

Committee:	Date:
Policy and Resources Committee Court of Common Council	4 October 2022
Subject: Planning and Transportation Committee Meeting Arrangements	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	4, 10
Does this proposal require extra revenue and/or capital spending?	N
If so, how much?	N/A
What is the source of Funding?	N/A
Has this Funding Source been agreed with the Chamberlain's Department?	N/A
Report of: Town Clerk, Executive Director of Environment and Comptroller and City Solicitor	For Decision

Summary

This report considers how the functions of the Planning and Transportation Committee can be most effectively discharged. It recommends the establishment of a Planning Applications Sub-Committee to address the issues of (i) allowing Planning and Transportation Committee to major on strategic and policy issues; and (ii) planning application decisions on land or buildings for which Planning and Transportation Committee has responsibility. This was considered by Planning and Transportation Committee at its meeting of 19 July and Recommendations 1, 2, 4 & 5 were agreed. Recommendation 3 was not before Planning and Transportation Committee (as explained in paragraph 6 of this report)

Recommendation

That **Policy and Resources Committee** resolve to recommend to Court of Common Council

1. The establishment of a Planning Applications Sub-Committee to determine all planning and listed building consent applications not delegated to officers under the Scheme of Delegation (with all other functions within the Terms of Reference of the Planning and Transportation Committee not delegated to officers continuing to be exercised by that Committee or any other Sub-committees to which it delegates functions)
2. That the membership, Chairmanship and Deputy Chairmanship of and arrangements for the Planning Applications Sub-Committee and the Planning and Transportation Committee be as set out in the "Proposals" section of this report
3. That the proposed membership of the Planning Applications Sub-Committee (to be constituted of all members of Planning and Transportation Committee) should not be amended other than by Court of Common Council

4. That the Town Clerk, Executive Director Environment and Comptroller and City Solicitor be delegated to prepare such amendments to the Planning Protocol as may be necessary to give effect of Recommendations 1 & 2 and to report them to Planning and Transportation Committee (which shall be delegated the function of approving the Planning Protocol prior to implementation of the arrangements)
5. That any further updating of the Planning Protocol be delegated to Planning and Transportation Committee

Main Report

Background

1. Lord Lisvane's Governance Review published in late 2020 ("the Review") made recommendations in respect of the Planning and Transportation Committee. These included reduced membership, consideration of planning applications by small panels, ensuring the Committee's focus on strategic and policy issues, and restricting participation in planning decisions by ward members and members of the committee responsible for managing the City's properties "to distance the planning function from the proprietorial" .
2. Since this Review, refinements to "distance the planning function from the proprietorial" have been introduced¹ (as a result of case law² which provided guidance on how the planning function should be separated from the landowner/developer role, where both are undertaken by the City). The "Separation of Functions" arrangements now incorporated in the Planning Protocol are considered to address the issue of "distancing the planning function from the proprietorial". In addition, as noted in the Review, Regulation 10 of the Town and Country Planning General Regulations 1992 ("Regulation 10") prohibits decisions being taken by a committee, sub-committee (or officer) with responsibility for management of the land or buildings to which the application relates. The governance implications of this are addressed below.
3. In respect of Panels, detailed consideration was given to Panel arrangements with Policy and Resources Committee³ authorising Planning and Transportation Committee to consider and report back on options. Dialogue, debate and stakeholder consultation ensued, which demonstrated significant concerns of members and service users to decisions being taken by Panels and by a small membership. A widespread preference was perceived for decisions on planning applications to continue to be made by a broader membership, given the unique characteristics of the City. No further action was taken in respect of membership numbers and Panels and none is recommended in this report
4. Ongoing consideration has also continued by way of informal consultation of committee members by the Chair of Planning and Transportation Committee, largely into timing of meetings, conduct of debate and management of external speakers making representations at Planning and Transportation Committee. It is envisaged that the feedback to that informal consultation will inform the Chair

¹ Planning Protocol Part 4 Paragraph 8e

² R(London Parks and Gardens Trust) v Secretary of State for Housing, Communities and Local Government [2020] EWHC 2580 (Admin)

³ 8 July 2021

in carrying out his chairing responsibilities (including in ruling on the conduct of debate under Standing Order 37) and, if necessary, in updating the Planning Protocol. It is not envisaged that any other governance issues within the remit of Policy and Resources Committee and/or Court of Common Council will arise from that informal consultation, (subject to Recommendation 4 being agreed).

5. Consideration has also been given to how greater focus can be given by Planning and Transportation Committee to strategic and policy issues, and to the governance issues raised by Regulation 10 (which has recently required Sub-committees to be established on an ad hoc basis). These issues and potential ways forward are explored below.
6. Standing Order 27 allows any Committee to constitute Sub-committees subject to approval of Policy and Resources Committee. However, noting the scope of this report and the high profile remit of the proposed Sub-committee, it is considered appropriate to seek the endorsement of Court of Common Council to all the recommended proposals. At its meeting of 7 July 2022 Policy and Resources Committee agreed that its approval of the proposals in this report be delegated to the Town Clerk in consultation with the Chairman and Deputy Chairman of Policy and Resources Committee, subject to the report being first circulated to members of Policy and Resources Committee for comment. Following circulation feedback was received concerning the potential for the Sub-committee membership to be altered without reference to Court of Common Council, as a result of which it was decided to bring this report back to Policy and Resources Committee rather than act under the delegation. In further response, Recommendation 3 of this report has been added to address this concern.

