

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD3213

### Land lying to the west of Angel Lane, Stratford, London Public Inquiry

#### Executive summary:

On 20 November 2023, the Mayor, under powers conferred by Article 6 of the Town and Country Planning (Mayor of London) Order 2008, directed the London Legacy Development Corporation to refuse planning permission for the redevelopment of the land lying to the west of Angel Lane, Stratford.

On 1 December 2023, the Secretary of State for the Department for Levelling Up, Housing and Communities decided to call in the full planning application and hold a public inquiry. This Mayoral Decision seeks approval for funding to cover the costs of the Mayor's involvement in that public enquiry.

#### Decision:

That the Mayor approves expenditure of up to £450,000 to cover the costs of his involvement in the public inquiry.

#### Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

20/12/23

## **PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR**

### **Decision required – supporting report**

#### **1. Introduction and background**

- 1.1. In April 2019, a planning application for a scheme on land to the west of Angel Lane in Stratford was submitted to the London Legacy Development Corporation (LLDC). The scheme entails the development of a multi-use entertainment and leisure building comprising the MSG Sphere; terraces; a podium; a plaza; and ground and basement levels, with an illuminated external display. (This is for sui generis use including: flexible entertainment, assembly and leisure venue with an illuminated internal display; music venue; restaurant/members' lounge/nightclub; bars; restaurants; cafés; retail and merchandising; hospitality and catering facilities; box office; security facilities; rehearsal spaces; back-of-house event facilities; offices; storage; vehicle parking; servicing and loading; external terraces with landscaping and café; bar, retail and open-air entertainment facilities; and all supporting and complementary facilities for such uses.) The scheme also entails construction of new pedestrian and vehicular bridges; highway and access works; servicing; open space; hard and soft landscaping; demolition of existing structures; associated infrastructure; plant; utilities; and other works incidental to such development.
- 1.2. An advertisement consent application was also submitted to LLDC for the display of adverts on the MSG Sphere's external façade; digital billboards; the LED ribbon display; and MSG branding and advertising on the bridge. This application was not referable to the Mayor.
- 1.3. Following consideration at its planning committee on 25 April 2023, LLDC resolved to grant planning permission.
- 1.4. Once the associated S106 agreement had been finalised, LLDC formally referred the application to the Mayor on 7 November 2023. Under the provisions of Article 5 of the Town and Country Planning (Mayor of London) Order 2008 (the 2008 Order) the Mayor may allow the draft decision to proceed unchanged or direct refusal under Article 6. On the 20 November 2023, the Mayor directed LLDC to refuse planning permission for the following reasons:
  - **Residential amenity:** The Proposed Development, due to the intensity, nature, and extent of external illumination, would cause significant light intrusion resulting in significant harm to the outlook of neighbouring properties, detriment to human health, and significant harm to the general amenity enjoyed by residents of their own homes. The properties most significantly impacted are within the Legacy Tower/Stratford Central, Stratford Eye, New Garden Quarter and Unite Student Accommodation. The proposed measures to mitigate the visual impacts of the new nuisance-generating development on residential and other sensitive uses would not be adequate to avoid unacceptable harm, and in the case of blackout blinds would give rise to further harm to residential amenity. The Proposed Development would not be in accordance with the National Planning Policy Framework; London Plan policies D3 (Part D7), D8 (Part B), and D9 (Part C1h); and LLDC Local Plan policies BN.1 (Part 7), BN.4 (Part 5), BN.5 (Part 8), BN.16 (Parts 1 and 2) and S.1.
  - **Urban design and tall buildings:** The Proposed Development with a Sphere of 90 metres in height and 120 metres in width, by virtue of its scale, massing and design, would result in a bulky, unduly dominant and incongruous form of development, which would fail to respect the character and appearance of this part of the town centre and the site's wider setting. In addition, the proposed design concept is a highly energy intensive use, does not achieve a high sustainability standard, and does not constitute good and sustainable design. As such, the Proposed Development would be contrary to the National Planning Policy Framework; London Plan policies D3 and D9; and policies BN.1 (Part 2), BN.4 (Parts 8, and 9), BN.5 (Parts 1, 2, 5, and 6), BN.16 (Part 9), and SP.3 (Parts 2 and 3) of the LLDC Local Plan.

