



City of Westminster

# Cabinet Member Report

<b>Decision Maker:</b>	Cabinet Member for Place Shaping and Planning
<b>Date:</b>	4 July 2019
<b>Classification:</b>	For General Release
<b>Title:</b>	Mayfair Neighbourhood Plan Decision Statement
<b>Wards Affected:</b>	West End, Knightsbridge and Belgravia
<b>City for All Summary</b>	Making the Examiner's recommended modifications to the Mayfair 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.
<b>Key Decision:</b>	No
<b>Financial Summary:</b>	The costs of amending the Draft Mayfair Neighbourhood Plan and administering a local referendum will be met within existing budgets.
<b>Report of:</b>	Executive Director of Policy, Performance and Communications

## **1.0 EXECUTIVE SUMMARY**

- 1.1 This report seeks approval to make amendments to the draft Mayfair Neighbourhood Plan, and proceed to a local referendum on whether 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) in determining planning applications in Mayfair.
- 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**

### **2.1.1 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 Mayfair Neighbourhood Plan, as modified in Appendix 2, proceed to referendum.
- C) That in accordance with the examiner's recommendation, the referendum area be restricted the neighbourhood area designated by the council on 5<sup>th</sup> April 2013 as the Mayfair Neighbourhood Area.

## **3.0 REASONS FOR DECISION**

- 3.1 The examiner's recommendations will ensure the Mayfair Neighbourhood Plan is clear and effective as a framework for making decisions on planning applications in the Mayfair 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 local referendum. As Mayfair Neighbourhood Area is also designated as a business area, two referendums are required – one for residents, and one for businesses. In advance of the referendums, 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 Mayfair neighbourhood area was designated by the council on 5<sup>th</sup> April 2013 in accordance with Section 61G of the Town and Country Planning Act 1990. On 10<sup>th</sup> January 2014 Mayfair Neighbourhood Forum (MNF) were designated as the neighbourhood forum for the area, and subsequently began preparing a draft neighbourhood plan. As forum designations only last for 5 years, the forum was re-designated on 16<sup>th</sup> January 2019 for a further 5 years.
- 4.3 MNF published a draft plan for regulation 14 pre-submission consultation in June 2017. It was subsequently revised in light of comments received, before submission to the council in February 2018. Regulation 16 consultation on the plan was then carried out from May 2018 to June 2018.
- 4.4 In July 2018, the council, in consultation with MNF, appointed Ms Jill Kingaby BSc (Econ) MSc MRTPI as independent examiner of the plan. The purpose of the examination was to determine if the plan 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 local referendums – one for residents and one for businesses. It also recommended that the area for the referendums should be limited to the neighbourhood plan area.

## **Modifications**

- 4.6 The modifications recommended by the examiner largely respond to issues raised through formal consultation on the draft plan and its subsequent examination. These include the council's own reservations that the plan:
- clouded the relationship between Community Infrastructure Levy (CIL) and section 106 obligations;
  - included matters that were overly onerous and where the intended outcome could not be achieved through the planning system, and;

- included proposals that could have significant environmental effects that had not been thoroughly tested.
- 4.7 Through the examination process, the examiner encouraged MNF 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, which are largely endorsed in the examiner's report.
- 4.8 In producing the Statement of Common Ground, there were however two key areas where MNF and the council were unable to reach agreement. These centred on:
- requirements for new developments to fund the transformation of Park Lane to provide a more attractive public realm, reduction in highway width, and provision of improved pedestrian crossing facilities - despite the lack of detailed feasibility work and full assessment of the environmental impacts of such proposals; and
  - the need to designate green spaces already protected as London Squares as Local Green Spaces, and MNF's intentions to restrict the types of events that can be held in these spaces and who could attend them.
- 4.9 On these matters, the examiner's recommendations, as set out in her report (see Appendix 3), largely agreed with the council's position. This included that:
- Proposals for Park Lane require further feasibility work, financial costings, and assessment of their impact on the wider transport network and local environment - including significant heritage assets. The consolidation of policies on this matter (i.e. policies MPL1-3 of the submitted plan), acknowledgement that they refer to long term ambitions, and the downgrading of the expectation within them that s106 obligations will be used to fund scheme development, is therefore necessary. Furthermore, she has recommended that text relating to what works have been investigated to date is moved to an appendix of the plan, along with additional text acknowledging the need for a Strategic Environmental Assessment of any preferred scheme.
  - Regarding green spaces (policies MGS1-2 of the submitted plan), the examiner concluded that designating these as 'Local Green Spaces' was unnecessary given their existing levels of protection as London Squares. She also noted that any designation as Local Green Space would give them a level of policy protection equivalent to green belt – which would be incompatible with their location within the Core CAZ – where commercial activity is supported. She therefore recommended that they instead be designated as 'Public Green Spaces', and that policy is amended to focus on mitigating the negative impacts of

