

MAYOR OF LONDON

Ms Sakina Shiekh AM

Chair

London Assembly Planning and Regeneration
Committee

Our ref: MGLA

Your ref:

Date: 25th November 2022

Dear Sakina,

Please see attached the response to the Planning and Regeneration Committee's recommendations for community involvement in the call-in process.

I apologise that this has taken so long to get to you – the team have been seeking to implement a number of actions e.g. website improvements but this has taken longer than anticipated.

You will note that there is an invite to be involved in testing the new website during December, please can you confirm to Peter Kemp in the Planning team if this is something that you or members of the Committee would be keen to be involved in.

Yours sincerely,



Jules Pipe

Deputy Mayor for Planning, Regeneration and Skills

MAYOR OF LONDON

Annex

Mayor of London's response to the recommendations of the London Assembly Planning and Regeneration Committee's report/investigation on Community involvement in the call-in process

Recommendation 1

The Mayor should conduct a holistic review of the call-in process in order to pinpoint increased opportunities for community engagement and information sharing.

The Mayor's ability to direct that he is to be the local planning authority for the purposes of determining a planning application derives from statute, as does much of the process surrounding it - and the Mayor and GLA must operate within this defined framework. The ability to so direct is informally referred to as a 'Mayoral call-in'. As well as meeting the statutory requirements, the process should also observe general public law principles such as fairness and transparency.

The Mayor's involvement via a call-in is at a late stage in the overall planning process. It follows significant consultation and engagement in local planning policy (e.g. via the local plan-making process and any site-related policies) as well as specific pre-application engagement with the developer and commenting formally on the particular development proposal as part of the statutory planning consultation and Local Planning Authority (LPA) processes, including planning committee stage. By the time the Mayor calls in an application, the proposals are at an advanced stage.

When the Mayor issues a call-in direction, he notifies the LPA who are obliged to record it on a public register that they are statutorily required to maintain. Information on called-in applications is also available on the GLA website. Where appropriate through the call-in process, GLA officers may seek to improve on the public benefits of a proposed scheme and/or reduce its impacts. Any proposed changes to the application that are material are consulted upon, and this is advertised via public notices as well as notification letters issued directly to people in the vicinity of the site and also those who have previously commented on the application.

Before the Mayor determines a called-in application, the applicant, the LPA and local community representatives have an opportunity to make oral representations at a representation hearing. The Mayor produces a procedure for representation hearings which is published on the GLA website and is reviewed regularly. During the pandemic period representation hearings had to be held on a virtual basis – this has now switched to a hybrid format to enable people to engage in the best way for them.

Further community engagement and information must fit within the statutory framework, however, the Mayor is keen to explore specific opportunities to enhance engagement and information sharing and has already asked the GLA to implement a number of changes. This includes enabling Londoners to provide their comments more

MAYOR OF LONDON

easily via the website; advising Londoners as soon as possible after an application is called in; including relevant and more timely information on the website; and procuring a new website to better support this (see Recommendation 6). GLA officers are also considering putting in place a framework for meetings with resident groups during the call-in process (see Recommendation 3).

The GLA Planning team will keep this under review and look for further opportunities to improve and embed community involvement within the defined frameworks.

Recommendation 2

The Mayor and Deputy Mayor should conduct site visits without the presence of the applicant or their representatives – only the GLA and borough representatives should be present. The Mayor should instead follow up with the applicant or their representatives after the visit if there are any specific questions.

Site visits are conducted in accordance with the Mayor's procedure for representation hearings, publication of which is a statutory requirement.

The site visit procedure reflects general public law principles relating to probity in planning and procedural fairness. The procedure closely follows long-established processes observed by (a) local planning authorities for site visits by Members and (b) the Planning Inspectorate in relation to planning appeals. A Mayoral legal adviser attends the site visit to ensure that protocol is followed.

The procedure is clear that site visits are not an opportunity for lobbying, public address or for the submission of any new information from any interested party and this is firmly enacted. The site visit is essentially a fact-finding exercise for the Mayor to assist him as decision-maker and currently no opportunity for speaking is afforded to any party who attends the site visit, unless specifically requested by the Mayor in order to answer a question of fact.

The Mayor is considering the desirability of reducing the number of people currently entitled to attend site visits, which is set out in the current procedure. Excluding the applicant but not the LPA, however, would also raise some concerns around fairness and transparency. An alternative might be to exclude anyone other than the Mayor and GLA staff; this needs to be balanced against the benefits of the Mayor being able to put factual questions to the LPA and applicant during the site visit.

