



NOTICE OF MEETING

SCRUTINY MANAGEMENT PANEL

TUESDAY, 27 SEPTEMBER 2022 AT 2.30 PM (OR THE CONCLUSION OF CABINET IF LATER)

COUNCIL CHAMBER - THE GUILDHALL, PORTSMOUTH

Telephone enquiries to James Harris on 023 9260 6065

Email: james.harris@portsmouthcc.gov.uk

If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

Membership

Councillor Matthew Atkins (Chair)
Councillor Graham Heaney (Vice-Chair)
Councillor Dave Ashmore
Councillor Stuart Brown
Councillor Cal Corkery

Councillor Mark Jeffery
Councillor Leo Madden
Councillor Scott Payter-Harris
Councillor Gemma New

Standing Deputies

Councillor Simon Boshier
Councillor George Fielding
Councillor Ian Holder
Councillor Abdul Kadir

Councillor Judith Smyth
Councillor Linda Symes
Councillor Daniel Wemyss

Public health guidance for staff and the public due to Winter coughs, colds and viruses, including Covid-19

- Following the government announcement 'Living with Covid-19' made on 21 February and the end of universal free testing from 1st April, attendees are no longer required to undertake any asymptomatic/ lateral flow test within 48 hours of the meeting; however, we still encourage attendees to follow the public health precautions we have followed over the last two years to protect themselves and others including vaccination and taking a lateral flow test should they wish.
- We strongly recommend that attendees should be double vaccinated and have received any boosters they are eligible for.
- If unwell we encourage you not to attend the meeting but to stay at home. Updated government guidance from 1 April advises people with a respiratory infection, a high temperature and who feel unwell, to stay at home and avoid contact with other people, until they feel well enough to resume normal activities and they no longer have a high

temperature. From 1 April, anyone with a positive Covid-19 test result is still being advised to follow this guidance for five days, which is the period when you are most infectious.

- We encourage all attendees to wear a face covering while moving around crowded areas of the Guildhall.
- Although not a legal requirement, attendees are strongly encouraged to keep a social distance and take opportunities to prevent the spread of infection by following the 'hands, face, space' and 'catch it, kill it, bin it' advice that protects us from coughs, colds and winter viruses, including Covid-19.
- Hand sanitiser is provided at the entrance and throughout the Guildhall. All attendees are encouraged to make use of hand sanitiser on entry to the Guildhall.
- Those not participating in the meeting and wish to view proceedings are encouraged to do so remotely via the livestream link.

(NB This Agenda should be retained for future reference with the minutes of this meeting.)

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: www.portsmouth.gov.uk

AGENDA

- 1 Apologies for Absence**
- 2 Declarations of Members' Interests**
- 3 Decision taken by the Cabinet Member for Planning Policy & City Development on 26 July 2022 in respect of item 4 on that agenda "Options for increasing Planning Committee Capacity."- Call-in (Pages 5 - 28)**

The purpose of this report is to request the Panel to review the decision taken by the Cabinet Member for Planning Policy & City Development on 26 July 2022 in respect of item 4 on that agenda 'Options for increasing Planning Committee Capacity'. A copy of the Decision Notice for the meeting is attached as Appendix 3 to this report.

Councillors Ryan Brent, Benedict Swann, Lee Mason, Lewis Gosling and Daniel Wemyss have asked that the decision be called in for scrutiny on the basis that they believe that the decision may have been taken without adequate information.

The Lead Call-in Member is Councillor Ryan Brent. The Cabinet Member is Councillor Lee Hunt, Cabinet Member for Planning Policy & City Development.

The decision today is for the panel to determine whether the Cabinet Member's decision has been taken without adequate information.

If the panel is satisfied that the decision was taken with adequate information being supplied to enable the Cabinet Member to reach his decision, then no further action is required and the matter ends here. If the panel is not satisfied on these grounds, the panel may refer the matter back to the decision maker (or in this instance as a constitutional matter the Governance & Audit & Standards Committee) for reconsideration, setting out in writing the nature of its concerns that are to be addressed in conjunction with the original matter.

A report by the City Solicitor is attached with the following documents as appendices:

Appendix 1 - Call in Request (redacted)

Appendix 2 - Supporting information submitted in respect of the Call in

Appendix 3 - Decision Notice for 26 July 2022 Planning Policy & City Development meeting

Appendix 4 - 'Options for increasing Planning Committee capacity' report considered by the Cabinet Member for Planning Policy & City Development on 26 July 2022

Appendix 5 - Call in procedure guidance

The relevant members and officers will be in attendance.

