

AMENDMENTS TO CONSTITUTION – PUBLIC PARTICIPATION AT PLANNING COMMITTEE

Executive Summary

Under the current Constitution, applications which are reported to the Planning Committee for determination attract public speaking if 10 or more individual objections have been received prior to the designated cut-off date which is 14 days prior to the meeting. After reviewing the procedure for public speaking it has been proposed to amend the threshold to 5 objections and to also include supporters of applications. Appendix 1 shows the tracked changes to the Constitution and Appendix 2 contains the draft new section of the Constitution as would be inserted.

The proposal was considered at the meeting of the Corporate Governance Working Group held on 11 October 2023 and it was agreed to recommend the amendments to the Standards and Audit Committee for recommendation thereon to Council at its meeting on 30 November 2023. In particular, discussion was held regarding whether there should be a threshold at all for public speaking at meetings of the Planning Committee. An extract from the minutes of the meeting is included as Appendix 3 to this report.

In addition, the proposals set out in the body of this report were received by the Overview and Scrutiny Committee and the Planning Committee at their respective meetings on 16 October 2023 and 7 November 2023.

An extract from the minutes of the meeting of the Overview and Scrutiny Committee is set out in Appendix 4 to this report. The Overview and Scrutiny Committee expressed concern over removing the threshold altogether for public speaking due to the impact this would have on the workloads of the Planning Committee and Officers, and the significant impact the change would have on the length of the Planning Committee meetings if there was the option for members of the public to speak on every application. Following discussion, the Committee recommended three changes which have been included in Appendices 1 and 2 of this report:

- Amend Paragraph 1.2 to state that the number of **representations** required before a planning application qualifies for public speaking at the Planning Committee is five.
- Amend Paragraph 2.2 to state that the public may speak on any application which attracts five or more **representations**.”
- Amend any reference to communications by letter [sent by the Council to local residents] to be revised throughout the Public Speaking at Planning Committee section of the Constitution to allow for the most appropriate form of written communication, namely by letter or by email.

An extract from the draft minutes of the Planning Committee is included as Appendix 5. The Planning Committee felt that no changes should be made which would see an increase in planning applications being received by the Committee, in light of comments from the Portfolio Holder, Councillor Lyons, regarding the forthcoming staffing changes across the Council and the need for lowering the level of service provided. Following discussion, the Committee recommended three changes which have also been included in Appendices 1 and 2 of this report:

- Any reference to ‘objector’ must be consistent with also reference to ‘supporter’ in the Public Speaking at Planning Committee section of the Constitution;
- Point 1.2 be re-worded to read “The number of objectors or supporters required, in contrary to the Officers recommendation, before a planning application qualifies for public speaking at the Planning Committee is five (5).”
- Amend point 3.9 and any other reference to read “Only one representor of the objectors or supporters/applicant will be allowed to make an oral representation.”

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The below resolution before the Standards and Audit Committee contains the recommendations from the Corporate Governance Working Group, with the text for inclusion in the Constitution as amended by the Overview and Scrutiny Committee and the Planning Committee.

Recommendations

The Committee is requested to:

RECOMMEND TO COUNCIL That

- (i) the amended Public Speaking at Planning Committee section of the Constitution (Appendix 2) be adopted;
- (ii) the authority delegated to the Monitoring Officer to make minor amendments to the Constitution be noted, including amendments to references within the document and section numbering; and
- (iii) the Monitoring Officer be instructed to make the agreed changes to the Constitution.

The item(s) above will need to be dealt with by way of a recommendation to Council.

Background Papers:	None.
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1.0 Introduction

- 1.1 The Council resolved to introduce public participation at Planning Committee meetings (formerly the Development Control Sub-Committee) on 25 February 1997. The constitution sets out the criteria for applications which are reported to planning committee which enable public speaking to take place.
- 1.2 For the purpose of expediency and the efficient running of planning committee, a threshold was established of 10 individual objections must be received prior to a designated cut off date. This is an important part of the running of planning committee to enable it to run efficiently whilst allowing public speaking to take part. It is important to continually review the operational needs of the Planning Service and the needs upon the service evolve over time.

2.0 Current arrangements for public speaking

- 2.1 The current arrangements as set out in the Constitution is only applicable to planning applications. It does not include Certificates of Lawful Use and Development or applications for work to trees covered by Tree Preservation Orders. The Public may speak when any application which attracts ten or more individual objections (a petition will be regarded as one objection) prior to the designated cut-off date, which will be 14 days prior to the meeting or, if later, the expiry of the 21-day period for receipt of representations.
- 2.2 In addition, the public have a right to address the planning committee on the following applications irrespective of the number of objections made:
 - i) any application which in the opinion of the Borough Planning Officer raises major policy issues which is at variance with approved planning policies, or is of such a magnitude that significant planning issues are raised;
 - ii) any application for development requiring an Environmental Statement under the provisions of Schedule I and II of the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988 and any subsequent amending regulations;
 - iii) applications for major commercial (retail, industrial or business) development with a floor space exceeding 2500 sq. metres (outline or detailed applications), but not reserved matters; and
 - iv) applications for residential developments of over 50 dwellings (outline or detailed applications), but not reserved matters
- 2.3 Only one representor of the objectors is allowed to make an oral representation. This is done on a 'first come first served' basis, i.e. the first person to register on the dedicated answerphone. Applicants or agents will be notified, advising them of the date of the meeting and that they also have the right to make an oral presentation if objectors have given notice that they wish to make representations. Representors views are heard in the following order: representative of the objectors and agent/applicant. Each speaker is allocated three minutes.