Recommendation 3

GLA case officers sometimes meet with residents on an ad hoc basis to discuss any points they may have on an application. The Mayor should improve on this current ad hoc engagement by making it mandatory for case officers to meet with residents in person, and meaningfully consider any reasoned amendments put forward by residents or community groups.

MAYOR OF LONDON

As part of the normal planning process, the Mayor is provided with, and takes account of, all representations received on planning applications referred to him, whether originally submitted to the LPA or direct to the Mayor. GLA officers often seek amendments and improvements to proposals in light of these representations. In the vast majority of cases the LPA will remain the decision maker, in consultation via the referral process with the Mayor as strategic planning authority. It would not be appropriate, having regard to the LPA's role and in terms of allocation of GLA resource, to mandate in-person meetings to discuss development proposals.

In terms of applications that are called in to be determined by the Mayor - while it is not appropriate for it to be 'mandated', GLA Planning officers have been asked to consider this further so as to demonstrate that the GLA is offering an enhanced level of engagement, while having regard to the resources at its disposal. The GLA will be putting in place a protocol that will notify residents of applications as soon as they are called in by the Mayor, and a structure for resident groups to meet with the relevant case officer.

It is important to bear in mind that the role of the LPA is to determine the application submitted for consideration. Nonetheless, Government guidance is clear that planning authorities must work positively and proactively with developers to find constructive solutions to deliver planning objectives.

With that in mind, where residents put forward alterations or alternative proposals to the submitted application, these are fed through to the applicant to consider whether they could be incorporated. The GLA encourages applicants to engage pro-actively with local communities and to consider changes that would improve local benefits / reduce any impacts – but ultimately the decision on whether to include changes rests with the applicants. The decision-maker on the planning application must continue to fulfil their statutory obligation to determine the application in front of them in accordance with the development plan in force unless material considerations indicate otherwise.

Recommendation 4

Building on Recommendation 1, the Mayor should publish information on any meetings that take place between the GLA and the applicant.

As set out in recommendation 1, the Mayor and GLA will continue to look at further opportunities to improve transparency in decision-making.

The Mayor is committed to openness and transparency in the exercise of all of his functions, and is similarly mindful of specific legal requirements in relation to information sharing. The Mayor has sought to enhance openness within planning, demonstrated for example by the work on opening up viability assessments for scrutiny.

MAYOR OF LONDON

At the same time, the nature of planning is complex and Government guidance is clear that planning authorities must work positively and proactively with developers to find constructive solutions to deliver planning objectives. This entails discussions and negotiations between parties that involve often confidential and commercially sensitive information and it is important to allow space for informal discussions to take place between officers and applicants and for relevant information to be fully shared. If parties are reluctant to do so, this would limit the potential outcomes of such meetings, and reduce the effectiveness of the process.

With this balance in mind, and while the full recommendation is not accepted, the Mayor has asked officers to further reflect on what information could routinely be made available in relation to called-in applications over and above that which is already published.

Recommendation 5

The Mayor should explore how he can support capacity and capability building for community groups, so that Londoners are more able to engage with the planning process.

The Mayor agrees with the importance of communities being able to engage in decisions that affect them, and community capacity building is at the heart of many programmes and services across the GLA.

In terms of planning, officers are looking at how to enhance understanding of the planning process so that Londoners are better able to engage. Much of this relates to the local level and it is vital that LPAs work with their residents and stakeholders to enable them to participate.

GLA officers have been asked to consider what might be appropriate and feasible at the strategic level and to review who is – and importantly who is not - currently engaged in the planning process, so that we might better target efforts to broaden participation in planning. Some of the measures set out in response to other recommendations are also relevant here, for example in terms of better access to information about planning applications.

Recommendation 6

The Mayor should continue to work to make the GLA planning website more accessible.

The Mayor accepts this recommendation.

A review of the London.gov website has been undertaken corporately by the GLA. In addition, approval has been given to - and work is now well underway on - the development of a new planning website and search facility within this ([ADD2566 - Referred Planning Applications Website Procurement | LGOV \(london.gov.uk\)](#)). This is

MAYOR OF LONDON

aimed to make it easier for Londoners to more readily access information about applications that have been referred to the Mayor and how they can make representations on those applications. Work is also being commissioned to add to the website which will set out in accessible ways the referral and call in process and how people can engage.

Officers will be testing the new website over the next month and are offering community representatives and Assembly Committee members the opportunity to be involved in this (the team will set up a session for anyone interested). Talk London will also be engaging Londoners to help trial it to enable early identification of any issues and feedback.

Recommendation 7

The Mayor should explore the possibility of a gentrification impact assessment for London planning applications, looking at impacts on existing communities, including socio-economic and cultural effects on different communities.

