

GREATER LONDON AUTHORITY

REQUEST FOR DIRECTOR DECISION – DD2398

Title: Citroen Site planning appeal – Public Inquiry legal and consultant costs

Executive Summary:

On 16 February 2018, London Borough of Hounslow (LBH) resolved to refuse planning permission for the planning application made to redevelop the Citroen Car Garage site in Hounslow, under delegated authority and on 26 February 2018 the Mayor directed LBH that he would act as the Local Planning Authority as the proposed development would have a significant impact on the implementation of the London Plan and there were sound planning reasons to intervene. On 22 August 2018 the Mayor resolved to grant planning permission in line with the recommendation of GLA officers, subject to conditions and the conclusion of a S106 agreement.

Following the Mayor's resolution, the Secretary of State called in the application for his determination on 15 April 2019 and the Planning Inspectorate (PINS) has subsequently confirmed the date for the Public Inquiry. Leading Counsel advice and specialist consultant input is required to support GLA and TfL staff in presenting the Mayor's planning case at the forthcoming public inquiry.

This Director Decision asks that the Executive Director of Development, Enterprise and Environment approves expenditure of up to £150,000 to allow the GLA to present the Mayor's planning case at a forthcoming public inquiry in January 2020. The costs will be spent in the 2019-20 financial year.

Decision:

That the Executive Director of Development, Environment and Enterprise approves:

Expenditure of up to £150,000 from the 19/20 budget on legal representation and consultant input to support GLA officers in expanding on and presenting the Mayor's planning case at the forthcoming public inquiry.

AUTHORISING DIRECTOR

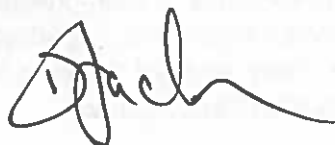
I have reviewed the request and am satisfied it is correct and consistent with the Mayor's plans and priorities.

It has my approval.

Name: Debbie Jackson

Position: Executive Director –Development, Enterprise & Environment

Signature:



Date:

24/09/19.

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

- 1. Introduction and background**
 - 1.1 London Borough of Hounslow (LBH) formally consulted the Mayor on 7 November 2017 in relation to a planning application for *“Redevelopment of the Citroen Car Garage site to provide a mixed-use scheme of 427 residential units with ancillary facilities, flexible retail, employment and community uses and a children’s nursery in buildings of 12, 13, 16, 15 and 18 storeys in height.”* (the Application) and the Mayor considered a report on the Application on 15 January 2018.
 - 1.2 The Stage 1 report concluded that the quantum of affordable housing (which was then proposed to be 40% supplemented by grant funding of the scheme) needed to be verified as the maximum reasonable amount through viability work. The design and the positioning of tall buildings on the site was supported in line with strategic policy subject to concerns regarding the amount of active frontage being addressed. The less than substantial harm to the setting of heritage assets was considered to be outweighed by the public benefits of the scheme. The development was in accordance with London Plan energy, air quality and transport policies, subject to further detail, conditions and S106 obligations.
 - 1.3 On 16 February 2018, LBH officers acting under delegated authority resolved to refuse planning permission for the Application. On 26 February 2018 the Mayor directed LBH that he would act as the Local Planning Authority for the purposes of determining the application. In making his Direction, the Mayor noted the potential contribution of the scheme to the delivery of housing and affordable housing.
 - 1.4 Following the Mayor’s Direction, amendments were made to the Application increasing the number of residential units from 427 to 441, an increase in the amount of affordable housing from 40% to 50%, a commensurate uplift in wheelchair accessible units and playspace, an increase in height of block B by two stories, an increase in family sized units, a reduction in car parking by 6 spaces and an increase in cycle parking by 196 spaces.
 - 1.5 On 11 July 2018, the Mayor undertook an accompanied site visit with GLA and TfL officers, representatives from LBH, Historic England and the Applicant team.
 - 1.6 On 20 July 2018, a public Representation Hearing was held at City Hall for the Mayor to consider the Application as amended and hear from third parties opposed and in favour of the scheme, as well as from LBH.
 - 1.7 Following the hearing, on 22 August 2018, the Mayor undertook a second accompanied site visit to Royal Botanic Gardens Kew with GLA and TfL officers, representatives from the Council, Historic England, Royal Botanic Gardens Kew and the Applicant to assess the visual impact of the scheme on the World Heritage Site.
 - 1.8 Following the site visit on 22 August 2018, the Mayor resolved to grant planning permission in line with the recommendation of GLA officers, subject to conditions and the conclusion of a S106 agreement.
 - 1.9 On 20 November 2018 a Holding Direction was issued by the Secretary of State, preventing the Mayor from granting planning permission. The Secretary of State called in the Application for his determination on 15 April 2019. Following the ‘call in’ letters were received from the Planning Inspectorate (PINS) confirming the start date and the date for the Public Inquiry.
 - 1.10 The Mayor is a principal party to the appeal which requires him to prepare and present detailed technical information and opinions; most notably in respect of heritage impacts, urban design, transport benefits and affordable housing/financial viability. Legal representation by Leading

Counsel will be required at the public inquiry, as well as specialist consultant input.

