



The Planning Inspectorate

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# **Report to Westminster City Council**

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**Inspectors appointed by the Secretary of State**

**Date: 19 March 2021**

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Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

## **Report on the Examination of the Westminster City Plan 2019-2040**

The Plan was submitted for examination on 19 November 2019

The examination hearings were held between 28 September 2020 and  
15 October 2020

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## **Abbreviations used in this report**

CAZ	Central Activities Zone
DPD	Development Plan Document
NPPF	National Planning Policy Framework
PPG	Planning Practice Guidance
SPD	Supplementary Planning Document
WERLSPA	West End Retail and Leisure Special Policy Area

## Non-technical summary

This report concludes that the Westminster City Plan 2019-2040 (the City Plan) provides an appropriate basis for the planning of the City, provided that a number of main modifications are made to it. Westminster City Council (the Council) has specifically requested that we recommend any main modifications necessary to enable the City Plan to be adopted.

Following the hearings, the Council prepared a schedule of the proposed main modifications and carried out a sustainability appraisal of them. The main modifications were subject to public consultation over a seven-week period. We have recommended their inclusion in the City Plan after considering the sustainability appraisal and all the representations made in response to consultation on them.

The main modifications can be summarised as follows:

- Amending the housing requirement/target to reflect the London Plan and setting out an updated and realistic housing trajectory and overall approach to housing delivery;
- Deleting references to key development sites;
- Deleting Policy 10 which sought the provision of, or contributions towards, affordable housing from commercial developments;
- Amending a number of policies to reflect the changes to the Use Classes Order that came into effect during the examination;
- Amending the detailed approach to affordable housing, car parking standards and waste to ensure general conformity with the London Plan; and
- A number of other main modifications to ensure that the City Plan is positively prepared, justified, effective and consistent with national policy.

## Introduction

1. This report contains our assessment of the City Plan in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the City Plan is in general conformity with the Spatial Development Strategy i.e. the London Plan. It then considers whether the City Plan's preparation has complied with the duty to co-operate, whether the City Plan is compliant with other legal requirements and whether it is sound. Paragraph 35 of the National Planning Policy Framework 2019 (the NPPF) makes it clear that in order to be sound, a local plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the Council has submitted what it considers to be a sound plan. The submitted City Plan of November 2019 (which is the same as the Regulation 19 Publication Draft, June 2019) but incorporating the minor modifications identified in the schedule of modifications (CORE 025 V2) is the basis for the examination.

## Main Modifications

3. In accordance with section 20(7C) of the 2004 Act the Council requested that we should recommend any main modifications necessary to rectify matters that make the City Plan unsound and /or not legally compliant and thus incapable of being adopted. Our report explains why the recommended main modifications are necessary. The main modifications are referenced in bold in the report in the form **MM01**, **MM02** etc, and are set out in full in the Appendix.
4. Following the hearings, the Council prepared a schedule of the proposed main modifications and carried out a sustainability appraisal of them. The main modifications were subject to public consultation over a seven-week period. An error in the detailed wording of main modification **MM41** was included in the schedule. This was rectified and a corrected version was published during the consultation period. We have recommended the inclusion of the main modifications in the City Plan after considering the sustainability appraisal and all the representations made in response to consultation on them.

## Policies Map

5. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting the City Plan for examination, the Council was required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted City Plan. In this case, the submission policies map is document CORE 004 (the Submission Draft Policies Map 2019).
6. The policies map is not defined in statute as a development plan document and so we do not have the power to recommend main modifications to it. However, the main modifications relating to the removal of references to key development sites require further corresponding changes to be made to the policies map. In addition, changes to the policies map are needed in respect of the geographic illustration of policies relating to the Central Activities Zone

(CAZ) and the Rapid Inundation Zone to ensure that the relevant policies are effective.

7. These further changes to the policies map were published during the examination (CORE 027 V2 and CORE 026 V2) and were also issued for consultation alongside the schedule of main modifications.
8. When the City Plan is adopted, in order to comply with the legislation and give effect to the City Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in CORE 004 and the further changes published alongside the schedule of main modifications.

