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Title: Mayor's Planning Decisions Powers

Executive Summary

On the 11 July 2019, the Planning Committee held a formal meeting investigating Mayoral Planning Decisions Powers. The meeting invited a number of guests to discuss the process involved in exercising the Mayor's planning decisions powers.

At the meeting the Committee agreed to delegate authority to the Chair, in consultation with the Deputy Chair, to agree any output from the discussion.

A letter has now been agreed and will be sent to the Mayor containing a number of recommendations following on from the Committee meeting.

A copy of the letter is included within **Appendix 1**.

Decision

To agree that the letter, as set out at Appendix 1, be sent to the Mayor, from the Planning Committee, with recommendations following the Committee meeting held on 11 July 2019.

Assembly Member

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

9/12/19

Printed Name

Andrew Boff AM, Chair, Planning Committee

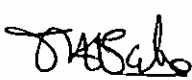


Decision by an Assembly Member under Delegated Authority

Notes:

1. *The Lead Officer should prepare this form for signature by relevant Members of the Assembly to record any instance where the Member proposes to take action under a specific delegated authority. The purpose of the form is to record the advice received from officers, and the decision made.*
2. **The 'background' section (below) should be used to include an indication as to whether the information contained in / referred to in this Form should be considered as exempt under the Freedom of Information Act 2000 (FoIA), or the Environmental Information Regulations 2004 (EIR). If so, the specimen Annexe (attached below) should be used. If this form does deal with exempt information, you must submit both parts of this form for approval together.**

<p>Background and proposed next steps:</p> <p>On the 11 July 2019, the Planning Committee held a formal meeting investigating Mayoral Planning Decisions Powers. The meeting invited a number of guests to discuss the process involved in exercising the Mayor's planning decisions powers.</p> <p>At the meeting the Committee agreed to delegate authority to the Chair, in consultation with the Deputy Chair, to agree any output from the discussion.</p> <p>A letter has now been agreed and will be sent to the Mayor. A copy of the letter has also been circulated to Members of the Committee for information.</p> <p>A copy of the letter, and information on the decision taken under delegated authority will be reported back to the next Committee meeting.</p> <p>The information included within the letter is not considered to be exempt.</p>
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Confirmation that appropriate delegated authority exists for this decision		
Signed by Committee Services		Date 6/12/19
Print Name:	J A Baker	Tel: 2825

Financial implications		
NOT REQUIRED		
Signed by Finance	N/A	Date
Print Name	N/A	Tel:

Legal implications

The Committee has the power to make the decision set out in this report.

Signed by Legal

..........

Date

.....6/12/19.....

Print Name

Emma Strain, Monitoring Officer

Tel:

X 4399

Additional information should be provided supported by background papers. These could include for example the business case, a project report or the results of procurement evaluation.

Supporting detail/List of Consultees:

Nicky Gavron AM

Public Access to Information

Information in this form (Part 1) is subject to the FoIA, or the EIR and will be made available on the GLA Website within one working day of approval.

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 or EIR should be included in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form -

No

Lead Officer/Author

Signed

..........

Date

9/12/19

Print Name

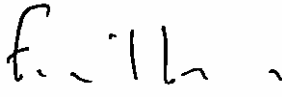
J A Baker

Tel: 2825

Job Title

Senior Committee Officer

Countersigned by
Director


.....

Date 09.12.19

Print Name

Ed Williams

Tel: X4399

Sadiq Khan
Mayor of London
City Hall
The Queens Walk
London
SE1 2AA

13 December 2019

Dear Sadiq

Planning decisions of Potential Strategic Importance (PSI)

During Summer 2019, the London Assembly's Planning Committee¹ examined the mayoral record on 'referable,' or PSI, planning applications, and specifically the applications where the London Mayor has decided to become the local planning authority. The Committee has identified some important issues around how mayoral power is exercised in this context and is making three recommendations which will improve the relevant processes. I am writing to highlight these and seek your response.

