

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2653

Title: Land Adjacent to 20 Bury Street Public Inquiry

Executive Summary:

The Mayor on 15 July 2019 under powers conferred by Article 6 of the Town & Country Planning (Mayor of London) Order 2008 directed the City of London Corporation to refuse planning permission for the redevelopment of the land adjacent to 20 Bury Street.

The applicant has submitted a planning appeal to be heard by way of a Public Inquiry.

A Mayoral Decision (MD2576) approved expenditure of up to £350,000 exclusive of VAT to cover the costs of defending the decision to refuse the planning application.

Decision:

The Mayor approves:

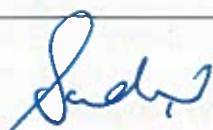
Additional expenditure of up to £250,000 exclusive of VAT on top of the £350,000 already approved within MD2576 to cover the costs of defending the decision to refuse the planning application at 20 Bury Street. This will take the total expenditure for defending this appeal up to £600,000 exclusive of VAT (to include a necessary contingency).

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:

7/7/20

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

Decision required – supporting report

1. Introduction and background

- 1.1 A planning application for a scheme on land adjacent to 20 Bury Street in the City was submitted to the City of London Corporation on 19 November 2018. The scheme entails the demolition of existing building and structures and construction of a building to a height of 305.3m AOD (above ordnance datum) for a mixed-use visitor attraction, including viewing areas, restaurant/bar area, and retail use at ground floor level; construction of a two-storey building comprising visitor entrance and public roof garden. Following consideration at their planning committee on 2 April 2019, the City of London Corporation resolved to grant planning permission.
- 1.2 The Corporation advised the Mayor of the decision on 4 July 2019. Under the provisions of Article 5 of the Town & Country Planning (Mayor of London) Order 2008 the Mayor may allow the draft decision to proceed unchanged, direct refusal under Article 6, or issue a direction to the Corporation under Article 7 that he is to act as the Local Planning Authority for the purposes of determining the application. On 15 July 2019, the Mayor directed the City of London Corporation to refuse planning permission for the following reasons:
 - the proposal would not constitute the high standard of design required for a tall building in this location;
 - the proposal would compromise the ability to appreciate the Outstanding Universal Value of the Tower of London World Heritage Site and would cause harm to the historic environment, the wider skyline and image of London, strategic views, as well as the public space surrounding the site. The public benefits of the scheme are limited and would not outweigh this harm; and
 - the proposals would also result in a poor quality, unwelcoming, unnecessarily confined pedestrian environment and would provide inadequate cycle parking.
- 1.3 The City of London Corporation refused planning permission on the 19 July 2019. The applicant has lodged a planning appeal to be heard by way of Public Inquiry.
- 1.4 The GLA is the principal party defending the Mayor's decision as the City of London recommended approval and is in support of the applicant's proposals. If the Mayor's decision is not robustly presented there is a very real risk that the London Plan will be undermined to the detriment of London's strategic planning interests. The Mayor could also incur very significant costs (in the event of a successful application for costs) should he be found to have acted unreasonably or unlawfully.
- 1.5 The Mayor's decision is supported by the Government heritage advisor Historic England who consider that the height and design of the building would cause permanent and irreversible damage to the setting of the Tower of London and, in turn, the image and identity of the capital. There is also considerable opposition to the proposal on heritage grounds from Historic Royal Palaces who manage the Tower of London. This is an asset of not just regional and national, but international, significance and international organisations UNESCO and ICOMOS have also stated their opposition to the proposal.
- 1.6 The initial estimate of £350,000 was based on the information available and what was known at the time the first MD was prepared. This is difficult since, inevitably, at that stage there are still many factors which are unknown. The biggest factors in determining the level of costs in a Public Inquiry are the costs of legal representation and the costs of expert witnesses. The coronavirus pandemic has added delays in the timetable and process while also creating practical difficulties of producing evidence. This, along with a few other unforeseen circumstances has led to the costs of defending the appeal set out within MD2576 increasing. As matters have progressed, in order to build the strongest case (thereby ensuring a robust and successful defence of the decision to refuse planning permission)

it has become necessary for junior Counsel to be instructed to support Leading Counsel as well as the appointment of an architect/design consultant. A further expert in transport may also potentially need to be instructed. Due to this range of pressures and factors, it is now considered that the costs of defending the appeal will be up to £600,000 including contingency.

2. Objectives and expected outcomes

- 2.1 The principal objective has been to put together an effective high-quality team of external consultants and GLA/TfL officers led by an eminent Planning Leading Counsel and Junior Counsel capable of robustly defending the decision to refuse planning permission. This will give the Mayor the greatest chance of successfully defending the appeal.

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

Mayoral strategies and priorities

- 4.1 The Mayor’s London Plan seeks to ensure that the city meets the challenges of economic and population growth whilst protecting heritage assets and ensuring a high quality of design. The Mayor’s comments and decisions on referable planning applications is a key implementation tool of the London Plan.

Risk management issues

- 4.2 Regular monitoring of costs incurred will be necessary to ensure the costs are within the agreed scope.

Conflicts of interest

- 4.3 There are no conflicts of interest to note for any of those involved in the drafting or clearance of the decision. All potential conflicts were checked in the appointment of the defence team.

5. Financial comments

- 5.1 Approval is sought for an increase in expenditure from £350,000 to up to £600,000 (exclusive of VAT) for this public inquiry. The revised indicative fees taking account of expenditure already incurred and contracted are broken down as follows:

Fees	Cost
Leading Counsel	300,000
Junior Barrister	60,000

Architectural Advice	100,000
Heritage Consultant	60,000
Administrative and printing	30,000
Transport Consultant	20,000
Contingency	30,000
Total	600,000

- 5.2 There are some costs associated with this appeal which fall outside of the estimated budget. The planning (including strategic views), initial urban design and some parts of the transport evidence can be provided in-house by the GLA and TfL officers and, as such, will not incur additional costs beyond the usual staff budget. The proposed increase in expenditure of £250,000 from that previously approved via MD2576 will be funded from a combination of the existing Planning Unit's budget for 2020-21 and the Authority's Planning Smoothing Reserve.
- 5.3 It should be noted that a contingency has been included within the overall budget and it is expected at this stage that the final expenditure for the inquiry will remain within the overall envelope of £600,000. In the event the complexities of the case and the evidence of other parties necessitate additional resources, this will be subject to further approval via the Authority's decision-making process.

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 importance 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. Rigorous defending of reasons to refuse planning permission are critically important to the successful implementation of policies in the London Plan.
- 6.3 In taking the decisions requested, the Mayor 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 (race, disability, gender, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) 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 Mayor should have particular regard to section 3 (above) of this report.

- 6.4 The officers are reminded that the expenditure, which is set out in decision section of this MD, must be made in accordance with the requirements of the Authority's Contracts and Funding Code.

7. Planned delivery approach and next steps

Activity	Timeline
Preparation of detailed case and evidence	March to September 2020
Preparation of Statement of Common Ground and liaising with appellant on the preparation of the s106 agreement and Planning Conditions.	August to September 2020
Preparation of rebuttal evidence	October 2020
Public Inquiry	November 2020

Appendices and supporting papers:

None.

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

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:

John Finlayson has drafted this report in accordance with GLA procedures and confirms 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 1 September 2020.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

Date

D. Gane

1 September 2020

CHIEF OF STAFF:

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

Signature

Date

D. Bellamy

1 September 2020