RECOMMENDED that the Panel is requested to consider the evidence and decide whether to resolve either:

(1) that no action should be taken in respect of the decision made by the Cabinet Member on 26 July 2022; or

(2) that the matter be referred back to the decision maker (or as a constitutional matter the Governance & Audit & Standards Committee) for reconsideration, setting out in writing the nature of its concerns that are to be addressed in conjunction with the original matter.

Members of the public are permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting nor records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue.

Whilst every effort will be made to webcast this meeting, should technical or other difficulties occur, the meeting will continue without being webcast via the Council's website.

This meeting is webcast (videoed), viewable via the Council's livestream account at <https://livestream.com/accounts/14063785>



Title of meeting:	Scrutiny Management Panel
Date of meeting:	27 September 2022
Subject:	Decision taken by the Cabinet Member for Planning Policy & City Development on 26 July 2022 in respect of item 4 on that agenda "Options for increasing Planning Committee Capacity."- Call-in
Report by:	City Solicitor
Wards affected:	All
Key decision:	No
Full Council decision:	No

1. Purpose of report.

- 1.1 To request the Panel to review the decision taken by the Cabinet Member for Planning Policy & City Development on 26 July 2022 in respect of item 4 on that agenda 'Options for increasing Planning Committee Capacity'.
- 1.2 A copy of the Decision Notice for the meeting is attached as Appendix 3 to this report.

2. Call In and alternative decision making.

- 2.1 These decisions have been called-in in accordance with Part 3 of the Constitution of the Council. Whilst called-in for two reasons, the City Solicitor has deemed only one of these reasons as valid, namely:
 - (i) Believe the decision may have been taken without adequate information.
- 2.2 The call-in requisition form and further details for the reason for the call-in are attached at Appendices 1 and 2.

3. Recommendations.

The Scrutiny Management Panel is requested to consider the evidence and decide whether to resolve: either

- (1) that no action should be taken in respect of the decision made by the Cabinet Member for Planning Policy & City Development on 26 July 2022. The decision will then be effective immediately; or

(2) that it should be referred back to the decision maker (or as a constitutional matter the Governance & Audit & Standards Committee) for reconsideration, setting out in writing the nature of its concerns that are to be addressed in conjunction with the original matter.

4. Background

- 4.1. Please see attached report and decision record which provide the background to the decision made on 26 July 2022 (Appendices 3 and 4).
- 4.2. Please see attached Procedure Note (Appendix 5).
- 4.3. Pending the outcome of the call-in process, the decision has not been implemented.

5. Reasons for recommendations

To ensure that the Scrutiny Management Panel is satisfied that the decision maker made the decision based upon accurate and adequate information.

6. Integrated impact assessment

The contents of this report do not have any relevant equalities and environmental impact and therefore an Integrated Impact assessment is not required.

7. Legal implications

There are none - the process is set out in the Procedure Note- Appendix 5.

8. Director of Finance's comments

There are no direct financial implications arising directly from the recommendations contained in this report.

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Signed by: Peter Baulf, City Solicitor

Appendices:**Appendix 1** - Call in Request (redacted)**Appendix 2** - Supporting information submitted in respect of the Call in**Appendix 3** - Decision Notice for 26 July 2022 Planning Policy & City Development meeting**Appendix 4** - 'Options for increasing Planning Committee capacity' report considered by the Cabinet Member for Planning Policy & City Development on 26 July 2022**Appendix 5** - Call in procedure guidance**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
N/A	

