



Minutes of a meeting of the **ENVIRONMENT POLICY & SCRUTINY COMMITTEE** held at 7:00pm on Tuesday 8 September 2015 in Committee Rooms 1A, 1B and 1C, 17<sup>th</sup> Floor, City Hall, 64 Victoria Street, SW1

Members of Committee: Councillors Ian Adams (Chairman), Barbara Arzymanow, Thomas Crockett, Peter Cuthbertson, Paul Dimoldenberg, Karen Scarborough, Cameron Thomson and Jason Williams.

Also Present: Councillor Robert Davis, Cabinet Member for the Built Environment.

## 1. MEMBERSHIP

- 1.1 Apologies for absence were received from Councillors Louise Hyams and Jacqui Wilkinson. Councillor Barbara Arzymanow replaced Councillor Hyams and Councillor Peter Cuthbertson replaced Councillor Wilkinson.
- 1.2 Jonathan Deacon, Senior Committee & Governance Officer, opened the meeting. Councillor Ian Adams had advised him prior to the meeting that he was likely to be delayed but would definitely be in attendance later in the meeting. Councillor Adams had proposed that Councillor Cameron Thomson chaired the meeting until he arrived. This required a resolution to be passed by the Committee.
- 1.3 **RESOLVED:** That Councillor Thomson chair the meeting until such time as Councillor Adams is in attendance.

## 2. DECLARATIONS OF INTEREST

- 2.1 Councillor Paul Dimoldenberg declared in respect of the Baker Street Two Way Project agenda item that he lives on the corner of Marylebone Road and Lisson Grove. He did not consider this to be a prejudicial interest that would require him to withdraw from the meeting for this item.

## 3. MINUTES

- 3.1 **RESOLVED:** That the minutes of the meeting held on Monday 22 June 2015 be signed by the Chairman as a correct record of proceedings.

## 4. UPDATE FROM CABINET MEMBERS

4.1 The Committee received written updates from the Cabinet Member for the Built Environment, the Cabinet Member for City Management and the Cabinet Member for Sustainability and Parking on significant matters within their portfolios.

4.2 The Chairman welcomed Councillor Robert Davis, Cabinet Member for the Built Environment to the meeting. The Committee put questions to and received responses from Councillor Davis on a number of matters that were relevant to the Built Environment portfolio, including the following:

- Councillor Davis was asked whether he would consider looking at enacting non-immediate Article 4 Directions to protect public houses in addition to combating the loss of office space to residential accommodation and the proliferation of basement extensions. It was believed that Wandsworth had adopted this measure to protect public houses. He replied that it was not possible to charge a fee for the Article 4 Directions which meant there were limited resources. However, he would be willing to investigate this option.
- He advised that the Marylebone and Maida Hill Neighbourhood Forums had recently been designated. Two neighbourhood forums that were yet to be designated were Pimlico and Churchill Gardens.
- He stated that the principle of the sponsorship of the Marble Arch maze / digital advent calendar had only been discussed at this stage. It had not yet been decided who the sponsor would be. The proposals would generate income for the City and add to the festive activities.
- In response to a question on the motivation for the Baker Street Two Way Project, Councillor Davis replied that its inspiration was the success of the Piccadilly Two Way Scheme which improved the flow of traffic in Piccadilly, St James's and Pall Mall and removed the one way urban motorway, creating a friendlier public realm. The Council and Transport for London ('TfL') had worked on proposals for the Baker Street Two Way Project to design a public realm scheme that would be more user friendly for pedestrians, residents and businesses. The public consultation had now concluded and he and the officers would re-examine the proposals and take on board what the residents were writing in their submissions.
- Councillor Davis was asked if the proposals were intended to deliver something which was more pedestrian, bus and cycle friendly, where would the cars and heavier vehicles be diverted to? Also had consideration been given to use of short term car parks for park and ride schemes? The Cabinet Member replied that the Council/TfL modelling showed that most traffic was looking to head north/south and not east/west. They would use Gloucester Place or Baker Street and there would be no need for traffic to divert to side streets. It was up to the Council to persuade local residents of this. In terms of introducing a park

and ride scheme, he had been involved with a previous Council scheme in partnership with a commercial company which had operated from the Council's car park under Hyde Park which was underused. This had given people the opportunity to travel to Oxford Street but was not taken up in numbers and had been discontinued as it was not commercially viable. He would be willing to re-explore the possibility of a park and ride scheme including in partnership with other London boroughs.