## **Context of the City Plan**

9. Westminster is a densely populated and highly developed urban area within the heart of London. It contains some very affluent residential areas but also some areas of deprivation. Commercial activity is very significant, particularly within the office, retail, tourism and leisure sectors. The economic function of the City is important on a London wide and national basis. There is a very substantial daily influx of workers, shoppers and tourists. Westminster has a rich architectural, archaeological and cultural heritage which contributes significantly to its economic vibrancy. There are 56 Conservation Areas covering 78% of the City's area and over 11,000 listed buildings and structures including the Westminster World Heritage Site.
10. The City Plan will replace the Westminster City Plan 2016 and saved policies from the Unitary Development Plan 2007. It will be followed by the Site Allocations Development Plan Document (DPD). There are currently two "made" Neighbourhood Plans (Knightsbridge and Mayfair).
11. The City Plan has been prepared in the context of the London Plan. To a large extent, strategic decisions regarding the scale, distribution and type of development are taken through the London Plan. The ability of the City Plan to influence the pattern of growth is also affected by the highly developed nature of the area. The majority of development comes forward through the re-use or redevelopment of buildings and sites and there is a significant element of windfall development. Whilst we discuss the issue of key development sites in detail below, the City Plan does not allocate specific sites for development, this will be done through the Site Allocations DPD.

## **General conformity with the London Plan**

12. The City Plan must be in general conformity with the Spatial Development Strategy i.e. the London Plan, under the terms of S24 of the Planning & Compulsory Purchase Act 2004 (as amended). The London Plan 2016, which was in place at the time of the submission of the City Plan and for most of the examination, has now been replaced by the London Plan published in March 2021 (the London Plan).
13. In assessing general conformity, the Mayor of London considered the City Plan in relation to both the existing London Plan 2016 and the then emerging new London Plan. This was a pragmatic and reasonable approach given the circumstances and expectations of progress.

14. The Mayor of London had concluded that the City Plan was not in general conformity with the London Plan in respect of the approach towards affordable housing, car parking standards and waste. The Council has worked closely with the Mayor of London, Transport for London and relevant local authorities to resolve these concerns and they are addressed in statements of common ground. Subject to appropriate main modifications, which we discuss later in the report, the Mayor of London now considers that the City Plan is in general conformity with the London Plan<sup>1</sup>.
15. Taking all of this into account and subject to necessary main modifications, the City Plan is in general conformity with the London Plan.

## **Assessment of the duty to co-operate**

16. Section 20(5)(c) of the 2004 Act requires that we consider whether the Council complied with any duty imposed on it by section 33A in respect of the City Plan's preparation.
17. As set out above, the London Plan deals with a range of strategic matters. This includes establishing housing targets for each of the London Boroughs. Given the densely urbanised nature of Westminster and the close physical, visual and functional relationship with neighbouring Boroughs, there are a number of strategic matters which were of relevance during the preparation of the City Plan. These include the approach to the CAZ which extends across several Boroughs, issues relating to transport, flood risk, tall buildings and heritage. The Council has good working relationships with the Greater London Authority, neighbouring London Boroughs and other relevant organisations and has demonstrated close co-operation on these various strategic matters during the preparation of the City Plan. This co-operation has helped to shape the policies in the City Plan.
18. The management of waste raises particular issues for Westminster given that it does not have existing facilities or the capacity to accommodate them. It cannot therefore accommodate its waste apportionment set out in the London Plan. The Council has liaised closely with other authorities to resolve these issues and this work has now culminated in agreements with relevant authorities, including specifically with the London Borough of Bexley to accommodate Westminster's waste apportionment. Although work on providing evidence and reaching formal agreements continued after submission, the Council worked constructively throughout the preparation of the City Plan to resolve this issue.
19. We are satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the City Plan and that the duty to co-operate has therefore been met.

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<sup>1</sup> See WCC 007 - Letter from Greater London Authority confirming general conformity with the published London Plan 2021

## **Public sector equality duty**

20. We have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This has included our consideration of several matters during the examination including housing quality and standards and accommodation for Gypsies and Travellers.

## **Assessment of other aspects of legal compliance**

21. The City Plan has been prepared in accordance with the Council's Local Development Scheme.
22. Consultation on the City Plan and the main modifications was carried out in compliance with the Council's Statement of Community Involvement.
23. The Council carried out a sustainability appraisal of the City Plan as part of the Integrated Impact Assessment, prepared a report of the findings of the appraisal, and published the report along with the City Plan and other submission documents under Regulation 19. The appraisal was updated to assess the main modifications.
24. The Habitats Regulation Assessment Screening Report (June 2019) sets out why an Appropriate Assessment is not necessary.
25. The Development Plan, taken as a whole, includes policies to address the strategic priorities for the development and use of land in the local planning authority's area.
26. The Development Plan, taken as a whole, includes policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change.
27. The City Plan complies with all relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.

