers under delegated powers, adding unnecessary delay to the decision-making process.
- 2.38 Option 2 is the preferred option as it provides a minimum level of consistency across Wales whilst ensuring that planning committees deal with solely with locally strategic, major applications and those with a clear public or policy interest, making best use of member time and resources.
- 2.39 Delegation of decision-making to officers has benefits for all stakeholders in terms of simplifying procedures, minimising costs and freeing up committee members to concentrate on major or controversial cases. It removes applications which typically elicit no member discussion and evaluation at committee whilst clarifying the system and protecting member involvement. Where there is no need to await a committee decision, time can be saved in dealing with a planning application. Delegation is therefore a positive process that gives benefits not just in terms of streamlining internal procedures but also in terms of improved responsiveness for applicants.