- The current position regarding the Victoria – Nine Elms Bridge was that there was no commitment in place as yet that the Bridge would be built and the Council reiterated its strong objections to the proposals.
- The Cabinet Member was asked whether given that he was seen to be a firm advocate of the Baker Street Two Way Project, the matter should be one for the whole Council to take instead. Councillor Davis responded that it had been decided many years ago that a Cabinet system would be established. He was promoting a scheme which officers were consulting on and there were many examples of this in Westminster and in local government generally. If a Cabinet Member did not see the merits of a scheme in principle initially it was unlikely that the concept would be brought into the public domain. He had become a decision maker on this issue following public realm becoming part of his portfolio as a result of Councillor Argar's resignation. He would take into account what was stated in the consultation responses and make the necessary changes before taking any decision. He would also consult and be seeking the support of ward councillors and Cabinet colleagues before doing so.
- Councillor Davis was asked whether he had received the same feedback that the Member had received in terms of applications for neighbourhood forums being a lengthy process. He replied that the reason for this was the lack of resources with a great deal of work being undertaken across the borough by a small team including in terms of investigating the legal aspects and preparing the reports and also working with and supporting the forums. There were instances where the forums took time to undertake the work themselves. The forum representatives were new to the process and had other time commitments including day jobs.

4.3 **RESOLVED:** That the contents of the Cabinet Member Updates be noted.

## 5. DRAFT CODE OF CONSTRUCTION PRACTICE

- 5.1 The Committee received a report on the current work to update the Council's Code of Construction Practice which had previously been published in 2008. The report also sought the Committee's views on key matters for consideration. Barry Smith, Head of City Policy & Strategy, introduced the report. The revised Code was in line with updates having taken place in relation to policies and good practice. It was also felt that the revised Code should be more attuned to the scale and nature of development in Westminster, particularly smaller to medium sized developments with their impact on residents. This included the works involved in basement

developments. Officers had sought to widen the scope of the Code so that there were three levels of schemes. Level one included large infrastructure type projects such as Crossrail and also other strategic developments. Level 2 included large mixed use developments and level 3 applied to minor commercial / householder developments.

- 5.2 Mr Smith stated that currently the Code was secured by planning condition and the compliance monitoring was funded by Section 106 agreement. Town planning legislation and regulations in themselves provided limited powers to control the construction process and its impacts. The Code offered an appropriate mechanism for doing this through other regulatory powers. Mr Smith advised that given funding constraints, under the new Code the financial responsibility for enforcement management would shift to the developer or the householder in the case of basements.
- 5.3 Mr Smith referred to the fact that the Council was currently out to consultation on the basements policy which was due to conclude the day after this meeting. An appendix to the draft Code of Construction Practice report proposed that if the Council was to charge for construction management impacts and recoup costs, an average estimate would be approximately £8k for a service provided under the Code relating to a basement development. This included advice to applicants on their construction management plan, noise and dust mitigation and monitoring and site visits.
- 5.4 Mr Smith and Nina Miles, Principal Policy Officer, took Members through what were perceived to be the six key issues at the current time for developing the new Code prior to there being a public consultation. These included should the Code be extended to a wider number of developments and should a cost neutral regime be adopted? It was only possible to charge in order to recover the Council's costs. Also what were the Committee's views on the working hours that should be permitted for developments, particularly basements? Should works not be permitted at weekends to give neighbours some peace and quiet or would this unduly delay the construction process? Also should specific encouragement be given to construction firms to employ a local workforce with up to 10% of their total workforce being comprised of local people? It was also proposed that the revised Code would include measures to create awareness of cyclists by HGV vehicles on construction sites.
- 5.5 Officers advised Members of the following in response to questions from the Committee:
- Officers had received advice on the legal implications of the proposals for the new Code from Counsel and Tri-Borough legal services, including relating to the fact that the power to charge is subject to several constraints under Section 3 of the Localism Act 2011. Officers would also explore with legal advisers the possibility of judicial review of the new Code. How the Code was used across the boroughs depended on their individual circumstances. Westminster's took into account best practice and the experiences of other more central London boroughs, including in relation to basement extensions. Officers were not aware of any legal

challenge regarding the concept of the Code. Officers would also consider producing a matrix document setting out the charges.

