



City of Westminster Cabinet Member Report

Decision Maker:	Cllr Geoff Barraclough, Cabinet Member for Planning and Economic Development
Date:	20 June 2022
Classification:	General Release
Title:	Pimlico Neighbourhood Plan Decision & Adoption Statement
Wards Affected:	Pimlico North, Pimlico South
Policy context:	The Localism Act 2011 enables local communities, through Neighbourhood Forums, to produce Neighbourhood Plans to influence development within their local areas. If adopted, the Pimlico Neighbourhood Plan will be used to determine planning applications within the Pimlico Neighbourhood Area, alongside Westminster's City Plan and the London Plan.
Key Decision:	Yes
Financial Summary:	The costs of amending the draft Pimlico Neighbourhood Plan and administering a local referendum will be met within existing budgets.
Report of:	Executive Director of Innovation and Change

1. EXECUTIVE SUMMARY

- 1.1 This report seeks approval to make amendments to the draft Pimlico Neighbourhood Plan (submission version, see Appendix 2) in accordance with an independent Examiner's Report recommendations (see Appendices 3 and 4), proceed to local referendum on whether the plan should be 'made' and, in the event of the result of the referendum being successful, to formally 'make' (adopt) the plan. If 'made', the plan will form part of the council's statutory Development Plan and be used alongside adopted policies in Westminster's City Plan 2019-2040 and the London Plan to determine planning applications within the Pimlico Neighbourhood Area.
- 1.2 Under neighbourhood planning regulations, councils are required to publish a 'Decision Statement', setting out what actions they propose to take in response to an Examiner's recommendations. A Decision Statement is provided as Appendix 1 of this report, recommending the plan proceeds to local referendum.
- 1.3 In the case of a successful referendum result, in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended), the council should declare as soon as possible if it decides to 'make' (i.e. adopt) the plan. This would be confirmed via the publication of an Adoption Statement on the council's website.

2. RECOMMENDATIONS

- 2.1 That the Cabinet Member agrees:
 - A) That the recommendations of the Examiner as set out in the council's Decision Statement (see Appendix 1) and Examiner's Report (see Appendices 3 and 4) be accepted.
 - B) That in accordance with the Examiner's recommendation, the Pimlico Neighbourhood Plan (submission version, see Appendix 2), as modified within the Examiner's Report proceed to local referendum.
 - C) That in accordance with the Examiner's recommendation, the referendum area be restricted to the neighbourhood area designated by the council on 4th September 2013 as the Pimlico Neighbourhood Area.
 - D) That in the event of a positive referendum result, the Executive Director of Innovation and Change be authorised to publish an Adoption Statement and formally 'make' the plan.

3. REASONS FOR DECISION

- 3.1 The Examiner's recommendations will ensure the Pimlico Neighbourhood Plan is clear and effective as a framework for making decisions on planning applications in the Pimlico Neighbourhood Area. The recommendations address the concerns raised by the council during consultation and

examination, and other stakeholders during consultation, and ensure the draft plan meets the 'basic conditions' prescribed by legislation.

- 3.2 Before a neighbourhood plan can be made, it is a statutory requirement that it is first subject to local referendum within the Neighbourhood Area, and any additional areas as considered appropriate by the Examiner. Before this happens, the council must publish a Decision Statement setting out the actions it proposes to take in response to the Examiner's Report. Where the council decides to proceed to referendum, in the case of a successful majority vote in favour of the plan, the council must formally 'make' the plan.

4. BACKGROUND, INCLUDING POLICY CONTEXT

- 4.1 Neighbourhood plans are statutory planning documents which can establish general planning policies for the development and use of land in a Neighbourhood Area. They must be prepared by a designated Neighbourhood Forum made up of members of the local community. Once prepared, neighbourhood plans are subject to public consultation, independent examination, and referendum.
- 4.2 The Pimlico Neighbourhood Area was designated by the council on the 4th of September 2013 in accordance with Section 61G of the Town and Country Planning Act 1990. On the 9th of October 2015 the Pimlico Neighbourhood Forum (PNF) were designated as the Neighbourhood Forum for the area, and subsequently began preparing a draft neighbourhood plan. The Pimlico Neighbourhood Forum were then re-designated as the Neighbourhood Forum for the area on the 30th of November 2020 (as Forum designations expire after 5 years).
- 4.3 The Pimlico Neighbourhood Forum published a draft plan for Regulation 14 pre-submission consultation in July 2019. It was subsequently revised in light of comments received, before submission to the council on 25th May 2021. Regulation 16 consultation on the draft plan was then carried out by the council from June to August 2021.
- 4.4 In October 2021, the council, in consultation with the Pimlico Neighbourhood Forum, appointed Ms Jill Kingaby BSc (Econ) MSc MRTPI as independent Examiner of the draft plan. The purpose of the examination was to determine if the draft neighbourhood plan 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 retained EU regulations;
- meets human rights requirements.

