



**City of Westminster**

## **Planning & City Development Committee**

**Date: 7 November 2019**

**Classification: General Release**

**Title: Draft London Plan Update**

**Report of: Director of Place Shaping and Town Planning**

**Financial Summary: The implications will be managed within existing resources.**

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### **1. Executive Summary**

- 1.1 This report provides an update on the draft London Plan, which is expected to be adopted in February/ March 2020. Following adoption the draft London Plan will form part of the development plan for Westminster and will be a significant material consideration in the assessment of planning applications within the City. Where current UDP and City Plan policies are in conflict with the new London Plan, greater weight would be attributable to the London Plan as it would be the more recently adopted policy document.
- 1.2 The draft London Plan was subject to public consultation between December 2017 and March 2018. Following this consultation period and subsequent minor modifications to the consultation draft, the draft London Plan was subject of an Examination in Public (EiP) by a Panel of three Inspectors between December 2018 and May 2019. The Panel's report setting out their findings from the EiP, including any recommended amendments to the draft plan, was published on 8 October 2019 (Appendix 1). The Panel report Subject to the content of the Panel's report finds the draft London Plan to be sound, subject to a number of modifications. It is now for the Mayor to consider the modifications recommended by the Inspectors and submit his response justifying his approach and modified finalised version of the draft London Plan to the Secretary of State, who then has 6 weeks to consider whether to approve it or to intervene and issue a holding direction to prevent the Plan being adopted. These steps are likely to take a number of months and the adoption of the new London Plan is expected in February/ March 2020.
- 1.3 This report considers the key policy areas that are likely to have an impact on planning application decision making in Westminster when the new London Plan is adopted, particularly in the interim period prior to the adoption of Westminster's draft City Plan 2019-2040. The report is based on the findings of the Inspectors Panel report and the consolidated version of the draft London Plan was published in July 2019 (Appendix 2), post completion of the EiP.

1.4 The draft London Plan is a substantial document and the summary in this report is not intended to be an exhaustive. Rather, it focuses on the following policy areas which are common themes and considerations which often arise when assessing development proposals in Westminster:

- Affordable Housing and Viability
- Housing on Small Sites
- Development Density
- Heritage and Culture
- Car Parking
- Town Centres

1.5 In summary, when adopted with amendments incorporated to address the Inspectors Panel report recommendations, the draft London Plan should provide a more comprehensive and up to date suite of policies with which to manage development within Westminster in combination with the current UDP and City Plan policies. However, there are a number of policies where, due to the strategic nature of the document, they lack area specific application within the Westminster context. However, the policies being developed within the draft City Plan will provide this complementary set of spatial policies that will enable the strategic level policies within the draft London Plan to be appropriately applied to development within different areas within Westminster.

## **2. Recommendation**

2.1 Members are asked to note the content of this report.

## **3. Background**

3.1 The currently adopted London Plan was initially adopted in 2011 and has been updated on a number of occasions since, most recently in March 2016 ('The London Plan 'Consolidated with Alternations Since 2011'). The Mayor launched a review of the current London Plan in 2015/16 with the stated aim to ensure that the London Plan better reflects the higher population growth in London than was projected in 2011. The draft new London Plan seeks to redefine the strategies and philosophy that are used to successfully accommodate the envisaged level of growth over the draft plan period.

3.2 As set out in greater detail in paragraph 1.2, the draft new London Plan was subject to public consultation between in late 2017/ early 2018 and was subsequently subject to an Examination in Public (EiP) between December 2018 and May 2019. The Inspectors' Panel report setting out the findings of the EiP and their recommendations was published on 8 October 2019. Adoption of the draft London Plan is expected by February/ March 2020.

3.3 The City Council is also concurrently reviewing its City Plan to produce a new City Plan that will replace the current local development plan documents, which are the 2007 Unitary Development Plan and the 2016 City Plan. The draft City Plan was the subject of Regulation 19 public consultation during June and July 2019, but has yet to be the subject of an Examination in Public. The Plan will be submitted to the Secretary of State in late Autumn subject to Full Council Approval. It is currently expected that the City Plan EiP will take place in early part of 2020 with adoption of a new City Plan expected to follow soon after. Policies within the new City Plan must be found to be in general conformity with the new London Plan to be found sound.