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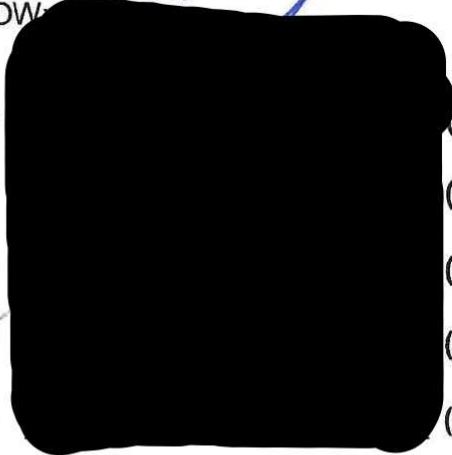
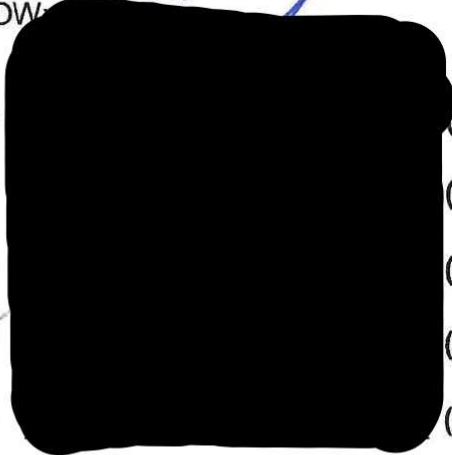
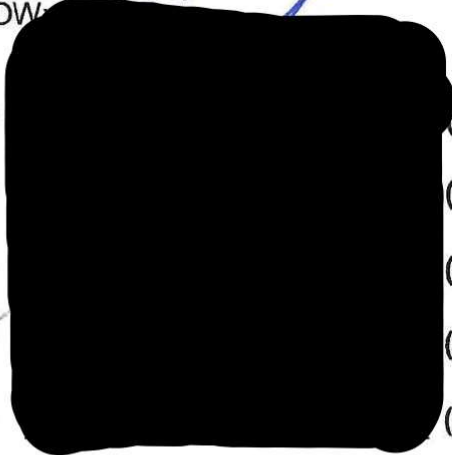
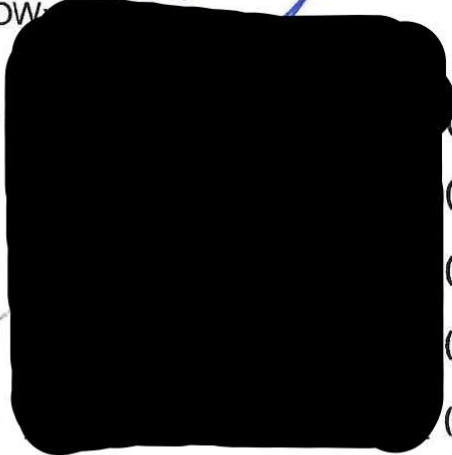
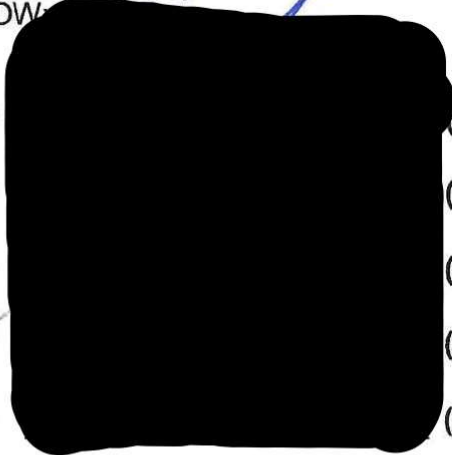
SCRUTINY MANAGEMENT PANEL

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**“CALL IN”
REQUEST**

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WE THE UNDERSIGNED WISH TO “CALL IN” FOR CONSIDERATION BY THE SCRUTINY MANAGEMENT PANEL THE DECISION(S) OF THE **CABINET** TAKEN ON THE ...26TH DAY OF JULY.....2021 IN RELATION TO THE REPORT/MINUTE NUMBER SHOWN BELOW

- councillor  (Sign) RYAN BRENT (Print)
- councillor  (Sign) BENEDICT SWANN (Print)
- councillor  (Sign) LEE MASON (Print)
- councillor  (Sign) LEWIS GOSLING (Print)
- councillor  (Sign) DANIEL WEMYSS (Print)

Dated _____

<u>AGENDA ITEM/MINUTE NO.</u>		<u>4</u>
<u>REPORT TITLE / MINUTE / DATE OF CABINET MEETING / PORTFOLIO DECISION MEETING / MIS DATE</u>		<u>OPTIONS FOR INCREASING PLANNING COMMITTEE CAPACITY</u>
<u>REASONS FOR “CALL IN” and WHY</u>	Believe the decision may be based on inaccurate or incorrect information	<input checked="" type="checkbox"/>
	Believe the decision may have been taken without adequate information	<input checked="" type="checkbox"/>
	Believe the decision may be contrary to the council’s agreed Budget and policy framework	<input type="checkbox"/>

**Once completed please return to Local Democracy Manager
Telephone: 023 9283 4055**

- Please provide a brief summary of reasons for call in
- Please state what alternative action it is proposed should be taken by decision maker

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Dear City Solicitor

Please find enclosed a Call In relating to the decision taken by the Cabinet Member for Planning Policy and City Development on 26th July 2022, Minute item 4 relating to Options for increasing Planning Committee Capacity

The Cabinet Member resolved that the scheme of delegation for planning decision making be amended by:

