



City of Westminster

Cabinet Member Report

Decision Maker:	Cabinet Member for Place Shaping and Planning
Date:	9 th August 2018
Classification:	For General Release
Title:	Knightsbridge Neighbourhood Plan Decision Statement
Wards Affected:	Knightsbridge and Belgravia
City for All Summary	Making the Examiner's recommended modifications to the Knightsbridge Neighbourhood Plan and proceeding to a local referendum will support a city that celebrates its communities, by empowering local communities to provide planning policies that respond to local issues.
Key Decision:	No
Financial Summary:	The costs of amending the Draft Knightsbridge Neighbourhood Plan and administering a local referendum will be met within existing budgets.
Report of:	Director of Policy, Performance and Communications

1.0 EXECUTIVE SUMMARY

- 1.1 This reports seeks approval to make amendments to the draft Knightsbridge Neighbourhood Plan, and proceed to a local referendum on if the plan should be 'made', in accordance with an independent examiner's recommendations. If 'made', the plan will form part of the council's Statutory Development Plan, and be used alongside adopted policies in the London Plan, City Plan and Unitary Development Plan (UDP) (saved policies) to determine planning applications in Knightsbridge.
- 1.2 Under neighbourhood planning regulations, councils are required to publish a 'decision statement', setting out what actions they proposed to take in response to an examiner's recommendations. A draft decision statement is provided as appendix 1 of this report.

2.0 RECOMMENDATIONS

- 2.1 That the Cabinet Member agrees:
- A) That the recommendations of the examiner as set out in the council's decision statement (see appendix 1), be accepted.
 - B) That the examiner's recommendation that the Knightsbridge Neighbourhood Plan, as modified in appendix 2, proceed to a referendum.
 - C) That in accordance with the examiner's recommendation, the referendum area be restricted the neighbourhood area designated by the council on 27th March 2014 as the Knightsbridge Neighbourhood Area.

3.0 REASONS FOR DECISION

- 3.1 The examiner's recommendations will ensure the Knightsbridge Neighbourhood Plan is clear and effective as a framework for making decisions on planning applications in the Knightsbridge Neighbourhood Area. They address the concerns raised by the council and other stakeholders, and ensure the plan meets the basic conditions prescribed by legislation.
- 3.2 Before a neighbourhood plan can be made, it is a statutory requirement that it is first subject to a local referendum. Before this happens, the council must publish a decision statement setting out the actions it proposes to take in response to the examiner's report.

4.0 BACKGROUND

Process

- 4.1 Neighbourhood plans are statutory planning documents which can establish general planning policies for the development and use of land in a

neighbourhood. They must be prepared by a designated neighbourhood forum made up of members of the local community. Once prepared, they are subject to public consultation, independent examination, and a referendum.

- 4.2 Knightsbridge neighbourhood area was designated by the council on 27th March 2014 in accordance with Section 61G of the Town and Country Planning Act 1990. On 21st July 2015 Knightsbridge Neighbourhood Forum (KNF) were designated as the neighbourhood forum for the area, and subsequently began preparing a draft neighbourhood plan.
- 4.3 KNF published a draft plan for regulation 14 pre-submission consultation in December 2016. It was subsequently revised in light of comments received, before submission to the council in November 2017. Regulation 16 consultation on the plan was then carried out from December 2017 to February 2018.
- 4.4 In February 2018, the council, in consultation with KNF, appointed Ms Jill Kingaby BSc (Econ) MSc MRTPI as independent examiner of the plan. The purpose of the examination was to determine if it met the basic conditions required by legislation, other legal requirements, and should proceed to referendum. The basic conditions, as set out in the Town and Country Planning Act 1990 (as amended) are that the plan:
 - has appropriate regard to national policy;
 - contributes to the achievement of sustainable development;
 - is in general conformity with the strategic policies in the development plan for the area;
 - is compatible with EU regulations;
 - meets human rights requirements.
- 4.5 The examiner considered that a public hearing into the plan was not required and the examination was conducted through written representations. The examiner's report concludes that, subject to making the modifications recommended in her report, the plan meets the basic conditions set out in legislation, and should proceed to a local referendum. It also recommended that the area for the referendum should be limited to the neighbourhood plan area.

Modifications

- 4.6 The modifications recommended by the examiner respond to issues raised through formal consultation on the draft plan. These include the council's own reservations that the plan was: highly prescriptive and would impose onerous requirements on developers and the council; overly focussed on process; went beyond the scope of neighbourhood land use planning; and did not support sustainable growth.
- 4.7 Through the examination process, the examiner encouraged KNF and the council to seek to overcome areas of disagreement as far as possible through

a statement of common ground. Constructive dialogue between both parties led to a series of modifications being mutually agreed at this stage – and the examiner’s report recommends that all these agreed modifications to the plan be made before it proceeds to referendum. Notably this included the removal from the plan of KNF’s original intentions to impose their own rules and processes regarding construction standards, tree management plans, consultation requirements, road hierarchy, and scales of development.