## Assessment of soundness

### Main Issues

28. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, we have identified seven main issues upon which the soundness of the City Plan depends. This report deals with these main issues. It does not respond to every point or issue raised by representors.

### **Issue 1 – Whether the Spatial Strategy and policies for the Spatial Development Priorities are justified, effective, consistent with national policy and in general conformity with the London Plan.**

#### *The Spatial Strategy*

29. Policy 1 sets out the overall spatial strategy for Westminster. We deal specifically with the housing target, delivery and affordable housing under Issue 2 and with the economy and employment under Issue 3.
30. Part A of Policy 1 provides a comprehensive and justified set of overarching principles which are consistent with national policy and in general conformity with the London Plan. However, the detailed policy wording lacks sufficient clarity in terms of the approach towards modern architecture, the effect of development on the setting of heritage assets and the approach to climate change. Main modification **MM04** would address this and also ensure that the policy takes a sufficiently positive and flexible approach towards business and commercial growth. It is necessary to ensure that Part A is effective.
31. The CAZ (including the West End), the Opportunity Areas, the Housing Renewal Areas and the North West Economic Development Area are highlighted in Part B of Policy 1 as key areas for the delivery of growth. Given the context and character of the areas concerned and the strategic framework provided by the London Plan, this is a justified approach. Main modification **MM04** would provide necessary clarity on the range of uses envisaged, the broad scale of development in the Opportunity Areas and the Housing Renewal Areas and the fact that some growth could also be accommodated in other parts of Westminster. Again, it is required to ensure that Part B is effective.
32. The boundary of the CAZ in the submitted City Plan included an area to the west of the Paddington Opportunity Area, aligned with the route of Crossrail. This was on the basis that development could come forward in this area that could contribute to the strategic functions of the CAZ. Such sites are now considered undeliverable and the extended boundary of the CAZ in this location is not justified. The Council's post submission changes to the policies map (CORE 027 V2 and CORE 026 V2) show an amended, justified boundary. Main modifications **MM04** and **MM17** are necessary to ensure that Figures 1, 7 and 15 of the City Plan are effective in showing the correct boundary for the CAZ.
33. Part B.5 of Policy 1 refers to key development sites. Appendix 1 of the City Plan provides more information on these sites including an indication of the scale and type of development envisaged. The key development sites were shown on the Submission Draft Policies Map. Following initial questions from

the Inspectors<sup>2</sup> regarding the amount of information on these key development sites and the evidence to support their inclusion, the Council clarified that they were not site allocations within the City Plan. The intention was to identify them as being of strategic importance to the delivery of the City Plan but that they would be allocated where appropriate in the forthcoming Site Allocations DPD.

34. The approach to the key development sites has clearly led to some confusion and in acknowledging this the Council suggested modifications to clarify their status. We are satisfied that it was not the intention to allocate the sites in question in the City Plan and that it will be for the forthcoming Site Allocations DPD to do so if considered appropriate. A wide range of sites were identified and in many cases they are likely to be suitable for a mix of uses and infrastructure improvements. Most of the sites provide opportunities for residential development however and collectively they are likely to make an important and significant contribution to housing supply.
35. There is currently insufficient information and evidence to justify the inclusion of the key development sites as allocations within the City Plan and in any case, it is clearly not the role of the City Plan to allocate specific sites for development<sup>3</sup>. The Development Plan overall takes a positive approach to development and the redevelopment of sites, subject to appropriate detailed policy requirements. Proposals for development on the sites in question could come forward in advance of the Site Allocations DPD and there is nothing to suggest that the Council would not consider them favourably in principle.
36. In order to provide necessary clarity as to the role and status of these sites, main modification **MM04** would delete Part B.5 of Policy 1. For the same reason, main modification **MM49** would delete Appendix 1 and replace it with a housing trajectory. We return to the issue of housing supply and the trajectory under Issue 2.
37. The Council's post submission changes to the policies map (CORE 027 V2 and CORE 026 V2) show the removal of the key development sites. Main modifications **MM05-MM09** are necessary to ensure that Figures 8-13 of the City Plan reflect this. Along with main modifications **MM01, MM03, MM10** and **MM16**, they would also remove various references to the key development sites and the approach to them. Collectively, in relation to the key development sites, the above main modifications are required to ensure that the City Plan is effective.