hosting events, rather than seeking to dictate who such events are aimed at.

4.10 Prior to the production of a Statement of Common Ground, the council had previously raised detailed concerns on less fundamental issues with the submitted plan, which the examiner has subsequently rejected. In summary these were that:

- Policy MR6 (Creative Originals) would add little to existing Special Policy Areas in the City Plan for Mayfair and Savile Row. The examiner concluded that the proposed policy is locally distinctive and helps reinforce City Plan policies;
- Policy MRU1 (Residential Amenity) would require operational management plans for commercial and entertainment developments that would not normally be required under Westminster Licensing Policy. The examiner concluded that as policy encourages, rather than insists on this, it was sufficiently flexible;
- Policy MC (Commercial Growth in Mayfair) implies that loss to residential is more acceptable in West Mayfair than Central or East Mayfair. The examiner concluded that this approach conforms with City Plan policy which already allows for such loss in wholly residential areas, and is justified by the analysis of different character areas within the plan area.
- Policy MCM (Preserving the Special Character of Shepherd Market) would add little to City Plan design policies. The examiner concluded that policy would reinforce City Plan policy, and is based on an understanding of the character and risks facing the area.

4.11 Officers do not consider any of these matters to cause major problems for the council. The examiner's conclusions, for the reasons set out in her report, are therefore accepted.

4.12 Finally, the examiner also recommended some additional modifications to the plan beyond those already agreed between the MNF and the council. None of these are considered problematic by officers, and can be summarised as follows:

- Policies MPR1-2 (Transforming Mayfair's Streets) should recognise that improvement to the public realm may not be required everywhere in Mayfair, and that in some areas, the maintenance of an existing high-quality public realm is sufficient;
- Policy MR1 (Retail Encouragement and Direction) should be amended to acknowledge that the amalgamation of retail units will not always require planning permission;
- Policy MRU4 (Construction Management) should make clear that it will apply to schemes likely to generate significant construction traffic, and reference the council's own code of construction practice;

- Some corrections to inaccurate descriptions of the listing status of certain buildings within the neighbourhood area;
- Policy MSD (Servicing and Deliveries) should take account of the nature and scale of development proposed so onerous requirements are not introduced on small schemes;
- Policy MD2 (Design) and its supporting text should be amended so full consideration is given to heritage designations and local character;
- Some corrections to terminology regarding s106 obligations and clarification that neighbourhood CIL does not necessarily have to be spent in the neighbourhood area; and
- Appendices to the plan should be supplemented with additional references to Mayfair Conservation Area, listed buildings, and archaeological priority areas.

## **Conclusion**

- 4.13 Officers are satisfied that the examiner's recommendations, as incorporated into Appendix 2, 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.
- 4.14 The submitted plan was accompanied by a Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report, and a Basic Conditions Statement. The Basic Conditions Statement included assessment against the objectives of the City Plan, its Integrated Impact Assessment, and the London Plan, and adopted City Plan policies. It also included a Sustainability Appraisal of the policies within the submitted Mayfair Neighbourhood Plan. None of the examiner's recommended modifications are considered to necessitate revisiting any of these assessment. Furthermore, the examiners proposed modifications to the Park Lane policies overcome issues raised by Historic England that a full Strategic Environmental Assessment was necessary.
- 4.15 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 MNF, 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 May 2018 to June 2018 in line with statutory requirements. This included:
- publicising the plan on the council's website;
  - making copies available for inspection at Mayfair, Marylebone and Charing Cross libraries and at the council's (now vacated) offices at 5 The Strand and Portland House; and
  - emailing residents and businesses in the council's planning policy database that are based in the neighbourhood area, along with other statutory stakeholders.
- 5.3 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 within 5 weeks of receipt of the examiner's report. As the final examiner's report was received on 11<sup>th</sup> June 2019, this means a decision should be issued by no later than 16<sup>th</sup> July 2019. A draft Decision Statement is therefore provided in appendix 1. If approved, this will be published on the council's website, and available for inspection at Mayfair, Library, and the council's offices at 64 Victoria Street.

