

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD3246

Title: Former Stag Brewery Richmond, London Public Inquiry

Executive Summary:

On 16 February 2024, Reselton Properties Limited (the Applicant) informed the Greater London Authority (GLA) that they had lodged an appeal against the London Borough of Richmond upon Thames' (Richmond Council) non-determination of the redevelopment of the Stag Brewery (Application A - 22/0900/OUT), and its linked application for a new secondary school (Application B - 22/0902/FUL) (together the "Applications"). A public inquiry estimated to last eight days will be held (the date is not yet confirmed). This Mayoral Decision (MD) seeks approval for funding to cover the costs relating to the Mayor's potential involvement in that public inquiry.

Decision:

That the Mayor approves expenditure of up to £450,000 to cover the costs of participating in the public inquiry.

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:

27/2/24

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

Decision required – supporting report

1. Introduction and background

- 1.1 On 11 March 2022, two linked planning applications for the comprehensive phased mixed-use redevelopment of the former Stag Brewery site (comprising of up to 1,085 residential homes alongside office, flexible commercial, community, hotel and cinema uses together with a boathouse, a new secondary school and sixth form with associated sports pitch, play space, multi-use games area, alongside associated landscaping, public realm, access and flood defence works with building heights of up to nine-stories, plus basement) were submitted to Richmond Council.
- 1.2 On 12 April 2022, the Mayor of London received documents from Richmond Council notifying him of the two planning applications of potential strategic importance to develop the above site for the above uses. The GLA Stage One report dated 20 June 2022 (attached) raised a number of strategic issues, the primary concerns being in relation to affordable housing and urban design and heritage with transport and climate change also being of concern.
- 1.3 At the time of the GLA Stage One report, the development proposed 15 per cent affordable housing (by unit) with a 20:80 tenure mix weighted towards intermediate shared ownership, which was noted as wholly unacceptable. The GLA Stage One report highlighted that the overall level of affordable housing should be increased and the tenure mix revised and weighted in favour of social rent. Housing affordability levels should be secured alongside early, mid and late-stage viability review mechanisms. Furthermore, a number of the assumptions and conclusions in the applicant's Financial Viability Assessment were not accepted, including profit requirements, residential sales values and the substantial deficit. It was further considered that the quantum of affordable housing in the outline element of the scheme should be further optimised within the proposed building footprint and massing.
- 1.4 On 19 July 2023, Richmond Council's Planning Committee resolved to grant planning permission for the redevelopment of the Stag Brewery (Application A - 22/0900/OUT), and its linked application for a new secondary school (Application B - 22/0902/FUL), subject to no adverse directions by the GLA and Secretary of State (SoS), and completion of a Section 106 legal agreement.
- 1.5 By the time of the July 2023 committee, the scheme had been modified and provided a reduced level of affordable housing at 65 units, which represents 7.6 per cent by habitable room but at 80 per cent social rent and 20 per cent intermediate, with three and four bed units making up most of the social rent provision.
- 1.6 On 24 July 2023, the Secretary of State for Levelling Up, Housing and Communities announced that all buildings over 18 metres in height would require a second staircase as a means of escape. The Applicant took the decision to amend the main redevelopment application (Application A - 22/0900/OUT) to reflect the forthcoming changes regarding second staircases, prior to any referral to the GLA. The amended Application A would be taken back to Richmond Council's Planning Committee for consideration of the amendments only. The July 2023 resolution for the linked application for the school would stand as it was for the principal part (i.e. the unamended part) of the main application.
- 1.7 On 31 January 2024, Richmond Council's Planning Committee resolved to grant planning permission for the amended scheme. The amended scheme maintains the same level and mix of affordable housing as proposed in the July scheme, constituting 7.5 per cent of the total habitable rooms.
- 1.8 On 16 February 2024, the Applicant lodged an appeal against the non-determination of the Applications. The main effects of the appeal are twofold. Firstly, the jurisdiction to determine the Applications will move from Richmond Council to the Planning Inspector (acting on behalf of the SoS) who will determine the application after a public inquiry. Secondly, the obligation under the Mayoral Order 2008 to refer the Applications to the Mayor for a Stage Two report, engaging the Mayor's

power to call-in or direct refusal of the applications or leave Richmond Council's resolutions to stand, will not apply. Therefore, it is critical that the Mayor's position is explored further and, if appropriate, robustly defended at the inquiry. Otherwise, there is a real risk that the London Plan will be undermined to the detriment of London's strategic planning interest. It is considered unlikely that Richmond Council will contest the appeal as its Planning Committee has already resolved to grant the applications.