4.5 The Examiner considered that a public hearing into the plan was not required and the examination was conducted through written representations. The Examiner's Report concludes that, subject to making the modifications recommended in the report, the plan meets the 'basic conditions' set out in legislation and should proceed to local referendum. It also recommends that the area for the referendum should be limited to the Pimlico Neighbourhood Area.

Plan Modifications

4.6 The modifications recommended by the Examiner respond to issues raised through formal consultation on the draft plan by respondents, including the council.

4.7 Through the examination process, the Examiner encouraged the Pimlico Neighbourhood Forum and the council to seek to overcome areas of disagreement as far as possible through a Statement of Common Ground. Many concerns regarding different policies, which were highlighted in the council's response to the formal consultation, were resolved at this stage. Constructive dialogue between the two parties also led to agreed changes to improve the clarity and effectiveness of the draft plan with regards to other outstanding points that were raised by the council at consultation stage. The agreed changes between the Pimlico Neighbourhood Forum and the council are set out in Section 2 of the Statement of Common Ground (attached to this report as Appendix 4). The Examiner considered that, subject to a number of proposed modifications, all the changes to the submitted plan agreed between both parties and as set out in Section 2 of the Statement of Common Ground should be made.

4.8 In producing the Statement of Common Ground, there were some areas where the Pimlico Neighbourhood Forum and the council were unable to reach agreement. On most of those matters, the Examiner's recommendations, as set out in her report, align with the council's position. This included:

- Policy PIM1 'Commercial and Mixed-Use Centres', as the council considered that clauses requiring 18-month marketing requirements for changes of use from commercial to residential uses were unclear, onerous and could inadvertently encourage the loss of active town centre uses and frontages to residential uses, whilst the requirement for all new commercial uses to cease operation at 11pm could undermine viability of some uses, such as pubs.

The Examiner recommended the marketing requirements clause be deleted and that the clause relating to hours of use be worded more flexibly.

- PIM2 'Protected Historic Townscape and Views', as the council raised concerns that policy tests requiring preservation of the 'openness of the skies' was vague and unclear in how it would be applied, whilst the identified views were overly restrictive without justification. The Examiner agreed with the council's concerns and recommended references to 'openness of the skies' be deleted, and that the policy is modified to focus on maintaining the consistency of building heights within the townscape when viewed from street level.
- PIM3 'Upward Extensions in the Pimlico Conservation Area,' as the council raised concern with Clause B which related to 'Grid Streets' as it sought to mandate which buildings within streets would be permitted a roof extension and those that would not. The council considered the policy unclear and overly restrictive without clear justification, whilst it did not have regard to listed buildings nor allow for flexibility by decision makers in order to maintain uniformity, responding to site specific contexts. Within the Statement of Common Ground, the council recommended alternative wording for clarity and conformity with City Plan policies 39 and 40 on roof extensions. The Examiner agreed with the council and recommended the policy is modified in line with the council's recommendations whilst noting in the report that the modification was necessary to enable consideration of applications on a case-by-case basis.
- PIM4 'Design in the Pimlico Conservation Area', as Clause E sought to allow the conversion of shopfronts to residential frontages if the principle of a change of use to residential were considered acceptable in land use terms. The council raised concern that this could result in loss of historic frontages of character whilst it could punctuate and disrupt active frontages within commercial centres, contrary to City Plan policies. Within the Statement of Common Ground, the council suggested alternative wording to ensure that loss of shopfronts will only be permitted where such proposals would not disrupt or punctuate active frontages nor result in the loss of historic frontages of significance. The Examiner recommended that the clause be modified in accordance with the council's recommendations.
- PIM5 'Peabody Avenue Conservation Area', as the final sentence of the policy sought to resist any new development that would be above the height of the current Peabody Avenue buildings that form the Conservation Area. It was unclear whether this clause would apply solely within the Conservation Area or also to development in proximity to its boundary, whilst it was

considered overly restrictive. The Examiner concluded that the final sentence referring to building height should be deleted as such issues are dealt with by policy PIM11.

