



CITY OF WESTMINSTER

MINUTES

Planning & City Development Committee

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning & City Development Committee** Committee held on **Wednesday 30th March, 2022**, Rooms 18.01.02.03, 18th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Robert Rigby (Chairman), Geoff Barraclough, David Boothroyd, Jim Glen, Eoghain Murphy, Mark Shearer and Antonia Cox

Apologies for Absence: Councillor Louise Hyams, Councillor Selina Short, Councillor Susie Burbridge and Councillor Nafsika Butler-Thalassis

1 MEMBERSHIP

1.1 There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

2.1 Cllr David Boothroyd declared that he was Head of Research and Psephology for Thorncliffe, whose clients were companies applying for planning permission from various local authorities. No current schemes were in Westminster; if there were he would be precluded from working on them under the company's code of conduct.

3 MINUTES

3.1 That the minutes of the Planning and City Development Committee meeting held on 25 October 2021 be approved.

3.2 Matters Arising from the Minutes

3.2.1 Minutes 3.2.1 Minutes Draft Early Community Engagement Guidance

Members were advised that the concept for this role/service for the Planning Community Champion was currently being finalised and that options for delivery of this service would commence in the forthcoming months.

3.2.2 Minutes 3.2.3 Minutes Review of Planning Applications Sub-Committee Formats / CIVICO

Members were informed that the Council was reviewing its IT infrastructure used for supporting hybrid meetings, and this involved reviewing existing system providers and exploring potential suppliers. Members noted that the current platform (Teams) is adequate and that positive comments had been received from the public regarding their conduct during live broadcasts. Members advised that it was recommended that they be mindful of their movements and noted this affected voice transmissions. Officers advised that these factors will be taken into consideration in the review of system providers.

Members thanked and congratulated officers for their work on the Early Community Engagement Guidance and welcomed that the launch event for the Guide had been successful. Members were advised that there were pilot schemes being currently undertaken around community engagements.

Members were informed that the Place Shape and Town Planning Service were currently working with the New Communities Directorate regarding updating the list of recognised Amenity Societies and Neighbourhood Forums. A list of these Bodies will be circulated to the Committee

3.2.3 Minutes 4 Update On Temporary Covid-19 Related Legislation & Regulations

Members noted the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2020 which allowed restaurants and cafes and drinking establishments to provide takeaway food without the need for planning permission for a temporary 12 months was to end in March 2022. Members were advised that the Service had received a small number of notifications from Premises regarding their use of this Provision. Members agreed that they receive an update on whether Premises were returning to their pre-pandemic operating model and if the Statutory Provision was to be further extended.

4 NATIONAL POLICY & PLANNING REFORM UPDATE

4.1 The Committee received a report which provided an update on changes to national planning policy & planning reform that has occurred following the government's Planning White Paper that was published in August 2020. It also identified the impacts these changes are having in Westminster.

4.2 The government set out plans for extensive and ambitious changes to the planning system in its 'Planning for the Future' White Paper, published in August 2020. The White Paper received in excess of 40,000 representations in response to consultation held during the second half of 2020 and the Department for Levelling Up, Housing and Communities (DLUHC) has been considering these consultation responses in the period since. To date there

has been no firm commitment from government on when a formal response to the consultation on the white paper may be expected. Recent press speculation indicates that that a significant number of the proposals for reform in the white paper may be dropped or scaled back and that planning reform may now form part of a wider package of reforms included in a Levelling Up and Regeneration bill, which is likely to be laid before Parliament later in 2022.

