

<b>LONDON BOROUGH OF CAMDEN</b>	<b>WARDS:</b> All		
<b>REPORT TITLE</b> Proposed Changes to the Terms of Reference of Planning Committee and Membership of Strategic Panel set out in the Planning Protocol			
<b>REPORT OF</b> Director of Economy, Regeneration and Investment and Borough Solicitor			
<b>FOR SUBMISSION TO:</b> Planning Committee Audit and Corporate Governance Committee Council	<b>DATE</b> 7 July 2022 17th November 2022 21st November 2022		
<b>SUMMARY OF REPORT</b> This report sets out proposed changes to the wording of the Terms of Reference of the Planning Committee. The proposed changes are for clarification. It then summarises proposed changes to the Planning Protocol to amend the membership of the Strategic Panel. <p><b>LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION:</b>  No unpublished documents were referred to in the production of this report.</p> <p><b>CONTACT OFFICERS:</b></p> <table border="0" data-bbox="225 1272 1404 1563"> <tr> <td data-bbox="225 1272 877 1563"> Richard Limbrick  Planning Applications Team Manager  Development Management  5 Pancras Square  London  N1C 4AG  020 7974 4188  <a href="mailto:richard.limbrick@camden.gov.uk">richard.limbrick@camden.gov.uk</a> </td> <td data-bbox="877 1272 1404 1563"> Vicky Wemyss-Cooke  Committee Services Manager  Law and Governance  Crowndale Centre  218 Eversholt Street  London NW1 1BD  020 7974 5726  <a href="mailto:vicky.wemyss-cooke@camden.gov.uk">vicky.wemyss-cooke@camden.gov.uk</a> </td> </tr> </table>		Richard Limbrick Planning Applications Team Manager Development Management 5 Pancras Square London N1C 4AG 020 7974 4188 <a href="mailto:richard.limbrick@camden.gov.uk">richard.limbrick@camden.gov.uk</a>	Vicky Wemyss-Cooke Committee Services Manager Law and Governance Crowndale Centre 218 Eversholt Street London NW1 1BD 020 7974 5726 <a href="mailto:vicky.wemyss-cooke@camden.gov.uk">vicky.wemyss-cooke@camden.gov.uk</a>
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<b>RECOMMENDATIONS</b>  Planning Committee is asked to note the report and make any relevant recommendations to the Audit and Corporate Governance Committee.  Audit and Corporate Governance Committee is asked to:  i) Recommend to Council that the proposed changes to the Terms of Reference of Planning Committee as set out in the report and detailed as tracked changes in Appendix A be agreed;			

- ii) Recommend to Council that the proposed changes to the Planning Protocol regarding the membership of the Strategic Panel, as set out in the report, be agreed; and
- iii) Recommend to Council that the Borough Solicitor be authorised to amend the Constitution to give effect to the proposed changes.

Council is asked to:

- i) Agree the amendments to the Terms of Reference of the Planning Committee as set out in the report and detailed as tracked changes in Appendix A;
- ii) Agree the proposed changes to the Planning Protocol regarding the membership of the Strategic Panel, as set out in the report; and
- i) Authorise the Borough Solicitor to amend the Constitution to give effect to the changes.

**SIGNED:**



Director of Economy, Regeneration and  
Investment



Borough Solicitor

**DATE:** 24 June 2022

## 1. Introduction

- 1.1 This report sets out proposed changes to Planning Committee's Terms of Reference to exclude two application types from automatic referral to the Planning Committee ('the Committee'). The proposed changes would remove the following applications from automatic referral (because there is limited scope under planning legislation for the Committee to meaningfully input into decisions on these types of applications).
- Applications for Prior Approval; and
  - Applications for Lawful Development Certificates.
- 1.2 This would not prevent the application types being referred to the committee but would just mean they are not automatically referred (see paragraph 2.4). Changes to the terms of reference will require amendment to the Council's Constitution, which is a decision reserved to full Council. Recommendations to Council on amending the Constitution are made by the Audit and Corporate Governance Committee. However, it is appropriate to consult the Planning Committee on the proposals.
- 1.3 The current terms of reference are shown at Appendix A, with the proposed amendments set out as tracked changes – the proposed new wording shown in red and underlined.
- 1.4 The report then goes on to discuss proposed changes to the Planning Protocol. The changes would amend the membership of the Strategic Panel to include the Vice Chair of the Planning Committee.