1. The deletion of paragraph 53 of Part 2 Section 5B (Director of Regeneration) of the constitution; and
2. The amendment of paragraph 57 of Part 2 Section 5B (Director of Regeneration) of the constitution so that the threshold applied to a requirement for Committee determination is where six or more adverse representations based on material planning considerations have been received

Reason for Call In

This decision seeks to amend the constitution of Portsmouth City Council and has been based on inaccurate/incorrect legal advice in that it is in breach of **Chapter 4 – Role of the City Council**

In addition, this decision also fails to consider a previous report to the Cabinet Member for Planning Policy and City Development on 16th September 2021 at which similar recommendations to make changes to the Constitution were referred to the Governance, Audit and Standards committee and therefore the decision may have been taken without adequate information.

Section 4.1. General reservation of powers to the city council, details those decisions on which matters are reserved to the city council, this includes

2. Adopting material changes to the constitution (including standing orders)

On 16th September 2021 Similar Changes were submitted to the Cabinet Member for Planning Policy and City Development in that

2. Recommendations

2.1 To approve the reintroduction of amendments to paragraph 53 of the Scheme of Delegation to increase the scale threshold of applications that are reserved for Committee approval from 6 or more dwellings to 10 or more dwellings.

2.2 To approve the amendment of paragraph 57 of the Scheme of Delegation to raise the threshold for the number of adverse representations needed to require committee consideration from 1 (one) to 3 (three) and remove the requirement for objectors to also request to attend the meeting as a deputation.

Appendix 2

2.3 To approve the amendment of paragraph 50, 53, 54 and 57 of the Scheme of Delegation to include the exception for applications for certificates of lawfulness or applications for Prior Notifications or Approvals.

At that meeting Cllr Hugh Mason took note of the legal advice detailed in the report in that

"The Council's constitution describes the processes by which planning applications are considered. It is regularly reviewed to ensure it promotes efficiency and upholds the principles of good and transparent public decision making"

Cllr Mason also considered deputations which raised concerns with the second recommendation to amend paragraph 57 of the Scheme of Delegation to raise the threshold for the number of adverse representations needed to require committee consideration from one to three and remove the requirement for objectors to also request to attend the meeting as a deputation.

This was felt to be a constitutional change that removed rights from residents and required further debate amongst members. In light of the concerns raised

Cllr Mason agreed at that meeting to refer the second recommendation in respect of amendments to paragraph 57 of the Scheme of Delegation to the Governance & Audit & Standards Committee and proceed only with the first recommendation to amend paragraph 53. Cllr Mason also agreed the third recommendation, albeit amended to remove references to the recommendation to amend paragraph 57

This decision should be called in to Scrutiny Management for consideration and should the committee uphold the call in, referred back to the Cabinet Member for Planning and City Policy with recommendations referring the scheme of delegations to the Governance, Audit and Standards committee for determination.

Chapter 4 – Role of the City Council

4.1. General reservation of powers to the city council

(11/2019)

Decisions on any of the following matters are reserved to the city council –

1. Setting the level of council tax or other form(s) of local taxation, and approving the budget (including the housing revenue account);

2. Adopting material changes to the constitution (including standing orders);

3. Unless otherwise provided, the appointment, powers, duties and composition of the Cabinet, Panels, and committees;

4. Agreeing and adopting the following plans and strategies (the Policy Framework):

- a) as required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and regulations under section 32 of the Local Government Act 2000 –
 - i. Annual Libraries Update Report;
 - ii. Best value performance plan;
 - iii. Children’s and young people’s plan*;
 - iv. Community strategy;
 - v. Crime and disorder reduction strategy;
 - vi. Local transport plan;
 - vii. Plans and strategies which together comprise the Town and Country Planning development plan;
 - viii. Youth justice plan.

* This includes the education of children in the public care, education development plan, early years development plan, childcare plan and school organisation plan

- b) other plans and strategies which the council has decided should be adopted by the council meeting as a matter of local choice –
 - i. Integrated health development strategy
 - ii. City cultural strategy
 - iii. City leisure strategy
 - iv. Directorate business plans
 - v. Education inclusion policy and strategy
 - vi. Lifelong learning development plan
 - vii. Community sustainability strategy