'Referable' applications and 'call-ins'

As you know, the boroughs must consult the Mayor for certain types of strategic (or 'referable') applications. They tend to be applications for larger, or taller, schemes, or developments on the Green Belt or Metropolitan Open Land.² During this consultation, the Mayor may direct the local planning authority to refuse the application. Alternatively, the Mayor may decide to take over, or 'call in,' certain referable applications, effectively becoming the local planning authority. Given that the Mayor has the option simply to direct refusal, it is logical that they would normally call in an application only if minded to see it approved, but with appreciable changes to the permission applied for. This might typically be to change the proportion of affordable homes delivered, or the design quality. Since these powers were delegated to the mayoralty, 35 applications have been called in, including 17 under Mayor Johnson and 18 under Mayor Khan. Of these, 29 applications have been determined to date, and all except one, have been approved by the relevant Mayor.³

¹ The London Assembly's Planning Committee monitors and comments on the Mayor's planning powers and role, including his decisions on strategic planning applications.

² The exact criteria are set out in the Schedule to the Town and Country Planning (Mayor of London) Order 2008 (<http://www.legislation.gov.uk/ukxi/2008/580/contents/made>).

³ The only exception has been the Charlton Riverside application (formally known as the VIP Trading Estate) which was rejected by Mayor Khan "following representations by the long-standing Assembly Member for Greenwich, the MP for Greenwich, the LB of Greenwich and the local community."

1 Requests for call ins from applicants

For an application to be called in it needs to:

- have the potential for a significant impact on the implementation of current London Plan policies;
- affect more than one borough;⁴ and
- have ‘sound planning reasons’ for mayoral intervention.

In deciding whether to call in applications, you, as Mayor, apply these three policy tests.

However, on two occasions the Committee is aware of, the relevant Mayor has also been encouraged by the applicant to call in the application. These applications and call-in requests were both made by planning consultancy DP9:⁵

- On 10 January 2014, Mayor Johnson received a request that he call in two planning applications at the Mount Pleasant Sorting Office site, in the London boroughs of Camden and Islington.⁶
- On 15 September 2015, Mayor Johnson, received a request that he call in two planning applications at the Bishopsgate Goodsyrd site in the London boroughs of Hackney and Tower Hamlets.⁷

At our July meeting, we were struck by guests’ concerns that applicants may have tried to use mayoral call-in powers to trump a planning decision they did not like. For example, Michael Bach, from the London Forum of Amenity and Civic Societies, said: *“We asked the officers, “How many of the applications that you have dealt with have you ever recommended refusal?” The answer was zero...The call-in was applied to get the scheme through planning. There was absolutely no doubt about that in our mind.”* There is clearly the suspicion that an applicant might actively encourage the Mayor to call in an application if they felt that Mayor would be more likely to approve the application than the local borough planning authority.

These are significant planning decisions: the permissions in question must be strategically important or they would not be liable to call-in. The Mayor should only call in strategic applications based strictly on the three policy tests and it is essential that Londoners can have confidence that this is the case. Given the concerns expressed by our guests, the Committee believes the Mayor should ensure that applicants and their agents are actively discouraged from directly requesting call-ins, and provide complete transparency regarding all requests for call-ins.

⁴ Unless more than 150 homes are being developed

⁵ DP9 offers “specialist expertise to advise on planning strategies, the preparation of planning application submissions and negotiations through the approvals process”. Source: <http://www.dp9.co.uk/company/>

⁶ <https://www.london.gov.uk/WHAT-WE-DO/PLANNING/PLANNING-APPLICATIONS-AND-DECISIONS/public-hearings/mount-pleasant-sorting>

⁷

https://www.london.gov.uk/sites/default/files/PAWS/media_id_48884/Take%20over%20request%20letter.pdf

Recommendation 1

As part of the strategic planning process, the Mayor should discourage call-in requests on the relevant GLA web pages, and in his initial representation letter to the applicant and/or their agent at Stage 1 of the referral process. He should disclose the identities of anyone that has lobbied for and against a call-in, including any informal requests, setting out the reasons they gave and how he has taken these reasons into account. The Stage 2 planning report would be a logical place to include these details. This will allay suspicions that applicants or others are attempting to by-pass the democratic process of local authority scrutiny in order to obtain planning permission.