4.8 In producing the statement of common ground, there were some areas where KNF and the council were unable to reach agreement. On such matters, the examiner’s recommendations, as set out in her report, largely agreed with the council. This included that:

- the plan does need to conform with saved UDP policies (particularly those setting out a city-wide hierarchy of highways);
- the proposed locally protected view along Montpellier Street proposed by the KNF does not merit designation;
- KNF’s proposals to insert additional appendices outlining a series of further protected local views are unjustified;
- improving air quality cannot be tackled at neighbourhood level alone, policy wording needs simplifying, and the plan should not be used to advance particular individuals’ legal opinions;

4.9 Beyond this, there are a small number of modifications the council put forward that the examiner has rejected. These relate to policy and/ or supporting text specifying that:

- the public benefit of any proposals for tall buildings will need considering;
- development of Hyde Park Barracks will require generous separation distances and a distribution of heights across the site;
- Institute of Air Quality Management guidance should be used when assessing air quality.

4.10 None of these rejected modifications are considered fundamental to the effectiveness of the plan, and the examiner’s recommendations that their inclusion is unnecessary, for the reasons set out in her report, is accepted.

4.11 Finally, the examiner also recommended a small number of additional modifications to the plan beyond those already agreed between the KNF and the council. None of these are considered problematic by the council, and can be summarised as follows:

- amending objective 3 to make clear the plan should enable the development of Hyde Park Barracks as a strategic housing site (as the site is identified in the City Plan as a strategic site capable of being developed for housing should the current defence use of all or part of the site cease);

- inserting a cross reference in paragraph 4.29 to the council's own code of construction practice (as a means of managing the impacts of construction activity on residential neighbourhoods);
- amending wording of policy KBR28 so that it encourages active travel (walking and cycling) while also taking into account viability issues, rather than using it as a means to refuse proposals regardless of any such consideration;
- amending policy KBR35 on healthy air so it reflects London plan policy in seeking that development is at least 'air quality neutral' rather than development being 'less polluting than what it will replace';
- amending policy wording of KBR39 so that any re-planting of trees respects local character and heritage (rather than existing character and heritage which could change over time);
- amending policy KBR41 on 'healthy people' to encourage rather than insist on communal lighting that minimises energy consumption and light spillage;
- removal of references to neighbourhood stress areas in paragraph 10.30 for internal consistency within the document; and
- updates to mapping material for consistency with amendments to text within the document.

Conclusion

- 4.12 Officers are satisfied that the examiner's recommendations would enhance the plan, improve its effectiveness in making planning decisions, and ensure the basic conditions are met. Ward Members have been briefed and have made no objections to the council following the examiner's recommendations.
- 4.13 The submitted plan was accompanied by a Sustainability Report which incorporated an assessment of equalities, a Strategic Environmental Assessment Screening Report, and a Habitats Regulations Assessment Screening Report. None of the examiner's recommended modifications are considered to necessitate revisiting any of these assessment.
- 4.14 The examiner's recommendations on the plan are not binding on the council, who may choose to make a decision which differs from the examiner. However, any significant changes from the examiner's recommendations would require a further period of public consultation, and as set out above and in table 1 of appendix 1, all examiner recommendations are supported.

5. CONSULTATION

- 5.1 Consultation on the draft plan has been undertaken in accordance with statutory requirements. The submitted plan was accompanied by a

consultation statement, prepared by KNF, detailing how the drafting of the plan was informed by public consultation.

- 5.2 The council carried out formal regulation 16 consultation on the plan from December 2017 to February 2018 in line with statutory requirements. This included publicising the plan on the council's website, making copies available for inspection at Mayfair and Victoria libraries and at the council's offices at 5 The Strand, and emailing/ writing to all relevant stakeholders on the council's planning policy database. The council's twitter account was also used to draw attention to the consultation.
- 5.3 Now the examiner's report has been received, it is a requirement of the neighbourhood planning regulations that the council publish a decision Statement setting out the actions it proposes to take in response to the examiner's recommendations. A draft decision statement is provided in appendix 1. If approved, this will be published on the council's website, and available for inspection at Mayfair and Victoria libraries, and the council's offices at 5 The Stand and Portland House.

6 FINANCIAL IMPLICATIONS

- 6.1 Neighbourhood planning legislation imposes a number of costs on local authorities – including staff time to support forums, the cost of carrying out consultation on draft plans, and the costs of appointing an independent examiner and administering a local referendum.
- 6.2 All costs are met from existing budgets, and where applicable, offset by grant funding available from the Ministry of Housing, Communities and Local Government (MHCLG) to support the roll out of neighbourhood plans. Once a date has been set for the referendum, the council is eligible to apply for a grant from MHCLG of £20,000. It is anticipated that this will cover the costs of Electoral Services arranging the referendum.

