



City of Westminster

# Cabinet Member Report

<b>Decision Maker:</b>	Cabinet Member for Place Shaping and Planning
<b>Date:</b>	5 December 2018
<b>Classification:</b>	For General Release
<b>Title:</b>	Knightsbridge Neighbourhood Plan
<b>Wards Affected:</b>	Knightsbridge and Belgravia
<b>City for All Summary</b>	Formally 'making' Knightsbridge Neighbourhood Plan 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 main costs associated with 'making' the neighbourhood plan have been met within existing budgets. The decision to 'make' the plan will increase the proportion of CIL receipts generated by new development in Knightsbridge that the neighbourhood forum has a say in the spending of - from 15% to 25%.
<b>Report of:</b>	Director of Policy, Performance and Communications

## **1.0 EXECUTIVE SUMMARY**

- 1.1 This report seeks approval to formally 'make' (i.e. adopt) the Knightsbridge Neighbourhood Plan, and to confirm that it forms part of the council's Statutory Development Plan. The plan will be used alongside adopted policies in the London Plan, City Plan and Unitary Development Plan (UDP) (saved policies) to determine planning applications in the Knightsbridge Neighbourhood Area.
- 1.2 The Knightsbridge Neighbourhood Plan has been through independent examination, and was subject to a referendum on 18 October 2018 where the majority (93%) of those who voted were in favour of the plan. Under the Neighbourhood Planning (General) Regulations 2012 (as amended), the council should declare if it decides to make (i.e. adopt) the plan within 8 weeks of the referendum result i.e. by no later than 13 December 2018.

## **2.0 RECOMMENDATIONS**

- 2.1.1 That the Cabinet Member agrees to:
  - A) Formally 'make' the Knightsbridge Neighbourhood Plan as part of the Statutory Development Plan, following the referendum held on 18 October 2018; and
  - B) Note the process followed in this case, and which will be followed with regard to future neighbourhood plans.

## **3.0 REASONS FOR DECISION**

- 3.1 To meet the requirements of the Town and Country Planning Act 1990 (as amended), the Planning and Compulsory Purchase Act 2004, the Localism Act 2011, the Neighbourhood Planning Act 2017, and the Neighbourhood Planning (General) Regulations 2012 (as amended).

## **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 The governance arrangements for this decision have been discussed with the council's Committee and Governance Services. All decisions related to neighbourhood planning, including the making of an area, designation of a forum, publishing a decision statement, and 'making' the neighbourhood plan, arise from the Localism Act 2011. As such, they are an executive function of the Cabinet Member for Place Shaping and Planning, as set out in the council's scheme of delegation. Decisions relating to them – including the

making of neighbourhood plans following referendums – are therefore taken through Cabinet Member Reports of this kind. This means that there is no requirement for a vote of full council, as there would be with the council's own development plans. The Cabinet Member is asked to note the position, which will be followed with future neighbourhood plans.

### **Preparation of the Knightsbridge Neighbourhood Plan**

- 4.3 Knightsbridge Neighbourhood Area was designated by the council on 27 March 2014 in accordance with Section 61G of the Town and Country Planning Act 1990. On 21 July 2015 Knightsbridge Neighbourhood Forum (KNF) were designated as the neighbourhood forum for the area, and subsequently began preparing a draft neighbourhood plan.
- 4.4 In December 2016, KNF published a draft plan for pre-submission consultation under regulation 14 of the Neighbourhood Planning (General) Regulations 2012 (as amended). It was subsequently revised in light of comments received, before submission to the council in November 2017. The council then carried out public consultation on the plan under regulation 16 of the Neighbourhood Planning (General) Regulations 2012 (as amended) - from December 2017 to February 2018.
- 4.5 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.

### **Examination**

- 4.6 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.
- 4.7 The examination was conducted through written representations and the examiner's report was sent to the council on 10 July 2018. The report concluded that subject to a number of modifications, the plan met 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.

- 4.8 As the local planning authority, the council is responsible for deciding what action to take in response to the examiner's recommendations. The council has determined that the modifications to the plan have no impact on the findings of its accompanying Sustainability Report, and on 21 August 2018 issued its Decision Statement. This agreed to the examiner's modifications to the plan (which responded to issues raised during consultation and examination, including points made by the council), and to proceed to referendum. A copy of the Decision Statement is appended to this report.

