



NOTICE OF MEETING

CABINET MEMBER FOR PLANNING POLICY & CITY DEVELOPMENT

WEDNESDAY, 9 NOVEMBER 2022 AT 4.00 PM (OR AT THE CONCLUSION OF THE PLANNING COMMITTEE IF LATER)

COUNCIL CHAMBER - THE GUILDHALL, PORTSMOUTH

Telephone enquiries to James Harris - Senior Local Democracy Officer
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 Lee Hunt (Cabinet Member)

Opposition Spokespersons

Councillor Ryan Brent

Councillor Judith Smyth

(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

Deputations by members of the public may be made on any item where a decision is going to be taken. The request should be made in writing to the contact officer (above) by 12 noon of the working day before the meeting, and must include the purpose of the deputation (for example, for or against the recommendations). Email requests are accepted.

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.

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- 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.

AGENDA

1 Apologies for absence

2 Record of Previous Decision Meeting - 14 October 2022 (Pages 5 - 6)

A copy of the minutes of the previous meeting held on 14 October 2022 is attached.

3 Declarations of interest

4 Scheme of Delegation for Planning Decision Making (Pages 7 - 30)

Purpose

The purpose of this report is to seek approvals to amendments to the Scheme of Delegation to ensure the Planning Committee time is utilised efficiently to deal with important, strategic or especially contentious applications as quickly as possible.

Recommendations

That the scheme of delegation for planning decision making be amended by:

- (i) The deletion of paragraph 53 of Part 2 Section 5B (Director of Regeneration) of the constitution; and**
- (ii) 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.**

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>

1 November 2022

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Agenda Item 2

CABINET MEMBER FOR PLANNING POLICY & CITY DEVELOPMENT

RECORD OF DECISIONS of the meeting of the Cabinet Member for Planning Policy & City Development held on Friday, 14 October 2022 at 11.00 am at the Guildhall, Portsmouth

Present

Councillor Lee Hunt (in the Chair)

Councillor Judith Smyth

17. Apologies for absence

Apologies were received from Cllr Ryan Brent.

18. Declarations of interest

There were no declarations of interest.

19. Record of Previous Decision Meeting - 26 July 2022

The minutes of the previous meeting held on 26 July 2022 were agreed by the Cabinet Member.

20. Recommendations from the Scrutiny Management Panel in respect of the Call in of 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."

After an introduction by the Assistant Director for Planning & Economic Growth the Cabinet Member invited Cllr Judith Smyth to speak.

Cllr Smyth highlighted the difficulty of the matter and the finely balanced decision to uphold the call-in at the Scrutiny Management Panel. All present at the Scrutiny Management Panel had however expressed the belief that this area of the Constitution required investigation by the Constitution Working Group as it was currently unclear what powers the Cabinet Member had.

In the absence of clarity, she believed that the matter should be referred to the Governance & Audit & Standards Committee prior to a final decision being made.

Should the Cabinet Member be minded to refer the matter to the Governance Audit & Standards Committee, as Planning Committee Chair, she encouraged that they meet as soon as possible in order for a decision to be taken to help clear the backlog of planning applications.

The Cabinet member regretted the delay incurred but believed that the matter should be referred to the Governance & Audit & Standards Committee prior to a final decision being made.

RESOLVED that taking into account the matters raised by the Scrutiny Management Panel, the Cabinet Member referred the matter on to the Governance & Audit & Standards Committee for comment prior to either amending or reconfirming the decisions made on 26 July 2022.

The meeting concluded at 11.13 am.

Councillor Lee Hunt
Chair



Title of meeting:	Planning Policy and City Development Portfolio Decision Meeting
Date of meeting:	9 November 2022
Subject:	Scheme of Delegation for planning decision making
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 seek approvals to amendments to the Scheme of Delegation to ensure the Planning Committee time is utilised efficiently to deal with important, strategic or especially contentious applications as quickly as possible.

2. Recommendations

- 2.1 That the scheme of delegation for planning decision making be amended by:
- 2.2 **The deletion of paragraph 53 of Part 2 Section 5B (Director of Regeneration) of the constitution; and**
- 2.3 **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.**

3. Background

- 3.1 At the meeting of 26 July 2022 the Cabinet Member for Planning Policy and City Development considered a report on option for increasing planning committee capacity (Appendix 1). At that meeting he resolved to amend the scheme of delegation in line with the recommendations described above.
- 3.2 That decision was called in to Scrutiny Management Panel who reviewed the decision at a meeting of 27 September 2022 and concluded that the reason for the Call-in was upheld in that the decision may have been taken without

adequate information and that the Cabinet Member may have been unable to properly take into account the constitutional implications of the decision. In addition, the Scrutiny Management Panel believed that the matter should be referred to the Governance & Audit & Standards Committee for consideration, with its findings reported back to the Cabinet Member prior to the decision being made.

