



City of Westminster

Planning & City Development Committee

Date: 26 October 2022

Classification: General Release

Title: Amendments to Sub-Committee Late Representations Procedures

Report of: Director of Town Planning & Building Control

Financial Summary: None.

**Report Author and Contact Details: Oliver Gibson (ogibson@westminster.gov.uk/
07971026919)**

1. Executive Summary

- 1.1 This report provides an overview of the recommended changes to the current procedures for accepting late representations in advance of Planning Applications Sub-Committee meetings. The recommended procedure includes the introduction of a deadline for submission of late representation in advance of the commencement of the committee meeting to allow Members and officers appropriate time to fully consider the planning merits of the issues being brought before the committee.

2. Recommendation

- 2.1 Members are asked to consider the contents of this report and make recommendations where they consider the recommended process for accepting late representations could be improved prior to implementation.

3. Current Late Representations Procedure

- 3.1 The current approach to receiving late representations is set out in the Committee Procedure Rules. The Committee Procedure Rules were last updated in May 2021 to reflect the hybrid committee meeting processes that were introduced at that time to maintain the option for interested parties to make remote verbal recommendations to the Sub-Committees, following the cessation of the temporary legislation that allowed fully remote public meetings during the pandemic.
- 3.2 The Terms of Reference for the Planning Applications Sub-Committees (set out in Part 23 of the Constitution) and the Council's current Statement of Community Involvement in Planning (2014) are both silent on the process by which the Council accepts representations in advance of a Sub-Committee meeting. Therefore, they do not require any update to accommodate the recommended amendments to the late representations procedure set out in this report.
- 3.3 At present representations received prior to the publication of the committee report are summarised and addressed in full in the report and full copies of the representations are provided in the background papers. The existing Committee Procedure Rules

include provision for representations received after the publication of the committee report and prior to 2.00pm on the Thursday prior to the committee meeting to be circulated to Members by the close of business on that day.

- 3.4 For representations received after 2.00pm on the Thursday prior to the committee meeting there is currently there is no defined 'cut off' after which representations will not be accepted. Consequently, representations are regularly accepted from interested parties up until late afternoon on the day of the Sub-Committee meeting, with occasional late representations received as late as immediately prior to the commencement of the meeting itself.
- 3.5 The current approach has been identified by Members and officers alike as being disadvantage to those participating in the decision-making process, as neither Members nor officers are able to appropriately consider the merits of representations that are made at such a late stage. This is particularly the case for Members who are currently required to read and digest representations during the Sub-Committee meeting, immediately prior to the officer presentation. The current arrangement also disadvantages those making representations as their representations do not receive the level of scrutiny that they would were they provided to the Sub-Committee Members in advance of the meeting.

4. Recommended Late Representations Procedure

- 4.1 Officers have reviewed the approaches taken by other comparable local planning authorities (LPAs) and assessed the practicality of introducing a deadline on a variety of days prior to the committee meeting. Of the ten other LPAs analysed, 5 had introduced a deadline for late representations prior to planning committee meetings and 5 accepted representations up until the start of the committee meeting. Of those with a deadline, 2 were set earlier on the day of the committee meeting, whilst 3 were set on the working day immediately preceding the committee meeting.
- 4.2 In light of the approaches taken by comparable LPAs, and having regard to the processes that are required to be undertaken by Legal Services and the Committee and Councillor Liaison Team in advance of a Planning Applications Sub-Committee meeting, officers have considered the following options for introducing a deadline for late representations:

Option 1 – Deadline at 12.00 on the day of the committee meeting

- Would continue to leave limited time for officers to assess and circulate late representations to Members.
- Members would continue to have limited time to read and consider representations prior to the committee meeting, particularly where Members have other commitments immediately prior to the committee meeting.

Option 2 – Deadline at 12.00 on the working day prior to the committee meeting

- Would allow time for assessment of late representations and circulation to members by email.
- Members would receive representations by email by close of business on the day prior to the committee meeting allowing Members to read and consider all representations prior to the committee meeting.
- Those wishing to make verbal representations that may have missed the deadline for this or have not been allocated a speaking slot on the preceding working day still have the option to make final/additional representations in writing.