- PIM9 'Design Review Panel', as the policy would have required planning applications for major developments to be determined with regard to the findings of a Design Review Panel. The council objected to this as regardless of the council's position on Design Review Panels, it is inappropriate for a Forum to influence council decision-making processes whilst it could have resulted in inconsistency in decision-making processes within the city. Furthermore, national planning guidance is clear that Neighbourhood Plans should deal with land use matters, not operational and procedural matters. The Examiner concluded that PIM9 would not meet the 'basic conditions', and that the policy and all its supporting text must be deleted.
- PIM13 'Residential Conversions', as Clause B sought to require roof extensions to be combined with existing accommodation below to create new family sized dwellings, as opposed to new homes. Precluding provision of new residential units, including one bed flats, would have been contrary to City Plan policy 8A which recognises additional housing of all sizes is needed and that new housing can be delivered through upward extensions where appropriate. The Examiner recognised the need for more family homes so recommended the policy is modified to favour the provision of new family sized dwellings through roof extensions, but so that the policy is worded so as not to rule out extensions as being a way of creating smaller units.
- PIM14 'New Build Housing', as Clause B sought to require new 2- and 3-bedroom units to be delivered on a single level to be more accessible for older and less mobile people. However, the council argued that it should not just be larger homes that should be adaptable for less mobile people and suggested alternative wording requiring that all new homes should be accessible and/ or adaptable for wheelchair users. The Examiner agreed with the council's recommended wording, concluding that if wheelchair accessible, units would also be accessible for the elderly.
- PIM15 'Affordable Housing', as the policy sought to require provision of family sized affordable units, to be rented at intermediate rents to key workers. As City Plan policy 9G sets out that a mix of affordable housing unit sizes will be required (not just family sized dwellings) and that these will be determined by the council's Annual Affordable Housing Statement. Therefore, the council objected to this clause as submitted, suggesting wording that encourages provision of affordable housing (including intermediate housing) that meets local need. The Examiner also agreed with

the council that it is for the council as housing authority rather than planning authority to determine how homes are allocated, and therefore recommended that the policy is modified as per the council's suggested wording.

- PIM17 'Local Green Spaces', as the policy sought to designate most of Pimlico's gardens and squares as Local Green Spaces which would have had resulted in the application of a new layer of protection, similar to the one afforded by 'Green Belt' policies. The spaces identified already benefit from protection either through being a Registered Historic Park, Conservation Area, City Plan designation, or protected by the London Squares Preservation Act. The council therefore advised the policy refers to the spaces as 'open green spaces'. The Examiner concluded that as the open spaces already benefited from high levels of protection, it was un-necessary and contrary to national guidance to further designate them as 'Local Green Spaces'. The Examiner recommended the policy refers to protection of 'Green squares and gardens'.
- PIM23 'Renewable Energy and Air Quality', as the council raised concerns as it was overly complicated and made references to technologies that could become outdated whilst it was considered to deviate from the Mayor's Energy Hierarchy in regard to different types and scale of development. Furthermore, it was unclear what was meant by 'zero local emissions' and how it should be considered. The council proposed simplified wording within the Statement of Common Ground, most of which has been accepted by the Examiner, whilst the Examiner recommended further modifications to include references to the Air Quality and Energy policies within the London Plan and Westminster's City Plan, as well as a definition of 'zero low carbon', to provide further clarity for decision-making.
- PIM 24 'Major Redevelopment', as Clause D sought to introduce criteria that would unduly limit development options for the Queen Mother Sport's Centre site, with clauses requiring a sports centre of the same nature to be provided, retail uses with specified affordable rent levels, a banning of larger floor plates as well as ruling out significant residential uses on the site. Concern was also raised that the boundary of the site included Grade II listed buildings that would be inappropriate to include as part of future re-development. The council provided revised wording within the Statement of Common Ground, which the Examiner has agreed with. The clause, as modified, will seek to promote retention of a community leisure facility, as well as enable an appropriate mix of residential and commercial uses with active frontages at ground level on the site, as well as encouraging provision for smaller businesses that provide local employment opportunities.

The council supports the Examiner's recommendations and conclusions on all these matters outlined above.