3.3 At a meeting of 14 October 2022 the Cabinet Member for Planning Policy and City Development considered the decision of the Scrutiny Management Panel and referred the matter to the Governance & Audit & Standards Committee. (Appendix 3)

3.4 The Governance & Audit & Standards Committee considered the matter (Appendix 4) at a meeting of 27 October 2022 noting that they agreed that the Cabinet Member should have availed himself of the opportunity to consult that Committee. One member of the Committee also expressed an opinion that, in respect of opportunities to amend paragraph 57 of Part 2 Section 5B (Director of Regeneration) of the constitution, the threshold applied to a requirement for Committee determination should be retained as being three or more adverse representations rather than raised to the previously considered six or more.

4. Reasons for recommendations

4.1 The reasons for recommendations are detailed in the report to the Planning Policy and City Development portfolio decision meeting of 26 July 2022 (Appendix 1)

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 within 16 weeks.

7. Director of Finance's comments

7.1 The report asks Councillors to consider two recommendations designed to decrease the number of matters that require a planning committee meeting. 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. The consequence should mean that the number of applications that can be considered

without the need for a committee will increase and the planning process will become more efficient.

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Signed by:

Appendices:

Appendix 1 - Options for increasing Planning Committee Capacity report considered by the Cabinet Member for Planning Policy & City Development on 26 July 2022;

Appendix 2 - Scrutiny Management Panel Report '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' considered on 27 September 2022;

Appendix 3 - Recommendations from the Scrutiny Management Panel in respect of the Call in of 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." report considered by the Cabinet Member for Planning Policy & City Development on 14 October 2022; and

Appendix 4 - Referral by the Cabinet Member for Planning Policy & City Development "Options for increasing Planning Committee Capacity" considered by the Governance & Audit & Standards Committee held on 27 October 2022.

Background list of documents: Portsmouth City Council Constitution Part 2 Section 5B

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by:

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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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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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APPENDIX 3

Title of meeting:	Cabinet Member for Planning Policy & City Development
Date of meeting:	14 October 2022
Subject:	Recommendations from the Scrutiny Management Panel in respect of the Call in of 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."
Report by:	City Solicitor
Wards affected:	All
Key decision:	No
Full Council decision:	No

1. Purpose of report

- 1.1 To present the Cabinet Member with the recommendations arising from the Scrutiny Management Panel held on 27 September 2022.
- 1.2 In reconsidering the matter, the Cabinet Member should take into account any observations made by the Scrutiny Management Panel. The options available to the Cabinet Member are to either amend or reconfirm the decisions made on 26 July 2022, or upon taking into account the matters raised, refer the matter on to the Governance & Audit & Standards Committee for comment prior to either amending or reconfirming the decisions made on 26 July 2022.
- 1.3 The original report considered by the Cabinet Member on 26 July 2022 is attached as Appendix 1.
- 1.4 The subsequent decision made by the Cabinet Member will not be subject to further Call-in.

2. Options available to the Cabinet Member

- 2.1 Taking into account the observations made by the Scrutiny Management Panel, the Cabinet Member amends the decisions made on 26 July 2022
or
- 2.2 Taking into account the observations made by the Scrutiny Management Panel, the Cabinet Member reconfirms the decisions made on 26 July 2022

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or

- 2.3 taking into account the matters raised by the Scrutiny Management Panel, refer the matter on to the Governance & Audit & Standards Committee for comment prior to either amending or reconfirming the decisions made on 26 July 2022.

3. Background

- 3.1 At a special meeting held on 27 September 2022 the Scrutiny Management Panel reviewed 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."
- 3.2 At this meeting Cllr Ryan Brent, the lead Call-in member, presented the Call-in and a response was provided by the Cabinet Member, Cllr Lee Hunt. The panel asked questions of both parties before debating the matter.
- 3.3 The Scrutiny Management Panel concluded that the reason for the Call-in was upheld in that the decision may have been taken without adequate information and that the Cabinet Member may have been unable to properly take into account the constitutional implications of the decision.
- 3.3 In doing so, and in accordance with the agreed process, the Scrutiny Management Panel has set out the nature of its concerns that are to be addressed in conjunction with the original matter. These are included at para 4.2 of this report.

4. Reasons for recommendations

- 4.1 The Scrutiny Management Panel resolved that that the reasons for the Call-in were upheld and it therefore referred the matter back to the Cabinet Member for reconsideration as it believed that the decision may have been taken without adequate information and that the Cabinet Member may have been unable to properly take into account the constitutional implications of the decision.
- 4.2 During the debate the Scrutiny Management Panel made the following comments and raised the following specific areas of concern:
- Requested that further consideration be made to increasing the threshold of the number of members required for a planning application to be considered by the Planning Committee.
 - Believed it would be beneficial to find out what the public thought about the proposals contained within the report.
 - Requested that the Constitution Working Group look at the matter, as there appeared to be a lack of clarity currently in respect of the correct decision making process and the remit of Cabinet Members. It was believed that Full

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Council having to agree such changes would be restricting and no aligned either with the current convention or practically workable.

