

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Planning Development Management Committee
<b>DATE</b>	9 March 2023
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Review of the constitution and operation of the Local Review Body
<b>REPORT NUMBER</b>	PLA/23/079
<b>DIRECTOR</b>	Gale Beattie
<b>CHIEF OFFICER</b>	David Dunne
<b>REPORT AUTHOR</b>	Daniel Lewis
<b>TERMS OF REFERENCE</b>	General - 8.7

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### 1. PURPOSE OF REPORT

- 1.1 The report seeks approval of a recommendation to change the constitution of the Local Review Body (LRB) following an instruction given at the Planning Development Management Committee (PDMC) of 12 January 2023.

### 2. RECOMMENDATION

That the Committee: -

- 2.1 Note the options presented in the report in relation to the constitution of the LRB;
- 2.2 Approve Option 2 as the preferred option for the constitution of the LRB; and
- 2.3 Refer the proposed changes to the constitution of the Local Review Body (LRB) outlined in Option 2 of this report to the Full Council meeting of 26 April 2023 for formal adoption.

### 3. CURRENT SITUATION

- 3.1 The Planning Development Management Committee (PDMC) of 12 January 2023 decided to adopt a motion by Councillor Boulton;

*“That the Committee request that the Chief Officer – Strategic Place Planning, in consultation with the Interim Chief Officer – Governance, submit a report to this Committee in two cycles, which reviews the constitution and operation of the Local Review Body to include all matters”..*

- 3.2 Officers from the Legal, Committee Services and Development Management Teams have carried out a review of the constitution and operation of the LRB based on the experience and running of the LRB since its inception in 2009. A benchmarking exercise of the operation of the LRBs of 14 other Scottish

Councils has also been undertaken. Following this exercise, officers have made a recommendation on proposed changes to the constitution and operation of the LRB as outlined in Option 2 of this report.

- 3.3 In order to assist Members in their decision this report outlines three main options for the future constitution/operation of the LRB, starting with the current situation (status quo), and including officers' preferred option (Option 2). The report outlines the main pros and cons associated with each option. The disadvantages of the way that the LRB is currently constituted and operated, and the ways this would be addressed by adoption of the recommended option, are identified in the options appraisal.
- 3.4 Members should be aware that there are various other combinations of constitution and process that could be introduced but the three options chosen are considered to identify the pros and cons of most potential changes to help inform decision making on other permutations that Members might opt for. Discussion of another possible change that has been suggested and a summary of the benchmarking exercise follows the options appraisal below.
- 3.5 Any decision made by the Committee on the constitution of the LRB will be required to be referred to Full Council for final approval given the nature of the changes being proposed.

### 3.6 **OPTION 1 - CURRENT SITUATION (STATUS QUO)**

- Membership of the Local Review Body is drawn from all Council Members.
- Individual meetings consist of trained Members who have volunteered to participate on an ad hoc basis.
- Quorum is set at 3 Members, however where possible the panel consists of 5 Members.
- A Member cannot take part in decision making on any application in the Ward that they represent.
- LRB to be chaired by the Convenor of PDMC (or Vice Convenor if Convenor not available) or another member if they are both unavailable.

#### **Pros**

- *There is a larger pool of all trained Council Members as potential Members of any LRB meeting, sharing the burden.*
- *This fact combined with a Membership of just 3 might be thought to make it easier to recruit enough Members to hold an LRB.*
- *Not allowing ward Members to consider applications in their ward eliminates any perception of bias in decision making that might occur - especially because that ward member would otherwise constitute a third of the total LRB membership. This ensures the fairness and transparency of the decision making.*

#### **Cons**

- *In practice making attendance voluntary and setting quorum at 3 means that there are never more than 3 Members on the LRB and attendance is often by the same Members which reduces the democracy of decision making. Whilst*

*the aim has been for five Members to hear the review, the reality is that it is very rare indeed for more than three Members to volunteer for a panel.*

- *Voluntary attendance also means that the Committee Clerk is often struggling to recruit enough Members to hold an LRB increasing the administrative burden.*
- *Since the pool is drawn from all trained Council Members most do not have regular experience of considering planning applications and it is onerous on officers and Members to try and ensure training is up to date for all Council Members. Members are likely to lack recent decision-making experience and training which are both very important when assessing the merits of applications “de novo” and to ensure well considered decision making.*

### **3.7 OPTION 2 - RECOMMENDED OPTION**

- *Membership of the Local Review Body is drawn exclusively from PDMC Members on a rota basis, and Members have the dates set in their diaries.*
- *LRB Membership at any specific meeting is set at 7 Members and quorum at 5 Members.*
- *A local ward Member can take part in decision making at the LRB when it is considering an application in the ward that Member represents; but that this is restricted to no more than one such member for that ward.*
- *Any substitutes to be exclusively drawn from PDMC Members and must be notified the Committee Clerk as a far as possible in advance of the meeting so that there is time to ensure that this would not result in two members in the same ward as an application on the LRB.*
- *LRB to be chaired by the Convenor of the PDMC, or Vice Convenor or another member if they are both unavailable.*

#### **Pros**

- *Restricting LRB Membership to PDMC Members means that it will be easier to ensure that all LRB Members are properly and regularly trained, and that Members will have recent experience of dealing with a wide range of planning applications which is very important when assessing the merits of applications “de novo”; thus ensuring well considered decision-making.*
- *Increasing quorum means that a local ward member can participate whilst not constituting a large proportion of the LRB Membership; thus ensuring fairness, transparency and balanced decision-making and reducing the perception of any introduction of bias.*
- *Introducing a rota ensures that there will be sufficient Members at any meeting to hold any LRB, reduce the bureaucratic burden on the clerk and share the responsibility of attendance out across all PDMC Members. Substitutes would still be allowed.*

