

Neighbourhood Planning
Policy and Strategy
Westminster City Council
6th floor
5 Strand
London WC2N 5HR

By email to: neighbourhoodplanning@westminster.gov.uk

23 June 2018

Dear Sir or Madam

Consultation on Submission Version of the Mayfair Neighbourhood Plan (Regulation 16)

I am writing on behalf of Clean Air in London (CAL) to respond to Westminster City Council's (WCC's) consultation on the Submission Version of the Mayfair Neighbourhood Forum's (Forum's) proposed Mayfair Neighbourhood Plan (the Mayfair Plan, MNP or Plan) (Regulation 16) (the Consultation). Thank you for the opportunity to do so. WCC's consultation documents can be seen here: <https://www.westminster.gov.uk/NP-mayfair>.

CAL is a voluntary organisation which campaigns to achieve urgently and sustainably full compliance with World Health Organisation (WHO) guidelines for air quality throughout London and elsewhere. Further information about CAL can be found at <https://cleanair.london/>.

CAL is independent of any government funding, has cross-party support and a large number of supporters both individuals and organisations. CAL provides a channel for both public concern and expert opinion on air pollution. This submission provides both general and expert comments in response to the Consultation.

1. Summary

CAL strongly supports the proposed Mayfair Neighbourhood Plan subject to two small but important changes and the following general comment on 'ambition level'.

Most important, CAL comments that the severity of the air pollution problems in the Mayfair Neighbourhood Area, including breaches of air quality limit values and high energy use, combined with its iconic status, show the need and opportunity for Mayfair to take an ambitious path to: comply with air quality limit values as soon as possible; and Science Based Targets for reductions in carbon emissions. Mayfair should be an 'exemplar' as the Forum proposes.

CAL therefore submits the following information.

2. Air pollution levels

Concentrations of nitrogen dioxide (NO₂), a toxic gas, in Oxford Street are monitored in two places by London Air Quality Network and reported here:

https://www.londonair.org.uk/london/asp/publicstats.asp?region=0&site=WM6&Maptype=Google&mapview=all&statyear=2018&la_id=&zoom=9&lat=51.475&lon=-0.11982399999999416&laEdge=

https://www.londonair.org.uk/london/asp/publicstats.asp?region=0&site=WMB&Maptype=Google&mapview=all&statyear=2018&la_id=&zoom=9&lat=51.475&lon=-0.11982399999999416&laEdge=

NO₂ concentrations in Oxford Street have averaged slightly over 60 micrograms per cubic metre so far this year which is more than 50% above the legal limit in Directive 2008/50/EC that was originally put in place in 1999 to be achieved by 1 January 2010.

Similar or higher levels of air pollution are likely across the Mayfair Neighbourhood Area e.g. Park Lane where the Mayfair Plan puts forward excellent proposals to reduce this danger.

3. Health risks

According to the latest Public Health England data, deaths attributable to annual mean concentrations of fine particles (PM_{2.5}) in the City of Westminster were among the highest in England in 2016 at 6.7%:

<https://fingertips.phe.org.uk/profile/public-health-outcomes-framework/data#page/3/gid/1000043/pat/6/par/E12000007/ati/102/are/E09000002/iid/30101/age/230/sex/4>

4. Legal breaches

You will be aware that the UK Government is facing determined legal action to enforce NO₂ laws in the UK Courts and through infraction action by the European Commission to comply with NO₂ limit values 'as soon as possible':

<https://www.clientearth.org/welsh-government-admits-high-court-no-plan-air-pollution-unlawful/>

<https://www.clientearth.org/uk-minister-discourages-diesel-pollution-deadline-looms/>

http://europa.eu/rapid/press-release_IP-18-3450_en.htm

5. Draft New London Plan

Policy 7.14c (Improving air quality) in the existing London Plan requires that '*Development proposals should be at least 'air quality neutral' and not lead to further deterioration of existing poor air quality (such as areas designated as Air Quality Management Areas (AQMAs)).* With legal action intensifying and concerns about public health intensifying, this approach is no longer adequate. [CAL emphasis]

