

Individual Executive Decision General Exception Notice



Decision Maker: Mayor's Executive Decision Making, Not before 12th June, 2014

Classification:
Exempt

Poplar Baths & Dame Colet House - Financial Close

Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 – notice is hereby given of the intention to make a Key Decision where it is impractical to provide 28 clear days' notice in advance of the decision being taken.

This notification will be published at least 5 clear days before the decision is taken.

NATURE OF DECISION/RECOMMENDATION REQUIRED:

The Mayor to be recommended to:

- Confirm acceptance of the variations to the Development Agreement to allow the project to reach financial close.
- Confirm his preference with regard to the indemnity requirements now required by the Developers Funders in order for the deal to be finalised. These options are set out in Section 2 of the report.

Reason why it is impractical to provide 28 clear days' notice of the decision:

The Poplar Baths and Dame Colet scheme has been significantly delayed due to negotiations resulting in these variations. This has been driven as noted by the need to make the project bankable. Over this time the cost of financing the scheme has risen and whilst within the current cabinet approval further cost increases may make the scheme unaffordable to the council. The current and recent trend in interest rate swap hedging indicates a continued cost increase to the project for any delay. Failure to enter into the contracts because of this delay given that the bank and developer are ready and waiting to sign could give rise to claims from either the developer or bank who may seek to recover losses. Even were these claims to fail fighting them would cost the Council irrecoverable costs.

Further delays will inevitably also lead to cost pressures within the contract which could lead to downstream cost pressures on the scheme as a whole and therefore risk insolvency of the SPV.

The current bank credit approval is also time limited and whilst currently extended for the current delay a significant delay will require the bank to revisit credit committee which will also put the project at risk of failure or cost increase.

The bank, developer and the Council continue to be exposed to ongoing costs which also require resolution to avoid further cost increases. A decision either for or against the proposals contained in this report will crystallise costs rather than allowing them to continue to escalate.

Because of the risks and issues identified above further delay may prejudice the Council's commercial interests as outlined and in this respect the notice and call-in periods are considered significant.

Further details about the decision

Key Decision? Yes	Ward(s) Blackwall & Cubitt Town; Lansbury; Limehouse; St Dunstan's
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Community Plan Theme	A Great Place to Live
Who will be consulted before decision is made and how will this consultation take place	Extensive consultation has taken place within the council and with the development partner and funder. In addition, the council has sought and received legal advice on all aspects of achieving financial close.
Has an Equality Impact Assessment been carried out and if so the result of this Assessment?	No
Contact details for comments or additional information	Public contact name: Nadir Ahmed nadir.ahmed@towerhamlets.gov.uk or 020 7364 6710
What supporting documents or other information will be available?	None
Is there an intention to consider this report in private session and if so why (Paragraph number – see notes section)?	Fully Exempt (the whole report will be exempt) The report will be exempt in its entirety. The report contains information that is commercially sensitive in relation to the contract documents, the council's proposal around achieving financial close and the requirements of the funder.

NOTES

Advance notice of Key Decisions

Key decisions are all those decisions which involve major spending, or savings, or which have a significant impact on the local community. The precise definition of a key decision adopted by Tower Hamlets is contained in Article 13.03 of the [Constitution](#). Key Decisions are taken by the Mayor, or the Mayor in Cabinet.

Further information on the Mayor and Members of the Cabinet can be found on the Council [website](#).

Individual notices of new Key Decisions will be published on the website as they are known, whilst a Forward Plan collating these decisions will be published 28 days before each Cabinet meeting. The Forward Plan will be published on the Council's website and will also be available to view at the Town Hall and Libraries, Ideas Centres and One Stop Shops if required. [The Committee pages](#) on the Council website include copies of the Forward Plan, Cabinet and other meeting dates and the publication dates of the Forward Plan.

If, due to reasons of urgency, a Key Decision has to be taken where 28 days' notice have not been given. Notice will be published (including on the website) as early as possible and Urgency Procedures as set out in the Constitution will have to be followed.

The most effective way for the public to make their views known about the issues listed in the Forward Plan is to examine the consultation column of the Forward Plan, and/or contact the report author or Cabinet Lead Member as soon as possible, and no later than 10 working days before the decision is expected to be taken.

You can also view the Council's [Consultation Calendar](#), which lists all the issues on which the Council and its partners are consulting.

Reports, appendices and background papers will be available on the Council's website 5 clear working days before the Cabinet meeting. For all other information or to submit documents in relation to any issue, please contact the relevant officer.

Notice of Intention to Conduct Business in Private

The Council is also required to give at least 28 days' notice if it wishes to consider any of the reports on the agenda of an Executive meeting (such as Cabinet) in private session. The last row of each item below will indicate any proposal to consider that item in private session. Should you wish to make any representations in relation to an item being considered in private please contact Democratic Services on the contact details listed below. Note that this applies to Cabinet but not to Individual Mayoral Decisions outside of Cabinet.

The notice may reference a paragraph of Section 12A of the 1972 Local Government Act. In summary those paragraphs refer to the following types of exempt information (more information is available in the Constitution):

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority handling the information)
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:-
 - a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Democratic Services Contact Details:

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