- Ms Miles emphasised that it was being proposed that the companies involved in 'Level 1' strategic schemes were required as part of their Site Environmental Monitoring Plan to demonstrate how they would use their best endeavours to ensure that 10% of the total workforce comprised of local people. It was appreciated that in some cases recruiting 10% of the workforce purely from Westminster could be a difficult requirement to fulfil and the definition of 'local' could be widened to central London or London boroughs as a whole. Mr Smith in response to a question stated that officers would be able to explore links between the skills for construction sites and the education sector.
- Officers could look at whether there should be different approaches across Westminster in terms of the construction hours operated depending on the residential nature of the localities.
- Barbara Terres, Team Manager Crossrail & Environmental Sciences, informed Members that monitoring of the major sites would be carried out by the Environmental Inspectorate. Construction sites were always a balance between the work being carried out in a reasonable timeframe and the work taking place in such a way that it will have the least impact on the community.
- Planning enforcement would deal with contraventions of the planning permission and conditions. If noise nuisance was being created on site, it was appropriate for residents to contact the Council's Noise Team. Parking contraventions were more likely to be picked up by the Council's marshalls. Residents were able to complain about parking contraventions on the Council's website and this would be received by the Council's parking contractor.
- It was expected that the Cabinet Member Report seeking public consultation on the revised Code would be submitted in approximately the next six weeks to two months.

#### 5.6 **RESOLVED:**

1. That the Committee believes that the revised Code need to be proportionate in terms of a charging regime and should seek to address the needs of all the stakeholders for individual schemes.
2. That the majority of the Committee support the principles of the revised Code including the emphasis on extending the Code to a wider number of developments, limiting working hours for developments, particularly in relation to noisy basements works, to weekdays only where appropriate and also taking steps to encourage construction firms to employ local

people as part of the workforce. The timing of the work for the new Code is welcomed, particularly given the current basements policy work.

The Committee recommended that:

- 1) officers give consideration to how the rollout of the scheme will be promoted and publicised so that residents are aware of the available options when a development is taking place; and,
- 2) the public consultation is of a sufficient length to ensure that stakeholders are aware and able to respond. Members would wish to be kept informed of progress regarding the revised Code.

*During item 5, Councillor Adams arrived and replaced Councillor Thomson as the Chairman at the meeting.*

## **6. BAKER STREET TWO WAY PROJECT**

- 6.1 Graham King, Head of Strategic Transport Planning & Public Realm provided the Committee with a verbal update on the Project. The public consultation exercise that the Council had carried out had run for two months until the beginning of August 2015 and over 1500 responses had been received. Officers were currently analysing and reviewing all of the responses in great depth and were sharing information with colleagues in TfL. TfL has responsibility for traffic signals, buses and specific roads in the area and had contributed significantly to the funding of the Project. A very detailed response from Council officers to the public consultation was expected by the end of September. A full report would be provided to the Committee for the next meeting on 9 November which would be prior to any decision making process by the Cabinet Member in respect of the Project.
- 6.2 Mr King stated that officers would continue to consult the St Marylebone Society & the North Marylebone Traffic Group and Marylebone Association on the issues they have raised particularly on the matter of the displacement of traffic onto residential streets. The two amenity societies had addressed the Committee at the previous meeting in June at the University of Westminster Campus in Marylebone Road and had submitted detailed comments in the public consultation. Officers were also due to meet shortly with a group called Marylebone First, located slightly to the west of Gloucester Place. There would be a response from Officers to detailed comments about specific design issues and impacts to some of the institutions in the area. These included Francis Holland School and St Cyprian's Church at Clarence Gate that were situated on a key junction. There was St Mary's Church School in Bryanston Square and St Mary's Church in York Street and also London Business School's submission in relation to their use of Council House in Marylebone Road and also their premises in Park Road.
- 6.3 Mr King stated that a number of residents had made the point that they had not received the information the Council had supplied with the consultation. He advised that officers were continuing to examine this and had checked with

the delivery companies why these had not been received. It was known that the vehicles had been to the correct locations as a result of tracking systems. There had been several hundred cases of delivery company employees being refused access. 11500 leaflets had been produced and 2000 had been directly mailed. Although there were some residents who had said that they had not been able to comment, Mr King was confident that responses had been received from across the area affected by the proposals covered all the potential issues. The Council now had an invaluable database to ensure that information could be forwarded to local groups who represent a wide range of interests.