Appendix 2

- viii. Social services delivery and improvement statement
 - ix. Strategy for promoting or improving economic, social and environmental well-being
 - x. Statement of licensing policy
 - xi. Any other plan or strategy agreed to be adopted by the council as a matter of local choice.
 - xii. Food service plan
 - xiii. The plan and strategy which comprise the housing investment programme
 - xiv. Adult learning plan.
-
- c) Housing land transfer:
 - housing land transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under section 32 or 43 of the Housing Act 1985.
5. Matters requiring a special majority or special notice or otherwise requiring by law a decision of the city council;
 6. The promotion of applications and orders under the Transport & Works Act, and harbour revision orders;
 7. The promotion or confirmation of a compulsory purchase order;
 8. Any other matter required by the council's standing orders to be submitted for resolution by the city council, unless the city council has expressly or by necessary inference delegated such matters to a committee or chief officer;
 9. To make decisions on those matters referred to Council by Scrutiny Management Panel;
 10. Making appointments to the Hampshire Fire & Rescue Authority;
 11. Making appointments to the Police and Crime Panel;
 12. Appointing representatives to outside bodies unless the appointment is a Cabinet function;
 13. Adopting a Members Allowances Scheme;
 14. Conferring the title of Honorary Alderman or freedom of the city
 15. Confirming the appointment of the Head of Paid Service;
 16. Confirmation of the appointment of the Monitoring Officer;
 17. Confirmation of the appointment of the Council's Chief Finance Officer (s.151 Officer).

Appendix 2

18. Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills;

19. All local choice functions set out in Part 2 of this Constitution which the council decides should be undertaken by itself rather than the Cabinet;

53 : Any applications which are recommended for approval and that seek planning permission for 1,000 square metres or more of new non-residential floor area or for six* or more new dwellings *(Temporary adjustment from six to ten or more dwellings, which expires on 13 February 2021)

57 : Any applications which are recommended for approval where three adverse representations based on material planning considerations have been received, except in the case of applications for certificates of lawfulness or applications for Prior Notifications or Approvals.

Deleting Para 53 and amending Para 57 to change the threshold from three adverse representations to six are both material changes to the constitution and would fall under Chapter 4 of the Constitution section 2 (Role of the City Council) whereby decisions on any of the following matters are reserved to the city council – Section 2 states Adopting material changes to the constitution (including standing orders)

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**Notification to all Members of the council
of decisions by the Cabinet Member for Planning Policy & City
Development**

Issued by Democratic Services

Wednesday 27 July 2022

The details set out below will be published in the next Members' Information Service, but in the meantime are notified to all Councillors in accordance with Rule 15(a) of the Policy and Review Panels Procedure Rules.

The following decision has been taken by the Cabinet (or individual Cabinet members) and will be implemented unless the call-in procedure is activated. Rule 15 of the Policy and Review Procedure Rules requires a call-in notice to be signed by any 5 members of the Council.

The call-in request must be made to democratic@portsmouthcc.gov.uk and must be made by no later than 5pm on Wednesday 3 August 2022.

If you want to know more about a proposal, please contact the officer indicated. You can also see the report(s) on the Council's web site at www.portsmouth.gov.uk

	WARD	DECISION	OFFICER CONTACT
		<p>Cabinet Member for Planning Policy & City Development Decision Meeting - 26 July 2022</p> <p>The cabinet Member has made the following decisions:-</p>	<p>James Harris - Senior Local Democracy Officer</p>
3		<p>Housing Delivery Test Action Plan</p> <p>DECISION:</p> <p>RESOLVED that the Housing Delivery Test Action Plan 2022, attached as Appendix 1 to the report, be approved for publication and implementation.</p>	<p>Ian Maguire - Assistant Director of Planning and Economic Growth</p>
4		<p>Options for increasing Planning Committee Capacity</p> <p>DECISION:</p> <p>RESOLVED that the scheme of delegation for planning decision making be amended by:</p> <p>1. The deletion of paragraph 53 of Part 2 Section 5B (Director of Regeneration) of</p>	<p>Ian Maguire - Assistant Director of Planning and Economic Growth</p>

	WARD	DECISION	OFFICER CONTACT
		<p>the constitution; and</p> <p>2. The amendment of paragraph 57 of Part 2 Section 5B (Director of Regeneration) of the constitution so that the threshold applied to a requirement for Committee determination is where six or more adverse representations based on material planning considerations have been received.</p>	

Title of meeting:	Planning Policy and City Development Portfolio Decision Meeting
Date of meeting:	26 July 2022
Subject:	Options for increasing Planning Committee capacity
Report by:	Ian Maguire, Assistant Director Planning & Economic Growth, Regeneration
Wards affected:	All
Key decision:	No
Full Council decision:	No

1. Purpose of report

- 1.1. The purpose of this report is identify options available to increase the capacity of the planning committee to enable the determination of planning applications.

