



City of Westminster

# Cabinet Report

<b>Meeting or Decision Maker:</b>	<b>Cabinet</b>
<b>Date:</b>	<b>25<sup>th</sup> October 2018</b>
<b>Classification:</b>	<b>General Release</b>
<b>Title:</b>	<b>Planning Review – Final Report</b>
<b>Wards Affected:</b>	<b>All</b>
<b>City for All Summary</b>	<b>An open and transparent Council with services accessible and relevant to everyone. Ensuring development in the City works best for those living here.</b>
<b>Key Decision:</b>	<b>Cabinet</b>
<b>Financial Summary:</b>	<b>The reduction of one Director post will result in savings that will be reflected in the 2018/19 outturn.</b>  <b>Any further financial impacts will be delivered within budget and reflected in the 2018/19 outturn.</b>
<b>Report of:</b>	<b>Stuart Love – Chief Executive</b>  <b>Barbara Brownlee – Executive Director, Growth Planning and Housing</b>

## **1. Executive Summary**

- 1.1. This report sets out ambitious and wide ranging changes to the Council's Place-Shaping and Planning functions, which will result in a more open, transparent and proactive approach to planning in the city, underpinned by a service and an officer culture focused on delivering the Council's City for All vision. It will therefore also place residents at the heart of the planning process.

- 1.2. Along with the current review of the City Plan and a renewed commitment from the leadership of the Council to ensure that all of its residents benefit from development, the recommendations set out in this report provide a significant opportunity for the planning service to evolve, placing itself in the strongest position possible to deliver both the City Plan and Westminster's wider corporate objectives. It will also lead to best practice and regain and maintain trust in an important public and regulatory service.
- 1.3. This follows a review of the Council's approach to planning initiated by the Leader of the Council and Cabinet at the start of 2018. The review specifically considered the effectiveness of Westminster's Development Planning service, the role of hospitality, the delivery of corporate objectives and outcomes, and the planning committee system and decision-making process.
- 1.4. This review was supported by the Planning Advisory Service (PAS), which is part of the Local Government Association (LGA).

## **2. Recommendations**

- 2.1. To endorse the findings and recommendations of the report submitted by the Planning Advisory Service (PAS) and to take the following steps to:
  - a) Improve the openness and transparency of the planning system:
    - We will record Planning Sub-Committee meetings and make the coverage available post-meeting;
    - We will live stream Planning Sub-Committee meetings once an appropriate technological solution has been identified and sourced;
  - b) Make it easier for residents to engage with the planning system:
    - We will introduce "public speaking rights" at Planning Sub-Committee meetings;
    - We will review all our digital content on the planning process and planning decisions, particularly that included on the council's website to improve accessibility for the general public;
    - We will improve the way we explain planning policies and decisions to make them easier to understand.
- 2.2. To support resident and ward Councillor participation at an earlier stage of the process, for example in the pre-application stage of major applications, we will adopt a new approach to communicating and engaging their views in proposals.

- 2.3. To direct the Chief Executive, in consultation with the Cabinet Member for Place-Shaping and Planning, to recommend to the Planning and City Development Committee to increase delegation and review the call-in procedures, empowering officers to take more delegated decisions, in consultation with ward Members as appropriate without the need for escalation to Sub-Committee, thereby speeding up the process. The details of the revised delegation and call in procedures be reviewed and recommended for decision at the next Planning and City Development Committee.
- 2.4. To direct the Executive Director of Growth Planning and Housing and the Executive Director of Policy Performance and Communications to submit a joint report to the next Planning and City Development Committee setting out the detailed proposals for the introduction of public speaking rights. A target date for the introduction of public speaking rights is set for 1 December 2018.
- 2.5. To direct the Chief Executive to restate to both officers and members their responsibilities in terms of the Council's gifts and hospitality policies. This will include emphasising the importance of exercising sound judgement in dealing with all offers of gifts and hospitality. To note that in terms of the planning service, this will build on the guidance issued in February 2017 regarding Councillor meetings with developers on particular schemes.

Council officers and elected members involved in the planning process must retain a distance from land owners, applicants, agents and community stakeholders, other than at formally arranged visits and recorded meetings linked directly and specifically to the consideration of planning applications, pre applications, or the development of the local plan.

