



<b>Decision Maker:</b>	Cabinet Member for Planning and Economic Development
<b>Date:</b>	31 January 2024
<b>Classification:</b>	General Release
<b>Title:</b>	Belgravia Neighbourhood Plan – Examiner’s Report Recommendations & Decision Statement
<b>Wards Affected:</b>	Knightsbridge & Belgravia
<b>Policy Context:</b>	The Localism Act 2011 enables local communities, by way of Neighbourhood Forums, to produce Neighbourhood Plans to influence development within their local areas. If adopted, the Belgravia Neighbourhood Plan will be used to determine planning applications within the Belgravia Neighbourhood Area, alongside Westminster’s City Plan 2019-2040 and the London Plan (2021).
<b>Key Decision:</b>	No
<b>Financial Summary:</b>	The costs of amending the draft Belgravia Neighbourhood Plan and administering a local referendum will be met within existing budgets.
<b>Report of:</b>	Executive Director Innovation and Change

## **1. EXECUTIVE SUMMARY**

- 1.1 This report seeks approval to make amendments to the draft Belgravia Neighbourhood Plan (refer to Appendix 2) and associated Design Codes (refer Appendix 2A) in accordance with the recommendations of an independent Examiner's Report (refer to 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.
- 1.2 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 (2021) to determine planning applications within the Belgravia Neighbourhood Area.
- 1.3 Under neighbourhood planning regulations, the Council is 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.
- 1.4 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 for Planning and Economic Development agrees:
  - i. That the recommendations of the Examiner as set out in the Council's Decision Statement (refer to Appendix 1) and Examiner's Report (refer to Appendices 3 and 4) be accepted.
  - ii. That in accordance with the Examiner's recommendation, the Belgravia Neighbourhood Plan (refer to Appendix 2) and accompanying Belgravia Design Codes (refer Appendix 2A), as modified within the Examiner's Report, proceed to local referendum.
  - iii. That in accordance with the Examiner's recommendation, the referendum area be restricted to the Neighbourhood Area designated by the Council on 27 March 2014 as the Belgravia Neighbourhood Area.
  - iv. 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' (adopt) the plan.

### **3. REASONS FOR DECISION**

- 3.1 The Examiner's recommendations will ensure the Belgravia Neighbourhood Plan is clear and effective as a framework for making decisions on planning applications in the Belgravia Neighbourhood Area.
- 3.2 The recommendations address the concerns raised by the Council during consultation and the subsequent examination, as well as matters raised by a number of other stakeholders during consultation. The cumulative effect of these modifications is that the plan is considered to meet the 'basic conditions' prescribed by legislation and discussed in greater detail Section 4 below.
- 3.3 Before a neighbourhood plan can be made, it is a statutory requirement that it is first subject to local referendum within the Neighbourhood Area, as well as 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 & 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 Belgravia 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 8 October 2014, the Belgravia Neighbourhood Forum (the Forum) were designated as the Neighbourhood Forum for the area, and subsequently began preparing a draft neighbourhood plan with an associated design code which is included with the plan as an appendix. The Forum were then re-designated as the Neighbourhood Forum for the area on 13 January 2020 (this re-designation was necessitated by the fact that Forum designations expire after a period of 5 years as prescribed in The Neighbourhood Planning (General) Regulations 2012).
- 4.3 The Belgravia Neighbourhood Forum published a draft plan for Regulation 14 pre-submission consultation from July to September 2022. The draft plan was subsequently revised in light of comments received during consultation, before formal submission to the Council in May 2023. Regulation 16 consultation on the submission version of the draft plan (refer Appendix 2) and associated design code (refer Appendix 2A) was then carried out by the Council from June to July 2023.