## 4. Considerations

### Affordable Housing and Viability

- 4.1 The threshold approach to affordable housing provision, as introduced in the Mayor's 2017 Affordable Housing and Viability Supplementary Planning Guidance (SPG), is included in the draft London Plan. The draft London Plan (Policies H5 and H6) sets a general 35% affordable housing threshold, as was included in the 2017 SPG, and a 50% threshold for development on public sector land, where there is no portfolio agreement with the Mayor, is also carried over in to the draft policy. The 35% affordable housing threshold, or 50% for public sector land, (i.e. the 'Fast Track Route') exempts developers from submitting viability assessments at application stage, if they meet or exceed the relevant level of affordable housing and other requirements. The 35%/50% threshold for the 'Fast Track' approach will remain until 2021, at which time the threshold levels will be monitored and reviewed by the Mayor. Below this threshold, individual developments will need to be viability tested. The draft London Plan also confirms the approach of requiring early and late stage viability reviews via S106 agreements on schemes falling below the fast track threshold, to ensure timely delivery of schemes on site and to secure any uplift viability post permission being granted is captured as additional affordable housing provision, either on site or as a payment in lieu.
- 4.2 The draft London Plan introduces greater flexibility to the affordable housing tenure that can be provided (Policy H7) with a minimum of 30% low cost rented homes (either London Affordable Rent or Social Rent), a minimum of 30% intermediate products (including London Living Rent and London Shared ownership), with the remaining 40% determined by the borough as low cost rented homes or intermediate products, based on identified local need. This will enable affordable housing tenure mixes to respond more effectively to both local affordable housing need and the overall viability of development on a particular site.
- 4.3 The draft London Plan also encourages a wider variety of housing products such as 'Build to Rent' developments (Policy H13), where the affordable housing element of the schemes can be provided as 'discounted market rent' units, allowing developers to provide affordable housing without needing to transfer the affordable housing units to a specialist affordable housing provider. This may assist some major long-term land owners within the City to provide on-site affordable housing, whereas they may have previously sought to provide affordable housing in the form of a payment in lieu of on-site provision.
- 4.4 Policy DF1 states that planning obligations necessary to meet the policies in the draft London Plan should be taken into account when developing proposals and acquiring land. This is on the basis that a city-wide strategic viability assessment, the London Plan Viability Study (LPVS) was carried out as part of the evidence base for the draft London Plan. The policy states that 'viability testing should normally only be undertaken on a site-specific basis where there are clear circumstances creating barriers to delivery'. However, the Inspectors recommend that the Mayor should modify this policy 'to make it clear that the requirements relating to site-specific viability assessments only apply where relevant policies in local plans are up to date', including local viability assessments. The Inspectors made this recommendation on the basis that they had concerns that the strategic-level viability assessment carried out in support of the draft London Plan was not sufficiently capable of taking account of locally specific evidence that may legitimately impact upon development viability. The need for an up to date local plan policy based on local viability evidence maintains the Mayors aim to limit the

use of site specific viability assessments, whilst ensuring this is only where more localised viability testing has taken place and been incorporated into the development plans of individual boroughs.

- 4.5 Overall the affordable housing policies in the draft London Plan represent an evolution and consolidation of the interpretation of the previous London Plan policies, as set out in the Mayors August 2017 Affordable Housing and Viability SPG. However, whilst the approach does not represent a significant change from the 2017 SPG, its introduction in to the policy wording within the London Plan will increase the material weight attributable to it. The 50% threshold for public sector land is the most challenging aspect of the policy and will have an impact on the delivery of Council's own developments, particularly on larger sites that are referable to the Mayor, although the Mayor has signed a Statement of Common Ground that sets out that he is content with the draft City Plan policy, which requires 50% affordable housing on public land where this is viable.
- 4.6 Even incorporating the amendments recommended in the Inspectors Panel report, Policy DF1 the draft London Plan is likely to result in a reduction in site specific viability reports following the adoption of a complementary local plan policy as part of the new City Plan. However, within a complex urban environment such as Westminster, it is likely that applicants will continue to assert that there are specific issues on particular sites that would prevent delivery in accordance with all relevant development plan policies.