4.3 Principal Changes to Planning Legislation and Guidance Since August 2020 includes: -

- Amendments to the Use Classes Order & Associated Permitted Development Rights
- Amended Requirements for Removal of Statues, Monuments and Memorials
- Introduction of the National Model Design Code Amended National Planning Policy Framework (NPPF)
- Fire Safety – Introduction of Planning Gateway One
- Environment Act 2022 – Introducing Biodiversity Net Gain
- Permitted Development Rights for Moveable Structures ‘Levelling Up the United Kingdom’ White Paper

4.4 Members held a discussion and noted the following: -

- That there will be consultation on the Design and Heritage SPDs later in 2022/ early 2023.
- Members welcomed the reduction in the pre-application advice fees for sustainability improvements and were advised that this would encourage householders to use the service. The Service will also shortly be publishing ‘How to Guides’ to support applicants to make more successful applications for sustainability improvements to their homes.
- That the committee report format was to be amended following changing focus of the National Planning Policy, the adoption of the new City Plan and new London Plan in 2021, and the adoption of the Environmental SPD in March 2022. The updated format will focus greater attention on material considerations such as energy performance and sustainability, biodiversity gain, community engagement and economic benefits, as well as ensuring that the reports identify relevant policies in made neighbourhood plans. The new reports will be introduced from late April 2022 onwards.
- Members noted that there were new limits on the use of Article 4 Directions which could restrict permitted development rights and that specific evidence of significant harm was required for streets and areas for this protection to be introduced. Officers reminded Members that the Class E Use Class was much wider than previous Use Classes that it replaced and encompassed a wide range of land uses. The Sub-Committee were advised that the City Plan policy areas and Town Centre Health Checks

could be used to support identification of which areas of the City need to be protected using Article 4 Directions.

- That the built environment in Westminster is 'hyper mixed used'. Members were informed that this position enabled for a large amount of data to be collated about 'mixed usage' in comparison to other Local Planning Authorities and this ensured that decisions were fully evidence based and help determined what was feasible in areas and were specific. Members were reminded that the aims of permitted development rights were to increase housing stock, and this was aligned with the City Plan.
- Members agreed that the local community, Amenity Societies, and planning experts should be engaged when creating Design Codes and noted that the Early Community Engagement guidance promotes this type of engagement. Members further noted that there had been interest from the aforementioned parties in contributing to formulation of future policies. There have been pilot schemes undertaken by other Local Planning Authorities regarding Design Codes and learning from these examples will be taken into consideration.
- That the Conservation Area Audits would be considered when devising Design Codes. It is planned that the existing audits will be updated, with the aspiration that this process will lead to full coverage of all conservation areas.
- That the heritage setting of sites would be taken into consideration when devising Design Codes and that these areas were protected. Members were advised that amenity societies and neighbourhood forums had approached the Service around this issue.
- Members agreed that 'Moveable Structures' which were allowed under the Permitted Development Rights should be closely monitored by the Planning Enforcement Team where concerns about them were reported to the Service.
- That they would appreciate clarification as to whether the future statutory requirement for delivery of 10% biodiversity net gain applied to all new developments (major and non-major development) and development that is permitted development. Members noted that officers would review the legislation and report back on what type of development the statutory requirement for 10% biodiversity net gain will apply to.
- That conditions imposed on Class E developments to limit the use of developments within Class E were widely acknowledged by developers and planning agents as being reasonable and necessary to control the impacts of new development. Members were informed that conditions must meet the tests set out in the NPPF if they are to be enforceable.
- Members noted that officers were liaising with the Department for Levelling Up and Communities (DLUC) to ensure that an Article 4 Direction that

meets the tests in the NPPF can be introduced for the CAZ to protect certain areas within the CAZ from harmful changes of use from Class E to residential which would erode the contribution the CAZ makes to the Westminster economy and the wider London and UK economy. Officers advised Members that where there is not an Article 4 Direction, applicants proposing Class E to residential permitted development are still required to seek prior approval and that the prior approval regime is more extensive than for many other permitted developments rights.

- That the New Article 4 Direction relating to parts of the CAZ is expected to come into force in August 2022
- Members requested that prior approval applications for change of use from Class E to residential be included in the Weekly List.
- That the Affordable Housing and Planning Obligations SPD was being consulted on and that the National Planning Policy Framework (NPPF) now includes First Homes as a type of affordable housing. Officers advised that First Homes would be unlikely to be an appropriate form of affordable housing in Westminster due to the cost of housing in many parts of the city. Officers are working on the council's position on First Homes.