- 1.11 A bespoke timetable for the public inquiry has been set by the Planning Inspectorate as follows:
- 15 October 2019: Submit Statement of Common Ground to Planning Inspectorate.
 - 9 December 2019: Submit Proofs of Evidence to Planning Inspectorate.
 - 14 January 2020: Public inquiry opens and sits for 12 days.
- 1.12 Legal fees are estimated to be up to £129,000 based on the following breakdown:
- Brief fee: £65,000;
 - Daily Refresher of £4,000 per day for 11 days: £44,000; and
 - Contingency (including conferences, preparation, drafting/amending of documents): £20,000.
- 1.13 Professional specialist consultant fees are estimated to be up to £20,000 based on the expected requirements to put forward the Mayor's case.
- 1.14 Procurement will be carried out in accordance with the Contracts and Funding Code.
- 1.15 It is therefore requested that the Executive Director approves a budget and authorises expenditure up to this figure. This figure is based on fee quotes from a barrister chambers and further quotes will be obtained from professional consultancies. These figures are estimates and may increase depending on the complexities of the case and evidence of other parties that may need to be responded to, which would require further budget approval.

2. Objectives and expected outcomes

- 2.1 To enable preparation for, and presentation of a robust Mayoral case at, the forthcoming Public Inquiry in January 2020.

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, gender, sexual orientation (and marriage or civil partnership status for the purpose of the duty to eliminate unlawful discrimination only). This duty has been taken into account, but no additional equality impact assessments are required beyond those considered in the relevant planning documentation for the Mayor to make these decisions.
- 3.2 In addition to the above the procurement process will set out that any potential contractors must comply with the Public Sector Equality Duty

4. Other considerations

Risk Management

- 4.1 If the Mayor's decision is not robustly presented there is a very real risk that the London Plan would be undermined and London's strategic planning interests would not be properly taken into account by the Secretary of State when he considers the case, thereby impacting the Mayor's ability to carry out his statutory duties. The Mayor could also incur very significant costs (in the event of a

successful application for costs award by the appellant) should he be found to have acted unreasonably or unlawfully.

5. Financial comments

- 5.1 Approval is sought for expenditure of up to £150,000 on legal and consultancy services to support GLA officers in expanding on and presenting the Mayor's planning case at the forthcoming public inquiry.
- 5.2 The expenditure will be funded from the Planning Smoothing Reserves.

6. Legal comments

- 6.1 Section 30 of the Greater London Authority Act 1999 (as amended) ('GLA Act') gives the Mayor a general power to do anything which he considers will further one or more of the principal purposes of the GLA. The principal purposes, as set out in section 30(2), of the GLA Act are:
- promoting economic development and wealth creation in Greater London;
 - promoting social development in Greater London; and
 - promoting the improvement of the environment in Greater London.
- 6.2 In formulating the proposals in respect of which a decision is sought, officers confirm that they have complied with GLA'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
 - consider consulting with appropriate bodies.
- 6.3 Section 34 of the GLA Act, which allows the Mayor to do anything which is calculated to facilitate or is conducive or incidental to the exercise of any of his functions, and the Mayor's powers under section 38 of the GLA Act to delegate to any member of staff functions of the GLA that are exercisable by him, and the foregoing sections of this form indicate that the decision requested falls within the above statutory powers of the GLA exercisable by the Executive Director – Development, Enterprise & Environment.

7. Planned delivery approach and next steps

Activity	Timeline
Procurement of suitable specialists (legal and heritage)	September – October 2019
Preparation of case and evidence	October - December 2019
Public inquiry	January 2020

Appendices and supporting papers:

1. Stage 3 report.
2. SoS 'call in' letter dated 15 April May 2019.

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) 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 approval or on the defer date.

Part 1 Deferral:

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

If YES, for what reason:

Until what date: (a date is required if deferring)

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be 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:

Kate Randell has drafted this report in accordance with GLA procedures and confirms that:

✓

Assistant Director/Head of Service:

Juliemma McLoughlin has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

Financial and Legal advice:

The Finance and Legal teams have commented on this proposal, and this decision reflects their comments.

✓

Corporate Investment Board:

The Corporate Investment Board reviewed this proposal on 16 September 2019.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

M. D. Allen

Date

17.9.19