Option 3 – Deadline at 12.00 two working days prior to the committee meeting (to align with current public speaking deadline)

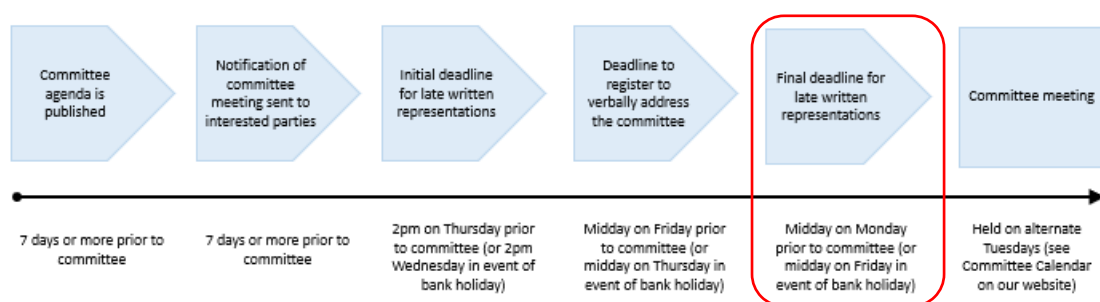
- Would allow for time for assessment of late representations and circulation to members by email and hard copy.
- Members would have representations by email prior to the weekend prior to the committee meeting allowing Members to read all representations together prior to the committee meeting.
- Those wishing to make verbal representations that may have missed the deadline or have not been allocated a speaking slot would no longer have the ‘fall back’ option to make final/additional representations in writing. This may lead to more requests for acceptance of late representations on an exceptional basis after the deadline.

4.3 Of the options set out above it is recommended that Option 2 is pursued. This approach strikes an appropriate balance between enabling Members to read and consider late representations prior to the committee meeting and ensuring that the rights of interested parties to make representations and respond to the content of the committee report are not compromised.

4.4 Crucially, the preferred option affords those persons who have missed the deadline to verbally address the Sub-Committee or where a person has not been allocated a public speaking slot (i.e. where these limited slots are oversubscribed) the opportunity to make additional/final representations in writing.

4.5 In addition to careful consideration of the timing of the deadline for late representation, as set out in paragraph 4.4, to ensure that a deadline does not prejudice the ability of the committee to consider representations that raise genuinely new material planning considerations that are not included in the committee report, it is recommended that the Committee Procedure Rules include a chair’s discretion to accept late representations after the deadline in exceptional circumstances. It is recommended that the discretion would be exercised in consultation with the Presiding Officer and the Solicitor to the Council who would be on hand to advise the Chair whether the late representation does or does not raise new material planning considerations. It will be the responsibility of the Presiding Officer to advise the commentator of the chair’s decision regarding whether to accept their representation.

Diagram 1 – Existing deadlines for committee meetings, including recommended deadline for late representations (outlined in red).



4.6 Existing arrangements for circulation of the committee agenda and report, the initial batch of late representations (faced with a blue cover sheet and known as ‘Additional Representations’) and the deadline for public speaking would remain unchanged. Diagram 1 above identifies the various existing deadlines and shows how and where the recommended late representations deadline would fit into the pre-Sub-Committee meeting period. Hard copies of the late representations, which will have been circulated to the Members of the Sub-Committee electronically the working day prior to the meeting under the proposed arrangements, will continue to be provided at the Sub-Committee meeting.

5. Financial Implications

5.1 None.

6. Legal Implications

- 6.1 Subject to the provisions set out in Section 4, to ensure those unable to make verbal representations have the option to make additional/final written representations and to enable the chair to exercise discretion in exceptional circumstances, the proposals would not prejudice those who wish to comment on planning applications that are reported to the Planning Applications Sub-Committees.
- 6.2 The introduction of the new deadline for late representations will be clearly identified on the Council's website to ensure all interested parties are aware of its introduction.

7. Conclusion

- 7.1 The recommended option for introducing a deadline for late representations is considered to strike an appropriate balance between enabling the Sub-Committee to fully consider all representations received, whilst maintaining the opportunity for interested parties to make late representations in response to the committee report and other new material planning considerations that may arise following the publication of the committee report. Members are invited to consider the preferred approach and make recommendations where they consider it could be enhanced. Subject to the resolution of the committee, it is expected that the updated procedure for late representations can be introduced by the end of 2022.

If you have any questions about this report, or wish to inspect one of the background papers, please contact: Oliver Gibson (ogibson@westminster.gov.uk / 07971026919)

Background Papers:

1. None.