

## **Interim Procedure for Representation Hearings at the Greater London Authority during the Covid-19 Pandemic**

### **1. Background**

- 1.1. Before determining a planning application (and any connected application) that he has taken over, the Mayor, acting as Local Planning Authority, must give the applicant and the relevant London borough council the opportunity to make oral representations at a Representation Hearing.
- 1.2. This document sets out an interim procedure for Representation Hearings, prepared in response to the threat to public health posed by the incidence and spread of the coronavirus. The interim procedure reflects recent legislation<sup>1</sup> relating to the conduct of local authority meetings held before 7 May 2021, in particular making provision for decision making by remote means and remote access of the public and press to enable their attendance or participation by electronic means. However, it aims to replicate, as far as practicable by virtual means, the procedure that would have applied had the hearing taken place with its participants physically present, in a publicly accessible way. The interim procedure will apply until further notice.
- 1.3. The Mayor or his delegate (in accordance with para 1.5 below) will conduct Representation Hearings by remote access using appropriate electronic means as set out below ('virtual hearing').
- 1.4. The Mayor has published this document to meet the requirements of Section 2F of the Town and Country Planning Act 1990 (as inserted by Section 35 of the Greater London Authority Act 2007), which requires the Mayor to publish a document setting out:
  - i) who else may make oral representations;
  - ii) the procedures to be followed at the hearing;
  - iii) arrangements for identifying information which must be agreed by persons making representations.
- 1.5. From 1 October 2013, the Mayor's powers to call-in and determine planning applications of Potential Strategic Importance may be delegated to Greater London Authority ('GLA') staff appointed by him. Accordingly, in this document, references to the 'Mayor' shall include the members of GLA Staff appointed by the Mayor to exercise those powers and who, as set out in the current scheme of delegation (Mayoral Decision-Making in the Greater London Authority – May 2020), consist of:
  - Deputy Mayor for Planning, Regeneration and Skills;
  - Deputy Mayor for Housing and Residential Development; and
  - the Statutory Deputy Mayor (currently also the Deputy Mayor for Education & Childcare).

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<sup>1</sup> Section 78 of the Coronavirus Act 2020 and The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020

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## 2. Procedural Arrangements

- 2.1. The GLA will give at least 21 days' notice of the virtual hearing to those who may make oral representations (see paragraph 5.1 for an explanation of who may speak) together with details of the procedure for those who want to speak.
- 2.2. The GLA will give at least 7 clear days' notice of the virtual hearing to the press and public, published on the GLA website. In the run-up to the hearing the GLA may also publicise the event via additional, appropriate, social media. The GLA will also request that the local planning authority publicise the virtual hearing on its own website.
- 2.3. Not less than seven clear days in advance of the virtual hearing the GLA will publish the virtual hearing agenda and the GLA case officer's report and recommendation on the planning application on its website.
- 2.4. The virtual hearings take the form of a structured meeting chaired by the Mayor.
- 2.5. If anyone participating in the virtual hearing under paragraph 5.1 has any particular requirements (e.g. a signer) they should let the GLA know as soon as possible in advance of the virtual hearing. The GLA will make reasonable endeavours to meet the request.

## 3 Technology

- 3.1. Not less than 24 hours prior to the event a link to view the virtual hearing shall be published on the planning section of the GLA website.
- 3.2. Not less than 24 hours prior to the virtual hearing all parties who have registered to speak, together with the applicant and London borough council shall be sent details by email outlining how they can access and participate in the virtual hearing.
- 3.3. The virtual hearing may continue notwithstanding that a technical failure may prevent the press and public being able to follow all or part of the hearing by remote means.

## 4 Site Visits

- 4.1. Site visits can be helpful in assisting the Mayor to gain a better understanding of the proposal. Where the Mayor takes over an application for his own determination, a site visit may be organised by GLA officers in advance of the virtual hearing.
- 4.2. Where Covid-19 restrictions render it inappropriate or unsafe to do otherwise, the site visit will be undertaken on an unaccompanied basis and, as far as practicable, in accordance with the GLA's usual process for site visits. The key points shown in **bold** text in the remainder of this section that are key to the site visit protocol and remain in force.