- 2.6. To create a new Place-Shaping and Planning directorate which reflects the ambitious agenda set by the Leader and Cabinet to deliver a City for All, and for the new service to deliver the direction of travel which will be set out in the emerging City Plan.

### **3. Reason for Decision**

- 3.1. The Leader and Cabinet have set an ambitious agenda to change how the Council operates in a number of areas, including, but not limited to planning.
- 3.2. The direction of travel is to shift away from a largely reactive and development management focused planning service towards a proactive and strategic approach, guided by the Council's vision and priorities. This will require cultural change throughout the whole system.
- 3.3. It will also mean that, should they wish to, residents and others will have the ability to take a clearer and more proactive role in the planning and decision making process related to development in their area. This includes Neighbourhood Forums, Amenity Societies and the general public.

- 3.4. Work is ongoing to finalise the City Plan (the Council's Statutory Local Plan) for public consultation in November 2018. The revised City Plan will be streamlined and place much greater emphasis on positive considerations about the type of development that is appropriate in Westminster. The service which implements this policy framework must therefore also be governed by the same principles.
- 3.5. These recommendations are supported by the findings of the PAS report.

#### **4. Background**

- 4.1. Following the election of a new Leader of the Council and Cabinet in January 2017, a number of changes have been implemented regarding the management of the planning system in Westminster.
- 4.2. In February 2017, new guidance was introduced governing how the Cabinet Member for Place-Shaping and Planning and the Chairman of Planning should engage with planning applicants before and after submission of applications. This guidance set out that such meetings must take place with a Planning Officer present and a record of the meeting and any advice given must be made. The guidance also sets out that once an application is submitted any advice provided by the relevant member will be given to the Director of Planning for inclusion in the committee report.
- 4.3. In early 2018, the Leader of the Council instructed the Chief Executive to undertake a review of the planning system as a whole, learning the lessons from a year of operating the new guidance and with a view to ensuring a modern, open transparent planning service.
- 4.4. In May 2018, PAS were instructed to review the operation of Westminster's Development Management (DM) service. PAS was asked to consider the effectiveness of the service, the role hospitality plays, the delivery of corporate objectives and outcomes, and the Planning Committee System and Decision Making.
- 4.5. PAS reported to the Chief Executive and the Executive Director of Growth, Planning and Housing in September 2018 and this report is the Council's response to that process.
- 4.6. A copy of the final PAS report is attached (Appendix 1) and the key findings are summarised below.

#### **5. Key findings**

##### **5.1. A culture change in planning in Westminster**

- 5.1.1. The PAS review notes that:

*"The Leadership of Westminster has an excellent opportunity to change the narrative about planning and with it the philosophy and role of planning. Westminster does not have to go out and seek development and this could have contributed to the balance at Westminster being tilted more towards reacting to and regulating development"*

*than proactively managing and delivering a vision. The 'City for All' strategy and emerging local plan should be the driving forces that communicate to the community and developers a clear vision for Westminster, how it wants to develop and its priorities. Planning should be placed at the front and centre of how that vision is achieved."*

- 5.1.2. In order to seize this opportunity, it is necessary to implement both structural and cultural changes in how the planning function operates.
- 5.1.3. The Council's current planning service is operating from a purely development control perspective in determining applications and not embracing the wider Town Planning role, which provides for, and requires a much greater degree of creativity and proactivity in assessing applications.
- 5.1.4. The Council has a reputation for delivering innovative and high quality services and both officers and Councillors are keen to ensure that the organisation does not 'rest on its laurels' and continues to change and to innovate.
- 5.1.5. For the planning service this includes finding the right balance between its role as a regulator and the transparent promotor of development that will deliver the key outcomes for all of Westminster's communities. Planning policy and its implementation should be the spatial interpretation of the Council's vision, objectives and priorities both for city management and planning.
- 5.1.6. The review encourages the planning service to explore and develop innovative approaches to city centre management and this should include learning from other UK local planning authorities and global centres.
- 5.1.7. The review recommends that Development Management, planning policy, delivery and regeneration be more closely aligned. The planning function has become development control-led and a largely reactive rather than proactive service which is at the heart of delivering the Council's City for All vision.
- 5.1.8. The planning service should provide leadership in terms of the growth and development of the city and therefore it is recommended that the Council create and appoint a strategic place shaping and planning lead to ensure corporate leadership in all key service areas and a joined up approach to this agenda. This would align with the Cabinet Member portfolio created following the 2018 local elections.
- 5.1.9. The Chief Executive, the Executive Director for Growth, Planning and Housing and the Director of Policy, Performance and Communications have been reviewing the structure of the planning function as part of the review process. It is proposed to delete the post of Director of Planning and the post of Director of Place Shaping & WEP (West End Partnership) and to create a new post of Director of Place Shaping and Planning. This new post will have overall responsibility for the council's Development Management function, including development control and policy implementation. The new post will report to the Executive Director for Growth, Planning and Housing with a dotted line to the Chief Executive.

