City of Westminster

Planning & City Development Committee

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Classification: General Release

Title: Planning Review including the Introduction of Public Representations at Planning Applications Committees

Report of: Deirdra Armsby - Director of Place Shaping and Planning

Financial Summary: The implications will be managed within existing resources.

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1.   Executive Summary

1.1 This report presents an update on the programme of work which is underway to implement the findings of the Planning Review undertaken by the Planning Advisory Service (PAS) as reported to Cabinet on 25 October 2018. Cabinet approved the direction of travel to make the planning service more proactive, transparent and focused on the delivery of the Council's City for All vision and corporate priorities. This also involves making it easier for residents to engage with the planning system in Westminster.

1.2 This will involve a major change to the culture and operation of the planning function of the Council under the new structure of the Place Shaping and Planning Directorate. This programme is being supported with internal resources to coordinate the activities and is being supported through the ongoing engagement of the Planning Advisory Service (PAS) in training and staff development.

1.3 Since October 2018, Council officers have held a series of engagement workshops to inform the development of new procedures and protocols within the Council's planning service and how to implement them (see list of engagement workshops at Appendix 1). This report presents an update on the options for implementing these new procedures and protocols. Of significance, this report focuses on the introduction of public speaking rights, the proposals for which are outlined in this report for agreement before they are formally introduced at Planning Applications Sub-Committee meetings from February 2019.

1.4 The report also sets out feedback received and the direction of travel on pre-application community engagement and delegated decision making. These will be fully implemented as part of the wider review.

1.5 The procedures and protocols will be formally reviewed after six months to ensure they are fit-for-purpose, but processes will, of course, be reviewed and amended continually.

2. Recommendation

2.1 Members are asked to consider the contents of this report and:

1. To agree to the proposed procedures and protocols to allow for members of the public to make verbal representations at Planning Applications Sub-Committee meetings as outlined in the Procedure Rules attached at Appendix 2.
2. To agree that these procedures and protocols take effect from the first Sub-Committee meeting to take place when the Council moves back to 64 Victoria Street, subject to a 6 month review of their effectiveness.
3. To note the ongoing work to implement the proposals relating to pre-application community engagement and delegated authority with regards to planning decisions.

3. Background

3.1 A review of Westminster's planning service by the Planning Advisory Service and Local Government Association was undertaken in 2018 to look at all aspects of the decision-making process to ensure it is an independent and impartial process.

3.2 The findings of the review were reported to Cabinet on 25 October 2018. Amongst the key recommendations of this review was the recommendation to facilitate the opportunity for members of the public to make verbal representations at planning sub-committee meetings as part of the overall aim to improve the transparency of the planning process and ensure that residents are at the heart of decision making. In addition, it was recommended that engagement with the local community on pre-planning proposals be enhanced and that the delegation of decision making on planning applications to officers be increased with only the more significant applications being reported to Committee. Cabinet agreed with these recommendations.

3.3 The purpose of this report to the Planning and City Development Committee is to consider the procedures and protocols which need to be put in place to allow for public speaking to take place in an efficient, effective and fair manner. Members are also asked to note the progress on proposals relating to pre-application engagement and delegation arrangements. The recommendations outlined in this report have been discussed with the Cabinet Member for Place Shaping and Planning and the Chairman of Planning Committee.

4. Considerations

Verbal representations at Committee

4.1 In order to inform the recommendations outlined in this report, an assessment of procedures and protocols relating to public speaking at planning committees across the other London boroughs has been undertaken. From this assessment, a number of key matters for consideration were evident:

i) the deadline for registering interest in speaking at the Committee meeting and the related registration process;

ii) the number of persons/organisations permitted to speak either against or in support of the planning application being considered;

iii) the length of time permitted for each speaker to make their case;

iv) practical matters relating to the Committee meeting including the running order of the speakers and the nature of the representations permitted.

The recommendations outlined below are based on an assessment of common practice at other local authorities and taking into account the feedback received during the stakeholder engagement exercise undertaken between October and December 2018.

4.2 The report to Cabinet on 25 October in response to the PAS review also outlined the need for consideration to be given to support for the public to make effective representations, the management of meetings by the Chairman, the layout of the room, and training requirements for Members sitting on Planning Sub-Committees.

<u>Registering an interest in speaking at Committee</u>

4.3 From an assessment of the practices at other London boroughs, it is clear that the majority of councils operate a formal process whereby anyone who wishes to speak at the Committee meeting must register in advance. In some rare exceptions people may arrive at the Committee meeting and declare their intentions to speak however this would be extremely difficult to manage and co-ordinate, with potentially large numbers of people wishing to speak on a single item. As such it is recommended that a formal registration process is established, with a deadline for submissions of interest in speaking.