#### *Housing Delivery and Housing on Small Sites*

- 4.7 The draft London Plan places greater onus on small sites (up to 25 units on sites up to 0.25ha) to contribute to increased housing supply (policy H2 and H2A). The draft plan's expectation is that 52% of the overall 10 year housing target (of 10,100 homes) for Westminster will be delivered on small sites. To achieve this target, the draft plan introduces a presumption in favour of small housing development involving (1) the infill of vacant or underused brownfield sites; (2) residential conversions, redevelopment, extensions of houses and/or ancillary residential buildings or infill development within the curtilage of house, where it is within PTALs 3-6 or 800m distance of a station or town centre boundary; or (3) the redevelopment or upward extension of flats, non-residential buildings and residential garages. Qualifications to this 'presumption in favour' are set out in the policy and they include that the presumption does not apply where a development would affect a designated heritage asset, or its setting, or in the case of proposals for tall buildings.
- 4.8 However, in their Panel report the Inspectors have identified that the reliance on small sites to deliver such a large proportion of the overall housing delivery target is 'neither justified nor deliverable'. To address this the Inspectors advise that the target for the development of small sites should be significantly reduced from 245,730 to 119,250 residential units across London over ten years. This would have the effect of reducing the overall ten-year housing target from 649,350 to 522,850 new residential units. Annually this would result in the target for housing delivery across London being 52,285 units, which is well below the 66,000 new units identified to meet annual need. To address this shortfall the Inspectors recommend that a review of green belt around London is undertaken and the potential for local authorities in the wider South East to accommodate this growth is further explored. However, the Inspectors have taken a pragmatic approach to this issue. They recognise that such further work would take time to undertake and conclude that it is better to proceed on the basis of an adopted plan and allow a review of the green belt to be undertaken at a later date to inform the next iteration of the London Plan.

- 4.9 The 'small sites' policy could have put increased pressure on the provision of higher density housing on small sites. However, if the findings of the Panel report are accepted by the Mayor, the pressure this policy places on such sites will be significantly reduced. Furthermore, development of small sites in Westminster is already relatively common place and therefore well catered for in terms of the existing suite of policies in both the adopted and emerging local development plan documents (i.e. the UDP and 2016 City Plan and the draft new City Plan). Additionally, the significant number of listed buildings and conservations across much of the City mean that the presumption in favour will not apply to many sites. There will though be some small sites, particularly in the north of the City outside of conservation areas, where there will be some increased pressure to support redevelopment at a density that is higher than may have historically been considered acceptable.
- 4.10 The new London Plan encourages boroughs to consider introducing affordable housing requirements in the form of payments in lieu of on-site provision for schemes on small sites of 9 units or less, but this is reliant on the introduction of a policy within a boroughs local plan. However, this approach could threaten the viability of redeveloping smaller sites in Westminster. Such a policy was not included in the consultation draft version of the City Plan.
- 4.11 Considering housing delivery across all sites, the Panel report recommendation to reduce the original ambitious housing delivery target across London from 649,350 to 522,850 new residential units over 10 years will not have a significant impact on Westminster as the draft City Plan aims to meet the London Plan target over the lifetime of the plan (up to 2040), but with the housing target set by the standard methodology for the first 10 years. As such, there be a minor impact on the annual housing delivery target set for Westminster in the later period of the plan, but not the initial 10 year period.

