

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD2834

### Title: Revised Procedure for Representation Hearings – 2021

#### Executive summary:

This decision requests the Mayor to agree, for publication, a Revised Procedure for Representation Hearings to replace the Interim Procedure which was prepared in response to the threat to public health posed by the incidence and spread of the coronavirus. The Interim Procedure set out arrangements for wholly virtual hearings but, with the lapsing of the temporary legislation which allowed this, we now need to revise our procedure again. Section 2F of the Town and Country Planning Act 1990 (as amended) requires the Mayor to publish a procedure that sets out the arrangements for representation hearings. The Mayor is required to hold such hearings before they determine a strategic planning application that they have taken over.

The procedure sets out the processes to publicise and make Londoners aware of the hearing, and provide access to documentation, together with what will actually happen at the hearing. This amended version of the procedure will enable the Mayor to hold hybrid hearings, where they, and those that wish to be present are physically in the room, whilst others can access and participate in the hearing remotely.

The next representation hearing is scheduled to take place on 16 July 2021; the Revised Procedure needs to be published in advance of that hearing.

#### Decision:

That the Mayor:

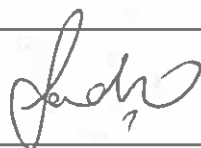
- 1) agrees, for publication, a Revised Procedure for Representation Hearings (attached as Appendix 1) to take effect until further notice; and
- 2) delegates approval of further revisions of the document to the Assistant Director for Planning provided that those revisions are of a non-material and/or non-contentious nature.

#### 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:

5/7/21

## **PART I – NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR**

### **Decision required – supporting report**

#### **1 Introduction and background**

- 1.1 Under section 2F of the Town and Country Planning Act 1990 (as amended), when the Mayor takes over applications, the applicant and the local planning authority must be given the opportunity to make oral representations at a Representation Hearing ('hearing'). It also requires the Mayor to publish a document ('Procedure') setting out:
- who may make oral representations
  - the procedures to be followed at the hearing
  - arrangements for identifying information which must be agreed by persons making representations.
- 1.2 A Hearings Procedure was approved on 10 February 2016 under decision MD1580. This was replaced in summer 2020 by an Interim Procedure under decision MD2637, prepared in response to the threat to public health posed by the incidence and spread of the coronavirus. The Interim Procedure reflected legislation introduced in 2020 relating to the conduct of local authority meetings held before 7 May 2021 under the Coronavirus Act 2020; in particular it modified the access-to-information provisions of Part 5A of the Local Government Act 1972, which apply in modified form to the hearings, and made provision for decision-making by remote means and remote access by the public and press to enable their attendance or participation by electronic means. The Interim Procedure replicated, as far as practicable by virtual means, the procedure that would have applied had the hearing taken place with its participants physically present. The 2020 legislation has now expired and it is no longer permissible to hold hearings on a wholly virtual or remote basis. The proposed Revised Procedure responds to these changed circumstances and provides for hearings to be convened at a physical location, with the Mayor (or other delegated decision-maker) physically present to conduct the hearing. Participants and the public are entitled to attend hearings in person, although they will be offered the option of attending via remote means if they prefer.
- 1.3 The Revised Procedure sets out the process for:
1. hearings to be held at a physical location
  2. consultation on the application
  3. participation in the hearing
  4. decision-making.
- 1.4 It is proposed that the Assistant Director for Planning be authorised to approve future revisions to the Revised Procedure provided that those revisions are of a non-material and non-contentious nature.

#### **2 Objectives and expected outcomes**

- 2.1 The objective of the Revised Procedure is to provide for hearings to be held in a way that reflects the applicable legislation.

