

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD3308

### Former Stag Brewery, Richmond – London public inquiry

#### Executive summary:

On 16 February 2024, Reselton Properties Limited informed the GLA that it had lodged an appeal against the non-determination of the redevelopment of the Stag Brewery in Richmond (Application A – 22/0900/OUT); and the linked application for a new secondary school (Application B – 22/0902/FUL).

A public inquiry, scheduled for 16 days, is being held on 5-8 November; 12-15 November; 3-6 December; and 10-13 December.

Mayoral Decision (MD3246) approved expenditure of up to £450,000, to cover the costs relating to the Mayor's involvement in the public inquiry. At the time, the inquiry was scheduled for eight days. It is now scheduled for 16 days.

#### Decision:

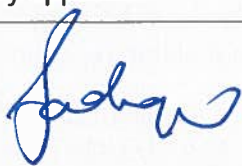
The Mayor approves additional expenditure of up to £100,000 (on top of the £450,000 already approved in MD3246) to cover the costs related to the Mayor's involvement in the public inquiry. This will take the total expenditure up to £550,000 (including a necessary contingency).

#### 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:

11/12/24

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

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

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

- 1.1. On 11 March 2022, two linked planning applications were submitted to Richmond Council, for the comprehensive phased mixed-use redevelopment of the former Stag Brewery site. These plans comprised:
  - up to 1,085 residential homes
  - office, flexible commercial, community, hotel and cinema uses
  - a boathouse
  - a new secondary school and sixth form with an associated sports pitch, play space and a multi-use games area
  - associated landscaping, public realm, access and flood defence works for building heights of up to nine storeys, plus basement.
- 1.2. On 12 April 2022, Richmond Council notified the Mayor of the two planning applications of potential strategic importance to develop the site for the uses cited at paragraph 1.1, above. The GLA Stage One report, dated 20 June 2022 (appended), raised several strategic issues. The primary concerns related to affordable housing, and urban design and heritage. Transport and climate change considerations were also areas of concern.
- 1.3. At the time of the GLA Stage One report, the development proposed 15 per cent affordable housing (by unit) with a 20:80 tenure mix weighted towards intermediate shared ownership. This was noted as wholly unacceptable. The GLA Stage One report recommended that the overall level of affordable housing be increased; and the tenure mix revised and weighted in favour of social rent. In addition it noted that housing affordability levels should be secured alongside early, medium and late-stage viability review mechanisms. Furthermore, in its viability assessment, Reselton Properties Limited (the applicant) made several assumptions, and reached several conclusions, that were not accepted. These related to, among other matters, profit requirements; residential sales values; and the substantial deficit. It was further considered that the quantum of affordable housing in the scheme's outline element should be further optimised within the proposed building footprint and massing.
- 1.4. On 19 July 2023, Richmond Council's Planning Committee resolved to grant planning permission for the redevelopment of the Stag Brewery (Application A – 22/0900/OUT), and its linked application for a new secondary school (Application B – 22/0902/FUL), subject to no adverse directions by the GLA and Secretary of State for Levelling Up, Housing and Communities, and upon completion of a section 106 legal agreement.
- 1.5. By the time of the July 2023 committee, the scheme had been modified to provide a reduced level of affordable housing, at 65 units. This represents 7.5 per cent affordable housing by habitable room; but at 80 per cent social rent and 20 per cent intermediate. The social rent provision was mostly made up by three- and four-bed units.
- 1.6. On 24 July 2023, the Secretary of State for Levelling Up, Housing and Communities announced that all buildings over 18 metres in height would require a second staircase as a means of escape. The applicant took the decision to amend the main redevelopment application (Application A – 22/0900/OUT) to reflect the forthcoming changes regarding second staircases, prior to any referral to the GLA. The amended Application A would be taken back to Richmond Council's Planning Committee for consideration of the amendments only. The July 2023 resolution for the linked application for the school would stand as it was for the principal part (i.e. the unamended part) of the main application.