## 5.2. **Planning Decision Making, including the role of Planning Sub-Committees**

- 5.2.1. There is a need to overhaul the planning decision making process to ensure that decisions are made at the right level with regard to the seniority of officers empowered to take decisions as well as the role of Planning Sub-Committees and in the right way with regard to the engagement of the local community in the process.
- 5.2.2. The review found that current planning application assessment and sign-off procedures are rigorous in Westminster's current planning service, but restricted to senior officers.
- 5.2.3. This is understandable in a high profile borough, where legal challenges to process and decisions are more common than in the rest of the country. Notwithstanding this rigour (which often drives consistency and high standards), strong leaders with forthright views on high standards of design and development need to find ways to pass skills down the chain of command to enable more good decisions to be made, more quickly and efficiently.
- 5.2.4. Passing decision-making to frontline officers will also require officers to work closely with ward Councillors and residents to resolve issues as far as practical in the local area and align decision making wherever possible between the views of officers and those of elected Members who have a democratic leadership responsibility for their locality.
- 5.2.5. Joint working between the local community, planning officers and Members at an early stage can ensure that better outcomes are achieved. Even when issues cannot be resolved locally and matters are taken to a Planning Sub-Committee, good communication provides a way of improving understanding of the issues from different perspectives right at the start of the process and will help improve and clarify decisions taken.
- 5.2.6. Delegation and call-in procedures are too loosely defined and this results in cases appearing on committee agendas that the review team felt could have been dealt with elsewhere e.g. a policy interpretation for the discharge of a condition; a case that had no objections and was recommended for approval; issues and questions on one of the Council's own major regeneration schemes which really should have been dealt with rather than progress to committee for a resolution. There were also several other cases including a mansard roof development and basement developments that could have been resolved outside of committee with some flexibility, creativity and little less risk-averse application of policy.
- 5.2.7. The time of Planning Sub-Committees should be reserved for major schemes involving substantial impact on the city as a whole or those schemes with a strategic importance for the city.

- 5.2.8. As such a review is required of the delegation and call in procedures to ensure that officers are empowered to take decisions on a wider variety of applications and at a more junior level. This will create capacity, a more consistent and efficient service for customers, support career development, increase staff confidence and autonomy, and encourage more aligned local decision-making. This would also have the associated benefit of identifying potential efficiency gains and cost savings.
- 5.2.9. This will also free up time for Planning Sub-Committees to consider a smaller number of strategically important applications in greater depth, including the opportunity for “public speaking rights”, thereby making the process more open and engaging for the public
- 5.2.10 The Executive Director of Growth, Planning and Housing and the Executive Director of Policy, Performance and Communications will support the Planning and City Development Committee to develop detailed proposals for the delivery of public speaking rights and other operational arrangements for planning decision making (including staff delegation and committees).
- 5.2.11 This will include consideration of the process for determining who can speak at Sub-Committee meetings, how much time is allocated for speakers, support for the public to make effective representations, the management of meetings by the Chairman, the layout of the room, timings of meetings e.g. day vs. night time and training requirements for Members sitting on Planning Sub-Committees.

