



City of Westminster Cabinet Member Report

Decision Maker:	Cabinet Member for Business, Licensing and Planning
Date:	24 November 2021
Classification:	General Release
Title:	Adoption of the Queen's Park Neighbourhood Plan
Wards Affected:	Queen's Park
City for All:	Formally adopting the Queen's Park Neighbourhood Plan will support vibrant communities by providing planning policies that respond to local issues. Up-to-date planning policies will also support the other pillars of City for All.
Key Decision:	No
Financial Summary:	The main costs associated with formally adopting the neighbourhood plan have been met within existing budgets. The decision to adopt the plan will increase the proportion of CIL receipts generated by new development in Queen's Park that the Queen's Park Community Council has a say in the spending of - from 15% to 25%.
Report of:	Executive Director of Innovation and Change

1.0 EXECUTIVE SUMMARY

- 1.1 This report seeks approval to formally 'make' (i.e. adopt) the Queen's Park Neighbourhood Plan. Once 'made', the plan will form part of the council's Statutory Development Plan and be used alongside adopted policies in the London Plan and the City Plan to determine planning applications in Queen's Park.

- 1.2 The Queen’s Park Neighbourhood Plan has been through independent examination and was subject to a referendum on 21st October 2021. The plan was supported by 91.41% of voters in the referendum. Under the Neighbourhood Planning (General) Regulations 2012 (as amended), the City 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 16th December 2021.

2.0 RECOMMENDATIONS

- 2.1 That the Cabinet Member for Business, Licensing and Planning agrees to formally ‘make’ (i.e., adopt) the Queen’s Park Neighbourhood Plan as part of Westminster’s Statutory Development Plan, following the referendum held on 21st October 2021.

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, INCLUDING POLICY CONTEXT

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 or a local parish council. Once prepared, they are subject to public consultation, independent examination, and referendum(s).
- 4.2 The governance arrangements for this decision have been discussed with the City 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 Business, Licensing and Planning as set out in the terms of reference delegated by the Leader of the City Council. Decisions relating to them – including the making of neighbourhood plans following referendum – are therefore taken through Cabinet Member Reports of this kind.

This decision process means that there is no requirement for a vote of full council, as there would be with the City Council's own development plans.

Preparation of the Queen's Park Neighbourhood Plan

- 4.3 Queen's Park neighbourhood area was designated by the council on 10th January 2014 in accordance with Section 61G of the Town and Country Planning Act 1990. Queen's Park Community Council (QPCC) were first elected in 2014 and subsequently began preparing a draft neighbourhood plan.
- 4.4 QPCC published a draft for pre-submission consultation under regulation 14 of the Neighbourhood Planning (General) Regulations 2012 (as amended) between October and December 2017. It was subsequently revised in light of comments received, before submission to the City Council in November 2020. The City Council then carried out public consultation on the plan under regulation 16 of the Neighbourhood Planning (General) Regulations 2012 (as amended) between 26th November 2020 and 21st January 2021.
- 4.5 The submitted plan was accompanied by a Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report.

Examination

- 4.6 In February 2021, the City Council, in consultation with QPCC, appointed Ms Jill Kingaby BSc (Econ) MSc MRTPI as independent examiner of the plan. The purpose of the examination was to determine if the neighbourhood plan met the basic conditions required by legislation, other legal requirements, and should proceed to referendums. 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 8th June 2021. The report concluded that, subject to a number of modifications, the plan met the basic conditions set out in legislation and should proceed to 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 City Council is responsible for deciding what action to take in response to the examiner's recommendations, and on 12th July 2021 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.

Referendum

- 4.9 The plan was then modified to incorporate the examiner's recommendations, and a referendum was held on 21st October 2021. At the referendum there was a turnout of 775 electors (9.11%); of these 702 (91.41%) were in favour of the neighbourhood plan and 66 (8.59%) against, and a total of 7 ballots were rejected. 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 Westminster's City Plan and the London Plan in determining planning applications within the Queen's Park 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, i.e., by no later than 16th December 2021. Doing so confirms its intended use of the plan in determining planning applications.

Conclusion

- 4.11 Independent examination of the Queen's Park 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 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 City 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 Queen's Park 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).

