

DD DECISION – DD 6

Title: Expenditure for Local Planning Authority Legal Advice

Executive summary

Approval is sought for expenditure for external legal advice to support OPDC in its role as a Local Planning Authority. Advice will be provided by external solicitors and barristers, including King's Counsels, within the overall budget envelope of £240,000.

Decision

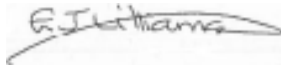
That the Director of Planning approves:

- i. Up to £240,000 over the financial years 2024/25 to 2028/29 as part of the Planning Legal budget for external legal advice.

Director of Planning - Emma Williamson

I do not have any disclosable interest in the proposed Decision. It is consistent with OPDC's priorities and has my approval.

Signature:



Date: 05/03/2025

PART 1: NON-CONFIDENTIAL FACTS AND ADVICE

1. Background and context

- 1.1 OPDC is the Local Planning Authority for its area. Local Planning Authorities are required to fulfil statutory functions including:
- Plan-making;
 - Development management;
 - Enforcement; and
 - Setting, collection, and management of planning obligations.
- 1.2 In undertaking these functions, OPDC's activities must meet legislative requirements. To ensure activities are delivered in accordance with these requirements and to respond to materials and queries from external parties, OPDC regularly seeks legal advice. OPDC primarily utilises Transport for London's (TfL) legal services to provide legal advice; however, there are occasions where TfL's advice needs to be supplemented with external expert legal advice.
- 1.3 This external advice is provided by solicitors and barristers. The advice will utilise their extensive knowledge, skills and experience that will support OPDC in delivering its Local Planning Authority statutory functions. Solicitors and barristers fulfil different roles in providing advice. Solicitors are utilised for the majority of requests. Barristers are utilised for complex matters or where external parties have also appointed barristers.
- 1.4 A previous Delegated Authority Record 479 was approved on 10 September 2024 for £10,000. This was for expenditure of up to £10,000 on external legal advice for plan-making and development management activities.

2. The proposal and how it will be delivered

- 2.1 Approval is sought for expenditure on legal advice from solicitors and barristers, including King's Counsels, to OPDC in its role as a Local Planning Authority over 2024/25 to 2028/29 financial years. Legal advice will inform activities and services required to fulfil OPDC's statutory functions set out in paragraph 1.1.
- 2.2 Legal advice will be secured through TfL legal services. Legal advice will be provided verbally and in writing including within emails, letters, and reports. Advice will be provided as required during the financial years stated in paragraph 2.1.
- 2.3 Legal advice will be sought by OPDC as required to make use of solicitor and barrister expertise, skills and knowledge in the relevant matters that TfL legal services are not able to offer. The combined use of TfL legal services, external solicitor and barrister advice will be coordinated to optimise the use of resources and expertise to secure best value for money.

3. Objectives and expected outcomes

3.1 The objective is to utilise legal advice to inform activities to fulfil OPDC's statutory Local Planning Authority functions.

3.2 The outcomes of the legal advice will support the successful regeneration of the OPDC area to deliver benefits for local people including:

- Securing affordable housing and other housing tenures in a range of sizes including family housing;
- Delivering a range of commercial and industrial uses providing employment training opportunities for local people;
- Protecting, enhancing and intensifying our Strategic Industrial Locations;
- Securing funding for and delivery of physical, transport and social infrastructure to meet the needs of local people;
- Shaping inclusive, welcoming, healthy, resilient and sustainable places;
- Delivering over two hectares of new parks within a network of green streets;
- Conserving and enhancing local heritage and biodiversity.

4. Strategic fit

4.1 The legal advice will support the delivery of a number of over-arching priorities including:

- OPDC's Local Plan – the advice will support the implementation of OPDC's adopted Local Plan, the development of the next Local Plan and other planning policy / guidance documents.
- OPDC's Corporate Strategy – the legal advice will help to inform robust planning decisions and development of sound planning policy to help to achieve OPDC's Vision and the three pillars (supported by our Core Functions) set out in the Strategy by:
 - Delivery – informing plan-making, supporting effective development management decisions and securing planning obligations, helping to unlock new homes, jobs, infrastructure, and opportunities for local people.
 - Community – securing funding for social infrastructure and opportunities for local people alongside affordable homes and workspace.
 - Innovation – utilising advice in an efficient and effective manner to secure best value for money.
 - Core Functions – supporting OPDC's Local Planning Authority functions to meet its statutory obligations.
- OPDC's Values – the legal advice will support the delivery of each of the six-values through its support in delivering OPDC's Local Planning Authority activities.
- OPDC's Management Plan 2023/24 – the Study will also support the delivery of Planning Directorate Objective to Implement our Local Plan.

5. Project governance and assurance

- 5.1 Delivery of advice will be overseen by the Director of Planning, Heads of Services and Team Leaders in coordination with TfL legal services. The Senior Responsible Officer will be the Director of Planning. Fees will be monitored to ensure expenditure is managed against the amount set out in this decision. Clear instructions will be provided to advice providers including expected outputs, timeframes for delivery, considerations, context and questions.

6. Risk, Issues and Opportunities

- 6.1 There is a minimal amount of risk attached to delivering legal advice reflecting the governance set out in paragraph 5.1 The sole significant risk is set out in the table below.

