



City of Westminster

Cabinet Member Report

Decision Maker:	Cabinet Member for Place Shaping and Planning
Date:	20 December 2018
Classification:	For General Release
Title:	Mayfair Neighbourhood Plan
Wards Affected:	West End, Knightsbridge and Belgravia
City for All Summary	Formally 'making' the Mayfair Neighbourhood Plan will support a city that celebrates its communities, by empowering local communities to provide planning policies that respond to local issues.
Key Decision:	No
Financial Summary:	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 Mayfair that the neighbourhood forum has a say in the spending of - from 15% to 25%.
Report of:	Director of Policy, Performance and Communications

1.0 EXECUTIVE SUMMARY

- 1.1 This report seeks approval to formally 'make' (i.e. adopt) the Mayfair 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 Mayfair Neighbourhood Area.
- 1.2 The Mayfair Neighbourhood Plan has been through independent examination, and was subject to a referendum on 31 October 2019. As the neighbourhood area is also designated as a business area, two separate referenda were held – one for residents and one for businesses. The plan was supported in both referenda – by 86.03% of voters in the resident's referendum, and 91.21% of voters in the business referendum. 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 26 December 2019.

2.0 RECOMMENDATIONS

- 2.1.1 That the Cabinet Member agrees to:

A) Formally 'make' the Mayfair Neighbourhood Plan as part of the Statutory Development Plan, following the referendum held on 31 October 2019.

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 terms of reference delegated by the terms of reference by the Leader of the Council. 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.

Preparation of the Mayfair Neighbourhood Plan

- 4.3 Mayfair Neighbourhood Area was designated by the council on 5 April 2013 in accordance with Section 61G of the Town and Country Planning Act 1990. On 10 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 January 2019 for a further 5 years.
- 4.4 In June 2017, MNF 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 February 2018. The council then carried out public consultation on the plan under regulation 16 of the Neighbourhood Planning (General) Regulations 2012 (as amended) - from May 2018 to June 2018.
- 4.5 The submitted plan was accompanied by a Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report.

Examination

- 4.6 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 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 final report was issued on 11 June 2019. 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 11 July 2019 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 two referendums held on 31 October 2019 – one for residents, and one for businesses. For the residential referendum there was a turnout of 315 electors (13.67%); of these 271 (86.03%) were in favour of the neighbourhood plan and 44 (13.97%) against. For the business referendum there was a turnout of 91 electors (38.4% of those who registered as eligible). Of these 83 (91.21%) were in favour of the neighbourhood plan and 8 (8.79%) against. Legislation does not prescribe any minimum turnout for results to be valid.
- 4.10 Under 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 Mayfair 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 Mayfair 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 and businesses at referendum. Ward Members have been briefed of the referendum results 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 Mayfair 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 MNF, 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 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 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 library, and the council's offices at 64 Victoria Street.
- 5.4 In advance of the referendum, all local government electors and eligible Non-Domestic Rate Payers in the Mayfair 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. The notices published included Notices of Election and Notices of Poll.

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 these 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 Mayfair Neighbourhood Plan has been through referendum, the council is eligible to apply for a grant from MHCLG of £30,000, and an application for this funding has already been made. This grant will cover the costs of

appointing the independent examiner, and is also anticipated to cover the costs of Electoral Services arranging the referendum.

- 6.3 Once 'made', under the Community Infrastructure Levy (CIL) Regulations, the neighbourhood portion of CIL in Mayfair rises from 15% to 25%. This means that the Mayfair Neighbourhood Forum will have a say on how 25% of CIL receipts generated by development granted in Mayfair Neighbourhood Area should be spent. The increased neighbourhood portion of CIL only applies to developments granted in Mayfair 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.
- 6.4 As the Mayfair Neighbourhood Plan will be used alongside the Mayor of London's and the council's own planning policies to determine planning applications within the Mayfair Neighbourhood Area, its contents could also have an impact on future income streams for the council where the council is the applicant in any development proposal.

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 38A (4) and (5) of the Planning and Compulsory Purchase Act allows the council to make the Mayfair Neighbourhood Plan if more than half of those voting in one of the referendums 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 where a plan is made, it should be done so 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 Supporting neighbourhood forums to deliver neighbourhood plans is a key measure in the Policy, Performance and Communications Business Plan (2018-2019). It 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 Mayfair Neighbourhood Plan (see appendix 2) includes a number of 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 Mayfair Neighbourhood Plan (see 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 SEA screening assessment accompanying the plan, by seeking to guide new development, the plan is not expected to result in an increase in accidents. Efforts to promote public realm improvements, better walking and cycling conditions, and street greening, meanwhile, can help improve health and safety.

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

APPENDICES

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