

Joint report of the Corporate Director of Corporate and Adult Services  
and the Assistant Director – Regeneration

## **Planning Applications – Dealing with Late Representations**

### **RECOMMENDATION**

- 1.1 To adopt a policy of not reporting public representations on an application to be considered at the Planning Control Committee if it is received after 5.00pm two business days before the relevant Committee meeting (e.g. 5.00pm on Monday before a Thursday meeting).
- 1.2 To authorise the Assistant Director Regeneration in consultation with the Chair to allow representations received outside of the time period specified in (1) to be considered by the Committee in exceptional circumstances

### **SUPPORTING INFORMATION**

- 2.1 Members have at earlier Committees expressed concerns about late public representations and in January asked us to look into the practicality and legality of introducing a cut off time for considering them.
- 2.2 Members are referred to Appendix 1 in which the following matters are considered:
  - why late representations are sometimes made
  - the problems they can cause
  - the practice of neighbouring authorities
  - the statutory requirements.
- 2.3 These are dealt with in turn after which we identify the options and their respective advantages and disadvantages. Appendix 2 provides further detail on the practice of neighbouring authorities.

<b>IMPLICATIONS</b>
---------------------

- 1.1 Members have at earlier Committees expressed concerns about late public representations and in January asked to look into the practicality and legality of introducing a cut off time for considering them.
- 1.2 In doing so we have looked at:
  - why late representations are sometimes made
  - the problems that can cause
  - the practice of neighbouring authorities
  - the statutory requirements.
- 1.3 These are dealt with in turn after which we identify the options and their respective advantages and disadvantages.
- 1.4 **WHY REPRESENTATIONS ARE MADE LATE**
  - 1.4.1 There are many and various reasons why representations are made after the close of the statutory consultation period. We believe however that they are largely attributable to the following:
    - late awareness of the application
    - changes being made to the proposal
    - intentional delay as tactic (to prevent counter comment or to obtain an adjournment)
    - desire to comment on the Committee report.
- 1.5 **PROBLEM CAUSED BY LATE REPRESENTATIONS**
  - 1.5.1 One of the principles of proper consultation is that not only should there be adequate time to make representations but that there should also be adequate time to consider them.
  - 1.5.2 It is difficult to see how this principle is served where detailed, complex and/or numerous representations are circulated at or immediately prior to the Committee meeting at which the application is being considered.
  - 1.5.3 Where this occurs it often means members either have to spend a disproportionate amount of time at Committee digesting the contents of these late representations or they have to defer consideration of the application to the

next Committee meeting with all the attendant delay and additional administrative work that brings with it.

## **1.6 NEIGHBOURING AUTHORITIES**

- 1.6.1 In considering how to address this problem we have looked at the practice of other neighbouring planning authorities. The results are set out in the attached Appendix 2 and range from, accepting late representations.
- 1.6.2 Right up to and including the day of the Committee meeting (Derby's current practice).
- 1.6.3 Only up to the date when the Committee agenda is produced (with extensions if that does not meet the necessary statutory minimum period).
- 1.6.4 Only up to the expiry of a 21 day notification period (exemptions made in "extreme circumstances").

## **1.7 STATUTORY REQUIREMENTS**

- 1.7.1 Legislation lays down time periods that the public must be allowed in which to make representations. This will vary depending on the type of application.
- 1.7.2 For planning applications any responses received within 21 days of service of a notice or 14 days from the placing of a site notice **must** be considered. For listed buildings 21 days must be allowed from the display of the first notice.
- 1.7.3 Presently these time period only apply to public representations but the Government has recently announced its intention to impose a new requirement on statutory consultees to respond within 21 days.

## **1.8 OPTIONS**

- 1.8.1 The three basic options available are:
  - 1 Continue the current practice of accepting and circulating all representations received up to the start of the Committee meeting.
  - 2 Only accept those representations received within the statutory notice periods.
  - 3 Impose a cut off date some days before the Committee meeting but which allows representations after the statutory period.

## **1.9 ADVANTAGES**

- 1.9.1 The disadvantages of option 1 have already been set out in paragraphs 4-6 of this report.
- 1.9.2 The advantage of option 2 is that the deadline date can be clearly set out in the statutory notice/advert but it gives limited time and people may not become aware of the application until later on; for example after the publication of the

Committee agenda.

1.9.3 Option 3 has the disadvantage in that unlike option 2 a specific cut off date cannot be given in the statutory notification. However, it will allow the public a longer period for responses than option 2 and specifically allow a short time for representations to be made after the publication of the Committee reports while still providing sufficient time for distribution to and consideration by Committee members.

1.9.4 Option 3 is considered the best and fairest approach.

#### 1.10 FLEXIBILITY

1.10.1 Whatever option members adopt there must be some flexibility to take account of exceptional circumstances. For example where the applicant proposes changes to the submitted scheme after the end of the cut-off date for receipt of representations. It is therefore suggested that the Assistant Director – Regeneration in consultation with the Chair of the Committee are given the authority to accept late objections in exceptional circumstances.

#### Financial

2. None directly arising.

#### Legal

3. As outlined in the report

#### Personnel

4. None directly arising

#### Corporate Priorities

5. None directly arising.

<b>For more information contact:</b>	Name Stephen Teasdale Telephone number 01332 255453 e-mail
<b>Background papers:</b>	stephen.teasdale@derby.gov.uk
<b>List of appendices:</b>	None Appendix 1 – Implications Appendix 2 – Practice on neighbouring authorities

### PRACTICE ON NEIGHBOURING AUTHORITIES

- Amber Valley, Erewash and Leicester City all accept letters of objection up to and including the day of the meeting in the same way we currently do.
- South Derbyshire District has two policies. If the application has had normal neighbour letters/site notice sent out but no amended plans/letters they allow letters of objection up to when the Committee agenda is produced. If the statutory 21 day period does not expire until after the agenda has been produced they will accept letters up to the end of the 21 day expiry period. If the application had had amended plans/letters sent out giving 14 days they accept objection letters up to the expiry of the 14 day period.
- Derbyshire Dales only accept letters up to the expiry of 21 day notification period (14 days for amended plans). Late letters of objection will only be considered in “extreme circumstances”.
- Nottingham City accept letters up to and including Committee day but will guarantee reporting them to the Committee if received the day before the meeting and will “do their best” to report them if they are received on the actual day of Committee.
- East Staffs have their Committees on Monday and send an update out to Councillors on the Friday before. All late letters of objection must be in on the Thursday to be sent out the following day.