Risk description	Inherent score	Mitigations	Target score
Quality control - Advice does not sufficiently respond to instructions	Likelihood: [2] Impact: [4] Total: [8]	Instructions are clear in their content regarding questions, context, considerations, timeframes and expected outputs	Likelihood: [1] Impact: [4] Total: [4]

7. Equity, Diversity and Inclusion Comments

- 7.1 Under Section 149 of the Equality Act 2010, as a public authority, OPDC must have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation as well as to the need to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not.¹
- 7.2 Provision of legal advice will support the delivery of planning activities and services that will benefit multiple groups, including people who share a protected characteristic and those who do not, through the delivery of planning benefits. Examples include securing affordable and accessible housing, requiring new public realm to be inclusive, securing planning obligations funds from development management decisions, developing planning guidance to secure these requirements and enforcing planning decisions to deliver these benefits.

¹ The protected characteristics and groups are: age, disability, gender reassignment, pregnancy and maternity, race, gender, religion or belief, sexual orientation and marriage/ civil partnership status. Fulfilling this duty involves having due regard to: the need to remove or minimise any disadvantage suffered by those who share a protected characteristic or one that is connected to that characteristic; taking steps to meet the different needs of such people; and encouraging them to participate in public life or in any other activity where their participation is disproportionately low. Compliance with the Equality Act may involve treating people with a protected characteristic more favourably than those without the characteristic. The duty must be exercised with an open mind and at the time a Decision is taken in the exercise of the OPDC's functions.

7.3 These will help to deliver the 'Plan for a welcoming accessible and inclusive place' objective set out in OPDC's Equity, Diversity and Inclusion Strategy.

8. Social Value

8.1 Legal advice will support the delivery of socially, environmentally, and economically sustainable social value benefits across the OPDC area through the development and implementation of planning activities and services, specifically:

8.2 **Sustainability** – shaping new planning policies and managing development to meet national, London, and local targets including 10% biodiversity net gain, Mayoral zero-carbon targets, managing waste sustainably and ensuring development is adaptable to and resilient to climate change.

8.3 **Inclusive Growth** – collecting and managing planning contributions for securing affordable workspace and training and/or employment opportunities.

8.4 **Design Quality** – shaping new planning policies and managing development to deliver the highest standards of design to deliver characterful, inclusive and welcoming places.

9. Other considerations

9.1 There are no other considerations that need to be considered in the taking of this decision.

10. Conflicts of interest

10.1 No one involved in the preparation or clearance of this Form, or its substantive proposal, has any conflict of interest.

11. Financial comments

11.1 Cumulative expenditure of up to £240,000 over the 2024/25, 2025/26, 2026/27, 2027/28 and 2028/29 financial years will be funded from the Planning Directorate budget; actual costs will be recognised against the specific Planning team making use of these legal services.

11.2 Any further expenditure is subject to the Corporation's decision-making process.

12. Legal comments

12.1 The foregoing sections of this report indicate that the decisions requested of the Director of Planning in accordance with their delegated authority granted under DD479 concern the exercise of the Authority's general powers; falling within the Authority's statutory powers to do such things considered to further or which are facilitative of, conducive or incidental to the promotion of appropriate function(s) either economic development and wealth creation, social development and/or the improvement 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 to the principle that there should be equality of opportunity for all people;
- consider how the proposals will promote the improvement of health of persons, health inequalities between persons and to contribute towards the achievement of sustainable development in the United Kingdom; and consult with appropriate bodies.

12.2 In taking the decisions requested, the Director of Planning 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 (age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation) 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 Director of Planning should have particular regard to section 7 (above) of this report.

12.3 Officers have indicated in paragraph 2.2 of this report that the proposed legal advice to support OPDC in its role as a Local Planning Authority can be procured by OPDC using TfL’s legal services framework procured on behalf of the GLA Group (including OPDC) in accordance with relevant procurement law. Any legal advice and services required by OPDC will be procured through TfL legal in accordance with the requirements of that framework.

12.4 If the Director of Planning makes the decisions sought under this decision form, officers must also ensure that no reliance is placed on, nor commitments made in reliance of future Planning Directorate budgets remaining subject to the outcome of the budget setting process for future financial years.

13. Summary timeline

Activity	Date
Delivery start date	01 March 2025
Delivery end date	31 March 2029

Appendices

- None

Other supporting papers

- None

PUBLIC ACCESS TO INFORMATION

Information in this Form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA). OPDC aims to publish the Form within three working day of approval.

If immediate publication risks compromising the implementation of the Decision (for example, impacting a procurement process), it can be deferred until a specific date (when it will be published). Deferral periods are kept to the shortest length strictly necessary.

Part 1 – Deferral

Publication of this Part 1 is to be deferred: **No**

The deferral is until: **N/A**

This is because: **N/A**

Part 2 – Confidential information

Only the facts or advice that would be exempt from disclosure under FoIA should be included in or attached to any separate Part 2 Form, together with the rationale for withholding the information at this time.

There is a separate and confidential Part 2 Form: **No**

DECLARATIONS

Drafting officer: Peter Farnham has drafted this Form in accordance with OPDC procedures, including for handling conflicts of interests, and confirm that:

Advice: The Governance, Finance and Legal teams have commented on the proposal.

CONFIRMATIONS

Section 106 funding: N/A

Review: This Decision was circulated for **Senior Review** on 5th March 2025.

Executive Director, Finance & Operations – Gurdip Juty

Financial and legal implications have been appropriately considered in the preparation of this Form.

Signature:



Date: 05/03/2025