2 The conduct of site visits and representation hearings for call-ins

As you know, once the Mayor calls in an application, together with officers, they attend a site visit and must hold a public representation hearing before deciding whether or not to grant planning permission.

London Mayors have agreed a protocol governing how site visits and representation hearings are conducted. It sets out who may speak and the procedures to be followed. The current protocol⁸ is nearly four years old and has not been reviewed during this mayoral term.

For site visits, community involvement is severely restricted. Objectors and supporters are not normally invited to attend, though the local planning authority and applicant are.

For representation hearings, supporters and objectors who have made representations are, in principle, collectively entitled to a maximum of 15 minutes' speaking time respectively. However, the Mayor has final discretion on this.

During our July meeting, contributors expressed significant concerns over the constraints placed upon community involvement in these processes. The fear was that the hearing is largely a formality. For example, Dr Edward Denison, Associate Professor from University College London, said of one hearing: *"it was largely pointless. It was the conclusion really to six months of inevitable process that was entirely prejudiced against the community and pro the developer."*⁹ However, community representatives were particularly exercised over their exclusion from involvement in pre-hearing site visits, which are felt to be vital in demonstrating the impact of proposals on local people. Nicholas Boys Smith, Founding Director of Create Streets, noted that for external parties: *"the process of walking around a site... walking to and from the street... or looking at it from over there and doing that with a range of different people, who will not always agree and have different perspectives and different priorities... is incredibly informative. To be honest, it is actually an essential part of responding properly to a site."* However, in common with other planning authorities, the protocol states that the local

⁸ Approved by Mayor Johnson in February 2016

(https://www.london.gov.uk/sites/default/files/md1580_appendix_final_revised_hearing_document_pdf_3.pdf)

⁹ <https://www.london.gov.uk/moderngov/documents/s78194/Draft%20Minutes%20-Appendix%20-%20Mayoral%20Planning%20Decisions%20Powers%20Panel%202.pdf>

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community is “not normally” invited to attend the site visit,¹⁰ in order to avoid prejudicing the outcome.

In the same July meeting, the Deputy Mayor for Planning, Regeneration and Skills agreed that borough and City Hall procedures need updating, including both around communication with the local community and the use of technology to improve the visualisation of proposals.

Recommendation 2

The Mayor must review the current protocol governing representation hearings for strategic planning decisions at the GLA by the end of January 2020. In particular, community representation needs to be more prominent at representation hearings, based on the experience and feedback from those involved in the hearings conducted since May 2014.

3 Criteria for applications to be liable to mayoral call-in

For an application to be called in it needs to:

- have the potential for a significant impact on the implementation of current London Plan policies;
- affect more than one borough;¹¹ and
- have ‘*sound planning reasons*’ for mayoral intervention.¹²

The 29 applications called in and determined by the mayoralty to date represent a wide range of application types and scales. All of these have been deemed to pass the relevant call-in policy tests, as set out in the Town and Country Planning (Mayor of London Order) 2008. The Committee has reviewed all these wide-ranging applications (listed in Appendix 1) and heard concerns from contributors about the application of the criteria. The Committee questions whether these applications do indeed all pass the call-in policy tests. For example, we consider it doubtful whether the Kensington Forum Hotel application, discussed at our 11 July meeting, would have a significant impact on the implementation of the London Plan. In your summary of why you decided to call the application in, your rationale relates to the provision of visitor infrastructure, later referring specifically to the development making “*a strategic and significant contribution towards delivering the London-wide visitor accommodation target of 40,000 net additional hotel bedrooms by 2036 set out in the London Plan.*”¹³ Yet the relative insignificance of the proposed development, in terms of London-wide hotel room provision, was pointed out at our July meeting by Michael Bach, of the London Forum of Amenity and

¹⁰ Para 3.5, Procedure for Representation Hearings at the Greater London Authority version 3.0, GLA, Feb 2016 (https://www.london.gov.uk/sites/default/files/md1580_appendix_final_revised_hearing_document_pdf_3.pdf)

¹¹ Unless more than 150 homes are being developed

¹² The detailed criteria are set out in section 7(1) of The Town and Country Planning (Mayor of London) Order 2008 (<http://www.legislation.gov.uk/uksi/2008/580/contents/made>).