2. Recommendations

- 2.1 Members are asked to consider the options below:

- 2.1.1 Increase the level of delegation to Officer to therein to refine the types of application that require Planning Committee Consideration, or
- 2.1.2 Increase the frequency of Planning Committee meetings and subsequent officer and other resource required to appropriately meet this increased frequency.

3. Background

- 3.1 Officers have previously brought reports to Members regarding the role of the Planning Committee. To ensure the efficient operation of the Council and its Planning Committee the Constitution through the Scheme of Delegation prescribes those decisions that, due to their significance or implications are reserved to Portfolio Holders, Committees or Full Council for determination and those decisions that are delegated to Officers to determine in accordance with the adopted guidance and policies of the Council. This Scheme of Delegation includes those specific types of planning applications that are reserved for the determination of the Planning Committee and those that can, therefore be determined by Officers.

3.2 In accordance with the current scheme of delegation as amended in November 2021 at the decision meeting of the Planning Policy and City Development Portfolio Holder following referral to the Governance and Audit and Standards Committee, includes eight grounds that will potentially reserve an application for committee consideration:

- *Para 50. All applications required to be **referred to the Secretary of State under the Town and Country Planning (Consultation) (England) Direction 2009** except in the case of applications for certificates of lawfulness or applications for Prior Notifications or Approvals;*
- *Para 51. Any applications where any **Member so requests** to the Assistant Director of Planning and Economic Growth providing a written reason, within 28 days of the registration of the application;*
- *Para 52. Any applications which are likely to have **significant implications** in the opinion of the Assistant Director of Planning and Economic Growth;*
- *Para 53. Any applications which are recommended for approval and that seek planning permission for **1,000 square metres or more of new non-residential floor area or for ten or more new dwellings***
- *Para 54. Any applications which are recommended for approval but on which an objection has been received from a **statutory consultee**, which has not been resolved by negotiation or through the imposition of conditions except in the case of applications for certificates of lawfulness or applications for Prior Notifications or Approvals;*
- *Para 55. Any applications submitted by, or on behalf of, a **Councillor** of the Authority (or their spouse/civil partner or a person with whom they are living as spouse/civil partner), or by any **member of the Council's staff** (or their spouse/civil partner or a person with whom they are living as spouse/civil partner)*
- *Para 56. Any applications, except 'Householder applications', applications for advertisement consent, applications for works to TPO trees, applications in respect of trees in Conservation Areas or applications for minor non-residential alterations or extensions (industrial / commercial / leisure etc extensions, alterations and change of use resulting in less than (net) 250 sq. m of additional floorspace) **submitted by or on behalf of the Council** for its own developments or on land where the Council is the land owner; and*
- *Para 57. Any applications which are recommended for approval where **three or more adverse representations** based on material planning considerations have been received, except in the case of applications for certificates of lawfulness or applications for Prior Notifications*
- *Para 58. Any applications for **Minor Material Amendments** (made under s73 of the Town and Country Planning Act 1990, or any section which*

revokes or re-enacts that section) **or applications for Reserved Matters** following the grant of Outline Planning Permission, that do, in the opinion of the ADPEG have significant implications.

- 3.3 The application of the current scheme of delegation has resulted in a backlog of cases awaiting committee consideration as the frequency of committee meetings and the size of the agenda, and resultant length of meetings are limited by practicality and resource. That backlog will vary as discussion with applicants results in changes to recommendations and public engagement on applications may result in unforeseen objections or consultee concerns. However at the time of drafting this report (early July) the cases awaiting committee consideration numbered 117. These cases require committee consideration under different paragraphs of the Scheme of Delegation:

Paragraph	Reason	Number of cases
51	<i>Member ... requests</i>	56*
53	<i>[Scale]...1,000 square metres or more of new non-residential floor area or for ten or more new dwellings.</i>	9
56	<i>...submitted by or on behalf of the Council</i>	1
57	<i>...three or more adverse representations</i>	51
Total		117

There are no cases requiring committee consideration due to the requirements of paragraphs 50, 52, 54, 55 or 58.

*54 of the 56 applications requiring committee consideration due to Member request are due to the requirement by Cllr Gerald Vernon-Jackson for all applications involving changes of occupancy in HMOs from 6 occupants to 7 occupants to be considered by the Planning Committee.