4.9 In the instance of one policy, the Examiner's recommendations, as set out in the Examiner's Report, did not fully align with the council. This was in relation to policy PIM11 'Tall Buildings':

- The submitted policy included reference heights for Pimlico and defined any building above the stipulated reference heights as a 'tall building,' with policy tests requiring the higher part of such buildings to be 'subordinate.'
- Within the Statement of Common Ground, the council considered that the justification for the reference heights was flawed and unclear, whilst it could have been overly restrictive for any new buildings and upwards extensions above the existing heights of historic terraces. Furthermore, the policy would have conflicted with the London Plan and Westminster's City Plan definitions and policy requirements of tall buildings.
- Within the Statement of Common Ground, the council and Forum were able to agree to alter the title of the policy to 'Building Height,' to avoid conflict with London and City Plan definitions of 'Tall Buildings.' However, disagreement remained over the restrictiveness of reference heights and the clarity of the requirement for additional building height to be 'subordinate.'
- The Examiner concluded that modifications were required to move reference heights to the reasoned justification and clarify the references are average heights. Further modifications are proposed within the Examiner's Report to clarify how the policy should be applied and requires that additional or new building height must ensure it is within appropriate scale with existing buildings, but this new wording no longer imposes a full prevention of any development above the average reference heights
- Upon review of the modifications proposed by the Examiner, the council considers that the policy is now clearer, and will help ensure buildings and extensions preserve the character of the Pimlico Conservation Area. Proposals for Tall Buildings would continue to be subject to London Plan and Westminster's City Plan policies.

The council supports the Examiner's modifications and conclusions on this matter.

4.10 Finally, the Examiner also recommended a small number of additional minor modifications to the submitted plan beyond those already agreed between the Pimlico Neighbourhood Forum and the council, which were aimed at addressing comments from other consultees more comprehensively and which sought to provide further clarity and accuracy to policies and reasoned justification to aid application in decision making. Officers support the Examiner's recommended further changes which help improve clarity and policy effectiveness.

Conclusion

- 4.11 Officers are satisfied that the Examiner's recommendations will enhance the plan, improve its effectiveness in making planning decisions, and ensure the 'basic conditions' are met. Ward Members have been briefed and have made no objections to the council following the examiner's recommendations.
- 4.12 The submitted plan was accompanied by a Strategic Environmental Assessment Screening Report and a Habitats Regulations Assessment Screening Report. None of the Examiner's recommended modifications are considered to necessitate revisiting any of these assessments.
- 4.13 The Examiner's recommendations on the plan are not binding on the council, who may choose to make a decision which differs from the examiner. However, any significant changes from the Examiner's recommendations would require very strong justification and a further period of public consultation. As set out above and in Appendix 1, all Examiner recommendations help aid the clarity of the plan, bring it into line with higher level policy in the Westminster City Plan 2019-2040 and London Plan, and are therefore supported by officers.

5. FINANCIAL IMPLICATIONS

- 5.1 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.
- 5.2 All costs are met from existing budgets, and where applicable, offset by grant funding available from the Department for Levelling Up, Housing & Communities (DLUHC) to support the roll out of neighbourhood plans. Once a date has been set for the referendums, the council is eligible to apply for a grant from DLUHC of £20,000. It is anticipated that this will cover the costs of the examination, and Electoral Services arranging the referendums.

6. LEGAL IMPLICATIONS

- 6.1 The designation of Neighbourhood Forums, Areas, and the making of Neighbourhood Plans, are governed by the Town and Country Planning Act 1990 and the Neighbourhood Planning (General) Regulations 2012 (as amended).
- 6.2 It is a requirement of Regulation 18 (2) (a) of the Neighbourhood Planning Regulations 2012 (as amended) that local authorities publish a Decision Statement setting out how they intend to respond to an examiner's recommendations. A Decision Statement is included as Appendix 1 to this report.