3.0 Proposal

- 3.1 A review of the operational needs of public speaking at planning committee has been undertaken by officers from the planning, legal and democratic services. This has included benchmarking public speaking arrangements at other Surrey planning authorities. The results of the benchmarking can be seen in the table below.

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Authority	Threshold for public speaking at committee
Elmbridge	No threshold, all applications which go to committee can have public speaking. 1 speaker in support (agent) and one objector. 3 minutes each and Members can ask them questions.
Epsom and Ewell	No threshold, all applications which go to committee can have public speaking
Guildford	10 reps for householder and 20 reps for non-householder contrary to officers' recommendation. 2 speakers for support/against.
Mole Valley	20 reps from different households or petition of 50 signatures from different households.
Reigate and Banstead	No threshold, all applications which go to committee can have public speaking.
Runnymede	3 written objections from individual addresses.
Spelthorne	No threshold, all applications which go to committee can have public speaking.
Surrey CC	No threshold, all applications which to committee can have public speaking. Up to 5 objectors and 5 supporters can speak on an application.
Surrey Heath	10 reps in urban areas and 5 reps in rural areas to trigger public speaking. 2 objectors can speak for 4 mins and Cllrs can ask questions.
Tandridge	No threshold, all applications which go to committee can have public speaking.
Waverley	5 or more objectors/supporters. 1 objector and 1 supporter can speak for 4 mins.
Woking	10 individual objectors/supporters on planning applications only need to be received 14 days before committee. Plus, applications which are subject to Environmental Statements, residential developments of over 50 dwellings and buildings over 2,500sq.m. 1 objector/supporter and agent can speak for 3 mins.

- 3.2 As can be noted there is no consistency amongst the Surrey authorities and the threshold vary considerably. There are some authorities which have no threshold and all applications which are reported to planning committee attract public speaking to were 20 representations from different households is required. This variation reflects the different nature of each local authority, how rural/urban they are and what scheme of delegation they have in place.
- 3.3 The function of the Planning Committee is to scrutinise and decide those applications which have an important role in fulfilling strategic objectives or are contentious and require closely balanced judgements. The Planning Committee is a regulatory committee and the primary role of Councillors on the committee is to make planning decisions based on the development plan and relevant material planning considerations. It is not to represent local community views. Planning decisions need to ensure they accord with the Development Plan unless material considerations indicate otherwise (including the NPPF). It is necessary therefore to strike the correct balance between the efficient running of planning committee and enabling public participation where the objectors/supporters can put forward representations orally. Written representations received on applications are summarized in the committee report and are available to view online. Where written representations are received after the agenda has been published, these are also placed online and officers provide a verbal update at committee. Therefore, comments from third parties and consultees are always taken into account.
- 3.4 To enable greater public participation at planning committee whilst also maintaining business at planning committee is run efficiently, it is proposed to reduce the current threshold of 10 objectors to 5. The current arrangements for public speaking is only applicable where an application has received 10 objections. There has been and can be instances where applications are reported to planning committee where there are supporters of the proposal. The current arrangement only refers to objectors so in instances such as these where there

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are supporters of the proposal, no public speaking is allowed. It is proposed to expand the public speaking arrangements to include supporters of applications as well. Clarity is also proposed to make it clear individual objectors/supporters need to come from separate households.

- 3.5 The proposed changes to the public speaking arrangements will not affect the scheme of delegation and these will remain as set out in the Council's consultation.

4.0 Corporate Strategy

- 4.1 The additional measures arising from this report will support delivery of the corporate plan objectives for engaged communities, informed and consulted residents and a transparent, listening and learning council.

5.0 Implications

Finance and risk

- 5.1 There are no financial implications.
- 5.2 There are no risk management issues arising from this report.

Equalities and Human Resources

- 5.3 There are no equalities or human resource implications associated with this report.

Legal

- 5.4 Legal Services have been consulted and have not raised any concerns.

6.0 Engagement and Consultation

- 6.1 Discussions have been made with the Chairman and Vice Chairman of the Planning Committee as well as the Portfolio Holder of Planning. The report was received by the Planning Committee at its meeting on 7 November 2023.

REPORT ENDS