- 1.9 Presuming that the Applications as proposed remain unacceptable to the Mayor (given the low level of affordable housing, viability concerns and the concerns around urban design and heritage; transport; and climate change) the GLA would apply for rule 6 status at the inquiry. Rule 6 status would mean that the Mayor would be considered a main party to the inquiry.
- 1.10 The estimated costs of the Mayor's involvement in the inquiry are based on the information currently available, but it is difficult to be precise at this stage, since inevitably there are still many factors which are unknown. The biggest factors in the costs of public inquiries are legal representation and the cost of expert witnesses. Presenting the Mayor's case at the appeal will require the appointment of leading counsel and an expert witness in the area of financial viability and possibly other areas. It will also require significant input and time from several GLA officers who will need to be temporarily backfilled. It is considered that the costs of defending the appeal will be up to £450,000 including contingency.

2. Objectives and expected outcomes

- 2.1 The main objective is to put together a high-quality team made up of external consultants and GLA/TfL officers, led by an eminent planning leading counsel capable of robustly presenting the Mayor's case. This will provide the greatest chance of robustly defending the Mayor's position.

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, sex, sexual orientation (and marriage or civil partnership status for the purpose of the duty to eliminate unlawful discrimination only). In this instance, it is not expected that there would be 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 are an important tool in achieving the objectives of the London Plan and in particular are a critical lever in delivering the affordable homes that London needs. 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.

Risk management issues

- 4.2 Regular monitoring of costs incurred will be necessary to ensure the costs remain 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.

5. Financial comments

- 5.1 Approval is sought for expenditure up to £450,000 for this public inquiry. The indicative fees are broken down as follows:

| Fees | Cost |
|----------------------|----------------|
| Leading counsel | 200,000 |
| External experts | 100,000 |
| Resource backfilling | 100,000 |
| Contingency | 50,000 |
| Total | 450,000 |

- 5.2 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 should remain within the overall envelope of £450,000. In the event the complexities of the case and the evidence of other parties necessitate additional resources, this would be subject to further approval via the Authority's decision-making process (Mayoral Decision Making in the GLA).
- 5.3 The exact profiling of the expenditure is not clear but it's expected that there will be a small amount of legal costs this financial year with the rest of the costs in 2024-25 depending on the progress of any inquiry which would likely take place in June or July.
- 5.4 There is no allocated budget for this expenditure and therefore this expenditure will need to be covered from within the designated Planning Smoothing reserve. There is currently £198,000 within the Planning Smoothing reserve and a further £300,000 has been added as part of the Mayor's budget setting process for 2024-25 subject to final approval. This will therefore be sufficient to cover the total estimated expenditure of £450,000 if required.

6. Legal comments

- 6.1 The above paragraphs indicate that 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"), to act on behalf of the GLA to do anything which he considers will promote the importance of the environment in Greater London. The above paragraphs also indicate that in formulating the proposals in respect of which a decision is sought, officers have complied with the GLA's related statutory duties to:

- pay due regard the principles that there should be equality of opportunity for all people
- 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
 - 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. Robustly presenting the Mayor's position at the inquiry, if appropriate after detailed consideration, is vital to the successful implementation of policies in the London Plan.
- 6.3 In taking the decision 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, sex, 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 Officers are reminded that the expenditure, which is set out in the decision section of this MD, must be made in accordance with the requirements of the GLA's Contracts and Funding Code.

7. Planned delivery approach and next steps

| Activity | Timeline |
|--|----------------------|
| Preparation of detailed Statement of Case and evidence | February – June 2024 |
| Preparation of Statement of Common Ground and liaison with appellant on the preparation of the s106 agreement and Planning Conditions. | February – June 2024 |
| Preparation of rebuttal evidence | Not known |
| Public Inquiry | Not known |

Appendices and supporting papers:

Appendix 1 - Stage One report dated 20 June 2022.

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:

Lucinda Turner 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 26 February 2024.

✓

INTERIM CHIEF FINANCE OFFICER:

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

Signature:



Date:

26/02/2024

CHIEF OF STAFF:

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

Signature:



Date:

26/02/2024