5.0 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 QPCC, detailing how the drafting of the plan was informed by public consultation.
- 5.2 The City Council carried out formal Regulation 16 consultation on the plan from 26 November 2020 to 21 January 2021, in line with statutory requirements. This included publicising the plan on the council's website and writing to all relevant stakeholders on the council's planning policy database. Due to the coronavirus pandemic, physical copies of the plan were not made available at libraries or at council offices in this instance.
- 5.3 In advance of the referendum, the City Council published its Decision Statement (setting out its response to the examiner's recommendations) on its website.
- 5.4 In advance of the referendum, all local government electors and eligible Non-Domestic Rate Payers in the Queen's Park 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 City Council's website. The notices published included Notices of Election and Notices of Poll.

6.0 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 local referendums.
- 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 roll out of neighbourhood plans. As the Queen's Park Neighbourhood Plan has been through referendum, the City Council is eligible to apply for a grant from MHCLG of £20,000, and an application for this funding has already been made. This grant will cover the costs of appointing the independent examiner and will also cover the costs of Electoral Services arranging the referendum.
- 6.3 Once the neighbourhood plan is 'made', under the Community Infrastructure Levy (CIL) Regulations, the neighbourhood portion of CIL in Queen's Park rises from 15% to 25%. This means that the Queen's Park Community Council will have a say on how 25% of CIL receipts generated by development granted in Queen's Park Neighbourhood Area should be spent. The increased neighbourhood portion of CIL only applies to developments granted in Queen's Park after the neighbourhood plan has been 'made'.
- 6.4 As the Queen's Park Neighbourhood Plan will be used alongside the Mayor of London's and the City Council's own planning policies to determine planning applications within the Queen's Park Neighbourhood Area, its contents could

also have an impact on future income streams for the City Council where the council is the applicant in any development proposal.

7.0 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 City Council to make the Queen's Park 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 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.

8.0 IMPACT ON THE ENVIRONMENT

- 8.1 The proposed plan (as modified by the Examiner's recommendations) includes a number of policies aimed at ensuring future development in Queen's Park has a positive impact on the local environment – in terms of protecting and enhancing open and green spaces, promoting improved environmental sustainability and air quality through safeguarding and encouraging walking and cycling, and supporting retrofitting to achieve net zero emissions.

9.0 HEALTH, WELLBEING IMPACT ASSESSMENT INCLUDING HEALTH AND SAFETY IMPLICATIONS

- 9.1 The proposed plan (as modified by the Examiner's recommendations) aims to improve local wellbeing through protecting local amenities, open spaces and spaces for food growing. The plan also seeks to encourage sustainable mobility through safeguarding and enhancing the local walking and cycling environment. 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.

10.0 EQUALITIES IMPLICATIONS

- 10.1 Under the Equalities Act 2010 the City 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.
- 10.2 The City 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 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.
- 10.3 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.
- 10.4 When the plan was submitted, it was accompanied by a Basic Conditions Statement, which incorporated an assessment of sustainability and considered whether policies would improve local opportunities. Broadly this found that the plan would have small scale positive effects on local opportunities, through matters such as protecting and improving access to community facilities and open and green spaces, supporting the provision of a wide range of homes for diverse needs (including affordable homes) and ensuring the public realm is safe and accessible, including for people with limited mobility. 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 policies, which themselves have been subject to detailed equalities impact assessment.
- 10.5 Officers have considered the need for a formal equalities impact assessment (EIA) of the Queen’s Park Neighbourhood Plan. Policies promoting pedestrian

movement (including for the less mobile), protecting open spaces and the natural environment, and encouraging community uses, will all have a positive impact on protected groups. The Plan also includes policies which seek to ensure a range of homes, including tenures and sizes, which will ensure a diverse range of people are able to live within the area. 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: Aidan Marshall,
Policy Officer on 07800717948 or email amarshall@westminster.gov.uk**

APPENDICES

1 – Queen’s Park Neighbourhood Plan (Adoption version)

Cabinet Member for Business, Licensing and Planning: Councillor Matthew Green

Declaration of Interest

I have to declare an interest in respect of this report

Signed:

Date:

NAME:

Cabinet Member for Business, Licensing and Planning

State nature of interest if any:

I own a property in Queen's Park Ward, in which I live however I have not had any involvement in the consultation or formation of the Queens Park Neighbourhood Plan

For the reasons set out above, I agree the recommendation(s) in the report entitled **Queen's Park Neighbourhood Plan Decision Statement** and reject any alternative options which are referred to but not recommended.

Signed

Cabinet Member for Business, Licensing 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, Director of Legal Services, Strategic Director Finance and Performance and, if there are resources implications, the Strategic Director of 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.