*West End Retail and Leisure Special Policy Area and Tottenham Court Road Opportunity Area*

38. The importance of the West End as a focus for commercial activity, particularly in the retail, leisure, tourism and office sectors, is recognised in Policy 2. The West End Retail and Leisure Special Policy Area (WERLSPA) contains the West

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<sup>2</sup> See INSP1, INSP2 and INSP3 N.B. Brian Sims was originally appointed to examine the City Plan along with Luke Fleming

<sup>3</sup> As set out in the Local Development Scheme of March 2020 – CORE 023

End International Centre (Oxford Street, Regent Street and Bond Street) and other key locations such as Covent Garden, Soho, Theatreland, Piccadilly Circus, Leicester Square and Trafalgar Square. It also contains part of the Tottenham Court Road Opportunity Area which continues into Camden Borough.

39. The boundaries of the WERLSPA, the West End International Centre and the Tottenham Court Road Opportunity Area are appropriate and justified given the character and context of the areas concerned and the strategic guidance provided by the London Plan.
40. Policy 2 sets out a positive and justified approach to encouraging and managing development and growth, whilst protecting and enhancing the character and environment of the area. It is consistent with national policy and in general conformity with the London Plan. It lacks sufficient clarity however in terms of the greater scale, massing and intensity of development envisaged in the Tottenham Court Road Opportunity Area compared with the more incremental growth anticipated across the rest of the WERLSPA. Main modification **MM05** would address this and is necessary for Policy 2 to be effective.

#### *Paddington and Victoria Opportunity Areas*

41. Policies 3 and 4 set out the spatial development priorities for the Paddington Opportunity Area and Victoria Opportunity Area. Paddington has historically been and remains one of Westminster's most significant opportunities for new development due to under-utilised previously developed land and the planned Elizabeth Line connection into Paddington Station. Victoria is a busy transport hub which hosts a variety of businesses, government functions and leisure destinations.
42. Both the Paddington and Victoria Opportunity Area boundaries are defined on the Submission Draft Policies Map and shown on Figures 9 and 10 of the City Plan. These boundaries are justified and appropriate and the City Plan allows for redevelopment opportunities outside of these areas. The Mayor of London has also not raised any issues of conformity regarding the detailed boundaries.
43. However, the London Plan sets out the indicative capacity for new homes and jobs in the Opportunity Areas and requires the City Plan to establish the local capacity for growth having regard to them. Furthermore, as a consequence of main modifications relating to the key development sites, Policies 3 and 4 should recognise the potential of St Mary's Hospital for the Paddington Opportunity Area and Victoria Station for the Victoria Opportunity Area which through their scale and potential will significantly influence the ability to deliver the spatial priorities identified.
44. Main modifications **MM06** and **MM07** would provide additional detail to address these issues and are therefore necessary for effectiveness.

#### *North West Economic Development Area*

45. The North West Economic Development Area contains some of Westminster's most deprived areas. Policy 5 establishes a comprehensive and justified set of priorities for regeneration, focussing on increasing economic opportunities,

improving housing choice and quality, enhancing the environment and connectivity and developing social and community infrastructure. These are consistent with national policy and in general conformity with the London Plan. In addition to removing references to key development sites discussed above, main modification **MM08** would provide necessary clarity that developments within the North West Economic Development Area will deliver a mix of uses including housing. It is required for effectiveness.

*Church Street/Edgware Road and Ebury Bridge Estate Housing Renewal Areas*

46. The Church Street/Edgware Road Housing Renewal Area seeks to provide new high-quality housing and jobs whilst also improving the public realm and increasing publicly accessible open space to address the known deficiency in the area. It also provides the opportunity to enhance the Church Street/Edgware Road District Centre as a hub for retail and services and create a new cultural quarter adjacent to Cockpit Theatre.
47. A masterplan has been developed for the area with input from the local community. A number of schemes are already under construction which can reasonably be expected to deliver over half of the proposed dwellings in the first five years of the plan<sup>4</sup>. The remaining housing sites are owned by the Council and planned to be brought forward as part of its Housing Investment Programme.
48. The renewal of the Ebury Bridge Estate provides an opportunity to increase the number of homes available, improve the quality and energy efficiency of homes, enhance the public realm and develop community and social facilities. The Housing Renewal Area covers the whole of the estate, allowing for a comprehensive, co-ordinated and properly phased approach.
49. Following the consideration of options and close co-operation and consultation with the local community, the proposals for the renewal of the estate have reached an advanced stage with a hybrid planning application being submitted in July 2020 and some demolition work already having taken place. The proposals would see the demolition of all existing blocks on the estate and replacement with approximately 750 new homes. Of these 336 would replace all of the existing homes and the Council is strongly committed to providing the opportunity for existing residents to be re-housed on the estate.
50. The estate is Council owned, the renewal project will be fully funded by the Council and these funds are in place. Phase 1 would see two residential blocks constructed with a total of 226 homes (96 net increase) being delivered from 2023/24 onwards. The remainder of the new homes are expected to be delivered within years 6-10 of the plan period. We consider this to be a realistic timeframe given progress to date and the commitments of the Council.