4.4 Any interested party who has made written representations during the course of the application (either in support or objection) would be notified that the application is due to be reported to Committee and they would be directed to information on the Council's website which would outline the process for registering their interest in speaking at the Committee meeting. The website would include a simple outline of the process with guidance on how to make effective representations and in addition the procedure rules attached at Appendix 2 to this report would also be available to view online. Only those who have made written representations on the application would be notified by the Council of the application being reported to Committee but anyone would have the right to register to speak. The period for registration of interest in speaking would only commence after the case has been listed on a Committee agenda, published online at least 5 working days in advance of the meeting (i.e. any requests to speak included in a written representation on the application or direct contact with officers or Members would not override the formal registration process). The case would not be deferred to another Committee date if an interested party is not available to speak at the Committee meeting however they may ask a representative to speak on their behalf if appropriate.

4.5 There are different approaches across the boroughs with regard to how the registration process is managed; some councils have online forms, some ask people to phone the Council however the majority provide an email address for registration. It is intended that an online form will be provided. In order to register, the objector/supporter or their representative would need to provide the reference number and address of the application, their name and contact details, the date on which the application is due to be reported to Committee, and whether they wish to speak against or in favour of the application providing a short overview of their reasons for requesting to speak.

4.6 With regard to the deadline for registration, many other councils have deadlines either two working days before or the day before the Committee meeting. It is considered, in order to allow sufficient time for Committee and Governance Services to make the necessary arrangements, that a deadline of 12pm on the Friday immediately before the Tuesday committee meeting (i.e. two working days) is enforced. During the stakeholder engagement sessions, it was suggested by some stakeholders that the registration process should be open until 5pm on the day of Committee, however this is not considered to be practical as it will be necessary for officers and potentially the Chairman (depending on the options explored below)

to co-ordinate and allocate speaking slots. In addition, officers, Committee Members and the speakers themselves will need to have clarity in advance as to who will be permitted to speak and for how long. It is therefore strongly recommended that a deadline of 12pm two working days before the Committee meeting is agreed. Committee and Governance Services would subsequently provide the final list of speakers to the Committee Chairman and presiding officer by close of business on Monday (the day immediately before Committee).

<u>Number of persons/organisations permitted to speak</u>

4.7 The number of persons/organisations allowed to speak varies across the other London boroughs, ranging from some councils which do not place any maximum limit to others which only allow one speaker for and one speaker against the proposal. Many councils suggest that where more than one or two speakers wish to make representations either in support or against, the interested parties should discuss between themselves and nominate a spokesperson. This is generally either arranged in advance of the meeting, facilitated by the council sharing their contact details with each other, or immediately before the meeting where the potential speakers meet in the committee room 15/30 minutes before the meeting to nominate a speaker. Many other boroughs operate a system where a certain maximum number of speakers are allowed to speak, either for a set limited time or, where more than one or two people register to speak, the time may be shared between them.

4.8 Taking into account practices at other local authorities and the feedback from stakeholders, it is considered that the fairest and simplest system would be to have a specified number of speaking slots (depending on whether the Committee is a Major or a SubCommittee) where the speakers are allowed to speak for a set limited time. In order to ensure that the wide range of issues which may be at play are fairly represented, it is recommended that the same number of speaking slots is provided for those wishing to speak against and those wishing to speak in favour; however interested parties are encouraged to take a positive approach to their involvement and suggest what changes to the application or conditions could overcome their concerns, in the spirit of achieving a balanced outcome. The applicant would be allowed to speak in support of their application; taking one of the slots for supporters. A number of other boroughs advise that the applicant should only be allowed the opportunity to speak where an objector is speaking against the proposal, however it is considered reasonable to allow the applicant to speak irrespective of whether or not anyone wishes to speak against.

4.9 Standard speaking slots be allocated as follows as follows:
- o **Planning (Major) Applications Sub-Committees**: a maximum of two speakers in support of the application (with one of these slots reserved for the applicant or their nominated spokesperson) and two against. In addition, there be a separate slot for the recognised and/or semi-recognised amenity society and a further slot for the relevant Ward Councillors should they wish to speak.

- o **Planning Applications Sub-Committees 1, 2 and 3**: a maximum of one speaker in support (normally the applicant or their nominated spokesperson) and one speaker against. In addition, there be a separate slot for the recognised and/or semi-recognised amenity society and a further slot for the relevant Ward Councillors should they wish to speak.