## **Referendum**

- 4.9 The plan was then modified to incorporate the examiner's recommendations, and a referendum held on 18 October 2018 - the first neighbourhood plan in Westminster to reach this milestone. There was a turnout of 376 electors (19.2%); of these 351 (93%) were in favour of the neighbourhood plan and 25 (7%) against. The turnout is comparable to that of other neighbourhood plan referendums in London. Legislation does not prescribe any minimum turnout for results to be valid.
- 4.10 Under recent changes to the Planning and Compulsory Purchase Act made by the Neighbourhood Planning Act 2017, as the plan has been approved at referendum, it now automatically forms part of the Statutory Development Plan. It should therefore now be used alongside policies in the City Plan, saved policies from the UDP, and the London Plan, in determining planning applications within the Knightsbridge Neighbourhood Area. Notwithstanding this, Regulation 18A of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out that the council should formally 'make' the plan within 8 weeks of the referendum. Doing so confirms its intended use of the plan in determining planning applications.

## **Conclusion**

- 4.11 Independent examination of the Knightsbridge Neighbourhood Plan has found that with modifications, it meets the basic conditions prescribed in legislation. Modifications made to it post examination address concerns raised through consultation and examination – including those made by the council. The plan has received strong support from local residents at referendum. Ward Members have been briefed and have made no objections to the council now formally 'making' the plan.
- 4.12 The sole ground on which the council can decide not to make the plan is that it considers the plan would breach or be otherwise incompatible with any European Union obligation, or any of the rights under the European Convention on Human Rights. Officers have reviewed the Knightsbridge Neighbourhood Plan with this in mind, and are satisfied that it does not raise any issues in this regard.

- 4.13 For all these reasons, the plan should now be ‘made’ in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended).

## **5. CONSULTATION**

- 5.1 Consultation on the 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 then 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 In advance of the referendum, the council’s Decision Statement (setting out its response to the examiner’s recommendations) was 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.
- 5.4 In advance of the referendum, all local government electors in the Knightsbridge Neighbourhood Area received a poll card which listed the date of the poll and where the poll would take place. All postal voters in the area received a postal vote pack prior to polling day. Information on the referendum was published on the council’s website and on the main notice board at 5 Strand. The notices published included a Notice of Election and a Notice of Poll and Situation of Polling Stations.

## **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 rollout of neighbourhood plans. As the Knightsbridge Neighbourhood Plan has been through referendum, the council is eligible to apply for a grant from MHCLG of £20,000. An application for this funding, which is anticipated that this will cover the costs of Electoral Services arranging the referendum, will now be made.
- 6.4 Once ‘made’, under the Community Infrastructure Levy (CIL) Regulations, the neighbourhood portion of CIL rises from 15% to 25%. This means that the Knightsbridge Neighbourhood Forum will have a say on how 25% of CIL receipts generated by development granted in Knightsbridge Neighbourhood

Area should be spent. The increased neighbourhood portion of CIL only applies to developments granted after the neighbourhood plan has been 'made'. Furthermore, any spend of the neighbourhood portion of CIL will still need to be agreed with the council, who remain the charging authority. To date no neighbourhood CIL has been collected in the KNF area.

## **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, the Planning and Compulsory Purchase Act 2004, the Localism Act 2011, the Neighbourhood Planning Act 2017, and the Neighbourhood Planning (General) Regulations 2012 (as amended).
- 7.2 Section 38 (4) of the Planning and Compulsory Purchase Act requires the council to make the Knightsbridge Neighbourhood Plan if more than half of those voting in the referendum have voted in favour of the plan, and to do so as soon as reasonably practicable after the referendum. Furthermore, the Neighbourhood Planning (General) Regulations 2012 (as amended) stipulate at regulation 18A that the plan should be made within 8 weeks of the referendum. Only where the making of the plan would breach or be incompatible with any EU obligations or other legal obligations, conventions or rights, does this duty not apply. No such issues have been raised during consultation or examination. Officers have also reviewed the plan with this in mind and have concluded that it does not raise any issues in this regard.

## **8. BUSINESS PLAN IMPLICATIONS**

- 8.1 In line with the most up-to-date Policy, Performance and Communications Business Plan (2017-2018), the decision to make the Knightsbridge Neighbourhood Plan reflects the commitments to demonstrate leadership in policy development, and secure greater resident and stakeholder advocacy.

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

- 9.1 The Knightsbridge Neighbourhood Plan (see 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 Knightsbridge Neighbourhood Plan (see 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.
- 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 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 and London Plan policies, which themselves have been subject to detailed equalities impact assessment.
- 11.5 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](mailto:swalsh2@westminster.gov.uk)**

## **APPENDICES**

- 1 – Regulation 18 (2) Decision Statement
- 2 – Knightsbridge Neighbourhood Plan Adoption Version

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: \_\_\_\_\_

State nature of interest if any

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*(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’** and reject any alternative options which are referred to but not recommended.

Signed .....

Councillor Richard Beddoe, 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 Director of Law, Chief Operating Officer and, if there are resources implications, the Director of Human 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.