### 4.3 Site visits should:

- **focus precisely on the observation of site factors which are relevant to the decision;**
- **not be an opportunity for lobbying, public address, submission of new information etc;**

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- always involve officer representation; and
- **be carefully conducted so that the Mayor cannot be accused of bias in favouring any of the parties involved.**

4.4 No opportunity for speaking will be afforded to the applicant or other parties who attend the site visit unless specifically requested by the Mayor in order to answer questions of fact.

**4.5 Ahead of the site visit the GLA case officer may prepare a short briefing paper for the Mayor setting out details of the proposals and relevant matters for consideration.**

4.6 The following individuals are able to attend the site visit:

- The Mayor
- Deputy Mayor for Planning, Regeneration and Skills
- Deputy Mayor for Housing and Residential Development
- GLA officers (including GLA legal advisors)
- TfL Officer(s)
- Two representatives from the Local Planning Authority
- Two representatives from the applicant
- Objectors/supporters will not normally be invited to attend a site visit.

Any request for objectors/supporters to attend will be considered by the Mayor and attendance will be at the discretion of the Mayor.

4.7 Site visits will be conducted in a formal manner and organised as follows:

- On assembling at the site, the GLA case officer will open the visit and advise those present of the purpose of the visit in line with this procedure, to ensure that all those present are aware that it is a fact-finding exercise and that no decision will be taken until the virtual hearing.
- The case officer will then describe the development and point out/explain the issue(s) which the Mayor has come to view.
- The Mayor should stay with the GLA officers and should not engage in discussion individually with the applicant's representatives or any other persons present.
- Any request for the Mayor to express a view or to accept an offer of hospitality should be politely declined.
- The Mayor should address any questions of clarification to the GLA officers present. Questions should not be directed to the applicant's representatives or other parties present.

4.8 A written note of any questions and issues raised at the site visit will be taken by the GLA case officer.

## **5 Oral Representations at the Virtual Hearing**

5.1 The London borough council and the applicant have an automatic right to speak.

5.2 Individuals and organisations that have previously made written representations

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about the application either to the relevant London borough council or directly to the GLA will be eligible to request to speak (for the avoidance of doubt this does not include an individual who has signed a petition but would include an individual who has signed a standard letter).

- 5.3 Those eligible to request to speak will be sent an email or letter as appropriate, dated at least 21 days' prior to the virtual hearing, providing notification of the virtual hearing arrangements and giving details on how individual/s can register to speak. However, this does not mean that anyone who has made a written representation on the application has an automatic right to speak as this could make the virtual hearings unmanageable.
- 5.4 Experience has shown that, although there may be different people wishing to speak, in fact they tend to make similar points. Therefore a maximum of 15 minutes will be allowed for oral representations from objectors (as a group) and a maximum of 15 minutes for supporters (as a group).
- 5.5 Where more than 5 objectors and/or supporters request to speak, to make best use of the maximum time the GLA will expect groups and individuals to join together and decide how their allotted time will be used. Spokespersons can be appointed to represent shared views. The GLA will expect the nomination of spokespersons to be carried out reasonably, fairly and sensibly, within the time constraints that have been set.
- 5.6 All those wishing to speak must submit by email to the GLA case officer a detailed written statement of the issues to be raised in their proposed oral representation, at least 7 days in advance of the date of the virtual hearing. They should also clearly state in what capacity they wish to speak (i.e. objector or supporter) and which organisation (if any) they represent.
- 5.7 In the event that a technical failure makes it impracticable for any person to make an oral representation by remote means the written statement will be considered by the Mayor in place of the oral statement.
- 5.8 It should be noted that oral representations provide the opportunity for parties to have their views heard and should not be used to introduce new evidence.
- 5.9 Where there are more people wishing to speak, each for a period of time that in total would exceed 15 minutes and where no agreement is reached over the nomination of a spokesperson then, as a last resort, GLA officers will decide who can speak. Priority will be given to speakers representing local interests.
- 5.10 The Mayor has discretion to change the amount of time allowed to speak or to allow additional speakers if he considers it appropriate. The Mayor's decision on this will be final.