- 4.4 In late July 2023, the Council and Forum mutually agreed to appoint 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.
- 4.5 The 'basic conditions' are set out in Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. They are as follows:
- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order;
  - Having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order;
  - Having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order;
  - The making of the order contributes to the achievement of sustainable development;
  - The making of the order is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - The making of the order does not breach, and is otherwise compatible with, retained EU obligations; and
  - The prescribed conditions are met in relation to the order and prescribed matters have been complied with in connection with the proposal for the order.
- 4.6 A further 'basic condition' is imposed by Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 by virtue of Schedule 2 of those Regulations:
- The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
- 4.7 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 Belgravia Neighbourhood Area.

## **Modifications**

- 4.8 The modifications recommended by the Examiner respond to issues raised through formal consultation on the draft plan by a range of stakeholders, including the Council.
- 4.9 Through the examination process, the Examiner requested the Forum to provide a response to the points raised by a selected group of key stakeholders through the Regulation 16 consultation exercise, including those comments submitted by the Council. This was done through the Examiner's Clarification Requests Letter dated 3rd October 2023 (refer to Appendix 5) and broadly related to issues with aspects of the plan where there was a perception it was too restrictive towards future growth. The Examiner expressed these concerns through the following statement from the correspondence:
- “I recognise that there is tension between (1) the aim to conserve the heritage and character of Belgravia and maintain its “village feel” for the residential community, and (2) the aim to secure economic growth by delivering commercial and mixed-use development, especially in the CAZ and Victoria Opportunity Area. The Neighbourhood Plan has, in my opinion, to reach a position which has taken full account of both sets of strategic policy aims and should minimise any future detrimental consequences.”*
- 4.10 In responding to the above, the clarification request also sought the Forum's view as to whether appropriate modifications should be recommended to the submission version of the plan (see Appendix 2) to address the issues raised through the consultation responses. Council officer's, upon the request of the Forum, had oversight of their formal response to the Examiner in order to ensure that we were in agreement on the content of the response and subsequent modifications to the plan. The Forum's formal response to the Examiner's queries was provided on 27 October 2023 and contained 93 'Forum Items' (FI), many of which included proposed wording for modifications put forward by the Forum to the submitted plan. A copy of this response is provided as Appendix 4 to this report.
- 4.11 It is noted that as part of this response, the Forum accepted in full those modifications to the plan proposed through the Council's consultation response as detailed in FI30 through to FI56. These modifications broadly related to textual amendments to policies to improve their effectiveness in terms of phraseology and language, or to better improve their ability to be implemented by a decision maker when assessing planning proposals, rather than fundamental objections to policy objectives. Generally speaking, there was less areas of substantial contention between the Forum and the Council than has been the Council's previous experience when other plans had reached this stage of the process. Where there was more significant disagreement, such as in relation to BEL12 - Trees and Greening, the Forum

has agreed to more comprehensive textual changes to better align with the Council's position, again accepting these changes in their entirety.

- 4.12 Council officers also assisted the Forum in suggested textual amendments to other sections of the plan to address concerns raised by other stakeholders that the plan was too restrictive towards future growth. These are detailed in FI1 and FI4 and seek to strike the right balance of balancing appropriate growth and to ensure that the plan will contribute to the achievement of sustainable development. Specifically, these changes seek to modify Section 2.3.4 of the plan titled 'Developments in the Victoria Opportunity Area' and Section 5.5.1 of the plan relating to 'Building Heights' to better acknowledge the role of the Central Activities Zone and Victoria Opportunity Area to be intensified to accommodate strategic growth, as well as to have a varied land use mix that supports commercial led growth in accordance with strategic objectives laid down for the area in the Council's City Plan 2019-2040.
- 4.13 A 'fact check' version of the Examiner's Report was issued on 24<sup>th</sup> November 2023 in order for the Council and Forum to identify any issues of fact that are incorrect, such as place names or figures that are referenced, typographical errors and omissions etc. A final version of this report was issued on 8<sup>th</sup> December 2023. The Examiner recommended modifications to the plan, hereafter referenced as 'PM', in order to ensure that the plan meets the 'basic conditions and other legal requirements. These modifications are contained within Appendix 1 to the Examiners Report (refer to Appendix 3).
- 4.14 The suggested modifications to the plan arising from the Council's consultation response, having previously been agreed with the Forum, have been accepted by the Examiner in full as per PM3, PM4, PM5, PM7, PM9, PM10, PM11, PM12, PM13, PM14, PM15 and PM18. The only exception to this is FI55 which relates to a minor textual amendment to the Design Codes appended to the plan (refer Appendix 2A). FI55 was not included with the proposed modifications to the Design Codes that are listed in PM18, however, the Examiner has clarified this issue through Section 4.37 of the Examiner's Report whereby it is stated that it can be made as minor non-material change. Additionally, other suggested modifications discussed above in Section 4.12 to address other issues raised by key stakeholders above have been accepted by the Examiner as per PM1, PM2, PM3 and PM6.
- 4.15 The Examiner also recommended a small number of additional minor modifications to the submitted plan beyond those already agreed between the Belgravia Neighbourhood Forum and the Council. These were aimed at addressing comments from other consultees more comprehensively and which sought to provide further clarity and accuracy to policies and explanatory text sections, thereby aiding implementation of the plan by a decision maker. Officers support the Examiner's recommended further changes which help improve clarity and policy effectiveness.