7. LEGAL IMPLICATIONS

- 7.1 The designation of Neighbourhood Forums, Areas, and the making of Neighbourhood Plans, are governed by the Town and Country Planning Act 1990 and the Neighbourhood Planning (General) Regulations 2012.
- 7.2 It is a requirement of regulation 18 of the Neighbourhood Planning Regulations 2012 (as amended) that local authorities publish a decision statement setting out how they intend to respond to an examiner's recommendations. A draft decision statement is included as Appendix 1 to this report.
- 7.2 If supported at referendum, the Knightsbridge Neighbourhood Plan will become part of the statutory development plan, and used alongside adopted planning policies in determining planning applications within the Knightsbridge Neighbourhood Area.

8. BUSINESS PLAN IMPLICATIONS

- 8.1 In line with the most up-to-date Policy, Performance and Communications Business Plan (2015-2017), the decision to move to referendum reflects the commitment to support the development of evidence-based policy that can move quickly into implementation and supports the Cabinet and Executive Leadership Team to drive the agenda of the council.

9. IMPACT ON THE ENVIRONMENT

- 9.1 The proposed plan (as modified in appendix 2) includes a number of policies aimed at ensuring future development in Knightsbridge has a positive impact on the local environment – in terms of respecting existing character and heritage, supporting walking, cycling and public transport, enhancing green infrastructure and the public realm, improving air quality, and enhancing energy efficiency.

10. HEALTH, WELLBEING IMPACT ASSESSMENT INCLUDING HEALTH AND SAFETY IMPLICATIONS

- 10.1 The proposed plan (as modified in appendix 2) includes dedicated policies on healthy people and healthy air. These seek to ensure that new development activity in the area fully addresses the health and wellbeing of residents, workers and visitors, and health and safety implications.

11. EQUALITIES IMPLICATIONS

- 11.1 Under the Equalities Act 2010 the council has a “public sector equality duty”. This means that in taking decisions and carrying out its functions it must have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the 2010 Act; to advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it; and to foster good relations between persons who share a relevant protected characteristic and those who do not share it. The council is also required to have due regard to the need to take steps to take account of disabled persons’ disabilities even where that involves more favourable treatment; to promote more positive attitudes toward disabled persons; and to encourage participation by disabled persons in public life. The 2010 Act states that “having due regard” to the need to promote equality of opportunity involves in particular having regard to: the need to remove or minimise disadvantages suffered by persons sharing a protected characteristic; take steps to meet the needs of persons sharing a protected characteristic that are connected with it; take steps to meet the needs of persons who share a protected characteristic that are different from those who do not; and encourage persons with a protected characteristic to participate in public life or any other activity in which participation by such persons is disproportionately low.

- 11.2 The courts have held that “due regard” in this context requires an analysis of the issue under consideration with the specific requirements set out above in mind. It does not require that considerations raised in the analysis should be decisive; it is for the decision-maker to decide what weight should be given to the equalities implications of the decision.
- 11.3 When the plan was submitted, it was accompanied by a sustainability report that incorporated an assessment on if policies would improve equal/ local opportunities. Broadly this found that the plan would have small scale positive effects on equal/ local opportunities, through matters such as promoting retail in the International Shopping Centre and cultural uses in the Strategic Cultural Area, seeking to protect office space, public houses, and encouraging new community facilities. The United Nations Sustainable Development Goals, which includes equalities matters, are also embedded into the plan itself. It is also worth noting that the plan must be consistent with City Plan policies, which themselves have been subject to detailed equalities impact assessment.
- 11.3 Officers have considered the need for a formal equalities impact assessment of the Knightsbridge Neighbourhood Plan. Policies promoting pedestrian movement (including for the less mobile), protecting open spaces and the natural environment, and encouraging community and cultural uses, will all have a positive impact on protected groups. Where the draft plan did present potential negative equality impacts (e.g. through seeking to restrict occupancy of new residential developments to local workers and students), such requirements have been removed through the examiner’s proposed modifications. As this means no outstanding negative impacts have been identified, it has been concluded that a full EIA is not necessary.

If you have any queries about this report please contact: Sean Walsh on 0207 641 4152 or email swalsh2@westminster.gov.uk

APPENDICES

- 1 – Regulation 18 (2) Decision Statement
- 2 – Knightsbridge Neighbourhood Plan incorporating Examiner Modifications
- 3 – Examiner’s report on the Knightsbridge Neighbourhood Plan 2017 - 2037

For completion by the Cabinet Member for Place Shaping and Planning

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: _____ Date: _____

NAME: Councillor Richard Beddoe

State nature of interest if any
.....

(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled
Knightsbridge Neighbourhood Plan Decision Statement

Signed
Cabinet Member for Place Shaping and Planning

Date

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:
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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Head of Legal and Democratic Services, Strategic Director Finance and Performance and, if there are resources implications, the Strategic Director of Resources (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.