- 1.7. On 31 January 2024, Richmond Council's Planning Committee resolved to grant planning permission for the amended scheme. The amended scheme maintains the same level and mix of affordable housing as proposed in the July scheme, constituting 7.5 per cent of the total habitable rooms.
- 1.8. On 16 February 2024, the applicant lodged an appeal against the non-determination of the two applications. The appeal commenced on 5 November. It has previously been agreed that we will need to robustly defend the Mayor's position at the inquiry. Otherwise, there is a real risk that the London Plan will be undermined, to the detriment of London's strategic planning interest.
- 1.9. The applications, as proposed, are unacceptable to the Mayor (given the low level of affordable housing, and concerns around viability; urban design and heritage; transport; and climate change). The GLA has been given rule 6 status at the inquiry. This means the Mayor is considered a main party to the inquiry.
- 1.10. Throughout the planning process, and since the appeal for non-determination, the GLA has engaged actively with both the developers and the borough to try and identify an outcome acceptable to all sides and avoid unnecessary costs – including further consideration of the requirement for affordable housing provision. However, it has not been possible to reach any agreement with the developer and so it remains vital to continue to defend the appeal robustly.
- 1.11. The initial estimate of £450,000 was based on the information available when the first MD was prepared. Inevitably, at that stage, there remained various unknown factors. The biggest factors in determining the level of costs in a public inquiry are the costs of legal representation and expert witnesses. Furthermore, the appointed inspector was temporarily unavailable, resulting in the public inquiry being postponed. This has added delays to the process and challenges in terms of producing evidence. As a result, the costs of defending the appeal set out within MD3246 have risen. To build the strongest case, it has consequently become necessary to instruct junior counsel, to support leading counsel; and appoint an architect/design consultant. A viability consultant has also had to be appointed, along with technical consultants, to advise on build costs and sales values. Due to these factors, it is now considered that the costs of defending the appeal will be up to £550,000, including contingency.

## **2. Objectives and expected outcomes**

- 2.1. The principal objective has been to assemble a high-quality team of external consultants and GLA/TfL officers, led by an eminent planning leading counsel and junior counsel, capable of robustly defending the decision to oppose the planning application. This will give the Mayor the greatest chance in the appeal.

## **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; and 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 design. The Mayor's comments and decisions on referable planning applications is a key implementation tool of the London Plan.

#### Risk management issues

- 4.2. Regular monitoring of costs incurred will be necessary to ensure the costs are 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 to increase expenditure, from £450,000 to up to £550,000 (exclusive of VAT), for this public inquiry. The revised indicative fees (taking account of expenditure already incurred and contracted) are as follows:

<b>Fees</b>	<b>Cost</b>
Legal fees including KC, junior barrister and Pinsent Masons solicitors	£340,000
Architectural advice	£70,000
Viability, build cost and sales values consultants	£70,000
Administrative and printing	£35,000
Contingency	£35,000
<b>Total</b>	<b>£550,000</b>

- 5.2. There are some costs associated with this appeal that fall outside the estimated budget. The planning and heritage evidence is being provided in-house by GLA officers. As such, this will not incur additional costs beyond the usual staff budget.
- 5.3. It should be noted that a contingency has been included within the overall budget. It is currently expected that the final expenditure for the inquiry will remain within the overall envelope of £550,000. If the complexities of the case, and the evidence of other parties, necessitate additional resources, this will be subject to further approval via the GLA's decision-making process.
- 5.4. There is no allocated budget for this expenditure. There is currently £498,000 within the Planning Smoothing reserve which is intended to help fund the costs of such appeals. However, should the full £550,000 including contingency be spent then this may require funding from wider GLA reserves.

### **6. Legal comments**

- 6.1. The above paragraphs indicate that 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 will promote the importance of the environment in Greater London. 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 to 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 UK
- 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 Town and Country Planning (Mayor of London) Order 2008. Robustly presenting the Mayor's position at the inquiry is vital 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, and foster good relations, between persons 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 (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, set out in decision section of this MD, must be made in accordance with the requirements of the Authority's Contracts and Funding Code.

## **7. Planned delivery approach and next steps**

- 7.1. This project will be completed according to the following timetable:

<b>Activity</b>	<b>Timeline</b>
Preparation of rebuttal evidence	November 2024
Public Inquiry	November – December 2024

### **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 be published either 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 the 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.

✓

**Mayoral Delivery Board**

This decision was agreed by the Mayoral Delivery Board on 18 November 2024.

✓

**CHIEF FINANCE OFFICER:**

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

**Signature:**

*Fay Kinnear*

**Date:**

03/12/2024

**CHIEF OF STAFF:**

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

**Signature:**

*D. Bellamy*

**Date:**

03/12/2024