6.4 Mr King advised Members of the following in response to questions from the Committee:

- In response to a question as to whether the Committee would have access to a summary of the comments received in the public consultation, Mr King assured Members that this would be available in time for the next meeting on 9 November. He would continue to keep the Committee and Ward Members informed of developments. In terms of the timing of a Cabinet Member decision, this would be influenced by what people had set out in the consultation responses. If a technical and legal issue arose, it would be necessary to look at whether a decision could be taken then or if there was a need for further consultation. After a Cabinet Member decision was taken, there would be the requirement to have one more level of consultation relating to parking and loading which was critical for a number of the small businesses, particularly in the southern part of the Project area.
- There had been a wide range of views expressed, including from cyclists who had suggested segregated cycle lanes in Gloucester Place which would impact on pedestrians and other road users. By November, the Council expected that TfL would be consulting on Cycle Superhighway 11 which would set out options which were likely to lessen the demand for segregated cycle lanes in Gloucester Place. The proposed traffic measures were put forward with having improved pedestrian facilities, such as crossings, in mind. Council officers and traffic consultants had been considering whether there were further ways of conveying what was proposed in respect of the Project's traffic measures. Computers with the latest form of visual simulation showing real time traffic movements had been used at the public meetings.
- Of the 1500 responses received for the public consultation, the majority were residential with a significant number also from businesses. In response to a question asking whether the public consultation submissions to the south of Marylebone Road tended to be more in support of the scheme than the north, Mr King replied that a lot of the concerns stated in the representations in the northern part of the Project area were based on the belief that the works to the junctions would lead to 'ratrunning' in their area. That was not born out in any of the Council's / TfL's traffic modelling. There was support in the north for the removal of

the 'racetrack feel' of an urban motorway. In general it was the case that some in the south were of the view that the measures would be beneficial with the exception of some residents in York Street and Upper Montagu Street who believed that traffic was being re-directed towards those roads. Mr King added that it was not envisaged that there would be a significant adverse impact on York Street and Upper Montagu Street as a result of the Project proposals.

- Mr King stated that the Council expected to receive results from the TfL consultation on proposed changes to bus routes in the Baker Street/Gloucester Place area by the end of September. The consultation had closed on 4 September.
- The area outside Marylebone Station run by Chiltern Railways and the route from the junction of Harewood Avenue to Baker Street was one of the specific design issues and impacts to institutions in the area Mr King had previously referred to. The specific issues there included the conflicts between the pedestrian use of the footway, parking (including by taxis and bicycles) and how buses enter and exit the area. The frontage of the Station was private land. Chiltern Railways had a scheduled rail project called Evergreen 3 and the Council needed further discussion on the impacts and relationships to the proposals. The Council's Baker Street Two Way Project measures included an improved crossing of Gloucester Place at Dorset Square which in part addressed these concerns.

6.5 **RESOLVED:** That as requested by Members, officers continue to keep the Committee informed of developments in respect of the Baker Street Two Way Project.

## 7. **PRESS RELEASES**

7.1 The Committee decided not to produce a press release in relation to the items on the agenda at this time.

## 8. **WORK PROGRAMME AND ACTION TRACKER**

8.1 Mark Ewbank, Scrutiny Manager, introduced the report. The Committee considered the items in the Work Programme for the Council year 2015/16. In addition to the Baker Street Two Way Project, it was agreed that the items scheduled on the agenda for the next meeting in November would be Crossrail 2 and the Cycle Superhighway.

8.2 **RESOLVED:** That the items in the Work Programme for rounds 3 (the meeting on 9 November 2015) to 6 (the meeting on 12 April 2016) in 2015/16 be as set out in the report.

## 9. **ANY OTHER BUSINESS**

9.1 There was no additional business for the Committee to consider.

**10. CLOSE OF MEETING**

10.1 Meeting ended at 9.11 p.m.

Chairman: \_\_\_\_\_ Date: \_\_\_\_\_