



# Cabinet Member Report

<b>Decision Maker:</b>	Cabinet Member for Place Shaping and Planning
<b>Date:</b>	28 <sup>th</sup> October 2019
<b>Classification:</b>	General Release
<b>Title:</b>	Westminster City Plan submission to the Secretary of State
<b>Wards Affected:</b>	All
<b>City for All:</b>	The City Plan provides the 20 year spatial strategy for delivering the council's City for All priorities.
<b>Key Decision:</b>	Yes
<b>Financial Summary:</b>	The resourcing of the submission of the draft City Plan to the Secretary of State and funding of the examinations will be met from existing budgets.
<b>Report of:</b>	Executive Director Policy, Performance and Communications.  Executive Director Growth, Planning & Housing

## 1. Executive Summary

This report asks the Cabinet Member to recommend the draft City Plan to Full Council on the 13<sup>th</sup> November 2019 for agreement prior to submission to the Secretary of State pursuant to Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

## 2. Recommendations

That the Cabinet Member resolves:

- i. to consider the public responses to the Regulation 19 consultation on the draft City Plan and endorse the officers' comments (shown in the Consultation Statement at Appendix 2) and the resulting minor modifications contained in Appendix 3;
- ii. to recommend the draft City Plan and the supporting documents (appended to this report) to Full Council on the 13<sup>th</sup> November 2019 for approval prior to submission to the Secretary of State for approval by way of the Examination;
- iii. to delegate power to the Executive Director Policy, Performance and Communications, to make minor modifications to the City Plan and accompanying documents throughout the Examination as are necessary, where these do not affect the meaning or interpretation of any policy in the City Plan.

### **3. Reasons for Decision**

The council's corporate strategy, City for All, sets an ambition for Westminster to be a place where people are born into a supportive and safe environment, grow and learn throughout their lives, build fantastic careers in world-leading industries, have access to high quality, affordable homes and retire into the community with dignity and pride.

The City Plan is the spatial interpretation of this strategy, providing a framework for all future development in the city. To provide a robust and up to date policy framework for the taking of planning decisions across the city, the council has undertaken a full revision to the City Plan pursuant to Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

### **4. Background, including Policy Context**

The initial notification of and consultation on the intention to revise the adopted City Plan (Regulation 18) was carried out from 16<sup>th</sup> June 2017 to 28<sup>th</sup> July 2017. A draft informal consultation document was consulted between 12<sup>th</sup> November and 21<sup>st</sup> December 2018. In accordance with Regulation 19, formal consultation on the Publication Draft of the Plan was carried out between 19<sup>th</sup> June and 31<sup>st</sup> July 2019. This formal consultation stage was accompanied by a Consultation Statement, Duty to Co-operate Statement, an Integrated Impact Assessment (including the Sustainability Appraisal and Strategic Environmental Assessment) and supporting evidence and topic papers.

Paragraph 35 of the National Planning Policy Framework 2019 (NPPF) sets out the four tests for soundness of a policy as follows:

**“Positively prepared** – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by

agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;

**Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;

**Effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and

**Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this Framework.”

Consultation responses received in response to both revisions have been considered in terms of the extent to which they raise issues of soundness.

### Regulation 19 consultation responses

160 consultees submitted responses on the Publication Draft City Plan from a cross section of organisations – as shown in Table 1 below.

Consultee Type	Number of responses
Members and political parties	1
Healthcare institutions and providers	2
Other public sector institutions and bodies	3
Neighbouring boroughs	4
Cultural and Education institutions	6
BIDs	8
Charities, campaign groups and other clubs/associations	9
Consultancy firms and professional networks	9
Statutory consultees	12
Business and trade associations	22
Neighbourhood Forums, Amenity Societies and Residents' Associations	22
Individuals	23
Developers, landowners and real estate companies	39

A number of stakeholders said they consider the plan to be sound and 12 policies<sup>1</sup> attracted no soundness comments at all. 64 consultees raised issues which they considered to be related to the soundness of the Plan, however

<sup>1</sup> Housing renewal areas, innovative housing, education and skills, digital infrastructure, Harley Street and Savile Row SPAs, sustainable transport, public transport, heritage, building height in the housing renewal areas and security measures

none of these are considered by the council to give rise to concerns about the 'soundness' of the revision.

