

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION - MD2475

Title: Development Management Review of External Fees and Charges

Executive Summary

This Mayoral Decision form seeks approval for the implementation of bespoke Planning Performance Agreements (PPAs) and for new charges to apply to fixed price PPAs for applications recovered by the Mayor and to Level 2 Pre-Application Advice meetings. The changes are viewed as being beneficial to London and its physical development.

Decision

The Mayor is asked to approve:

1. The implementation of bespoke Planning Performance Agreements (PPAs) for complex schemes;
2. A standing delegation to the Assistant Director of Planning to enter into such schemes up to a cap of £250,000 on a cost recovery basis from the developer to cover GLA officer and, if required, consultant costs; with the delegation to be exercised via an ADD decision form for each individual Planning Performance Agreement;
3. An increase to the charge from £65,000 + VAT to £95,000 + VAT for fixed price PPAs for all applications that have been recovered by the Mayor;
4. An increase to the charge from £7,500 + VAT to £10,000 + VAT for Level 2 Pre-Application Advice meetings for users of the service to reflect full cost recovery under s.93 of the Local Government Act 2003; and
5. The new charges and arrangements coming into effect on 10 June 2019.

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:

11/6/19

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

Decision required – supporting report

1. Introduction and background

Bespoke Planning Performance Agreements

- 1.1. Planning Performance Agreements were formally introduced into the planning system on 6 April 2008 and are principally aimed at major planning applications that need substantial amounts of officer time and negotiation throughout the life of the scheme and allow officers to improve the quality of schemes that are eventually submitted as planning applications and determined. They also allow the GLA to charge for officer time taken up by the larger scale strategic schemes.
- 1.2. Some strategic major applications by their nature will require considerable input by the GLA. They will require many meetings covering a wide range of planning and related technical issues and needing the inputs of officers from many disciplines. The developer's programme will cover many months and may in some instances be longer than a year. For these schemes where it is clear from the outset the level of GLA planning support required will be in excess of the standard service, it is proposed to introduce a bespoke Planning Performance Agreement to cover the cost of discretionary services over a set time period with the agreement of the applicant on a cost recovery basis. The proposal is based on the principles of front-loading planning discussions by working collaboratively and proactively to shape development proposals so they are in accordance with the Mayor's London Plan.
- 1.3. Bespoke Planning Performance Agreements are used by many London boroughs and are used by the GLA on schemes such as Bishopsgate Goodsyard. It is anticipated that a bespoke approach will be necessary for other strategic major schemes as they are brought forward e.g. Euston.
- 1.4. It is envisaged the bespoke Planning Performance Agreement whenever practical will operate in parallel to the borough Local Planning Authority Planning Performance Agreement with joint GLA/borough meetings with the developer. The benefits to the developer would be:
 - Greater support from the GLA planning service;
 - Clarity of what is required from the outset;
 - Collaborative approach from the GLA and borough LPA;
 - Agreement of meetings in advance, including milestones to be reached and structure for any discussions;
 - Obligations with the GLA to deliver against specific targets and milestones; and
 - A guaranteed project management of their planning application.
- 1.5. The benefits to the GLA are:
 - Developers and officers would have a clear timetable with achievable milestones throughout the programmed timeframe for determination;
 - The timetable would be documented so the GLA can manage the timing of delivery and resources required; and
 - Developers would meet the cost of GLA officer time and any necessary external technical advice.
- 1.6. It is proposed that costs up to a cap of £250,000 +VAT be recovered through the bespoke Planning Performance Agreement. The cost of each Planning Performance Agreement will be calculated in advance based on the developer's programme and the GLA resources necessary to meet and deliver the programme. The cost will be based on the rates below and will be agreed with the applicant on a cost recovery basis.

Planning Officer PPA rates:

Officer Type	Day Rate	Hour Rate
Head of Service, Deputy Head of Service and Team Leaders	£780	£108
Principal Strategic Officers	£690	£95
Senior Strategic Officers	£610	£85
Strategic Officers	£550	£75
Technical Support Officer	£470	£65

- 1.7. The cost will be broken down into four periodic payments. The first payment will be paid in advance of the start of the programme with subsequent payments on set dates. No work by GLA officers pursuant to the Planning Performance Agreement will be undertaken until the required payment is made.
- 1.8. The GLA will be working with the developer to advise on the best way to deliver the scheme. It would be made clear to all parties from the outset that any agreement entered into is without prejudice to the determination of any planning application.

Fixed Fee Planning Performance Agreement

- 1.9. The fixed fee for recovered applications introduced in May 2018 is currently set at £65,000 + VAT. The fee covers the resources required by the Planning Unit which are:
- Planning officer time;
 - Planning support team time;
 - Urban design advice;
 - Other technical advice; and
 - The administration costs of facilitating the public hearing.
- 1.10. A review of the called in applications has found that in the main they have been complex contentious schemes requiring extensive input of the senior management team as well as the considerable time of a dedicated case officer and a supervising Team Leader. It is therefore proposed that the fixed fee should be raised to £95,000 +VAT to fully reflect the involvement of GLA officers and to ensure full cost recovery. This fee should cover the programme agreed in the Planning Performance Agreement. If, due to complexity or other factors, a longer period is needed to deal with a recovered application, it is proposed additional charges are made based on the extra time needed and the agreed GLA officer hourly and daily rates in the Planning Performance Agreement (PPA).
- 1.11. The £95,000 +VAT fee will need to be paid at the start of the recovery process. The fee for the time beyond 13 weeks will be agreed with the developer and paid in advance at the expiry of the 13 weeks. Any other fees including the cost of non-planning unit based professional officers or advisers would need to be paid as they fall due.