- 3.4 Planning Committees currently meet every three weeks and host agendas that, on average in the 2022 municipal year to date, mean they sit for over 3 hours in each meeting.
- 3.5 Utilising the last available full year data (October 2020 to September 2021) it can be noted that Portsmouth City Council reserves more applications for committee consideration than would be considered normal. In that year Portsmouth delegated 92.5% of decisions to officers, compared to a national average of 95.5% or an average of 96.5% from our neighbouring authorities.
- 3.6 It is open to the Council to amend its scheme of delegation and the thresholds therein to refine the types of application that require committee consideration, thus allowing more decisions to be determined by Officer delegation. Any such change to have an effect on the backlog of cases should therefore give consideration to the indicative reasons as to why applications are currently awaiting committee consideration.

- 3.7 The backlog of 117 applications requiring committee consideration means that new applications that would require a committee decision will be subject to delay if all such applications are to be considered in chronological order. Currently the municipal calendar anticipates 3 weekly meetings, with every third meeting dedicated to the specific 54 cases involving changes in HMOs where occupancy increases from 6 occupants to 7 or 8. Officers have consequently predicted the likely agenda contents chronologically with each committee considering the 6 occupant to 7 occupant HMO cases to consider 10 agenda items and each committee considering other matters to consider 8 agenda items. This means new 'HMO' cases would have to wait until April 2023 to receive committee consideration and other new cases would need to wait until March 2023.

4. Reasons for recommendations

- 4.1 To reduce the backlog of matters requiring committee consideration Members can either reduce the number of applications that require such consideration, by increasing the level of delegation to officers, or increase the number of planning committee meetings to ensure the current backlog is reduced at a greater rate. Both courses of action can of course be utilised in tandem.
- 4.2 The increase in frequency of planning committees can only be achieved through an increase in staffing resources to bring matters to the committee more rapidly and support the committee meetings themselves. Each meeting of the planning committee is a significant investment of time and resources for most councils, and requires the close coordination of planning, democratic services and legal teams. It can be noted that research undertaken by the Local Government Association's Planning Advisory Service has shown that on average applications that are decided at planning committee costs an authority around 10 times more to resource than delegated decisions. The direct cost is of course mostly in Officer time as a significant amount of additional time is needed to support the Committee in their decision making. Each planning committee meeting will require additional time from an experienced planner within the Development Management management team, with an estimated 0.3 FTE needed purely for the additional preparation and delivery of the meetings as compared to managing applications through a delegated process. Each meeting would also require additional resource from the Democratic Services team and Legal Services team. If additional meetings are to be introduced this would also require the faster production of officer recommendation reports and therefore additional Development Management planner resources to increase this productivity. Using comparable hourly rates for relevant staff the additional resourcing needed within the planning department would be approximately £115,000 per annum to support an additional regular committee, ie increasing the number of committees a year from the current 16 to 24.
- 4.3 The resourcing needed within the legal services and democratic services team will also need to be considered with appropriate funding for temporary resources identified as necessary. Each planning committee (which historically on average have 6/7 items) takes approximately 3 days of a legal officer time. On a 4 weekly cycle, which is 13 committees a year this takes up approximately 39 days per year. On a bi-weekly cycle the estimated amount of time would be increased to

approximately 78 days per year. Increasing the number of items per committee to 10 will also increase 130 days per year. There would also be additional legal advice required in connection with the planning applications and s106 agreements and appeals. Legal services does not currently have the capacity to service any additional planning committees and would need additional resources to cover bi-weekly planning committee meetings. This would equate to an extra 0.4FTE of Fee Earner (solicitor) time. Democratic Services have advised that they would intend to stretch existing resources to cover the additional demands but have expressed concerns about the impacts of doing so as well as the availability of rooms and space in the committee calendar for this amount of meetings

- 4.4 An increase in the level of delegation can also be effective in reducing pressure on committee time. This was reviewed extensively in 2021 with the Scheme of Delegation updated most recently in November 2021. As noted in para 3.6 and the table at para 3.3 changes to the scheme of delegation would best be focussed on those thresholds that currently result in more cases being brought to committee.
- 4.5 The current scheme, at para 53, requires all 'Major' applications to come to committee, ie all those with more than 1,000 sqm of additional floorspace or 10+ new homes. 8% of the committee backlog is created by this requirement. It can be noted that in the assessment of the outstanding cases every one of these cases have less than 3 adverse representations suggesting that notwithstanding their scale they are otherwise uncontroversial to local people. Members may therefore wish to remove the requirement for larger case to come to Committee automatically, as described in para 53. This would have the effect of reducing the committee delay by an entire agenda. Large applications that generate significant objections would of course still be brought to committee by virtue of para 57 in any case.
- 4.6 The current scheme, at para 51, provides the right to elected Members to bring matters to Committee. This is certainly an inalienable right in a Member led organisation so while it could be curtailed, by requiring any such requests to be made by more than one member or be agreed by the Chairman for example a review of this right should be approached cautiously. It can be noted that while it is this paragraph that individually results in the largest backlog (48% of those cases waiting committee consideration), only 2 cases have been requested to come to committee outside of the 'HMO' scenario that has required over 60 cases to be taken to Committee. Clearly a revocation of that requirement would have the single most significant impact on the backlog of cases.
- 4.7 The final paragraph of the Scheme of Delegation that could be reviewed is the threshold for the number of adverse representations that requires committee consideration. This was recently raised from 1 to 3, but still accounts for 51 cases 44% of the backlog. The threshold to bring matters to committee in Portsmouth even following the amendment in 2021 is low when compared to near and neighbouring authorities. By comparison in Southampton City Council "five written letters of representation...from five different individuals within the administrative ward of the City" is set as the threshold to bring something to a committee of Members; and in Winchester City Council "six or more representations "... from separate individual addresses..."" is the threshold. Both of these thresholds when