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<sup>4</sup> EV H 013 - Housing Supply Topic Paper Addendum (March 2020)

51. Policy 6, which sets out the approach to both Housing Renewal Areas is therefore justified, effective, consistent with national policy and in general conformity with the London Plan.

#### *Policy 7*

52. Policy 7 provides a justified set of principles by which to manage development. They are consistent with national policy and in general conformity with the London Plan. They are sufficiently clear and expressed to provide for adequate flexibility when considering individual proposals. Subject to main modification **MM02**, which would clarify how it should be considered alongside other policies, Policy 7 is also effective.

#### *Conclusion*

53. Subject to the main modifications referred to above, the Spatial Strategy and policies for the Spatial Development Priorities are justified, effective, consistent with national policy and in general conformity with the London Plan.

### **Issue 2 – Whether the City Plan has been positively prepared and whether it is justified, effective, consistent with national policy and in general conformity with the London Plan in relation to housing.**

#### *Housing requirement/target*

54. Policy 8 of the submitted City Plan sets out a commitment to deliver in excess of 22,222 new homes in the plan period. This was based on the draft new London Plan target proposed at the time of 1,010 homes per year although we note that this would relate to a 22 year period from 2018/19.
55. Policy 8 also refers to housing delivery being stepped up to 1,495 new homes per year over the first 10 years. The starting point for this figure was the London Plan 2016 target of 1,068 homes per year. The Council then applied a 40% cap to an increase on this figure to arrive at 1,495. In doing so the Council referred to the standard method for assessing local housing need.
56. We consider that this approach was not appropriate. Fundamentally, the Planning Practice Guidance (PPG) makes it clear that local planning authorities should use the local housing need figure in the spatial development strategy and should not seek to revisit their local housing need figure when preparing new strategic or non-strategic policies. In this case the London Plan provides the figure for Westminster. In addition, the Council accepted early in the examination that it could not demonstrate a realistic supply of housing to deliver this increased target of 1,495 for the first 10 years. Whilst the ambition of the Council to exceed the London Plan target is laudable, it needs to be based on a realistic assessment of supply and in any case, as submitted, Policy 8 makes insufficient distinction between a housing requirement/target and potential supply.
57. A further point to note is that the London Plan now has a housing target for Westminster of 985 homes per year.
58. Taking all of this into account the Council accepted that Policy 8 should be modified to refer to a target based on the figure in the London Plan (985

homes per year equating to 20,065 new homes over the 21 year period between 2019/20 and 2039/40) and that the reference to a stepping up of housing delivery to 1,495 homes per year should be removed. Main modification **MM10** includes these amendments and is necessary to ensure that Policy 8 is justified, effective and consistent with national policy in this respect. Main modification **MM04** in relation to Policy 1 is necessary for the same reasons.

59. Given the highly urbanised nature of Westminster, the small scale of designated neighbourhood areas and the reliance on windfall development, it is not realistic or appropriate for the City Plan to attempt to set out housing requirements for the designated neighbourhood areas.