Level 2 Pre-Application Advice

- 1.12. The GLA can pass on the cost of operating non-statutory services. As a result, pre-application advice is a chargeable service enabling the costs to be recovered. In May 2018 two distinct levels of advice were introduced:
- Level 1 - High Level 'in principle' advice based on limited information and generic assumptions with members of the senior management team, normally the Head of Development Management and a Team Leader. The fee for the service is £2,500 +VAT; and
 - Level 2 - Detailed advice in writing based on plans submitted with a letter and other supporting information, providing confirmation as to whether the development complies with planning policy

and what alterations may be required to achieve compliance. The fee for the service is £7,500 +VAT.

- 1.13. Since their introduction the Planning Unit within the Development Enterprise and Environment Directorate has monitored and reviewed the new pre-application service and the impact of the charges to ensure the costs of providing the service are covered and that income is spent in relation to the service within the Regulations associated with the Local Government Act.
- 1.14. The two-level pre-application service has been a success. The senior management team has consistently stressed the importance of pre-application engagement to both developers and the boroughs particularly in the light of the publication of the Mayor's new London Plan.
- 1.15. No changes are proposed to the Level 1 service. They will be constantly monitored to ensure the meetings remain a forum for high level advice and are not used by developers to seek the more detailed advice of a Level 2 meeting.
- 1.16. The charge for the Level 2 Service has been reviewed and benchmarked against a number of inner London boroughs. It is proposed to increase the charge for the service to £10,000 +VAT. The benchmarking confirmed the proposed new charge to be comparable with what the boroughs charge.

2. Objectives and expected outcomes

- 2.1. The principal objective is to maintain an effective high-quality strategic planning service at a time of pressure on resources and growing external and corporate demands by ensuring there are sufficient resources to deal with pre-application advice and applications including call ins by the Mayor. The expected outcomes are:
 - A continuation of the ability to deal with increasing workloads particularly the pre-application service by having sufficient resources in place; and
 - Allowing the GLA planning function to keep up with high and rising levels of demand for advice whilst delivering an efficient fit for purpose strategic planning function for the Mayor.

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). 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

- 4.1. **Mayoral strategies and priorities:** pre-application advice is fundamental to the implementation of the Mayor's London Plan which seeks to ensure that the city meets the challenges of economic and population growth with much needed housing and commercial floorspace along with other associating social infrastructure and transport infrastructure to enable the development. The Mayor's comments and decisions on referable planning applications is a key implementation tool of the London Plan. The pre-application service helps to ensure subsequent applications deliver London Plan objectives.
- 4.2. **Risk Management issues:** there is a possibility that some developers may be put off requesting pre-application advice because of the increased charge. This could result in poor quality applications and

lower income than predicted. Monitoring since the introduction of the new charges last year shows there has been a good take up of both levels of the pre-application service. The bespoke Planning Performance Agreement complements the existing pre-application offer and based on the experience of boroughs who offer the service and discussions with major developers it is anticipated developers will be willing to enter into the agreements because of the certainty the approach provides. In all instances regular monitoring of income will be necessary to ensure the costs of providing the service are covered and the income is spent within the Regulations associated with the Local Government Act.

5. Financial comments

- 5.1 The implementation of a new bespoke Planning Performance Agreement for complex major strategic planning applications and the proposed increases to existing service charges set out in this report reflect a full cost recovery model. The new charges will be published on the GLA website and come into effect on 10 June 2019.
- 5.2 As outlined within the Local Government Act 2003, income derived from charging fees cannot exceed the costs of providing the service but allows the budget to be balanced over a period of time. Consequently, and in-line with previous financial years any surplus income received beyond expenditure from pre-application charges and Planning Performance Agreements will be placed in the Authority's Pre-application and Smoothing reserves at the end of the financial year (in-line with Section 93 of the Local Government Act which allows the GLA to establish a reserve to ensure all income generated is utilised on the service).

6. Legal comments

- 6.1 The above paragraphs indicate 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 that will promote 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:
- a) Pay due regard the principles that there should be equality of opportunity for all people;
 - b) 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 United Kingdom; and
 - Climate change, and the consequences of climate change and 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. Pre-application discussions are critically important and beneficial for both developers and planning authorities in ensuring better mutual understanding of objectives and constraints that exist and can help to improve the environment in London.
- 6.3 The Authority also has a subsidiary power pursuant to Section 34 of the Act to do anything which is calculated to facilitate or is conducive to the exercise of any of the statutory functions of the Authority. These pre-application meetings are a facilitative way to exercise the section 30 powers defined above, and as such also fall within section 34.
- 6.4 Section 93 of the Local Government Act 2003 ("the Act") provides the authority with the power to charge for discretionary services. Discretionary services are those services that the Authority has the power but is not obliged to provide. The carrying out of this Service is discretionary.

- 6.5 The power to charge is subject to a duty to secure that the income from charges throughout the Authority does not exceed the costs of provision of any service it provides, taking one financial year with another. Providing the cost increase is based on actual costs of providing this service i.e. salary costs and reasonable estimated/actual on costs, this is lawful. The ability to take one financial year with another allows for the establishment of a contingency. For the purposes of the power to charge for discretionary services, the prohibition on raising money at section 34(2) of the Act is to be disregarded.

7. Planned delivery approach and next steps

Activity	Timeline
Start date	10 June 2019
Evaluation	On-going monitoring

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

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:

John Finlayson has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Debbie Jackson 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 3 June 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

3.6.19

CHIEF OF STAFF:

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

Signature

D. Bellamy

Date

10/6/2019.