All the consultation responses are set out in detail in the Consultation Statement, together with the Council's response to the matters raised and where applicable how they have been addressed through proposed minor modifications.

### Soundness of the policies

Where soundness issues were raised by statutory consultees the council has engaged closely with these bodies to draw up Statements of Common Ground setting out our respective positions. Where appropriate, we have agreed to proposing minor modifications to the Plan to resolve the objections. These minor modifications are set out in Appendix 3.

### Victoria Opportunity Area

598 consultees raised issues which they considered to be related to the soundness of the Plan, including 540 individuals and local organisations in the Victoria area considered that the extent of the VOA should be significantly reduced at several sites. This was set out in a petition received by the council called "Petition to: not extend the Victoria Opportunity Area beyond the boundary adopted in the London Plan"

The council believes that Policy 4. Spatial Development Priorities: Victoria Opportunity Area is sound. The City Plan sets ambitious targets to build 22,000 new homes and create space for at least 63,000 new office-based jobs across the city over the life of the Plan.

The City Plan is very clear that it balances growth against heritage, conservation and amenity considerations. It also identifies areas where these jobs will be provided and homes will be built, including the Victoria Opportunity Area (VOA). The London Plan identifies Victoria as an Opportunity Area (as defined by the boundary adopted in Westminster's Core Strategy in 2011). The London Plan also sets an indicative target for the VOA to provide least 4,000 additional jobs and 1,000 new homes over the period 2016-2041.

There is therefore a compelling reason to maintain the current boundary of the VOA (as defined by the boundary adopted in Westminster's Core Strategy in 2011) so as to enable the area deliver the new homes and jobs required by both the City Plan and London Plan.

### Clarity, understanding and application of the policies

The majority of comments on the Plan did not relate to soundness, however many comments pointed out where we can improve the clarity, understanding and application of our policies. These have been addressed by suggesting a series of minor modifications to the plan. These minor modifications are included in the schedule set out in Appendix 3.

### Consultation period

A limited number of consultees have commented that the Regulation 19 consultation period at six weeks long was too short to enable consultees to fully digest and respond to the suite of documents published. The council considers that as the Regulations require a minimum of six weeks consultation on submission documents, the legal test has been met.

A number of consultees have also commented that the Building Height Study was only available for half of the consultation period, and for this reason they consider the plan to have not met the requirement of Regulations that proposed submission documents should be made available and representations allowed on the Draft Plan for a period of at least six weeks.

The Building Height Study was published three weeks after consultation had started. The council does not consider the delay prejudiced consultees from responding in full to the consultation given that those who made the comments still submitted detailed responses to the consultation after the evidence paper had been published, indicating those consultees were able to take it into account in their representation. Furthermore, the council did not consider it prudent to extend the consultation into the summer holiday period when consultees had been able to submit full responses to the consultation already.

### Integrated Impact Assessment

Four consultation responses were submitted on the Integrated Impact Assessment which was subject to consultation at the same time as the City Plan. A summary of these responses is given at Appendix 8.

### **Regulation 22 Submission to the Secretary of State of the draft City Plan**

The council considers the Publication Draft City Plan to be sound for the reasons set out in the Consultation Statement.

As mentioned above, a number of minor modifications to the revision, consisting of post-Regulation 19 minor modifications, are included in Appendix 3 of this report. These pre-submission modifications do not change the meaning or approach of the revisions and the policies they contain and are appropriate to be considered as part of the examination process. The modifications are also not considered to be sufficiently major to require a further stage of consultation, and their inclusion does not affect the 'soundness' or otherwise of the proposed revisions to the City Plan i.e. the minor modifications are not necessary to make the revisions sound, albeit that they improve the revisions.