- **Historic environment:** The Proposed Development would cause less than substantial harm to the significance of 16 designated heritage assets, comprising 12 listed buildings, including the Grade II\* Theatre Royal; one registered park and garden; and three conservation areas. The public benefits arising from the Proposed Development would not outweigh the 'less than substantial' harm it would cause. As such, the Proposed Development would be contrary to the National Planning Policy Framework; London Plan policies HC1, D3 (Part D11) and D9 (Part C1d); and policies BN.16 (Part 8) and BN.17 (Part 1) of the LLDC Local Plan.

- 1.5. In exercise of his powers under article 6(8) of the 2008 Order, the Secretary of State the Secretary of State for the Department for Levelling Up, Housing and Communities (henceforth the Secretary of State) directed the LLDC not to implement the Mayor's direction of 20 November to refuse permission, made under Article 6(1) of the above Order. This direction was issued to enable him to consider whether he should direct, under section 77 of the Town and Country Planning Act 1990, that the application should be referred to him for determination. The prohibition period in the direction was 42 days from the date of the letter.
- 1.6. On the 1 December 2023 the Secretary of State directed, under his powers in section 77 of the Town and Country Planning Act that the application be referred to him instead of being dealt with by the LLDC (the local planning authority).
- 1.7. The Greater London Authority (GLA) is a main party at the inquiry. If the Mayor's position is not robustly presented at the inquiry, there is a very real risk that the London Plan will be undermined to the detriment of London's strategic planning interests. The Mayor could also incur very significant costs (in the event of a successful application for costs) should he be found to have acted unreasonably or unlawfully.
- 1.8. The costs of the Mayor's involvement in the inquiry are based on the information currently available. It is, however, difficult to be precise since, inevitably, there are still many unknown factors. There is no real precedent in terms of the nature of the scheme and it raises complex and unique planning issues. The biggest factors in determining the level of costs in a public inquiry are the costs of legal representation and the costs of expert witnesses. Presenting the Mayor's case will require the appointment of leading counsel and an expert witness in the area of lighting and illumination. It will also require significant input and time from several GLA officers whose other duties will need to be temporarily backfilled. It is considered the costs of the Mayor's involvement in the inquiry could be up to £450,000 including contingency.

## **2 Objectives and expected outcomes**

- 2.1. The principal objective is to put together an effective high-quality team of external consultants and GLA/Transport for London officers led by an eminent planning leading counsel capable of robustly presenting the Mayor's case to the Secretary of State. This will provide the greatest chance of ensuring that the Secretary of State agrees with the Mayor's position that the application should be refused.

## **3. Equality comments**

- 3.1. Under section 149 of the Equality Act 2010, in making these decisions "due regard" must be had to the need to eliminate unlawful discrimination, harassment and victimisation as well as to advance equality of opportunity and foster good relations between people who have a protected characteristic and those who do not. Protected characteristics include age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation (and marriage or civil partnership status for the purpose of the duty to eliminate unlawful discrimination only). In this instance the proposals are not expected to have any impacts on those with protected characteristics as distinct from anyone else.

## 4 Other considerations

### Mayoral strategies and priorities

- 4.1. The Mayor's London Plan seeks to ensure that the city meets the challenges of economic and population growth whilst protecting heritage assets and ensuring a high quality of building design. The Mayor's comments and decisions on referable planning applications are a key implementation tool of the London Plan.

### Risk management

- 4.2. Regular monitoring of costs incurred will be necessary to ensure these remain within the agreed scope.

### Conflicts of interest

- 4.3. There are no conflicts of interest to note for any of those involved in the drafting or clearance of the decision.

