

GREATER LONDON AUTHORITY

REQUEST FOR ASSISTANT DIRECTOR DECISION – ADD2360

Title: Kensington Forum Hotel Judicial Review costs

Executive Summary:

On 5 November 2018 the Mayor issued a direction to call in the planning application for development at the Kensington Forum Hotel site. The Royal Borough of Kensington & Chelsea Council (RBKC) subsequently submitted a judicial review request to the High Court, challenging this decision. Following a protracted negotiation over the details of the Mayor's direction, GLA officers on behalf of the Mayor decided to submit a Consent Order to the Court acknowledging that the decision should be quashed and re-taken. This was agreed by RBKC and confirmed by the Court on 16 April 2019. A subsequent direction to call in the application was made by the Deputy Mayor for Planning, Regeneration & Skills under delegated powers on 23 April 2019.

The GLA is required under the Consent Order to pay RBKC's costs incurred making the Judicial Review claim, which have been agreed at £20,000.

Decision:

That the Assistant Director of Planning approves:

The payment of £20,000 to RBKC for their costs following the Kensington Forum Hotel Judicial Review.

AUTHORISING ASSISTANT DIRECTOR/HEAD OF UNIT

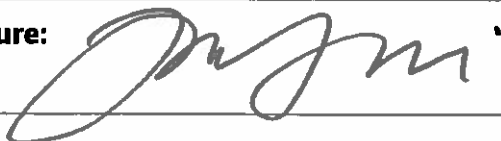
I have reviewed the request and am satisfied it is correct and consistent with the Mayor's plans and priorities.

It has my approval.

Name: Juliemma McLoughlin

Position: Assistant Director - Planning

Signature:



Date:

19-8-19

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

- 1.1. On 5 November 2018, having considered a report on the application, the Mayor notified the Royal Borough of Kensington & Chelsea (RBKC) that he would act as the local planning authority for the purposes of determining the planning application under the Town and Country Planning (Mayor of London) Order 2008 and the powers conferred by Section 2A of the 1990 Town and Country Planning Act 1990.
- 1.2. On 7 December 2018 RBKC issued a Pre-action Protocol Letter to the Mayor for a proposed claim for Judicial Review against the direction of the Mayor to become the local planning authority for the determination of the application and subsequently submitted the claim to the High Court.
- 1.3. The claim consisted of two main grounds; 1) that there had been a factual error in terms of how housing and affordable housing figures had been presented in the report accompanying the Direction; and 2) that the Mayor failed to take into account RBKC's proposals for housing and affordable housing delivery on its own land. Permission was granted for the claim to proceed to the High Court on 13 February 2019.
- 1.4. Despite initially contesting the claim, GLA officers reviewed their position and, having taken Counsel's advice, considered that the quickest and least costly way forward would be to agree that the Direction should be quashed and the decision re-taken by the Mayor.
- 1.5. This was agreed by RBKC and confirmed by the Court on 16 April 2019. A subsequent direction to call in the application was made by the Deputy Mayor for Planning, Regeneration & Skills under delegated powers on 23 April 2019.
- 1.6. RBKC's initial costs were submitted in excess of £24,000 (excl VAT), but following a period of negotiation this was reduced to £20,000 and agreed between the parties.

2. Objectives and expected outcomes

- 2.1 To pay the costs of £20,000 that have been agreed with RBKC following the Judicial Review.

3. Equality comments

- 3.1. There are no equalities implications relevant to this decision.

4. Financial comments

- 4.1 Approval is sought for expenditure of £20,000 to RBKC for their incurred legal costs following the Kensington Forum Hotel Judicial Review.
- 4.2 The costs will be funded from the Planning Smoothing Reserves.

5. Legal comments

- 5.1 Payment of RBKC's legal costs is a requirement of the Consent Order and can be enforced by the Court if not complied with.

6. Planned delivery approach and next steps

Activity	Timeline
Payment of costs	August 2019

Appendices and supporting papers:

Appendix A: Original Mayoral Direction 5 November 2018

Appendix B: Updated Mayoral Direction 23 April 2019 including Consent Order

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

If YES, for what reason:

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

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:

Nick Ray has drafted this report in accordance with GLA procedures and confirms the following:

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 12 August 2019.

ASSISTANT DIRECTOR OF FINANCE AND GOVERNANCE:

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

Signature



Date

13. 08 19