compared to other LPAs may be considered high, but gives an illustration of the range that might be considered as an appropriate threshold to set.

- 4.15 Members can note that there are currently 51 cases awaiting committee consideration due to objections. If the threshold of adverse representations required to require committee consideration was raised from 3 to 4 this would reduce by 10 and if raised from 3 to 6 this would nearly have, reducing by 24.
- 4.16 Any or all of these changes to the Scheme of Delegation would assist in reducing the backlog, and more importantly would work to ensure a future backlog did not arise as new applications are made. Without additional resourcing there is no way to increase the rate of reduction of the committee backlog and consequently the Council would need to work with applicants, in particular, to inform them of the likely determination delays and manage any risks arising from potential appeals for non-determination.

5. Equality impact assessment

- 5.1 An equality impact assessment is not required as the recommendations do not have a disproportionate negative impact on any of the specific protected characteristics as described in the Equality Act 2010.

6. Legal implications

- 6.1 Members should note that an applicant may appeal for non-determination where the Council does not determine:
- (i) a minor planning application within 8 weeks
 - (ii) a major planning application within 13 weeks
 - (iii) a planning application subject to an environmental impact assessment.

7. Director of Finance's comments

- 7.1 The report asks Councillors to consider either or both of two options, the first option ask Members to consider a change to the Council's constitution that would allow the number of applications that are required to be referred through the Planning committee to be reduced, the extent to which this could be applied is not known in full or articulated in any detail in the report, and therefore the financial consequences of this are unclear.
- 7.2 The second option is to increase the frequency of Planning Committee meetings, the planning department have estimated that if the number of meetings were to increase from 16 to 24, then the additional officer time would cost in the region of £115,000 per annum. In addition further resource strains would be seen on other services, most notably Democratic Services and Legal Services, who estimate that an addition 0.4FTE of solicitor time would be needed. There is insufficient unallocated cash limited budget in the Planning Service, so if this option was to be considered an additional source of funding would need to be identified.

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Signed by: Assistant Director of Regeneration

Appendices: None

Background list of documents: Portsmouth City Council Constitution Part 2 Section 5B Delegation of Decision Making to Officers - As Amended by the decision meetings of the Cabinet Member for Planning Policy & City Development on 16 September 2021 and 19 November 2021.

Recommendation 2.1.1 approved/rejected by Cllr Lee Hunt

on.....

Recommendation 2.1.2 approved/rejected/amended as below by Cllr Lee Hunt

on.....

Decision:

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Signed by: Cllr Lee Hunt, Cabinet Member for Planning Policy & City Development

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APPENDIX 5

CALL-IN PROCEDURE FOR THE MEETING

The procedure for the meeting will be as follows:-

1. Any deputations from the public, followed by;
2. Presentation of the call-in by the Lead Call-in member followed by questions from Scrutiny Management Panel members.
3. Response from relevant Lead Cabinet member followed by questions from Scrutiny Management Panel members.
4. A further response may then be made by the Lead Call-in member
5. The Lead Call-in member may then sum up their case
6. The Lead Cabinet member may then sum up their case
7. General debate among Scrutiny Management Panel members followed by a decision.
8. The Panel would then either resolve to take no action (in effect endorsing the original decision) or refer the matter back to the Cabinet/Cabinet Member for further consideration (or as a constitutional matter the Governance & Audit & Standards Committee), setting out the nature of its concerns that are to be addressed in conjunction with the original matter.

NB The Lead call-in member who presented to Scrutiny Management Panel would not be allowed to speak again or vote on the item.

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