## **Conclusion**

- 4.16 Officers are satisfied that the Examiner's recommendations will enhance the plan, improve its effectiveness in making planning decisions, and ensure that the 'basic conditions' are met. Ward Members have been briefed as part of this Cabinet Member decision being prepared and have made no objections to the Council following the Examiner's recommendations.
- 4.17 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.
- 4.18 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 improve the clarity of the plan, bring it into line with higher level policy in the Westminster City Plan 2019-2040 and London Plan (2021), and are therefore supported by Council 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 referendum, 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 referendum.

## **6. LEGAL IMPLICATIONS**

- 6.1 The designation of Neighbourhood Areas, Neighbourhood Forums and the making of Neighbourhood Plans are governed by the Town and Country Planning Act 1990, the Neighbourhood Planning (General) Regulations 2012 and to a lesser extent the Planning and Compulsory Purchase Act 2004 (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 Belgravia Neighbourhood Plan will become part of the statutory Development Plan and used alongside adopted planning

policies in determining planning applications within the Belgravia Neighbourhood Area.

- 6.4 Following a vote in favour of the Belgravia Neighbourhood Plan, Regulation 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 Regulation 20 of the Neighbourhood Planning (General) Regulations 2012 formally confirm the 'making' of the Belgravia 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 Belgravia Neighbourhood Plan, the Council will be unable to confirm the making of the Belgravia 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**

- 6.7 The Council is committed to becoming a carbon neutral local authority by 2030 and Carbon neutral city-wide by 2040. The plan seeks to address carbon impacts from the built environment through content contained in Section 5.3 - Mitigating the Effects of Climate Change. This section includes commentary on achieving net zero carbon and enhancing the sustainability of built heritage through ways to sensitively retrofit historic buildings, as well as ways to reduce the carbon footprint of new construction by identifying the most appropriate types of building techniques and materials as detailed in Non-Policy Action 1 – Climate Change Mitigation. The Forum have also prepared the Belgravia Sustainability Charter contained in Section 5.3.2 of the plan, which seeks to ensure that any new building or major building renovation minimises future energy consumption and maximises effective land drainage. Please see Section 9 of this report for further information on the 'environmental impacts' of the 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 Belgravia Neighbourhood Forum, detailing how the drafting of the plan was informed by public consultation. This document can be viewed at this [link](#).
- 8.2 The Forum carried out the first round of formal pre-submission Regulation 14 consultation on the draft plan from July to September 2022. This included



publishing the full draft plan, accompanying Design Codes and other supporting evidence documents on the Forum's website and in hard copy in two locations in the Belgravia Neighbourhood Area, namely the Berkeley Hotel and the Victoria Library. Additionally, the Forum notified statutory and non-statutory consultees via emails and/or letters of the Regulation 14 consultation being conducted and providing links to the documents.