#### *Housing supply/delivery*

60. Further detailed information and clarification regarding housing supply and delivery was provided during and immediately after the hearings<sup>5</sup>.
61. There has not been significant under delivery of housing over the previous three years. The Council is seeking to demonstrate a five-year supply of deliverable sites through the examination of the City Plan and therefore it is appropriate to apply a 10% buffer to the supply in line with Paragraph 73 of the NPPF. Taking the annual requirement of 985 homes and applying this buffer gives a five-year requirement of 5,418 homes.
62. Using 2020/21 as the most appropriate base date given the likely adoption of the City Plan, the Council estimates that the five-year supply is 5,706 homes. Of these, 107 homes were recorded as completed in early 2020/21 and a further 4,551 were on sites with planning permission and under construction. Sites with detailed planning permission but not yet started contribute another 711 homes to the supply. There is no evidence that homes on these sites will not be delivered within five years. An additional 337 homes are identified on sites with planning applications submitted and decisions pending. These are all Council owned sites, identified in the Housing Investment Programme. Good progress has been made and the Council has a clear commitment to bringing them forward for development within five years. Overall, the Council's estimate of supply for the five-year period from 2020/21 is realistic and based on robust evidence. The City Plan will provide for a five-year supply of deliverable housing sites on adoption.
63. The Council estimates that specific developable sites and broad locations will provide for 2,486 homes in years 6-10 (2025/26 to 2029/30) and 2,576 homes in years 11-15 (2030/31 to 2034/35). This is made up of two sites where construction has started but is currently stalled, a number of sites where planning applications have been submitted and decisions are pending and other sites where pre application discussions have taken place or where they are part of the Council's Housing Programme but are at an earlier design stage. It also includes estimates of supply from broad locations where

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<sup>5</sup> See documents EV H 025 (Post hearing housing supply note) and EV H 016 V2 (5 year housing land supply 2020-25)

preliminary site selection and capacity modelling has taken place, along with engagement with landowners and site promoters. We are satisfied that the Council's assessment of the supply from specific developable sites and broad locations up to 2034/35 is realistic.

64. Following initial questions from the Inspectors the Council reassessed its estimate of the supply of housing from windfall sites. The Addendum to the Housing Supply Topic Paper of March 2020 (EV H 013) concludes that a windfall allowance of 500 homes per year from year 6 onwards should be included. This comprehensive assessment takes a realistic view of past delivery and the effect of policies and future trends. It provides compelling evidence that windfalls will continue to make a significant and reliable contribution to housing supply at the level anticipated.
65. Given the nature of Westminster and the sites that come forward, the high density of development and the continued reliance on windfalls, it is likely that significantly more than 10% of the housing requirement will be accommodated on sites no larger than 1ha, in line with Paragraph 68 of the NPPF.
66. Bringing this all together, the City Plan will provide for an adequate supply of housing for 15 years from the likely point of adoption. Taking account of actual completions in 2019/20 (992 homes) and the reasonable expectation that delivery between 2035/36 and 2039/2040 will at least match requirements, the estimated supply of housing in the plan period overall is 21,685 homes. This would be sufficient to meet requirements with a degree of flexibility.
67. Main modifications **MM10** and **MM49** would set out an updated and realistic housing trajectory and are necessary to ensure that the City Plan is justified and effective in this respect.

#### *Other aspects of Policy 8*

68. Part B of Policy 8 limits the size of new homes to a maximum of 200sqm Gross Internal Area, unless necessary to protect a heritage asset. Land and development sites are a scarce resource in Westminster and given its position in the housing market, there has been some demand for very large properties. In order to ensure that housing needs are met, it is important to make efficient use of land and optimise the potential of sites. The threshold will still allow for generous sized housing to be provided, well above the highest minimum standards in the Nationally Described Space Standards (138sqm for a 3 storey, 6 bedroom property) and above the average size of recently built private houses in Westminster (163sqm between 2013 and 2018). The approach is justified and consistent with national policy in respect of the efficient use of land.
69. Given the need for housing, the limited supply of potential sites and the values involved, Part C of the policy is justified in protecting residential uses, floorspace and land. Main modification **MM10** would introduce necessary clarity regarding the operation and implementation of the policy and the exceptions that would be allowed to better meet the needs for affordable housing and family sized homes. It is required to ensure that the policy is effective.

70. Within the context of the powers available to the Council<sup>6</sup>, in order to retain permanent housing stock, Part D of the policy is justified in resisting the change of housing to temporary sleeping accommodation.