#### Development Density

- 4.12 Historically appropriate densities for development of sites in different locations within the City have been set out in a density matrix, focused on public transport accessibility levels. The draft London Plan moves away from this approach towards a design-led approach (Policies D1A and D1B), although it maintains the link between densities and public transport accessibility levels. The criteria for determining density are now to be focused on the appropriateness of the design of a development, the quality of the environment provided for users/ occupiers of a development, its response to local context and the impact on the amenity of neighbours.
- 4.13 It is likely that the new design-led approach to determining the appropriate site capacity means that developers will more frequently seek to make site specific cases for their chosen densities on the basis that they consider the scheme to deliver good design quality against the criteria set out in the policy. This could potentially lead to more protracted negotiations at pre-application stage on some sites. However, it is noted that Policy D1B(C) sets out that '*where development parameters for allocated sites have been set out in a Development Plan, development proposals that do not accord with the site capacity in a site allocation can be refused for this reason*'. Westminster's draft City Plan includes site allocations with indicative housing delivery figures, which are to be fully set out in a separate Development Plan Document which will be subject to its own Examination in Public following adoption of the City Plan. Accordingly, the site capacities on strategic sites across the City will continue to be capable of strategically controlled by the City Council, despite the shift in the draft London Plan to a more design focused approach to development density.

### Tall Buildings

- 4.14 The tall buildings policy (Policy D8) provides greater direction on the location of tall buildings, requiring boroughs to identify locations where tall buildings are appropriate within their development plans and Westminster's draft City Plan will do this. The draft London Plan policy for tall buildings introduces a context based definition for tall buildings, allowing the definition of what comprises a tall building to be flexed across London responding to the prevailing townscape context. Again Westminster's draft City Plan includes policy wording to apply the contextual approach to tall buildings in the London Plan to the Westminster context.
- 4.15 The new tall buildings policy also includes a much greater range of impact based assessment criteria for proposals for tall buildings. The policy includes assessment criteria relating to the visual impact, functional impact, environmental impact and cumulative impact. Overall the policy will provide the City Council and other boroughs with a more rigorous policy tool, in combination with emerging draft City Plan policies, to ensure that proposals for tall buildings are appropriately located and are designed to minimise impacts in all regards.

### Heritage and Culture

- 4.16 The draft London Plan combines heritage and culture policies in a single chapter to promote their considerable economic, environmental and social value, both in isolation and when combined.
- 4.17 The 'Agent of Change' principle, which was introduced in the 2018 version of the NPPF (i.e. placing the responsibility for mitigating impacts from existing noise and other nuisance-generating activities or uses on the proposed new noise-sensitive development), is formalised in Policy D12 and will provide more protection to noise generating cultural venues and entertainment uses by placing the responsibility for mitigating impacts from existing noise generating activities on the proposed new noise sensitive development.
- 4.18 Policy HC7 enhances the protection afforded to public houses relative to the current London Plan. The policy broadens the criteria under which public houses are afforded protection with the policy seeking to prevent the loss of public houses that have a heritage, economic, social or cultural value to local communities. Part B of the Policy specifically directs that *'Applications that propose the loss of public houses with heritage, cultural, economic or social value should be refused unless there is authoritative marketing evidence (for a period of 24 months) that demonstrates that there is no realistic prospect of the building being used as a pub in the foreseeable future'*. The London Plan recognises the harm that the loss of public houses can do, not only to the night time economy, but also the social fabric, historic and cultural interest of an area. The policy text also sets out that boroughs should resist proposals for redevelopment of associated accommodation, facilities or development within the curtilage of the public house that would compromise the operation or viability of a public house.

### Car Parking

- 4.19 The draft London Plan brings the 'Healthy Streets Approach' (described as being *'based on evidence of what is needed to create a healthy, inclusive environment in which people choose to walk, cycle and use public transport'*) in to the transport policies within the plan. The intention is to improve health and reduce health inequalities, while

also increasing levels of walking, cycling and public transport use towards a target of 80% of all trips by 2041. The Healthy Streets Approach also underpins the aspiration to achieve the target of zero carbon by 2050. Part of the Health Streets Approach is the promotion of car free development in areas with high public transport accessibility.