- Believed that the matter should be referred to the Governance & Audit & Standards Committee for consideration, with its findings reported back to the Cabinet Member prior to the decision being made.

5. Integrated impact assessment

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

6. Legal implications

- 6.1 The key legal implications are contained within the report. This said it is appropriate to state that the Scrutiny Management Panel in hearing the call in, were on balance prepared to accept that the portfolio holder may have had less than adequate information with respect to an opportunity to refer the matter to Governance Audit and Standards. It is apposite to note that a previous portfolio holder did avail himself of this option to engage the Governance & Audit & Standards Committee on the 16th September 2021.
- 6.2 The portfolio holder did confirm during the Scrutiny Management Panel meeting on the 27th September 2022 that he was aware of the opportunity to avail himself of an opportunity to refer Governance & Audit & Standards Committee as an additional option available to him. The options available to the portfolio holder are as stated in this report.

7. Director of Finance's comments

- 7.1 There are no financial implications arising directly from the recommendations contained in this report. Financial comments on the substantive matter are contained within the report attached at Appendix 1.

Signed by: Peter Baulf, City Solicitor

Appendices:

Appendix 1 - 'Options for increasing Planning Committee capacity' report considered by the Cabinet Member for Planning Policy & City Development on 26 July 2022

Appendix 2 - Decision Notice for 26 July 2022 Planning Policy & City Development meeting

APPENDIX 3

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

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

.....
Signed by:

Title of meeting:	Governance & Audit & Standards Committee
Date of meeting:	27 October 2022
Subject:	Referral by the Cabinet Member for Planning Policy & City Development "Options for increasing Planning Committee Capacity"
Report by:	City Solicitor
Wards affected:	All
Key decision:	No
Full Council decision:	No

1. Purpose of report.

- 1.1 At the request of the Cabinet Member for Planning Policy & City Development, the Governance & Audit & Standards Committee is invited to consider and make comments on the process and principles of the decisions taken by him on 26 July 2022 in respect of the report "Options for increasing Planning Committee Capacity" which were subsequently 'called-in'.

2. Recommendations

The Governance & Audit & Standards Committee is invited to make comments on the process and the below decision made on 26 July 2022 that the Cabinet Member for Planning Policy and City Development will reconsider at a future meeting.

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.

3. Background

- 3.1. Please see attached covering report following consideration of the call-in by the Scrutiny Management Panel (Appendix 1), which was considered by the Cabinet Member for Planning Policy & City Development alongside the original report (Appendix 2) on 14 October 2022.
- 3.2. Please see attached report and decision record which provide the background to the decision made on 26 July 2022 (Appendices 2 and 3).
- 3.3. At a special meeting held on 27 September 2022 the Scrutiny Management Panel reviewed 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."
- 3.4. The Scrutiny Management Panel concluded that the reason for the Call-in was upheld in that the decision may have been taken without adequate information and that the Cabinet Member may have been unable to properly take into account the constitutional implications of the decision.
- 3.5. In addition, the Scrutiny Management Panel believed that the matter should be referred to the Governance & Audit & Standards Committee for consideration, with its findings reported back to the Cabinet Member prior to the decision being made. This is an opportunity which the Cabinet Member has availed himself of, hence this report to the Governance & Audit & Standards Committee.
- 3.6. This decision has not been implemented, pending the outcome of the call-in process, consideration by the Governance & Audit & Standards Committee and subsequent reconsideration by the Cabinet Member.

4. Reasons for recommendations

- 4.1 There are no specific recommendations included within the report. Instead, the Governance & Audit & Standards Committee is requested to consider the matter and report its findings back to the Cabinet Member prior to the Cabinet Member reconsidering the matter and making a decision. It should be noted that the subsequent decision made by the Cabinet Member will not be subject to further Call-in.

5. 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.

6. Legal implications

The legal implications are contained within this report- the situation is to be reviewed as part of the Constitutional Working Group as it was recognised that

whilst the above process allows adequate scrutiny the actual basis is something that requires re-aligning within the constitution.

7. Director of Finance's comments

There are no financial implications arising directly from the recommendations contained in this report. Financial comments on the substantive matter are contained within the report attached at Appendix 2.

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Signed by: Peter Baulf, City Solicitor

Appendices:

Appendix 1 - 'Recommendations from the Scrutiny Management Panel in respect of the Call in of 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." report considered by the Cabinet Member for Planning Policy & City Development on 14 October 2022;

Appendix 2 - 'Options for increasing Planning Committee capacity' report considered by the Cabinet Member for Planning Policy & City Development on 26 July 2022; and

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

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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