## **6. The Procedures to be Followed at the Virtual Hearing**

- 6.1 Those speaking should dial into the hearing and identify themselves to GLA officers no less than fifteen minutes before the virtual hearing is due to start.
- 6.2 The Mayor will preside at the virtual hearing and may ask questions of those speaking.
- 6.3 The Mayor's legal adviser will introduce the virtual hearing by setting out the

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procedure to be followed.

- 6.4 The GLA case officer will give a presentation on the application.
- 6.5 A representative from the London borough council will be invited to address the virtual hearing for a maximum of 5 minutes (where the application straddles Council boundaries each affected council will be entitled to speak for 5 minutes).
- 6.6 Objectors will be invited to address the virtual hearing as set out in paragraphs 5.2 - 5.4.
- 6.7 Supporters will be invited to address the virtual hearing as set out in paragraphs 5.2 – 5.4.
- 6.8 The applicant or their agent will be invited to address objections for, in the majority of cases, a maximum of 5 minutes (joint applicants will be expected to divide the time as agreed).
- 6.9 GLA officers will time all speakers and notify them when 30 seconds remain and ensure that no speakers overrun their allotted time.
- 6.10 Speakers should confine their comments to ‘material planning considerations’ and should not refer to non-planning matters such as property values, restrictive covenants or other private rights, moral issues and business competition.
- 6.11 Speakers must ensure that any comments they make do not conflict with the Mayor’s strategy for Equality, Diversity and Inclusion <https://www.london.gov.uk/what-we-do/communities/mayors-strategy-equality-diversity-inclusion>
- 6.12 Speakers will be expected to conduct themselves in an orderly manner and only speak when called upon by the Mayor. The Mayor will ensure that speakers adhere to the above guidance and may require that speakers be muted and/or their remote participation terminated if they fail to comply with paragraphs 6.11 and 6.12 and may also take action under paragraph 6.16.
- 6.13 Speakers may present information visually, although there is no obligation to do so. If speakers do wish to use visual material they must set out what material they wish to present, and in what format, at the time they make their detailed statement (paragraph 5.6 above). The GLA will make reasonable endeavours to provide the necessary software available.
- 6.14 GLA officers may respond to any points made by the speakers. However, there will be no opportunity for speakers to make further comments, unless specifically asked to do so by the Mayor.
- 6.15 The Mayor has the discretion to change the order of speakers, change the amount of time allowed to speak or to allow additional speakers if he considers it appropriate. This will be entirely at the Mayor’s discretion and his decision will be final.
- 6.16 If a member of the public interrupts the virtual hearing or behaves in a manner that is indecent, abusive threatening or disruptive, the Mayor will warn them and may order their remote access to the virtual hearing is terminated.
- 6.17 The virtual hearing will be filmed and webcast live on London.gov.uk and the recording will be available on the website.

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## **7. Adjournments**

- 7.1 At his discretion, the Mayor may decide to adjourn the virtual hearing. ( He might do so for example, if a new point is raised in the virtual hearing which requires further investigation by GLA officers before the Mayor determines the application.) Notice of any reconvened virtual hearing will be posted on the GLA website and displayed on site and those who spoke at the original virtual hearing will be notified. The London borough council will also be asked to display a notice on its website. Anyone else may request written notice of the reconvened hearing by giving their details to a GLA officer at the close of the original virtual hearing.

## **8. The Final Decision by the Mayor**

- 8.1 There is no statutory requirement for the Mayor to make a decision in public. Unlike a council committee, where the decision is made following a vote, the Mayor is the sole decision maker.
- 8.2 The Mayor may wish to consider matters in private before giving his decision. If he decides to do so then access to the virtual hearing may be limited to the Mayor, the Deputy Mayor for Planning, Regeneration and Skills, Deputy Mayor for Housing and Residential Development, the legal advisor and representatives from the GLA Planning Team (but not the case officer).
- 8.3 The Mayor is under no obligation to announce his decision in public at the end of the virtual hearing and may choose to take the decision later, in private, in order to give further consideration to the points that have been made. In these circumstances the Mayor will usually make his decision within 5 working days of the virtual hearing.
- 8.4 Once the decision is made it will be posted on the GLA website.

## **9. Monitoring and Review**

- 9.1 The GLA will monitor the operation of the virtual hearings and will carry out a review of the arrangements as required.
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**16th July 2020**