The Mayor is subject to a number of statutory duties in this regard, as set out in the Greater London Authority Act 1999 and in equalities legislation and has further identified his own Good Growth objectives in the London Plan.

Matters relating to protected characteristics, as defined by the Equality Act 2010, where appropriate are addressed in Equality Impact Assessments (EqIAs) to support the consideration of planning applications. In addition to this, provision is often made in Environmental Impact Assessments around projected social and economic impacts of developments. This is carried out within a statutory framework ensuring transparency and consistency, and form the basis of information for the decision maker.

The Mayor is unable to accept this specific recommendation.

Recommendation 8

Following from recommendation 1, the Mayor should keep the relevant council (or councils) updated throughout the call-in process so they are aware of any changes being made to the application. This should include a specific update at the point after the discussions have concluded but before the publication of the Stage 3 Report.

In line with legal requirements and as a matter of good practice, the Mayor and his officers actively consult and engage with the borough officers throughout the planning process, including when applications are called-in. This often involves detailed ongoing joint working, for example on draft s106 agreements.

For each call-in, a dedicated webpage is now established at the outset and updated to reflect the progress of called-in applications. While GLA officers usually provide

MAYOR OF LONDON

periodic updates to their borough counterparts and 'give a heads up' before publication of the Stage 3 report, they have been asked to consider whether this can be carried out on a more routine basis. In terms of updating local Councillors, other than via the GLA website, it seems most appropriate for borough officers to keep their members up-to-date on progress, rather than the Mayor or GLA staff.

Recommendation 9

The Mayor should review the practice of allowing substantial amendments to called-in planning applications. There should be:

- a presumption that substantial amendments require a new planning application, unless such amendments can be strongly justified.
- clear and transparent guidelines about when such amendments would be permitted, with the same opportunities extended to residents as well as applicants.

The Mayor must continue to follow national planning guidance in this regard. National guidance stipulates that an applicant may suggest changes to an application before it has been determined. It is also possible following a consultation period to ask the applicant to revise the application to address concerns and overcome a possible objection. It is at the discretion of the LPA whether to accept such changes; to determine if the changes need to be reconsulted on; or if the proposed changes are so significant as to materially alter the proposal such that a new application should be submitted. The extent of this cannot really be codified in guidance and is a matter of judgement for the relevant decision-maker to make.

As set out in response to recommendation three, there is an obligation on the Mayor when he becomes the local planning authority to work positively and proactively with an applicant to find constructive solutions to deliver planning objectives and address harm caused by any development proposals. This is done through negotiation and seeking amendments to schemes, often in response to issues raised by local communities.

The process is clear and transparent about amendments that are proposed and they are re-consulted upon as appropriate, such that there is ample opportunity to comment. GLA officers have been asked to look at how the new website could support this and make it more streamlined for Londoners to engage.

Recommendation 10

The following changes should be made to the call-in process to improve decision making and accountability. The Mayor should make each of these changes under existing legislation where possible. Where legislation needs to be amended, the Mayor should state this and advocate for the necessary changes to central Government. The Mayor should:

- review the criteria for call-ins to avoid different interpretations

MAYOR OF LONDON

- explore the possibility of providing opportunities for local community groups to influence whether or not applications are called in.
- explore the possibility of establishing a public sector equality duty impact assessment for planning applications.

The Mayor is always keen to hear Londoners' views on planning applications and any representations to the Mayor made at any point in the process - including views as to whether he should call in an application - are given due regard in his consideration of each application.

However, the process for calling in applications is set out in legislation, including the criteria and specific tests that the Mayor must apply before issuing any direction. The Mayor cannot disregard or amend these. If the Assembly considers that the criteria or other aspects should be changed it would seem most appropriate for them to make representations to central government and seek the required changes to both primary and secondary legislation.

In terms of equalities assessments for planning applications, under section 149 of the Equality Act 2010, the Mayor and the GLA are subject to the public-sector equality duty and must have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity between people who share a relevant protected characteristic and those who do not; and foster good relations between people who share a relevant protected characteristic and those who do not.

The three aims of the equality duty must be fulfilled on a continuing basis and the Mayor and GLA officers have regard to the equality duty when assessing, considering and determining all planning applications referable to him as well as in his prescribed planning processes and consultations.

Recommendation 11

The Mayor should publish plain English versions of key documents alongside the original. This would make the content more accessible for Londoners, whilst maintaining the legal integrity of the original document

It would not be possible for GLA officers to redraft specific application materials but the Mayor has asked officers to explore opportunities to publish plain English versions of other documents where feasible e.g. a simple summary of the application to accompany / supplement the statutory publication for a called in scheme. Meanwhile, work to develop an easily accessible guide on the referral and call-in process has been commissioned and will be added to the website.