

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

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## 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.

# APPENDIX 1



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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

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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