

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2637

Title: Interim Procedure for Representation Hearings

Executive Summary:

To agree, for publication, 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 Greater London Authority Act 2007 requires the Mayor to publish a procedure which sets out the arrangements for representation hearings. The Mayor is required to hold such hearings before he determines a strategic planning application that he has taken over.

The first hearing is scheduled to take place on 5 August 2020, as such this decision needs to be made place in advance of that hearing for it to proceed.

Decision:

That the Mayor:

- 1) agrees, for publication, an Interim Procedure for Representation Hearings (attached as Appendix A) to take effect until further notice; and
- 2) agrees that approval of further versions of the Interim Representations Hearings procedure shall be delegated to the Assistant Director for Planning provided that those revisions are of a non-material and non-contentious nature.

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: 4 August 2020

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

Decision required – supporting report

1. Introduction and background

1.1 Section 35 of the Greater London Authority Act 2007 ('the Act') inserted section 2F into the Town and Country Planning Act 1990. This requires that where the Mayor takes over applications, the applicant and the local planning authority be given the opportunity to make oral representations at a Representation Hearing ('hearing'). The Act also requires the Mayor to publish a document ('Procedure') setting out:

- who may make oral representations;
- the procedures to be followed at the hearing;
- arrangements for identifying information which must be agreed by persons making representations.

1.2 The current Procedure was approved on 10 February 2016 under decision MD1580. This Interim Procedure replaces that document. This form proposes an Interim Procedure for 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 relating (The Coronavirus Act 2020) to the conduct of local authority meetings held before 7 May 2021. In particular, this legislation makes provision for decision making by remote means and remote access of the public and press to enable their attendance or participation by electronic means. The Interim Procedure 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.

1.3 The Interim Procedure will not endure beyond the period during which applicable coronavirus legislation is in force and will be kept under review having regard to changing restrictions and other practical considerations arising out of the overall management of the pandemic situation. It is intended that, when circumstances allow, the Interim Procedure will revert to one which is identical to or substantially similar to that which is currently in force.

1.4 The Interim Procedure sets out the process for:

1. hearings to be held virtually;
2. consultation on the application;
3. participation in the hearing;
4. decision making.

1.5 It is proposed that the Assistant Director for Planning be authorised to approve revisions to the Interim Procedure and any future Procedure provided that those revisions are of a non-material and non-contentious nature.

2 Objectives and Expected Outcomes

2.1 The objective of the Interim Procedure is to provide for hearings to be held in a way which enables the continuation of decision making in the planning process via remote participation during the period of the pandemic.

3 Equality comments

- 3.1 The GLA is subject to the public sector equality duty (PSED) under section 149 of the Equality Act (Act) 2010. The Act requires the identification and evaluation of the likely potential impacts, both positive and negative, of GLA decisions on those with protected characteristics.¹ The Mayor is to have due regard 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 share a protected characteristic and those who do not. This may involve, in particular, removing or minimising any disadvantage suffered by those who share a relevant protected characteristic and taking steps to meet the needs of such people. In certain circumstances compliance with the Act may involve treating people with a protected characteristic more favourably than those without it.
- 3.2 Amending the current Procedure is considered the best way to maintain the ability to hold hearings during this challenging period, while minimising any impact on any persons whether they have any protected characteristics or not. Consideration has been given to the protected characteristic of age, as evidence indicates increased digital exclusion amongst the elderly. To address this impact provision will be made in letters asking individuals to identify whether this causes them a barrier to participation, and support will be provided where appropriate on a case by case basis.
- 3.3 It is recognised that some Londoners may be excluded from the process for reasons of not having access to the internet due to poverty or their housing arrangements. This may not necessarily be as the result of a protected characteristic, but it is important that provision is made to support anyone in this circumstance, so notification letters will also invite individuals to identify their needs and officers will work on finding solutions on a case by case basis. This may include providing a telephone number for individuals to use to dial into the meeting, or finding a means of providing internet access near to their home.

4. Other considerations

Risk

- 4.1 As well as discharging the statutory requirement, the Interim Procedure provides information and clarity on the hearings process. The key risk lies in the possibility for procedural error or unfairness: however this has been mitigated by keeping the proposed virtual processes as close as possible to the current Procedure as well as maintaining simple processes for everyone to follow.

Links to Mayoral Strategies and Priorities

- 4.2 Publication of the Procedure forms part of the statutory provisions that enable the Mayor to take over strategic applications in certain circumstances. The extent to which a proposal is of such a nature or scale that it would have a significant impact on the implementation of the London Plan is one of the tests that the Mayor must consider to be met if he is to take over an application. Thus this document supports the implementation of the London Plan.

Conflicts of Interest

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

5. Financial comments

¹ These are: age, disability, gender reassignment, pregnancy and maternity, race, gender, religion or belief, sexual orientation and in certain circumstances marriage and civil partnership.

There are no direct financial implications related to this proposal.

6 Legal comments

- 6.1 Section 35 of the Act introduced a legal requirement to publish a document i.e. the Procedure covering the arrangements for oral representations at a hearing for strategic planning applications that the Mayor has taken over for his own determination under powers contained within section 2A of the Town and Country Planning Act 1990. The proposed Interim Procedure reflects recent legislation, namely 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 relating to the conduct of local authority meetings held before 7 May 2021. In particular, this legislation makes provision for decision making by remote means and remote access of the public and press to enable their attendance or participation by electronic means.

7 Planned delivery approach and next steps

- 7.1 The Interim Procedure will become operative as soon as the MD is signed and the Interim Procedure has been published on the London.gov.uk website. It will apply until further notice and will be kept under review.
- 7.2 There is no obligation to consult on the proposed changes.

Appendices:

Appendix 1 – Interim Procedure for Representation Hearings

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

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Peter Kemp and Debbie Jackson/Lucinda Turner have drafted this report in accordance with GLA procedures and confirm 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 27 July 2020

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature



Date

28 July 2020

CHIEF OF STAFF:

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

Signature

Approval received via email from Nick Bowes, Mayoral Director, Policy (on behalf of the Chief of Staff), to Felicity Harris on 29 July 2020.

Date

29 July 2020