Therefore, it is proposed to submit the draft City Plan and its supporting documents to the Secretary of State for consideration by an independent

Inspector under Regulation 22 of the Town and Country (Local Planning)(England) Regulations 2012.

Supporting documents which accompany this Cabinet Member Report include:

- Complete schedule of exact minor modifications
- Statutory Consultation Statement
- Statutory Duty to Co-operate Statement
- Schedule of changes to adopted Policies Map
- Integrated Impact Assessment (including an addendum to the Equalities Impact Assessment)
- Infrastructure Delivery Plan

Other papers which will be submitted alongside the City Plan, are listed below – these papers are not statutory documents, but will help the Planning Inspector to understand how existing evidence has informed the development of policies (topic papers) and how the Council has worked with stakeholders to resolve objections raised at Regulation 19 (Statements of Common Ground):

Topic Papers

- Housing (addendum to paper published at Regulation 19 stage)
- Commercial Growth (addendum to paper published at Regulation 19 stage)
- Sustainable Transport
- Environment
- Waste
- Building Height

*Statements of Common Ground with:*

- Mayor of London and Transport for London (on the parking policy)
- Historic England (on the heritage policy)
- Environment Agency & Thames Water (on the environment policies)
- Neighbouring Boroughs & the Mayor (on cross-border strategic issues including waste)
- Sport England (on the protection of sports facilities through the plan)

SCGs are live documents and where matters remain outstanding between the Council and a stakeholder at the point of submission, the Statement will explain both standpoints. The Council will continue to work with stakeholders to resolve matters leading up to the examination hearings and the SCGs will be updated where appropriate.

## **5. Financial Implications**

There are limited financial implications with the continued progression of the revision to the City Plan - the costs associated with the examination to be met from existing budgets.

## **6. Legal Implications**

The procedures set out in the Town and Country Planning (Local Planning)(England) Regulations 2012 have been carried out and the council is satisfied that all legal requirements have been met.

Section 26 of the Planning and Compulsory Purchase Act 2004 requires that revisions to development plan documents (DPDs) go through the same statutory procedures as new DPDs. These consultation requirements have been carried out. It is considered that the draft City Plan appended to this report meets the 'soundness' tests as set out in paragraph 35 of the National Planning Policy Framework.

Following completion of the Regulation 19 consultation, the revised draft of the City Plan was considered by counsel who advised, amongst other things, as to the compliance of the draft with the NPPF soundness test as set out in paragraph 4 above. Counsel's advice has been taken into account in finalising the draft City Plan and supporting documents.

## **7. Business Plan Implications**

Delivery of a new City Plan is a key measure in the Policy Performance and Communications Business Plan 2018-2019. It is also a specific City for All commitment. It will also contribute towards other City for All commitments:

- delivery of affordable housing through the new policy approach, support for the creation of more jobs (*City for Opportunity*);
- improvements to air quality and the development of healthy places through policies to mitigate and limit air pollution and to develop greener, healthier places (*Healthier and Greener City*);
- development of proposals for the Oxford Street District through a renewed approach to retail in the West End (*City that Celebrates its Communities*).

## **8. Impact on the environment**

A formal Integrated Impact Assessment (IIA) was published alongside the Publication Draft City Plan. The IIA assesses in detail the impact on the environment and sustainability. The IIA shows that overall the draft policies will be beneficial for environmental quality in Westminster.

## **9. Health, wellbeing impact assessment, including health and safety implications**

The health and well-being assessment was undertaken as part of the Integrated Impact Assessment (see 8.1). The IIA also includes a crime safety assessment. The IIA shows that overall the draft policies will be beneficial for health and wellbeing in Westminster.

## **10. Equalities implications**

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.

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.

The equalities implications of the policies in the draft City Plan have been assessed as part of the Integrated Impact Assessment (IIA, see sections 8, 9 and 10 of this report and Appendix 5). This shows that none of the proposed

policies are expected to have a negative impact on any of the groups with protected characteristics under the 2010 Act and the Public Sector Equalities Duty has been met. Completion of the IIA is an iterative process, so the document will be kept updated as the plan proceeds through examination, ensuring that any equalities issues that arise as modifications are made to the Plan will be identified and can be considered.