The Mayor of London published his draft New London Plan (NLP) on 1 December 2017 i.e. before the Forum submitted the Mayfair Plan:

<https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/draft-new-london-plan/>

Policy S11 'Improving air quality' in the NLP necessarily goes further than the existing London Plan and supports an 'Air Quality Positive' approach for large-scale redevelopment areas and states that 'All other developments should be at least Air Quality Neutral'. [CAL emphasis]

CAL is pleased to see the NLP and Mayfair Plan both aligning key aspects of their air quality policies (Policy S11 Improving air quality and 'MES1: Air Quality' respectively) to the requirements in Directive 2008/50/EC on ambient air quality and cleaner air for Europe. This approach is consistent with the Opinion from Robert McCracken QC to CAL dated 6 October 2015 (attached).

<https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/draft-new-london-plan/chapter-9-sustainable-infrastructure/policy-s11-improving-air-quality>

https://cleanair.london.gov.uk/uploads/CAL-322-Robert-McCracken-QC-opinion-for-CAL_Air-Quality-Directive-and-Planning_Signed-061015.pdf

The Opinion exposed legal flaws in the EPUK/IAQM guidance titled 'Planning for Air Quality'.

In CAL's considered opinion, proposing 'Air Quality Neutral' only or weaker than 'Air Quality Neutral' in 'MES1: Air Quality' in the MNP would be unlawful and subject to legal challenge. CAL therefore supports the approach to this benchmark taken in the MNP.

6. Proposed changes

CAL considers that two important changes should be made to policy MES1: Air Quality.

The first is to remove the reference to EPUK/IAQM guidance because it would create loopholes in the test of "significance" that are unlawful for the reasons addressed by Robert McCracken QC in his Opinion and the Knightsbridge Neighbourhood Forum in its Statement of Common Ground dated 11 May 2018:

https://www.westminster.gov.uk/sites/www.westminster.gov.uk/files/uploads/ed09_-_wcc_and_knf_statement_of_common_ground.pdf

Second, CAL considers that the Mayfair Plan should encourage renewable energy failing which the lowest possible emissions on-site. CAL considers that renewable energy is that generated from ground or air source heat pumps, hydro-electricity, fuel cells, solar photovoltaic cells or solar water heating. Energy sourced on-site from sources that consume or combust fossil fuels, including but not limited to biofuel, biomass burning, combined heat and power plant (other than those using fuel cells), diesel generators and gas boilers, are not renewable energy because of their contribution to air pollution.

CAL recommends that 'Policy MES1: Air Quality' should be amended as follows in red.

MES1: Air Quality

MES1.1 All new built development within Mayfair will be required to undertake air quality screening, ~~as outlined by the EPUK/IAQM guidance or any subsequent replacement guidance which may be issued~~, to determine whether a detailed air quality assessment is required.

MES1.2 Where new development proposes the inclusion of either a combustion plant or standby generator, an appropriate air quality assessment must be undertaken.

MES1.3 All development must demonstrate a net improvement (better than existing) in building and transport emissions for any proposed development throughout both the construction phase and operational phase, going beyond AQ neutral.

MES1.4 ~~Development proposals which encourage developments with boilers to use ultra low NOx boilers <30 mgNOx/kWh will be supported. If renewable energy cannot reasonably be used, then gas boilers achieving the lowest dry NOx emissions (measured at 0% excess oxygen) should be selected.~~

Please remove references to the EPUK/IAQM guidance in the MNP.

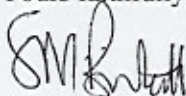
7. New London Plan

CAL submitted a detailed response to the public consultation on the New London Plan (attached). CAL encourages the Examiner, WCC and the Mayfair Forum to consider it, where relevant to Mayfair, as much of the evidence submitted is highly relevant to the Mayfair Plan.

8. Close

Please contact me if you have any questions.

Yours faithfully



Simon Birkett
Founder and Director
Clean Air in London

Enclosures