### **3 Equality comments**

- 3.1 The GLA is subject to the public sector equality duty (PSED) under section 149 of the Equality Act (Act) 2010. The Act requires the identification and evaluation of the likely potential impacts, both positive and negative, of GLA decisions on those with protected characteristics.<sup>1</sup> The Mayor is to have due regard 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 share a protected characteristic and those who do not. This may involve, in particular, removing or minimising any disadvantage suffered by those who share a relevant protected characteristic and taking steps to meet the needs of such people. In certain circumstances compliance with the Act may involve treating people with a protected characteristic more favourably than those without it.
- 3.2 The Revised Procedure will enable hearings to be held in a way which reflects recent legislative changes, while minimising any impact on any persons whether they have any protected characteristics or not. By providing for hearings at a physical location, which participants and the public are entitled to attend in person, as well as having the option to attend via remote means, the Revised Procedure maximises opportunities for participation and attendance.

### **4. Other considerations**

#### *Risk*

- 4.1 As well as discharging the statutory requirement, the Revised Procedure provides information and clarity on the hearings process. The key risk lies in the possibility for procedural error or unfairness, however, this has been mitigated by reinstating the right to attend hearings in person, as well as offering an option of attendance via remote means and by maintaining a simple process which everyone can follow.

#### *Links to Mayoral strategies and priorities*

- 4.2 Publication of the Revised Procedure forms part of the statutory provisions that enable the Mayor to take over strategic applications in certain circumstances. The extent to which a proposal is of such a nature or scale that it would have a significant impact on the implementation of the London Plan is one of the tests that the Mayor must consider to be met if he is to take over an application. Thus this document supports the implementation of the London Plan.

#### *Conflicts of interest*

- 4.3 There are no conflicts of interest to note for any of the officers involved in the drafting or clearance of this decision form.

### **5. Financial comments**

- 5.1 There are no direct financial implications related to this proposal.

### **6 Legal comments**

- 6.1 Section 2F of the Town and Country Planning Act 1990 requires the Mayor to publish a document (i.e. the Procedure) covering the arrangements for oral representations at a hearing

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<sup>1</sup> These are: age, disability, gender reassignment, pregnancy and maternity, race, gender, religion or belief, sexual orientation, and (in certain circumstances) marriage and civil partnership.

for strategic planning applications that the Mayor has taken over for his own determination under powers contained within section 2A of the Town and Country Planning Act 1990.

- 6.2 In 2020 an Interim Procedure was introduced in response to coronavirus legislation<sup>2</sup> relating to the conduct of local authority meetings held before 7 May 2021, which made provision for decision-making by remote means and remote access by the public and press to enable their attendance or participation by electronic means. That legislation has now expired and it is no longer permissible to hold hearings on a wholly virtual or remote basis. The proposed Revised Procedure responds to these changed circumstances and provides, once again, for hearings to be convened at a physical location, with the Mayor physically present to oversee the hearing. Participants and the public are entitled to attend hearings in person, although they will be offered the option of attending via remote means if they prefer.
- 6.3 The arrangements for hearings and site visits in the Revised Procedure will at all times need to have regard to applicable legislation and guidance relating to the Covid-19 pandemic and it is possible that modifications to published arrangements may be required from time to time. In particular, social distancing measures may require the GLA to limit the number of physical attendees at a hearing and some GLA staff involved may participate remotely as required.

## **7 Planned delivery approach and next steps**

- 7.1 The Revised Procedure will become operative as soon as this decision form is signed and the Revised Procedure has been published on the London.gov.uk website. It will apply until further notice and will be kept under review.
- 7.2 There is no obligation to consult on the proposed changes.

### **Appendices:**

Appendix 1 – Revised Procedure for Representation Hearings

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<sup>2</sup> Section 78 of the Coronavirus Act 2020 and The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

**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**

Is there a part 2 form - **NO**

**ORIGINATING OFFICER DECLARATION:**

Drafting officer to confirm the following (✓)

**Drafting officer:**

Lucinda Turner 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 28 June 2021.

**EXECUTIVE DIRECTOR, RESOURCES:**

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

**Signature**

*D. Rowe*

**Date**

29 June 2021

**CHIEF OF STAFF:**

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

**Signature**

*D. Bellamy*

**Date**

29 June 2021