- 4.20 Policy T6 introduces maximum parking standards for different types of development. For residential developments, the expectation is that schemes will not provide any parking spaces in the CAZ, Inner London Opportunity Areas, Metropolitan and Major Town Centres, and all areas of PTAL 5-6 (plus PTAL 4 in Inner London). The policy encourages the provision of on-street parking permit restrictions by boroughs as part of the implementation of car free development. The focus on car free development in the areas identified above will mean that the Mayor will expect almost all development in Westminster to be car-free. The draft City Plan seeks to introduce an area based car free policy, which also recognises high existing on-street parking stress in Zones B and D. The conformity of this Policy in the draft City Plan with the draft London Plan will be a key consideration at the future Examination in Public of the draft City Plan; albeit the Mayor and TfL have signed a statement of common ground to confirm that they do not consider parking permit restrictions to form part of the conformity objection.

#### Town Centres

- 4.21 Policies SD6 to SD9 respond to changes in the viability and function of high street/ town centre retail uses over the last decade and recognises the need for town centres to adapt in a planned way to provide a more diverse range of uses than has historically been the case, to ensure they continue to meet the needs of their local communities.
- 4.22 The draft London Plan also recognises that town centres are typically well connected and consequently they are identified as locations for growth to a greater extent than was the case in the currently adopted London Plan. Town centres are specifically identified as locations for focusing office growth outside the Central Activities Zone.
- 4.23 The policy is likely to see a more flexible approach to retail and other complimentary town centre uses within town centres, particularly toward the periphery of centres in future when making planning decisions. This approach is already reflected in the draft City Plan policies. The increased emphasis on town centres as locations for growth is likely to result in an increase in proposals for office development in town centres outside the CAZ, which historically have not been identified as appropriate locations for office growth in Westminster. A careful approach will need to be taken when applying this policy to ensure that office growth within town centres does not significantly reduce the potential for these highly connected locations to contribute to delivering housing growth, as this could undermine the achievement of City Council's own ambitious housing target, as set out in the draft City Plan.

#### Other Notable Panel Report Recommendations

- 4.24 As noted in paragraph 1.4, the draft London Plan is a substantial document, extending to over 500 pages. The Inspectors Panel report is critical of this approach and suggests the Mayor should 'consider setting out a more concise spatial development strategy, focused on strategic outcomes rather than detailed means of implementation, when the plan is next replaced'. The Panel report notes that the document's 'length and complexity raise a number of significant issues about the fundamental role and purpose of a spatial development strategy in a three tiered plan-led system'.
- 4.25 The Inspectors raised concerns in a number of regards in terms of the consistency of the draft London Plan with national policy. The Inspectors specifically raised objection

to the inclusion of policies that oppose expansion of Heathrow and other airports and places 'a blanket restriction on the exploration, appraisal or production of shale gas via hydraulic fracturing within London'. The Inspectors recommend that both policies are deleted.

## **5. Financial Implications**

5.1 The implications will be managed within existing resources.

## **6. Legal Implications**

6.1 None.

## **7. Conclusion**

7.1 Members are asked to note the content of this report and the implications that the emerging policies in the draft London Plan may have for future planning decision making in Westminster.

**If you have any questions about this report, or wish to inspect one of the background papers, please contact: Oliver Gibson (ogibson@westminster.gov.uk / 020 7641 2680).**

### **Background Papers:**

1. Report of the Examination in Public of the London Plan 2019 (online link only due to size of document): [https://www.london.gov.uk/sites/default/files/london\\_plan\\_report\\_2019\\_final.pdf](https://www.london.gov.uk/sites/default/files/london_plan_report_2019_final.pdf)
2. Draft London Plan – Consolidated Changes Version (July 2019) (online link only due to size of document): [https://www.london.gov.uk/sites/default/files/draft\\_london\\_plan\\_-\\_consolidated\\_changes\\_version\\_-\\_clean\\_july\\_2019.pdf](https://www.london.gov.uk/sites/default/files/draft_london_plan_-_consolidated_changes_version_-_clean_july_2019.pdf)