## 2. Removal of two application types from the Terms of Reference

### Prior approval applications

- 2.1 The proposed amendments to the Terms of Reference respond to the wishes of some committee members following a recent referral to planning committee<sup>1</sup>. Prior Approval applications have a narrow scope, and as such they do not trigger the full range of planning issues. This means decision makers cannot consider many of the policies and guidance in the development plan, like requirements for affordable housing, when they fall outside the scope of issues that can be considered. This significantly limits the input that officers and the committee can have in assessing and shaping the schemes.
- 2.2 This is because Prior Approval applications are different to planning applications in terms of how they are assessed. Planning applications are assessed against the Council's adopted policies (the development plan) and all other material planning considerations including guidance. The decision maker then forms a judgement on whether a proposal is acceptable or not, giving appropriate weight to any policies or other material planning considerations. However, Prior Approval applications relate to development that is already granted permission at national level by the Town and Country Planning (General Permitted Development) Order 2015 ("the Order"), subject to the prior

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<sup>1</sup> 2021/3504/P - Beaufort Court (heard at the meeting of [7 April 2022 Item 7\(2\)](#))

approval of the local planning authority. The Order sets out the limited scope that can be considered under the prior approval, and the applications can only be assessed against those various criteria. If a proposal satisfies all the relevant criteria, prior approval should be granted.

- 2.3 A further consideration is that certain types of prior approval under the Order are time-limited, and permission is deemed to have been granted if the local planning authority does not issue a decision within a specified timescale (often within 56 days – for example light industrial uses to dwellinghouses). The lead-in required to bring an application to committee means that, considering the consultation period, applications may need to be dealt with more promptly than a committee timescale allows.
- 2.4 Given the timescales and the restriction on considerations that can be taken into account and balanced by the decision makers for Prior Approvals, it is recommended that these applications are not automatically referred to the Planning Committee. This does not mean that the Planning Committee will never see these types of application. For example, applications may still be referred after consulting the Members' Briefing Panel (Clause 3(vii)) or by the Director if they consider it appropriate (Clause 4), as set out below.

*Clause 3 (vii): Where the Director of Economy, Regeneration and Investment has referred the application for consideration after briefing members.*

*Clause 4. Consideration of any other application which, in the view of the Director of Economy, Regeneration and Investment, should be considered by the committee.*

#### Lawful development certificates

- 2.5 As with Prior Approval Applications, applications for Lawful Development Certificates have a limited scope of consideration and are not treated in the same way as a planning application.
- 2.6 Lawful Development Certificates are used to ascertain whether any use of buildings or land, or any building or engineering operations, are lawful. They can be for existing uses or works, or for proposed uses or works. Unlike a planning application, establishing lawfulness is **not** a matter of balancing planning policy and material considerations, and then making a judgement on acceptability. It is an assessment of fact in law using evidence. This means that something can be lawful even though it is contrary to policy, causes harm, or is considered unacceptable in relation to the development plan.
- 2.7 Given the assessment is one of fact in law, and the lack of any application of planning balance in making the decision, it is recommended that these applications are not automatically referred to the Planning Committee. As with Prior Approval applications, this does not mean that the Planning Committee

will never see these types of application. They may still be referred to committee if there is a public interest in doing so – see paragraph 2.4.

### **3. Changes to the Planning Protocol – Strategic Panel Membership**

- 3.1 Section 4 of the Planning Protocol in the Constitution sets out the procedure and rules in relation to Briefings and forums. Part ii) specifically deals with the Strategic Panel (starting at paragraph 4.7).
- 3.2 Paragraphs 4.12 and 4.13 of the Protocol explain the function and purpose of the Strategic Panel as follows:

*4.12. The Strategic Panel is not a formally constituted Council meeting or a decision-making body. It has no power to bind the Council in any regard in relation to a planning application. Nor can it override the Council's statutory functions whether as local planning authority or otherwise. It is an informal forum that can provide high-level strategic input as one part of the evolution of a proposal that will ultimately lead in many cases to a planning application being considered by the Planning Committee.*

*4.13. The Strategic Panel is intended to serve a number of overlapping purposes including:*

- *assisting Panel members in gaining an initial understanding of the most complex proposals and their strategic and planning implications;*
- *helping demonstrate Camden's commitment to growth by providing a forum for Members to consider developers' perspectives and for developers to understand some of the issues that may be important to the Council;*
- *to give Panel members a high-level strategic involvement in emerging development proposals without compromising any subsequent role they may play as decision-makers by allowing them to provide their provisional input/steer in particular by:*
  - i) highlighting how they see proposals fit with the Council's wider policy aspirations;*
  - ii) identifying aspects where in their view proposals may not be policy compliant;*
  - iii) giving their preliminary opinion on how competing or contentious issues could be balanced.*

- 3.3 There is flexibility in the membership of the Strategic Panel. The Protocol sets out who generally sits on the panel in paragraph 4.14, and then explaining in paragraph 4.15 that membership can be amended in particular cases – see below.