#### **Cons**

- *All PDMC Members would have to make some time to attend LRBs but this would be shared evenly. LRBs are scheduled approximately once every 4 weeks, with the result that Members would only have to attend once every 8 weeks, meaning that the burden will not be onerous.*

### 3.8 **OPTION 3 - AS OPTION 2 BUT INCORPORATES ALL TRAINED MEMBERS.**

#### Pros

- *There is a large pool of all Council Members as potential Members of any LRB meeting, sharing the burden.*
- *Increasing quorum enables ward member participation whilst ensuring fairness and transparency and balanced decision making – reducing the perception of any introduction of bias.*
- *Introducing a rota ensures that there will be sufficient Members to hold any LRB, reduce the bureaucratic burden on the clerk and share the responsibility of attendance out across all Council Members.*

#### Cons

- *To make this work all Council Members would have to be willing to take part and make some time to attend LRBs which could be very difficult to achieve in practice.*
- *Most LRB Members would not have regular experience of considering planning applications and it would be far more onerous on officers and Members to ensure training is up to date. Recent decision-making experience and training are both important when assessing the merits of applications “de novo”; to ensure well considered decision making and this would not be the case with this option.*

### 3.9 Other potential changes

The option of holding LRBs after (or on the same day as) PDMC was considered and is not recommended for the following reasons.

- This would make the Thursday session (or sessions) of PDMC/LRB very lengthy on occasions (especially now that speakers are allowed) and fatigue is a consideration. This is especially the case as LRB require a high level of scrutiny and a significantly different mindset from PDMC. This is because Members are making a decision from scratch, taking into account not just the Committee report but also the Notice of Review and all the associated documents which can be voluminous.
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- It will make it difficult if not impossible to fit in the Pre-Application Forum in the afternoon and make it less likely that members attend these – meaning that this would have to be moved to another day with knock on effect on Members diaries.

The benchmarking that was carried out found that North Lanarkshire decided to separate their LRB from the end of their Planning Committee recently for very much the same reasons outlined above.

### 3.10 Benchmarking

The average membership of the 14 LRBs that were benchmarked is 8 members with a small majority not allowing local ward member to participate in a case in

their ward. Only 2 of the benchmarked LRBs have just 3 members and neither of these allow local ward member participation. The LRBs have one of three operating models:-

- (i) all members of the planning committee,
- (ii) a rota of members drawn from the planning committee or
- (iii) a separate independent appointed LRB committee.

None of these Councils operate with Aberdeen City Council's model of allowing participation of members from outside the planning (or dedicated LRB) Committee and none operate on a volunteer attendance basis (although Glasgow City Council used to do so but moved away from this model for the same reasons for recommending doing this outline earlier this report).

#### 4. FINANCIAL IMPLICATIONS

4.1 There are no direct financial implications arising from the recommendations of this report.

#### 5. LEGAL IMPLICATIONS

5.1 There are no direct legal implications associated with this report. The LRB is governed by The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 and the recommendations in this report will ensure the LRB continues to operate efficiently and in accordance with the legislation.

#### 6. ENVIRONMENTAL IMPLICATIONS

6.1 There are no direct environmental implications arising from the recommendations of this report.

#### 7. RISK

7.1 The assessment of risk contained within the table below is considered consistent with the Council's Risk Appetite Statement

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H)  *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
Strategic Risk	No significant			

	risks identified.			
<b>Compliance</b>	The LRB constitution must comply with the relevant legislation.	The options in this report are drafted to comply with the relevant legislation.	L	<b>Yes</b>
<b>Operational</b>	An inefficient LRB process can negatively affect a customer's experience.	The options in this report have been drafted to ensure the efficient operation of the LRB In addition, any members involved in the LRB will be fully trained in advance of participation	L	<b>Yes</b>
<b>Financial</b>	No significant risks identified.			
<b>Reputational</b>	An inefficient LRB process can negatively affect the reputation of the Council and undermine planning decision making	The options in this report have been drafted to ensure the efficient operation of the LRB. In addition, any members involved in the LRB will be fully trained in advance of participation	L	<b>Yes</b>
<b>Environment / Climate</b>	No significant risks identified.			

## 8. OUTCOMES

The proposals in this report have no impact on the Council Delivery Plan.

	<b>Impact of Report</b>
<b>Aberdeen City Council Policy Statement</b>	The proposals in this report have no impact on the Council Delivery Plan.
<b><u>Working in Partnership for Aberdeen</u></b>	
Aberdeen City Local Outcome Improvement Plan 2016-26 <i>The revised LOIP 2016-2026 was approved by CPA Board on 7 July 2021, please ensure you are referring to the current document - link above.</i>	
Prosperous Economy Stretch Outcomes	N/A
Prosperous People Stretch Outcomes	N/A
Prosperous Place Stretch Outcomes	N/A
<b>Regional and City Strategies</b>	
	N/A

## 9. IMPACT ASSESSMENTS

<b>Assessment</b>	<b>Outcome</b>
<b>Integrated Impact Assessment</b>	Full impact assessment not required
<b>Data Protection Impact Assessment</b>	Not required
<b>Other</b>	

## 10. BACKGROUND PAPERS

- 10.1 [Planning Committee – 19 March 2009](#) – report on the arrangements of Local Review Body – local members not permitted to sit on a case.

## 11. APPENDICES

## 12. REPORT AUTHOR CONTACT DETAILS

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