4.5 Members held a discussion regarding imposing a deadline for the submission of late representations to Planning Sub-Committees and were advised by officers that a transitional period would need to be factored before a cut off period is introduced. Members were informed that deadlines for late representations could be reviewed and formalised as part of the 'Statement of Community Involvement'. Members were advised that clear protocols which provided guidance and timeframes would be required and were informed that this area was potentially an area that could be subject to legal challenge should clear protocols not be adopted.

4.6 Members agreed that a pilot scheme should take place before deadlines for late representations are adopted and that the new process would need to be embedded and carefully worded. Members agreed that Ward Councillors should also be encouraged to adhere to these deadlines and that the Chair should retain some discretion regarding accepting late representations. Members agreed that the proposed process should be fair and should guard against attempts to delay determinations.

RESOLVED:

1. Members noted the contents of the report and noted the recent changes to national planning policy and guidance and the implications these have for planning decision making in Westminster, as detailed in the report.
2. That Officers explore introducing a deadline for late representations being submitted to Planning Applications Sub-Committees.

3. That prior approval applications for change of use from Class E to residential be included in the Weekly List

5 ENVIRONMENTAL SUPPLEMENTARY PLANNING DOCUMENT

- 5.1 The Committee considered a report which sets out how consultation responses on the Environmental Supplementary Planning Document (SPD) have been used to inform and strengthen the guidance in the final document, which was adopted on 25th February 2022
- 5.2 The council announced a Climate Emergency in September 2019 and set the ambition for it to be net zero carbon by 2030, with the whole city to follow suit by 2040, 10 years ahead of the Government target of 2050. To help support these aims and provide more detailed guidance to support the implementation of environmental policies in the City Plan, the council has prepared, consulted on, and now adopted, an Environmental SPD. This brings together guidance on a range of environmental issues including air quality, green infrastructure, flooding, energy, waste and retrofitting and sustainable design, and covers local environmental impacts of development such as light, noise and odour, land contamination and construction impacts.
- 5.3 The guidance within the SPD supplements the council's strengthened planning position in the City Plan to climate resilience, gives more prominence to the weight of environmental issues, and will help to ensure that developments deliver a higher proportion of emissions savings at the development site, in line with net zero ambitions. It also shines a spotlight on the issues that all stakeholders must collectively work together to resolve to address the climate emergency.
- 5.4 Members held a discussion and noted the following: -
 - Members welcomed the Amenities Societies and Residents Associations response and agreed with their views that further steps could be taken to improve the Council's environmental and climate performance.
 - Members noted that there was still a financial incentive for developers to demolish buildings and construct new builds and that there was continual lobbying of Central Government to encourage more developments which involved 'retrofitting' and 'refurbishments'. Members also noted that the balance needed to be sought regarding climate actions goals and other Council objectives such as increasing housing stocks and the creations of jobs.
 - Members noted that there was no single formular to determine whether a build could be classified as a rebuild or a full demolition and that individual buildings would each have different levels of what is salvable during a build. Officers reminded Members that some large developments within the Borough had layers of alterations which had been Incorporated over centuries and that applications would need to be considered on a case-to-case basis about the degree of their demolition. The reports provided to Planning Sub-

Committees will contain information which would enable Members to determine this and make well informed decisions.

- Members agreed that processes in relation to the Environmental SPD should be streamlined and 'user friendly' for all interested parties. Officers advised that 'How to Guide' would be included.
- 5.5 Members recognised the importance of the Environmental SPD and thanked Officers for their work on the Documents.

RESOLVED:

That the contents of the report be noted.