- 6.3 If supported at referendum, the Pimlico Neighbourhood Plan will become part of the statutory Development Plan and used alongside adopted planning policies in determining planning applications within the Pimlico Neighbourhood Area.
- 6.4 Following a vote in favour of the Pimlico Neighbourhood Plan, Regulations 19 of the Neighbourhood Planning (General) Regulations 2012 (as amended) require local authorities to publish a Decision Statement explaining the council's decision and its reasons to formally make (adopt) the Neighbourhood Plan.
- 6.5 Adoption of the Neighbourhood Plan will be done via an Adoption Statement published on the council's website which will publicise the referendum results, and pursuant to Regulations 20 of the Neighbourhood Planning (General) Regulations 2012 formally confirm the 'making' of the Pimlico Neighbourhood Plan. The council will also contact all relevant stakeholders on the council's Planning Consultation Database to inform them that the Plan has been made.
- 6.6 In the case of a vote against the Pimlico Neighbourhood Plan, the council will be unable to confirm the making of the Pimlico Neighbourhood Plan. A formal decision on how to proceed will be required, and this will be taken pursuant to a new Cabinet Member Report and confirmed via the publication of a Decision Statement on the council's website.

7. CARBON IMPACT

- 7.1 The council is committed to becoming a carbon neutral Council by 2030 and a Carbon neutral city by 2040. Please see section nine for further information on the 'environmental impacts' of the Pimlico Neighbourhood Plan.

8. CONSULTATION

- 8.1 Consultation on the draft plan has been undertaken in accordance with statutory requirements. The submitted plan was accompanied by a consultation statement, prepared by the Pimlico Neighbourhood Forum, detailing how the drafting of the plan was informed by public consultation.
- 8.2 The council carried out formal Regulation 16 consultation on the plan from June 2021 to August 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 Consultation Database.
- 8.3 Now that the Examiner's Report has been received, it is a requirement of the neighbourhood planning regulations that the council publish a Decision

Statement setting out the actions it proposes to take in response to the Examiner's recommendations. A Decision Statement is provided in Appendix 1. If recommendations are approved, it will be published on the council's website.

9. IMPACT ON THE ENVIRONMENT

- 9.1 The proposed plan (as modified by the Examiner's recommendations) includes a number of policies aimed at ensuring future development in Pimlico has a positive impact on the local environment – in terms of protecting and enhancing open green spaces and the public realm, promoting improved environmental sustainability and air quality, encouraging renewable energy use and maximising energy efficiency, and supporting sustainable mobility and protection of the historic environment.

10. HEALTH, WELLBEING IMPACT ASSESSMENT INCLUDING HEALTH AND SAFETY IMPLICATIONS

- 10.1 The proposed plan (as modified by the Examiner's recommendations) includes a dedicated policy seeking to support renewable energy and increased energy efficiency, reducing emissions and improving air quality. Policies also seek to ensure protection of open spaces, including improvement and protection of access to the riverside, as well as improving the accessibility of the public realm and provision of children's play spaces. Housing policies also seek to support new homes which are accessible. 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 in the short and longer term.

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. 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.

- 11.2 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.
- 11.3 When the plan was submitted, it was accompanied by a Basic Conditions Statement, which incorporated a sustainability assessment. The report found that the plan would have small scale positive effects on improving the quality of life of current and future residents through promoting local opportunities, through matters such as encouraging provision of new, accessible and affordable homes, improved air quality and public realm, encouraging development which supports new employment opportunities, including for small businesses, and protecting public and private open space. 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.
- 11.4 Officers have considered the need for a formal equalities impact assessment (EIA) of the Pimlico Neighbourhood Plan. Policies promoting pedestrian movement and improved public realm, protecting open spaces, promoting better air quality and requiring new homes to be accessible will all have a positive impact on protected groups. During the examination process, no outstanding negative impacts have been identified, and it has therefore been concluded that a full EIA is not necessary.

If you have any queries about this report please contact: Marina Molla Bolta on 07971 026181 or email mmbolta@westminster.gov.uk

APPENDICES

- 1 – Regulation 18 (2) Decision Statement
- 2 – Pimlico Neighbourhood Plan (Regulation 16 submission version)
- 3 – Examiner’s report on the Pimlico Neighbourhood Plan

4 – Appendix 2 to the Examiner’s report on the Pimlico Neighbourhood Plan -
Statement of Common Ground between the Pimlico Neighbourhood Forum and
Westminster City Council

For completion by the Cabinet Member for Planning and Economic Development:
Councillor Geoff Barraclough

Declaration of Interest

I have no interest to declare in respect of this report

Signed: _____ Date: _____
NAME: **Councillor Geoff Barraclough**

Cabinet Member for Planning and Economic Development

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 **Pimlico Neighbourhood Plan Decision Statement** and reject any alternative options which are referred to but not recommended.

Signed

Cabinet Member for Planning and Economic Development

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.