Regulation 10

7. The Planning and Transportation Committee has responsibility for managing certain land and buildings including City Walkway, Car Parks and highways. As such, planning applications involving development of those areas cannot be determined by Planning and Transportation Committee due to Regulation 10 (Applications which involve minor adjustments of highway boundary and/or Stopping Up Orders to accommodate a new building footprint are not generally regarded as being subject to Regulation 10).
8. The options as to how this can be addressed are below:

Option	Comments	Recommended/Not Recommended
<p>1. Continue establishing ad hoc committees as required</p>	<p>Cumbersome and requires additional committee reports and decisions on each occasion to establish a Subcommittee</p> <p>Three applications requiring a Subcommittee have arisen recently (Fleet House, London Wall Car Park and John Wesley Highwalk) and several others are likely in the near future</p> <p>Ineffective use of officer and member resource</p>	<p>Not Recommended</p>
<p>2. Establish a Planning Applications Committee</p>	<p>This addresses the ineffective use of resources resulting from Option 1</p> <p>The Lisvane Governance Review advocated fewer Committees and Subcommittees, however, the practical implications of addressing Regulation 10 were outside the scope of the Review, and this requirement was therefore not addressed. It is considered to justify a new Committee.</p> <p>This option also addresses the Review's aspiration that P&T Committee give greater focus to strategic and policy decisions</p> <p>However, SO 26 states that a new committee would need its terms of reference approved by the court, and SO 21 provides that the annual appointment of committees takes place at the first regular meeting of the Court in April of each year. A Planning Applications Committee could not therefore be established until April 2023</p>	<p>Not Recommended</p>
<p>3. Establish a Planning Applications Sub-Committee</p>	<p>This addresses the ineffective use of resources resulting from Option 1</p> <p>The Lisvane Governance Review advocated fewer Committees and Subcommittees, however, the practical implications of addressing Regulation 10 were outside the scope of the Review, however, the practical implications of addressing Regulation 10 were outside the scope of the Review, and this</p>	<p>Recommended</p>

	<p>requirement was therefore not addressed. It is considered to justify a new Committee.</p> <p>This option also addresses the Review's aspiration that P&T Committee give greater focus to strategic and policy decisions</p> <p>Planning application decisions must be guided by the strategy and policy work of the P&T Committee. It is therefore considered appropriate for the applications to be considered by a Sub-committee rather than a separate committee</p> <p>A Sub-committee could be established without having to wait for the April 2023 Court of Common Council meeting</p>	
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Focus on Strategic and Policy Matters

9. The vast majority of Planning and Transportation Committee's time is currently taken up with considering planning applications. Other agenda items appear lower down the Agenda (because of the large number of external attendees interested in the planning application items). It is not uncommon for the other agenda items to be considered after a long period of deliberation on the planning application items. The meetings often have to be extended to enable business to be concluded. This risks leaving limited time for other matters, including important matters of strategy and policy that merit great focus and attention because they set the framework for the exercise of the City's planning, highways and traffic functions.
10. It is considered that establishing a separate Planning Applications Sub-Committee would enable the Planning and Transportation Committee to give greater focus and attention to strategy and policy issues

Proposals

11. It is proposed that the membership, Chairmanship and Deputy Chairmanship of the Planning Applications Sub-Committee should be the same as the Planning and Transportation Committee. This will ensure that the Planning Applications [Sub-]committee fully benefits from the training and knowledge of the Planning and Transportation Committee particularly regarding the strategic and policy framework to be applied in deciding planning applications.
12. It is proposed that the Planning Applications Sub-Committee meets on a three weekly cycle to enable planning applications to be decided within the statutory timeframes (or extended periods agreed with applicants) to avoid delay in processing applications

13. It is proposed that the Planning and Transportation Committee meet quarterly, supported by a robust and transparent Agenda planning process, to deal with all business other than planning applications.
14. It is proposed that the arrangements for public speaking by applicants and objectors remain as currently set out in the Planning Protocol. The Planning Protocol would, however, require updating to reflect the new arrangements. Planning Protocol updates have previously been reviewed and agreed by Policy and Resources Committee as a precautionary approach noting that Committee's remit for policy and governance matters. However, noting that the Planning Protocol largely deals with housekeeping and advice specific to planning applications (and within the framework of the Member Code of Conduct) it is proposed that it be confirmed that this is within the remit of Planning and Transportation Committee and that future updates to the Planning Protocol be approved by Planning and Transportation Committee.
15. (It should be noted that the Separation of Functions arrangements will continue to operate in parallel with the Regulation 10 requirements, whether or not the proposals are adopted. As set out in the Planning Protocol⁴, this prevents Members of Planning and Transportation Committee who are also involved as Members of a Committee promoting a proposal from participating in the decision on a planning application for the proposal.)

Financial Implications

See "Resource Implications"

Resource Implications

The establishment of a new Sub-Committee is likely to involve modest additional officer resource. Officers would aim to dovetail meetings of the Planning Applications Sub-Committee with those of the Grand Committee as far as possible, to streamline attendance and minimise any additional resource requirements. There would be no addition to the overall level of business. It is considered that the implications can therefore be accommodated within existing resources.

Legal Implications

These are included in the body of the report and non-public report addendum

Risk Implications - none

Equalities Implications - none

Climate Implications - none

Security Implications - none

⁴ Part 4 Paragraph 8e

Conclusion

16. The arrangements proposed in this report for considering planning applications (other than those delegated to officers) and for exercising the functions of Planning and Transportation Committee are aimed at enabling those functions to be more effectively discharged and are recommended.

Conclusion

Appendix 1 – Legal Implications (NON PUBLIC)

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