## **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 The costs of amending the Draft Mayfair Neighbourhood Plan will be met within existing budgets and administering the two local referendums will be offset by a grant from central Government. Once the dates have been set for the referendums, the council is eligible to apply for a grant from Ministry of Housing, Communities and Local Government of £30,000. It is anticipated that this will cover the costs of Electoral Services administering the referendums, and the costs of appointing an independent examiner.

## **7. LEGAL IMPLICATIONS**

- 7.1 The designation of neighbourhood forums, neighbourhood 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 within 5 weeks of receiving the examiner's final report - setting out how they intend to respond to an examiner's recommendations. As the examiner's final report was received on 11<sup>th</sup> June 2019, publication of a decision is required by no later than 16<sup>th</sup> July 2019 to comply with the above regulation. A draft Decision Statement is included as Appendix 1 to this report.

- 7.2 If supported at both the residents and business referendums, the Mayfair Neighbourhood Plan will be ‘made’. This means that the Mayfair Neighbourhood Plan will become part of the statutory development plan, and will be used alongside adopted planning policies in determining planning applications within the Mayfair Neighbourhood Area only. If the plan is only supported at one of the two referendums, the final decision as to whether it should be ‘made’ will be taken by the council.

## **8. BUSINESS PLAN IMPLICATIONS**

- 8.1 Supporting neighbourhood forums to deliver neighbourhood plans is a key measure in the Policy Performance and Communications Business Plan 2018-19. Agreeing to make the examiner’s recommended modifications to the plan, and proceeding to local referendums, will also contribute to the following City for All commitments:
- a city that celebrates its communities - by empowering local communities to provide planning policies that respond to local issues;
  - a healthier and greener city – by supporting locally produced policies that seek to improve the pedestrian environment and air quality; and
  - a city of opportunity – by supporting locally produced policies that aim to support commercial development.

## **9. IMPACT ON THE ENVIRONMENT**

- 9.1 The proposed plan (as modified in Appendix 2) includes several policies aimed at ensuring future development in Mayfair has a positive impact on the local environment. This includes policies that seek to direct growth to sustainable locations, improve the quality of the public realm, ensure new development respects existing character and heritage, enhance the pedestrian environment and green infrastructure network (including protecting greenspace), improve air quality and energy efficiency, and minimise waste.

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

- 10.1 Through its policies that aim to improve the local environment, the proposed plan (as modified in Appendix 2) seeks to ensure that new development activity in the area fully addresses the health and wellbeing of residents, workers and visitors. This includes policies that seek to mitigate the impact of new development on existing residents in order to protect their wellbeing. As set out in the plans accompanying SEA screening assessment, by seeking to guide new development, the plan is not expected to result in an increase in accidents, and therefore has no direct 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.

11.2 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.

11.3 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.

11.4 When the Mayfair Neighbourhood Plan was submitted, it was accompanied by a Basic Conditions Statement. This included an assessment against City Plan and London Plan objectives regarding equality of opportunity and tackling inequalities. It found that as the plan supports commercial development in recognition of Mayfair's economic function, and does not include specific proposals for affordable housing, it has no negative impacts on protected groups.

11.5 Officers have also considered the need for a formal equalities impact assessment of the Mayfair Neighbourhood Plan. Policies promoting pedestrian movement, protecting green spaces, and requiring the re-provision of community uses, will all have a positive impact on protected groups. No negative impacts on protected groups have been identified, and as such it has been concluded that a full Equalities Impact Assessment is not necessary. Furthermore, the Mayfair Neighbourhood Plan must be consistent with City

Plan policies, which have themselves been subject to detailed Equalities Impact Assessment.

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

## **APPENDICES**

- 1 – Regulation 18 (2) Decision Statement
- 2 – Mayfair Neighbourhood Plan incorporating Examiner Modifications
- 3 – Examiner's report on the Mayfair Neighbourhood Plan

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

**Mayfair 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: .....  
.....  
.....

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.