If the number of requests to speak either in support or against the application exceeds the number of public speaking slots outlined above, potential speakers will be encouraged to either nominate a speaker who will make a verbal representation at the Planning Applications SubCommittee on their common behalf, or to share the total time to be allocated to speaking slots for either objectors or supporters, as the case may be, between them (e.g. at a Major committee where two 3 minute speaking slots are allocated for those speaking in opposition to the application however six people register to speak, they would each be given one minute to

speak). The Committee and Governance Services team would contact the relevant parties on the Friday afternoon immediately after the registration deadline and seek their agreement for their contact details to be shared with the other parties in advance of the meeting to decide on whether they wish to nominate a speaker or share the time between them (this agreement is necessary in order to avoid concerns regarding data protection). The nomination of the spokesperson or clarification that the time is to be shared between the speakers would need to be submitted to the Committee and Governance Services Team by the following Monday at 12pm (i.e. the day before Committee). If the spokesperson were to be nominated or the speaking slots shared immediately before the meeting as in some other authorities, this could result in disagreements about who should represent the group and several potential speakers preparing representations in advance, only to be disappointed by not being allowed to speak or preparing their representations before the meeting only to discover that they have less time to speak.

4.10   Where agreement cannot be reached between the parties on a nominated spokesperson (for example where objectors have different concerns) or for the time to be shared between the speakers; it is proposed that the Chairman, in conjunction with the Presiding Officer, may choose to agree to a random selection process (a ballot) to determine who will speak. It is also recommended that the Chairman should only use his/her discretion to allow more speakers to make representations in extraordinary circumstances such as where an application is of a significantly large scale or highly contentious. Interested parties may also wish to contact their Ward Councillors and request that they make representations on their behalf however if such requests by Ward Councillors are made after the Friday deadline (see 4.11 below) they will need to be submitted directly to the Chairman for agreement.

4.11   In addition to the members of the public being allowed to speak, it is recommended that an additional speaking slot be provided for the relevant local recognised or semi-recognised amenity society to make verbal representations. These organisations are designated statutory consultees in the planning process, are well-organised, have members with in-depth knowledge of their areas and their input is highly valued by officers and Members. It is currently the case that where a local Ward Councillor wishes to speak either in objection to or in support of an application, they may request permission from the Committee chairman. It is recommended that a speaking slot is provided for Ward Councillors who should follow the same procedure as outlined above in terms of registration. Where a Ward Councillor requests that an application relating to their ward is reported to Committee, they must attend the relevant Committee meeting to outline their views.

Length of time permitted for each speaker

4.12 The length of time permitted for each speaker varies across the London boroughs. Most allow either two or three minutes per speaker but some advise that a maximum of, for example, five minutes is allowed for objectors to be shared between those who wish to speak (with the result that where five people register to speak, they are given one minute each to speak) whilst others allow up to five minutes for a nominated speaker to speak on behalf of objectors.

4.13 As outlined above, a set maximum number of speaking slots is recommended; the number of speakers allowed depending on the scale of the application. It is recommended that a period of three minutes is permitted for each speaker (except where the number of requests exceeds the number of speaking slots and potential speakers agree to share the total speaking time between them as outlined in 4.9 above).

Practical matters including order of events

4.14 The running order of the Committee is outlined in the Procedure Rules attached at Appendix 2 and will, in general terms, not change significantly from the current procedure with the exception of the order of speakers. In brief summary, the following order of speakers is recommended:

Order of Speakers
i) Planning Officer presentation of the case
ii) Applicant and any other supporter(s)
iii) Objectors
iv) Amenity Society (Recognised or Semi-Recognised)
v) Ward Councillor(s) and/or MP(s)
vi) Council Officers response to verbal representations
vii) Member discussion (including questions to officers for clarification)
viii) Member vote

4.15 Only verbal representations should be allowed; it is not considered necessary or reasonable to allow members of the public to use visual presentation material. Representations should pertain to planning issues relevant to the application and should generally reflect the issues already raised in the written submissions made during the course of the application. When the speaker has finished making their representations, they should then re-take their seat in the public gallery (except in the case of Ward Councillors who may sit adjacent to the Committee). The Committee Members may ask questions of the planning officer seeking clarification on certain points and when all speakers have finished, Members will discuss the case and may ask questions of the planning officer before taking a vote.

Committee Room Layout and Guidance on the Committee Process

4.16 The PAS review noted that due to the layout and arrangement of the current committee room, the attendees and general public at Committee felt isolated from the Committee Members. The review team also noted that large individual screens blocked the ability to see the Committee Members and there is a lack of basic guidance and information which makes the committee process difficult to understand as an attendee. It is noted that the Committee meetings attended by the PAS team took place at 5 Strand and the layout there is a temporary solution while renovation works are undertaken at 64 Victoria Street. The new chamber at 64 Victoria Street will be laid out to reduce the separation between the Committee Members and public gallery.