*Affordable housing – Policy 9*

71. The 2019 Housing Needs Analysis estimates that 563 affordable homes are needed each year over the plan period. This significant level of need is not surprising, given the very high average house prices and rental levels and the relationship with incomes.
72. Policy 9 sets out a comprehensive and justified approach which includes a requirement for a minimum of 35% affordable housing on sites of at least 0.5ha, ten or more units or at least 1,000sqm of residential floorspace. In seeking 35% affordable housing, the Council has sought to maximise provision whilst taking a realistic view of the effect on viability. The City Plan Viability Report and the Addendum to it confirm that whilst 35% affordable housing provision is generally viable, increasing the percentage above that starts to undermine the viability of development proposals.
73. As noted above, there is continuing demand for larger properties in Westminster and the average size of private houses recently built is 163sqm. Without including a threshold of 1,000sqm (alongside ten or more units and 0.5ha), significant opportunities to provide for affordable housing would be lost. Taking completions in the previous five years and sites currently under construction or permitted, there are 86 sites which provide at least 1,000sqm of residential floorspace but less than ten units. These sites have provided or will provide approximately £37m of funds for affordable housing and eight units on site. Policy H4 (footnote 50) of the London Plan provides scope for minor housing development (i.e. below 10 units) to make affordable housing contributions. Given these particular circumstances in Westminster, it is justified to apply the threshold of 1,000sqm.
74. Parts C and D of Policy 9 provide for some flexibility in terms of off-site provision or financial contributions but prioritise on-site provision in line with national policy.
75. The Mayor of London raised issues of general conformity with Policy 9, specifically in relation to the lack of references to the strategic London wide affordable housing target of 50% and the threshold approach to viability. These concerns have been resolved through the statement of common ground with the Mayor of London. Main modification **MM11** satisfactorily addresses the issues of general conformity with the London Plan in these respects. It is also required to ensure that the policy is effective in providing sufficient clarity regarding the approach towards the redevelopment of existing affordable housing and the overall implementation of the policy.

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<sup>6</sup> Since 2015 planning permission has not been required to short term let a home in London for less than 90 nights in a calendar year

*Affordable housing contributions in the CAZ – Policy 10*

76. The benefits of mixed use developments in the CAZ have long been recognised in Westminster's adopted development plan policies. The Westminster City Plan 2016 includes Policy S1 which requires, in certain circumstances, residential floorspace to be provided (on-site or off-site), mixed use credits or payments in lieu in association with office developments. Policy S1 would result in the requirement for an element of affordable housing to be provided as part of the overall housing provision if relevant thresholds were triggered. It would also facilitate payments in lieu to the affordable housing fund if other options to provide residential floorspace were not appropriate or practicable. Policy S1 is a lengthy and complicated policy and the Council accepts that there have been issues in interpreting and implementing it. The Council also acknowledges that it has not been effective in incentivising growth in office floorspace or delivering affordable housing in the CAZ. Paragraph 10.4 of the submitted City Plan states that Policy S1 is not fit for purpose.
77. Policy 10 of the submitted City Plan would specifically require office and hotel developments involving a net increase in floorspace within the CAZ to provide affordable housing on-site or make financial contributions to off-site provision. It is intended that this would supersede Policy S1 and would mark a shift away from the more general approach to mixed residential and office development.
78. During the examination the Council recognised concerns from the property and development sector over the implications of the proposed Policy 10 for commercial growth and the viability of development. In addition, and perhaps more fundamentally, the Council acknowledged that the changes to the Use Classes Order which came into force on 1 September 2020 meant that the proposed approach in Policy 10 could not be put into practice effectively, given the much wider range of uses in the new Class E. This wider range of uses had not been subject to viability assessment in respect of the requirements of Policy 10. In light of this the Council suggested a completely revised version of Policy 10 prior to the hearings.
79. This suggested revised policy would simplify the approach and seek financial contributions from all commercial development delivering 1,000sqm or more net additional floorspace within the CAZ. These contributions would take the form of a standard tariff with contributions being made to the City-wide Affordable Housing Fund. Following further viability assessment, the Council confirmed the intention to apply a tariff of £250 per sqm in the Core Zone and £450 per sqm in the Prime Zone which correspond to those zones in the adopted Community Infrastructure Levy Charging Schedule.
80. The NPPF and PPG only refer to affordable housing provision or contributions being sought from residential developments that are major developments. There is no mention of such provision or contributions being sought from commercial development or indeed any other form of non residential development. Likewise, there is no reference in the London Plan to seeking affordable housing provision or contributions from purely commercial development. Policy H4 of the London Plan refers to "major developments which trigger affordable housing requirements" and this is defined in footnote 50 as major development of 10 or more units. The footnote goes on to explain

that minor housing development may also be required to make affordable housing contributions.