#### **c) Membership and conduct of the Strategic Panel**

*4.14. The Strategic Panel will generally consist of:*

- *Cabinet Member with responsibility for planning (Chair);*
- *Leader of the Council (only on the most significant strategic proposals such as Euston);*

- *Cabinet Member with responsibility for transport and sustainability;*
- *Chair of the Planning Committee;*
- *Heritage Champion; and*
- *Other Cabinet members as required depending on the nature of the proposals being reported.*

*4.15. Should it be considered appropriate with regard to the circumstances of a particular matter the Director of Economy, Regeneration and Investment may in consultation with the Chair of the Strategic Panel amend the membership of the Panel.*

- 3.4 The Strategic Panel was first established towards the end of 2018, and it is sensible to review the general Strategic Panel membership from time to time. Given the Vice Chair's role is to stand in for the Committee Chair, it would be good practice and provide continuity of business to ensure the Vice Chair of the Planning Committee is added to the normal membership of the Strategic Panel.
- 3.5 It is therefore proposed to amend paragraph 4.14 of the Protocol as follows (with the amendment underlined):

***c) Membership and conduct of the Strategic Panel***

*4.14. The Strategic Panel will generally consist of:*

- *Cabinet Member with responsibility for planning (Chair);*
- *Leader of the Council (only on the most significant strategic proposals such as Euston);*
- *Cabinet Member with responsibility for transport and sustainability;*
- *Chair of the Planning Committee;*
- *Vice Chair of the Planning Committee;*
- *Heritage Champion; and*
- *Other Cabinet members as required depending on the nature of the proposals being reported.*

**4. Finance Comments of the Executive Director Corporate Services**

- 4.1 The changes are expected to have only a minor impact on the number or nature of items referred to Committee (one Prior Approval application has been referred in the last 24 months, with no Lawful Development Certificates referred) so there will be no notable finance considerations. The changes to the general membership of Strategic Panel would have no finance implications.

**5. Legal Comments of the Borough Solicitor**

- 5.1 This is a report of the Borough Solicitor and there are no further legal comments.

**6. Environmental Implications**

- 6.1 None identified.

## **7. Appendices**

**Appendix A:** Proposed Terms of Reference to the Planning Committee

**REPORT ENDS**

## **Appendix A: Proposed Terms of Reference to the Planning Committee**

The proposed new wording is show below in red underlined.

### **Matters delegated and reserved to the Planning Committee**

1. Authorisation of service of any notice relating to planning, listed building, conservation area and advertisement control which in the view of the Director of Regeneration and Planning should be considered by the Committee.
2. Authorisation of any legal or other action or proceedings relating to planning, listed building conservation area and advertisement control which in the view of the Director of Regeneration and Planning should be considered by the Committee.
3. Consideration of the following categories of application recommended for approval (including the Council's own development), other than for prior approvals, lawful development certificates, or applications that make minor or non-material amendments to an existing planning permission where those amendments do not fall within the following descriptions:
  - i) Residential development involving any of the following:
    - A change of use, an extension, or the construction of a building, resulting in provision of 10 or more new dwellings (including flats); or
    - The construction of a building or buildings resulting in provision of 5 or more new dwellinghouses.
  - ii) Non-residential development involving any of the following:
    - A change of use resulting in provision of more than 1,000sqm of non-residential floor-space; or
    - The construction of a building or extension resulting in an increase of more than 500sqm of non-residential floor-space.
  - iii) The total or substantial demolition of any listed building, locally listed building, or building considered to make a positive contribution to a conservation area;
  - iv) Development involving the making of an obligation or agreement under Section 106 of the Town and Country Planning Act 1990 or other legislation ("the obligation") that secures more than £50,000 of financial contributions or other public benefits of estimated capital value unless:
    - The terms of the obligation are not materially different from any previous obligation approved by the committee in relation to the same site;
    - The obligation is required in connection with the presentation of the Council's case in a planning appeal;



- The obligation is in respect of a standard financial contribution calculated in line with policy.
- v) Development involving a significant departure from policy;
  - vi) An application submitted by or on behalf of a member of the Council (or their spouse or partner) or any Council employee (or their spouse or partner); and
  - vii) Where the Director of Economy, Regeneration and Investment has referred the application for consideration after briefing members.
4. Consideration of any other application which, in the view of the Director of Economy, Regeneration and Investment, should be considered by the committee.
  5. Decisions on any matter relating to the functions of this committee referred by the Director of Economy, Regeneration and Investment.
  6. Responses to consultation by adjoining authorities on applications with significant cross borough impacts.
  7. Consideration and the submission of recommendations to the Cabinet on the Council's Development Plan review of planning policies, draft Supplementary Guidance, and on proposed responses to consultation on proposed changes to Government Planning Policy affecting development control.
  8. To receive performance monitoring information on matters within the remit of the Committee.
  9. Reviewing and agreeing changes to the Planning Protocol.

### **Delegation in respect of conditions and reasons**

Authority is delegated to the Head of Development Management to, subsequent to any meeting and in line with the Committee's general decision and direction, finalise the wording and reasons of:

- Conditions added or amended conditions;
- Approvals or refusals contrary to the officer's recommendation;
- Additional reasons for refusal or approval where not set out in the officer's report.

The delegation will apply unless the Committee specifies otherwise as part of its decision.