## **11. Consultation**

All required and appropriate consultation in accordance with the Town and Country (Local Planning)(England) Regulations 2012 has been carried out and in accordance with the Council's Statement of Community Involvement (June 2014). Consultation with the following groups was undertaken on the proposed submission documents for a period of six weeks from 17<sup>th</sup> June 2019:

- All Members
- Statutory consultees, including those subject to the statutory duty to cooperate (Section 4 of the Town and Country Planning (Local Planning)(England) Regulations 2012) and the 'specific consultation bodies' as defined in regulation 2 of those Regulations
- The Mayor of London and the GLA family
- Neighbouring boroughs
- The "general consultation bodies" defined in regulation 2 of the 2012 Regulations – voluntary bodies and those representing different racial, ethnic or national groups; those representing different religious groups; disabled people; and the interests of those carrying out business in Westminster. This will be done through the Planning Policy database. The database currently comprises about 1,700 consultees including members of the public, businesses and residents' groups.
- Internal consultees within the city council, including the Executive Leadership Team and senior managers.

In addition to this all submission documents and supporting documents will be accessible to all on the Council's Planning Policy webpage - <https://www.westminster.gov.uk/revision-westminsters-city-plan> and on a dedicated consultation site <https://www.westminster.gov.uk/cityplan2040> as the Plan proceeds through examination.

**If you have any queries about this report or wish to inspect one of the background papers please contact: Kimberley Hopkins  
khopkin@westminster.gov.uk**

### **Appendices**

1. Draft City Plan (as consulted on under Regulation 19)
2. Consultation Statement
3. Schedule of minor modifications
4. Schedule of changes to adopted Policies Map
5. Integrated Impact Assessment (including Equalities Impact Assessment)
6. Duty to co-operate statement
7. Infrastructure Delivery Plan

### **Background Papers**

1. Formal notification of intention to make a number of revisions to Westminster's City Plan (Regulation 18) (June 2017)
2. Localism Act 2011
3. Planning and Compulsory Purchase Act 2004 (as amended)
4. Town & Country Planning Act 1990 (as amended)
5. Town & Country Planning (Local Planning)(England) Regulations 2012

Cabinet Member for Place Shaping and Planning

**Declaration of Interest**

I have <no interest to declare / to declare an interest> in respect of this report

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

NAME: \_\_\_\_\_

Cabinet Member for Place Shaping and Planning

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 **'Westminster City Plan submission to the Secretary of State'** and reject any alternative options which are referred to but not recommended.

Signed .....

Cabinet Member for Place Shaping 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, 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.



## **Appendix 1: Draft City Plan (as consulted on under Regulation 19)**

## Appendix 2: Consultation Statement

## **Appendix 3: Schedule of minor modifications**

## **Appendix 4: Schedule of changes to adopted Policies Map**

## **Appendix 5: Integrated Impact Assessment (including Equalities Impact Assessment)**

## Appendix 6: Duty to co-operate statement

## Appendix 7: Infrastructure Delivery Plan

## **Appendix 8: Summary of IIA Responses**

Four consultation responses were submitted on the Integrated Impact Assessment which was subject to public consultation alongside the City Plan between 19<sup>th</sup> June and 31<sup>st</sup> July 2019.

The respondents were an individual, the NHS London Health Urban Development Unit and shisha businesses.

Summary of matters raised:

- Insufficient consideration given to equalities in the Integrated Impact Assessment to the extent that it does not meet legal requirements.
- Questions relating to health and wellbeing objectives could be developed into indicators and targets to monitor these impacts on the policies.
- Unclear how the policies in the plan will improve health and reduce health inequalities.
- Equalities Act 2010 has been breached due to insufficient consultation with those offering shisha smoking during the preparation of the draft City Plan.