

Item: 10

Statutory General Meeting of the Council: 16 May 2022.

Planning Committee.

Report by Corporate Director for Strategy, Performance and Business Solutions.

1. Purpose of Report

To make appointments to the Planning Committee.

2. Recommendations

The Council is invited to note:

2.1.

That membership of the Planning Committee comprises two members from each of the six electoral wards.

2.2.

The proposal that, in order to provide an element of separation between the roles of developer and decision-maker and avoid the situation whereby the two post holders may have to declare an interest and not participate in consideration of planning applications relating to those developments, the following members should not be eligible for appointment to the Planning Committee:

- Leader.
- Chair, Development and Infrastructure Committee.

2.3.

The guidance provided in section 5 of this report, whereby, as far as practicable given existing constitutional arrangements, restrictions and other appointments, the following members should not serve on the Planning Committee:

- Depute Leader.
- Vice Chair, Development and Infrastructure Committee.

2.4.

The options for membership of the Planning Committee, as detailed in section 6 of this report, with the preferred option being Option 3, namely appoint one member from each electoral ward, with the remaining five spaces allocated through nominations made at this meeting.

2.5.

Regardless of which option is adopted, the proposal that each of the six electoral wards is represented on the Planning Committee, with one member from each ward not being a member of the Committee.

2.6.

That, in accordance with Standing Orders, appointments made at this meeting will last until the Special General Meeting of the Council scheduled for May 2024.

It is recommended:

2.7.

That the following members should not be eligible for membership of the Planning Committee:

- Leader.
- Chair, Development and Infrastructure Committee.

2.8.

That each of the six electoral wards be represented on the Planning Committee, with one member from each ward not being a member of the Committee.

2.9.

That the Council appoints 11 other members to the Planning Committee, ensuring that each of the undernoted electoral wards has one representative:

- Kirkwall East.
- Kirkwall West and Orphir.
- Stromness and South Isles.
- West Mainland.
- East Mainland, South Ronaldsay and Burray.
- North Isles.

3. Introduction

3.1.

In July 2018, following a governance review, Council amended the constitutional arrangements in respect of the Planning Committee, from 12 members of the Council, to two elected members from each of the six electoral wards.

3.2.

The reason for this change was that, for the period 2015 to 2017, all four members representing the West Mainland electoral ward were appointed to the Planning Committee. Consequently, an applicant for, or an objector to, a planning application relating to a proposed development in the West Mainland area could not raise any concerns with those members, as it would require those members to then declare an interest and remove themselves from the meeting at which the application was being considered, in accordance with the terms of the Councillors' Code of Conduct.

3.3.

The Planning Committee also sits as the Local Review Body and, in that capacity, exercises delegated powers, on behalf of the Council, to conduct reviews in accordance with Section 43(a)(8) of The Town and Country Planning (Scotland) Act 1997 as amended, where the appointed officer, for the purposes of determining applications for "local developments" as defined in the Town and Country Planning (Hierarchy of Developments)(Scotland) Regulations 2009:

- Has refused an application for planning permission or for consent, agreement or approval.
- Has granted it subject to conditions.
- Has not determined it within the period allowed for determination of the application.

4. Membership

4.1.

Previous membership of the Planning Committee was as follows:

- Kirkwall East:
 - Councillor David Dawson.
 - Councillor John A R Scott.
- Kirkwall West and Orphir:
 - Councillor Alexander G Cowie.
 - Councillor Barbara Foulkes.
- Stromness and South Isles:
 - Councillor Robin W Crichton.
 - Councillor Magnus O Thomson.
- West Mainland:
 - Councillor Owen Tierney.
 - Councillor Duncan A Tullock.

- East Mainland, South Ronaldsay and Burray:
 - Councillor Norman R Craigie.
 - Councillor Stephen Sankey.
- North Isles:
 - Councillor Heather N Woodbridge.
 - One vacancy.

4.2.