¹³ See, for example, pp1 and 17 of Planning Report GLA/4266/02: Kensington Forum Hotel, Gloucester Road in the Royal Borough of Kensington & Chelsea, GLA, 5 Nov 2018 (https://www.london.gov.uk/sites/default/files/PAWS/media_id_434796/kensington_forum_hotel_97-109_cromwell_oad_report.pdf).

Civic Societies: *"I cannot really see how the redevelopment of an existing hotel, albeit a large one, that produces 183 extra bedrooms at the end of it, is actually strategic."*¹⁴

The Committee fully supports the Mayor's right to take over an application in cases where strategic principles are at stake. However, in the interests of upholding democratic accountability, the Mayor must equally ensure they apply the criteria for call-in with the utmost rigour. They must only intervene in local planning authority decision-making for applications which clearly have a significant strategic impact. And they must explain the rationale succinctly to Londoners.

Recommendation 3

For all outstanding and future call-ins, the Mayor must make more explicit in the statutory referral report summary exactly how the three specific threshold policy tests for call-in have been applied. This would help London local communities understand why a planning decision has had to be taken at mayoral, rather than local, level.

Planning applications shape the future of London for generations to come. The London Assembly Planning Committee wants to ensure that the Mayor is making the right decisions on what is best for London, both now and in the future. That is why the decision as to whether or not to grant individual strategic planning permissions needs to be made on the basis of what is best for London and Londoners living in the local area.

Over the last number of years, London has benefited from strategic planning applications that the current and previous Mayor have approved. However, the Committee is concerned that community voices representing Londoners are not being heard under the current system. We believe the Mayor needs to review this, so that community groups have a say when it comes to strategic planning applications in their areas.

Thank you for your attention. I hope these observations and recommendations are helpful in considering how you call in strategic planning decisions and conduct associated representation hearings in future.

¹⁴ <https://www.london.gov.uk/moderngov/documents/s78194/Draft%20Minutes%20-Appendix%20-%20Mayoral%20Planning%20Decisions%20Powers%20Panel%20.pdf>.

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I would like to request that you respond to this letter by 7 February 2020. Please copy your response to Sheenagh Simpson, Senior Policy Adviser, Housing, Planning and Regeneration (sheenagh.simpson@london.gov.uk).

A handwritten signature in black ink, appearing to read 'Andrew Boff', written in a cursive style.

Andrew Boff AM
Chair of the Planning Committee

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Appendix 1: Mayoral 'call-ins' since 2009

Mayor Johnson's Decisions	Mayor Khan's Decisions	Pending Decisions
<u>Alpha Square</u>	<u>Pentavia Retail Park</u>	<u>Bishopsgate Goodsyard</u>
<u>Former Westferry Printworks</u>	<u>Kensington Forum Hotel</u>	<u>9, 11 and 19 Osiers Road</u>
<u>Monmouth House</u>	<u>VIP Trading Estate</u>	<u>Former Biscuit Factory and LeSoCo campus</u>
<u>Blossom Street</u>	<u>1A & 1C Eynsham Drive</u>	<u>100 West Cromwell Road</u>
<u>Trocoll House</u>	<u>Beam Park</u>	<u>Homebase, Manor Road</u>
<u>56-70 Putney High Street</u>	<u>Newcombe House</u>	<u>Kidbrooke Station Square</u>
<u>City Forum</u>	<u>Citroen Site</u>	
<u>Convoys Wharf</u>	<u>National Institute for Medical Research</u>	
<u>Eileen House</u>	<u>Swandon Way</u>	
<u>Mount Pleasant</u>	<u>Hale Wharf</u>	
<u>Holy Trinity Primary School</u>	<u>Palmerston Road</u>	
<u>Southwark Free School</u>	<u>Wimbledon Greyhound Stadium</u>	
<u>London Fruit and Wool Exchange</u>		
<u>SITA Recycling Park</u>		
<u>Saatchi Block</u>		
<u>Southall Gas Works</u>		
<u>Hertsmere House</u>		