- 8.3 The Council carried out formal Regulation 16 consultation on the draft plan from June 2021 to July 2023 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.
- 8.4 Now that the Examiner's Report has been received, it is a requirement of the Regulations governing neighbourhood planning 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 also be published on the Council's website.

## **9. ENVIRONMENTAL IMPACT**

- 9.1 The proposed plan (as modified by the Examiner's recommendations) includes a number of policies and non-policy actions aimed at ensuring future development in Belgravia has a positive impact on the local environment. These include promoting improved environmental sustainability measures in new development, encouraging the sensitive retrofitting of historic buildings to improve energy efficiency, protecting and enhancing green spaces, promoting green infrastructure such as living walls and green roofs, advocating for improvements to the public realm, monitoring construction activities to prevent negative environmental impacts such as poor air quality, and supporting sustainable mobility in terms of cycling infrastructure and micromobility.

## **10. HEALTH AND SAFETY IMPLICATIONS**

- 10.1 The plan comprises a dedicated policy aimed at endorsing renewable energy and enhancing energy efficiency. This is intended to result in reduced emissions and improved air quality. Additionally, there are policies aimed at ensuring the protection and enhancement of green infrastructure. Simultaneously, efforts are directed towards improving the public realm and providing children's play spaces, particularly in areas of play space deficiency. Other policy actions aim to protect residential amenity from the impacts arising from encroachment of commercial uses that may generate negative externalities such as noise, litter or odours, as well as policies promoting small-scale workspaces to improve local employment and allow opportunities to work locally and reduce commute times. The overarching goal is to ensure that any new development in the area comprehensively addresses the health and wellbeing of residents, workers, and visitors, taking into account both short-term and long-term 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 to the Council under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012, it was accompanied by a Basic Conditions Statement which sets out how the plan meets the ‘basic conditions’, including a range of key considerations such as conformity with national planning policy, the achievement of sustainable development and conformity with the strategic policies of the development plan.
- 11.5 The Basic Conditions Statement scrutinised the policies within the plan against these requirements and demonstrated how the policies meet objectives relating to achieving well-designed places and meeting the challenge of climate change, flooding and coastal change; ensuring that developments add to the overall quality of the area and create attractive and comfortable places to live work and visit; promoting healthy and safe communities; creating high quality, safe open spaces where communities can interact; and plan positively for the use of shared space and avoid or mitigate adverse impacts of development on health and quality of life. It is also worth noting that the plan must be consistent with policies contained within the

Council's City Plan 2019-2040, which themselves have been subject to detailed equalities impact assessment.

- 11.6 Officers have considered the need for a formal equalities impact assessment (EIA) of the Belgravia Neighbourhood Plan. Policies promoting space for play and group social activities, improving the public realm, protecting green spaces, promoting better air quality, and protecting residential amenity 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 or wish to inspect one of the background papers please contact:

**Brandon Avery, Policy Officer (Planning)**  
[bavery@westminster.gov.uk](mailto:bavery@westminster.gov.uk)

## **APPENDICES:**

Appendix 1 – Decision Statement

Appendix 2 – Belgravia Neighbourhood Plan (Submission Version) [[Link](#) to Council's website due to file size]

Appendix 2A – Belgravia Neighbourhood Design Codes (Submission Version) [[Link](#) to Council's website due to file size]

Appendix 3 – Belgravia Neighbourhood Plan Examiner's Report

Appendix 4 – Appendix 2 to the Belgravia Neighbourhood Plan Examiner's Report (Schedule of modifications accepted by the Belgravia Neighbourhood Forum)

Appendix 5 – Examiner's Clarification Request Letter

**Declaration of Interest**

I have no interest to declare in respect of this report

Signed:  Date: 31 January 2024

NAME: **Councillor Geoff Barraclough**

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 **Belgravia Neighbourhood Plan – Examiner’s Report Recommendations & Decision Statement** and reject any alternative options which are referred to but not recommended.

Signed  .....

Cabinet Member for Planning and Economic Development

Date ...31 January 2024.....

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, 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.