## 5. Financial comments

- 5.1. Approval is sought for expenditure up to £450,000 for this public inquiry. The revised indicative fees taking account of expenditure already incurred and contracted are broken down as follows:

<b>Fees</b>	<b>Cost</b>
Leading counsel	£200,000
External expert	£100,000
Backfilling of GLA staff	£100,000
Contingency	£50,000
<b>Total</b>	<b>£450,000</b>

- 5.2. It should be noted that a contingency has been included within the overall budget and it is anticipated at this stage that the final expenditure for the inquiry will remain within the overall envelope of £450,000. In the event the complexities of the case and the evidence of other parties necessitate additional resources, this would be subject to further approval via the GLA's decision-making process.
- 5.3. There is no allocated budget for this expenditure and therefore this expenditure will need to be covered from reserves. There is currently £198,000 within the Planning Smoothing reserve that will be utilised to partially cover the expenditure however, once this is exhausted a drawdown will be required from the Revenue Grants Unapplied reserve for the remaining balance.

## 6. Legal comments

- 6.1. The above paragraphs indicate the decision requested of the Mayor falls within his statutory powers under section 30 of the Greater London Authority Act 1999 (as amended) ("the Act"), acting on behalf of the authority to do anything he considers that will promote the importance of the environment in Greater London; and in formulating the proposals in respect of which a decision is sought officers have complied with the Authority's related statutory duties to:

- pay due regard the principles that there should be equality of opportunity for all people
- consider how the proposals will affect:

- the health of persons in Greater London
- the health inequalities between persons living in Greater London
- the achievement of sustainable development in the United Kingdom
- climate change, and the consequences of climate change
- consult with appropriate bodies.

- 6.2. The Mayor has a statutory role as strategic planning decision maker as part of the Act and the 2008 Order. Exercising his powers under the 2008 Order, the Mayor has directed that permission should be refused. Robustly presenting the Mayor's position to the Secretary of State is critically important to the successful implementation of policies in the London Plan.
- 6.3. In taking the decisions requested, the Mayor must have due regard to the Public Sector Equality Duty; namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010, and to advance equality of opportunity between persons who share a relevant protected characteristic (race, disability, sex, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it (section 149 of the Equality Act 2010). To this end, the Mayor should have particular regard to section 3 (above) of this report.
- 6.4. The officers are reminded that the expenditure, which is set out in the decision section of this MD, must be made in accordance with the requirements of the GLA's Contracts and Funding Code.

## 7. Planned delivery approach and next steps

Activity	Timeline
Preparation of detailed statement of case and evidence	December 2023 to January 2024
Preparation of Statement of Common Ground and liaising with appellant on the preparation of the Section 106 agreement and planning conditions.	December 2023 to January 2024
Preparation of rebuttal evidence	Not known
Public Inquiry	Not known

**Appendices and supporting papers:**  
None.

**Public access to information**

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after it has been approved or on the defer date.

**Part 1 – Deferral**

**Is the publication of Part 1 of this approval to be deferred? NO**

**Part 2 – Sensitive information**

Only the facts or advice that would be exempt from disclosure under FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

**Is there a part 2 form – NO**

**ORIGINATING OFFICER DECLARATION:**

Drafting officer to  
confirm the  
following (✓)

**Drafting officer:**

John Finlayson has drafted this report in accordance with GLA procedures and confirms the following:

✓

**Sponsoring Director:**

Philip Graham has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

**Mayoral Adviser:**

Jules Pipe has been consulted about the proposal and agrees the recommendations.

✓

**Advice:**

The Finance and Legal teams have commented on this proposal.

✓

**Corporate Investment Board**

This decision was agreed by the Corporate Investment Board on 18 December 2023.

✓

**INTERIM CHIEF FINANCE OFFICER:**

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

**Signature:**



**Date:**

18/12/2023

**CHIEF OF STAFF:**

I am satisfied that this is an appropriate request to be submitted to the Mayor

**Signature:**



**Date:**

18/12/2023