The vacancy for the North Isles representative arose in early 2020, when Councillor Graham Sinclair wished to reduce his commitments and Councillor Stephen Clackson, being the remaining member for that ward, declined the appointment. Council subsequently agreed that no appointment be made to the vacant positions on the Planning Committee and the Local Review Body, thereby reducing membership of both Committees to 11 members for the period up to May 2022, when the position would be reviewed.

5. Constitutional Arrangements

5.1.

Since early 2020, several strategic Council-led projects have progressed, including the Community Wind Farm project and the Harbours Masterplan, as well as projects which may receive funding from the Islands Deal, all of which have significant planning implications.

5.2.

Accordingly, it is proposed that the Leader and the Chair of the Development and Infrastructure Committee should not be members of the Planning Committee, in order to provide an element of separation between the roles of developer and decision-maker and avoid the situation whereby the two post holders may have to declare an interest and not participate in consideration of planning applications relating to those developments. Further, it would be preferable if the Depute Leader and the Vice Chair of the Development and Infrastructure Committee did not sit on the Planning Committee.

5.3.

However, given the limited number of members and depending on the appointments made to those posts, it could result in one ward not being represented on the Committee, reduced to just one member, or all members of a ward serving on the Planning Committee.

5.4.

In early 2020, when considering the vacancy created by Councillor Sinclair, the Policy and Resources Committee was advised that, with Orkney Islands Council comprising three 3 member wards and three 4 member wards, should a member from one of the 3 member wards be appointed to the vacancy created by Councillor Clackson declining the appointment, that would have resulted in the same situation pre-2017, whereby all members of an electoral ward were members of the Planning Committee. Conversely, appointing a member from one of the 4 member wards would result in the remaining member from that ward not serving on the Planning Committee.

6. Options

6.1.

There are various options which could be considered in respect of membership of the Planning Committee, as follows:

6.1.1.

Option 1 – retain status quo, namely two members from each of the six electoral wards.

6.1.2.

Option 2 – open to any member of the Council.

- Membership would be determined through the appointments process currently operated for the Development and Infrastructure Committee, the Education, Leisure and Housing Committee, the Monitoring and Audit Committee and the Licensing Committee.
- Membership of the Planning Committee has been included on the preference sheet for completion ahead of the Statutory General Meeting in the event members determine this as the preferred option.
- Care would be taken when allocating members to the Planning Committee, that each electoral ward was represented and that at least one member from each ward was not appointed.

6.1.3.

Option 3 – appoint one member from each electoral ward, with the remaining five spaces allocated through nominations.

- As the Chair is appointed earlier in the meeting, appointing one member initially from each ward would result in one ward having two representatives, before nominations were considered for the five remaining spaces.
- Members would need to bear in mind the number from each electoral ward appointed through that nomination process to ensure that at least one member was not on the Planning Committee.

6.2.

Options 2 and 3 provide greater flexibility in respect of membership of the Planning Committee, whereby those members with an interest and/or experience in planning matters could be appointed, without the restriction on ward representation. Options 2 and 3 would also prevent the situation of a vacancy, which occurred in 2020.

6.3.

Option 2 provides officers with members' individual preference for sitting on the Planning Committee and places would be allocated on that basis.

6.4.

Option 3, which is the preferred option, would result in members determining membership of the Committee, following a process of nominations and subsequent appointment.

6.5.

Regardless of which option is adopted, it is proposed that each of the undernoted electoral wards is represented on the Planning Committee, with one member from each ward not being a member:

- Kirkwall East.
- Kirkwall West and Orphir.
- Stromness and South Isles.
- West Mainland.
- East Mainland, South Ronaldsay and Burray.
- North Isles.

6.6.

In accordance with Standing Orders, appointments made at this meeting will last until the Special General Meeting of the Council scheduled for May 2024.

7. Corporate Governance

This report relates to the Council complying with governance and procedural issues and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

8. Financial Implications

There are no financial implications arising directly as a result of the recommendations of this report.

9. Legal Aspects

There are no statutory rules in force in Scotland as to which councillors should be appointed to which committee. Councils have a discretion to decide the membership of their committees and sub-committees.

10. Contact Officer

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