4.17 It is also proposed to live-stream and record Planning Applications Sub-Committee meetings and make the coverage available post-meeting. Work is currently underway to identify and procure an appropriate technological solution with these facilities required to be place when the first Planning Applications Committee meeting takes place at 64 Victoria Street following the refurbishment works. Subject to the proposals outlined in this report with regard to public speaking being agreed by Members, it is intended that public speaking at Planning Committees will be introduced as soon as the rooms and technology in 64 Victoria Street are ready for use (planned during February).

4.18 It is proposed to provide improved guidance, for the benefit of members of the public, to explain the committee process and how the Chairman may manage the Committee meeting. The procedure rules attached at Appendix 1 to this report form the basis for this guidance,

however it may be simplified and included on the Council's website and at the Committee meeting to help attendees and others to understand the process. This information will form part of a wider programme to review all digital content to improve accessibility for the general public; with the aim of improving the way we explain planning policies and decisions to make them easier to understand.

Pre-application Community Engagement

4.19 The PAS report recommends that the Council develops a new approach to the early involvement of communities in shaping proposals, proportionate to the type of development. Such an approach could be co-ordinated by planning officers, in conjunction with ward councillors, who would be encouraged and supported to play a stronger role in influencing and guiding any developments in their ward at an earlier stage in the planning process.

4.20 Many large developments already benefit from pre-application engagement with the community, yet this is primarily delivered by the applicant in isolation from the Council. It is therefore proposed that the Council plays a more active role in this process in order to identify and in an attempt to resolve any potential issues in advance of the planning application being formally submitted. This will require a revision of the Council's Statement of Community Involvement (SCI) to outline, at the pre-application stage, best practice for developers.

4.21 In addition to the informal engagement, consideration is currently being given to options for more formal meetings or forums where applicants may present their proposals to the local community, Ward Councillors and officers. Feedback on these initial proposals from stakeholders has been mixed, with additional information and clarity on how these 'forums' might be facilitated and resourced required. Concerns have also been raised regarding the pressure on resources of amenity societies as well as officers.

4.22 PAS has been retained to provide further guidance on this subject and a programme of research into best practice at other local authorities is proposed. As such, it is premature at this stage to make formal recommendations and more detailed proposals will be reported back to members as they develop.

Delegated Authority

4.23 PAS recommends that Planning Applications Sub-Committee meetings should focus on major and contentious applications rather than small-scale applications which raise local issues and that such applications should be delegated to officers. Currently, 97% of planning decisions within the Council are already taken under delegated authority by planning officers. The current scheme of delegation to officers allows for most applications to be delegated to officers (with the exception of, for example, strategic or highly contentious applications or Council applications where refusal is being recommended), with officers using their discretion to report applications to Committee depending on the nature of objections received. As such it is not proposed to significantly change the current scheme of delegation from Members to officers in respect of decisions on planning applications.

4.24 Ward councillors will retain their right to call in all planning applications to Committee and will be required to attend the Committee meeting to discuss any concerns about an application in their ward if they have called the application in.

4.25 It is also proposed to explore options for increased delegation to a wider number of planning officers and to delegate the hierarchy of decision making which is currently highly concentrated at a senior officer level. It is proposed that planning officers engage more with ward councillors at the pre-application stage to solve issues, thereby avoiding the need for an application to be reported to a Planning Applications Sub-Committee at the end of the process. Appropriate checks and balances would remain in place with peer review of proposed

decisions and escalation controls in the event of certain thresholds being reached with different applications. This will require a comprehensive shift in culture as well as a training and development programme for officers, planning for which has already commenced.

4.26 These proposals will be considered as part of the review of the operating model of the directorate, as the major changes relate to officer processes and management structures. Any changes would be undertaken in consultation with the Cabinet Member for Place Shaping and Planning.

5. Financial Implications

5.1   None

6. Legal Implications

6.1   None

7. Conclusion

7.1   Following an assessment of the procedures and protocols at other London boroughs and taking into account the feedback received during the recent stakeholder engagement sessions, it is recommended that the attached procedure rules be adopted for the facilitation of public speaking at Planning Applications Sub-Committee meetings. Members are also asked to note the ongoing work on facilitating improved pre-application engagement with the community and the review of the delegation arrangements for planning decisions.

> **If you have any questions about this report, or wish to inspect one of the background papers, please contact:** Claragh Mulhern on x2535

Background Papers:

1. Engagement sessions undertaken and options appraisal.
2. Planning Applications Sub-Committee Procedure Rules DRAFT.
3. Report to Cabinet on Planning Review dated 25 October 2018 and associated resolution and appendix:
   https://committees.westminster.gov.uk/ieListDocuments.aspx?CId=130&MId=4784&Ver=4
4. List of Recognised and Semi-Recognised Amenity Societies:
   https://www.westminster.gov.uk/sites/default/files/list_of_amenity_societies_in_westminster2018.pdf