6 PLANNING ENFORCEMENT TEAM PERFORMANCE AND LOCAL ENFORCEMENT PLAN

- 6.1 The Committee received a report which provided an overview of the Planning Enforcement Team's performance over the past 5 years and provided an update on the development of a Local Enforcement Plan.
- 6.2 The Planning Enforcement Team comprises a team of 18 officers with a Team Leader, x4 Area Planning Officers, x8 Senior Planning Officers, x4 Planning Inspectors and a Planning and Compliance Officer. One of the Senior Planning Officers is a recently created role, secured from ward budget funding from the Knightsbridge and Belgravia Ward. The team is largely reactive responding to complaints from members of the public regarding alleged breaches of planning control. The team investigates all breaches of planning control across the whole of the borough and is not broken down into geographical areas in the same way the Development Management Teams are broken down into North, Central and South areas.
- 6.3 In terms of performance, the planning enforcement team continues to receive regular and numerous complaints from residents and Members on behalf of their constituents. During the Covid 19 pandemic and as a direct result of the lockdowns, there was as expected, a noticeable decrease in the number of complaints received by the team. In the year 2018/19 (prior to the pandemic), 2675 reports alleging breaches of planning control were received and this reduced to 1524 in 2019/20. There was a further reduction in the number of reports received totalling 1169 in the year 2020/21. However, following the easing of restrictions, the number of reports of alleged breaches of planning control is rising steadily again and it is anticipated that this will be in the region of 1800 complaints at year end on 31 March 2022. There is a clear upward trajectory with complaints being received and it is expected that this will continue and reach pre-pandemic levels of circa 2500+ annual complaints.
- 6.4 Members held a discussion and noted the following regarding the Local Enforcement Plan (LEP):

- That the LEP will outline how the Planning Enforcement Team (PET) will monitor implementation of planning permissions and discharge of conditions particularly pre-commencement conditions.
- Will provide residents and businesses with clarity on the processes and procedures the PET will follow when investigating breaches of planning control.
- Will provide assurances that all reported breaches of planning control are investigated in a proportionate and transparent way.
- Outline realistic timescales on how long breaches of planning control take to resolve, which will help to manage expectations of the service.
- Highlight planning enforcement tools / action that may be pursued, including the appeals and prosecutions process and procedures. .
- Provide a hierarchy or prioritisation of breaches of planning control that align with “City for All” priorities and the Council’s City Plan. This will provide the opportunity to highlight emerging issues like the gig economy, shisha smoking etc.
- That early and effective engagement would be critical in developing a fit for purpose LEP.
- Members agreed that the enforcement of ‘short-term lettings’ should also be prioritised, and this would align with the ‘City for All’ priorities. Members highlighted the impacts that short-term letting have on the provision of long-term accommodation and the associated impacts this has on the local community. Officers advised that the Planning Enforcement Team work collaboratively with Public Protection and Licensing (who have responsibility for enforcing short-term letting) and would ensure that enforcement of unauthorised ‘short-term lettings’ would continue to be prioritised as part of the LEP.
- Members noted that the enforcement of ‘short-term lets’ is primarily controlled by the Town and Country Planning Act and unauthorised short-term letting constituted a breach of planning control.
- Members agreed that the LEP should highlight the considerable length of time it may take to resolve a breach of planning control given the various stages involved in an investigation and the need to often revert to legal proceedings.
- Members were advised that PET was working collaboratively with the Housing Service to ensure that the special architectural and historic interest of Listed Buildings were preserved and enhanced. Where unauthorised works are uncovered, appropriate action is pursued to remedy the harm caused to the heritage asset.

6.5 Members thanked Officers for their report and noted the integral part which the Planning Enforcement Team plays in supporting the policies contained in the City Plan and upholding the integrity of the planning system.

RESOLVED:

1. Members noted the performance of the Planning Enforcement Team over the past 5 years and supported the ongoing development of the draft of the Local Enforcement Plan.
2. That the Sub-Committee receive an update on the Local Enforcement Plan in the next 12 Months.

7 SUMMARY OF MEMBER TRAINING DURING 2022

7.1 The Committee received a report which provided a summary of the Member Training during 2022.

RESOLVED:

That the contents of the report be noted.

8 ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT

None

9 DATE OF NEXT MEETING

- 29 June 2022

The Meeting ended at 8.00 pm

CHAIRMAN: _____

DATE _____