### **5.3 Gifts and Hospitality**

- 5.3.1 The review recommends that Councillors and officers only attend formally arranged visits and recorded meetings linked directly and specifically to the consideration of planning applications, pre applications or the development of policy. Attendance at hospitality events is not required to deliver a good and professional service.
- 5.3.2 As noted above, new guidance was introduced in February 2017 which governs meetings held by the Cabinet Member for Place-Shaping and Planning and the Chairman of Planning with planning applicants. This guidance clearly sets out the type of meetings that are appropriate, that officers must be present and take a record of the meeting, including details of any advice provided which in turn must be presented as part of the planning application papers. This guidance was designed to maintain the integrity and the perception of integrity in the planning service, particularly with regard to hospitality.
- 5.3.3 The review found no impropriety or failure to follow guidelines and protocols regarding hospitality. However, the practice of accepting hospitality from planning applicants was found to be excessive and unnecessary. It has become ‘normalised’ in contrast to the practice of most planning services across the country.

- 5.3.4 The review found that the Council fundamentally needs to re-think its stance on hospitality and make sure that all guidance for staff and members is consistent and up to date.
- 5.3.5 Good practice would be for staff and Councillors to retain a distance from land owners, applicants, agents and community stakeholders other than through formally arranged visits and recorded meetings linked directly and specifically to the consideration of planning applications, pre-applications or the development of the local plan. This provides independence and serves to maintain trust in what is a public and regulatory service.
- 5.3.6 Accordingly, it is recommended that the Chief Executive restate to both officers and members their responsibilities in terms of the Council's gifts and hospitality policies. This will include emphasising the importance of exercising sound judgement in dealing with all offers of gifts and hospitality. To note that in terms of the planning service, this will build on the guidance issued in February 2017 regarding Councillor meetings with developers on particular schemes.
- 5.3.7 Senior officers will be expected, and should be able to discuss and provide guidance to more junior members of staff on what is and isn't considered acceptable.
- 5.3.8 Furthermore, all guidance regarding meetings with planning applicants should be revised in line with the wider recommendations of this report.

## **6. Engagement**

- 6.1 As the changes proposed in this report will require a significant culture change for staff and those externally who use the planning system, in order to take the findings of this review forward, further work is required to understand how to best implement detailed new procedures and guidance in practice.
- 6.2 Accordingly, and because the Council is not best placed to determine exactly how the system should work, views will be sought from all those with a stake in the planning system in Westminster, most notably residents via Neighbourhood Forums, Amenity Societies and Residents' Associations as well as the development industry itself. Views will be gathered via an informal engagement exercise to understand the best way to implement the principles set out in this report, most notably with regard to public speaking rights and delegated decision making.

## **7. Financial Implications**

- 7.1 The reduction of one Director post will result in savings that will be reflected in the 2018/19 outturn. Any further financial impacts will be delivered within budget and reflected in the 2018/19 outturn.

## **8. Legal Implications**

- 8.1 The Town and Country Planning Act 1990 provides the local planning authority with a strategic role within the planning system with a statutory responsibility for management of delivery of planning services within its designated area including Development Control and Planning Policy making functions.
- 8.2 Planning legislation and related government guidance requires that the above services are provided in a professional and effective manner, and in particular that the decision making process is robust and transparent.
- 8.3 The Director of Law has considered the proposals set out in this report and is satisfied that they will assist the local planning authority in effectively discharging its statutory duties as set out above.

## **9. Staffing Implications**

- 9.1 The Executive Director of Growth, Planning and Housing and the Director of People Services will undertake any necessary consultation and ring fencing arrangements and ensure an Appointments Sub-Committee is convened to make the necessary member level appointments.

**If you have any queries about this Report or wish to inspect any of the Background Papers please contact:**

**Stuart Love – Chief Executive: [slove@westminster.gov.uk](mailto:slove@westminster.gov.uk)**

**Barbara Brownlee – Executive Director of Growth, Planning and Housing**

**[bbrownlee@westminster.gov.uk](mailto:bbrownlee@westminster.gov.uk)**

### **BACKGROUND PAPERS:**

**Appendix 1 - Planning Advisory Service Report - Development Management Decision Making and Committee Review (September 2018)**