81. We note the approach taken in the City of London where paragraph 3.4.6 of the adopted City of London Local Plan (2015) and the Supplementary Planning Document (SPD) on Planning Obligations (2014) make reference to contributions towards affordable housing being sought from both commercial and residential development. The SPD states that a contribution of £20 per sqm will be sought, above a threshold of a net increase of at least 500sqm in gross internal area. The emerging new City of London Local Plan seeks to continue this approach although this is still at an early stage and the proposed submission version has not yet been published for consultation.
82. Policy H2 of the Camden Local Plan (2017) seeks to facilitate housing as part of mixed use development. Under such circumstances there would be a consequential requirement for a proportion of affordable housing. This appears to be a different approach to that set out in Policy 10 of the City Plan (both submitted and suggested revised versions).
83. These documents relating to other authorities were adopted before the current iterations of national policy and planning guidance and the London Plan. They were also adopted before the significant changes to the Use Classes Order referred to above came into force and clearly do not take account of the effect of this and the implications for viability.
84. The key objective of the submitted Policy 10 was to secure the provision of affordable housing within the CAZ, preferably on-site as part of a mixed development. The CAZ is a major source of jobs within Westminster and it is likely that a significant proportion of those working in the CAZ will be on relatively low incomes and in need of affordable housing. However, we have not been presented with any specific, convincing evidence that the economic function of the CAZ is being hampered by a shortage of affordable housing within the CAZ itself. The CAZ and Westminster generally is a densely built up area which is served by a very good public transport network providing accessibility to a range of other residential areas.
85. In any case, the suggested revised version of Policy 10 would simply require financial contributions to the City-wide Affordable Housing Fund. It would not achieve the key objective of the submitted Policy 10.
86. The policy approach would need to be implemented through planning obligations. We consider that the proposed approach would not meet the tests for such obligations. Commercial development is broadly appropriate in principle in the CAZ. It would not need to provide or make a financial contribution towards affordable housing to be acceptable in planning terms. The payment of financial contributions to the City-wide Affordable Housing Fund, with no guarantee that those funds would be spent in close proximity to the site or even within the CAZ, brings into question the direct relationship of the obligations to the development. The suggested standard tariff based approach and the figures arrived at are not related to the actual costs of delivering affordable housing. They would be generic tariffs at the same rate for all commercial development, despite the evidence pointing to clear differences in viability between different types of commercial uses. There is

insufficient basis to conclude that the tariffs applied would be fairly and reasonably related in scale and kind to the development.

87. We appreciate that significant sums of money have been collected as payments in lieu towards affordable housing as a result of Policy S1 of the Westminster City Plan 2016 (approximately £34m since 2016). We also acknowledge that if the suggested revised version of Policy 10 were adopted, it is likely that significant funds towards affordable housing in Westminster would be generated over the plan period. However attractive that proposition may be, the fact that a policy will generate substantial financial contributions is not in itself a reason to include it in a development plan.
88. Given all of the above, the proposed policy approach, both in terms of the submitted and suggested revised versions of Policy 10, is not justified. Main modification **MM12** is therefore required to delete Policy 10 and ensure that the City Plan is justified in this respect. Whilst we note that the Mayor of London expressed disappointment with the deletion of Policy 10 in response to the consultation on the proposed main modifications, his overall conclusion is that the main modifications bring the City Plan into general conformity with the London Plan.

#### *Housing for specific groups – Policy 11*

89. Policy 11 sets out a comprehensive and justified approach towards housing for specific groups. Main modification **MM13** would clarify that the reference to 25% of all homes being family sized is a strategic, City-wide target. It would also provide necessary clarity and flexibility in relation to the approach towards specialist housing and purpose built student accommodation.
90. In terms of Gypsy and Travellers' accommodation needs, it is the Mayor of London's intention to undertake an updated London wide assessment. In the meantime Policy H14 of the London Plan requires Boroughs to base their approach on the existing needs assessment. In the case of Westminster this indicates no need for pitches. Given this, a criteria based approach as set out in Part J of Policy 11 is justified, although main modification **MM13** would provide necessary clarity as to how the criteria will be applied. This main modification is required to ensure that Policy 11 is effective therefore.

#### *Innovative housing delivery – Policy 12*

91. A positive and justified approach to innovative forms of housing delivery is set out in Policy 12. Main modification **MM14** is required to provide sufficient clarity and ensure that the policy is effective.

#### *Housing quality – Policy 13*

92. Policy 13 is justified in requiring residential development to provide a good quality living environment to appropriate standards in line with the London Plan and national policy. However, Part D of the policy lacks sufficient clarity in relation to the approach towards alternative solutions where the provision of sufficient private external amenity space is not achievable. Main modification **MM15** would address this concern and also ensure that the broader implementation of the policy is sufficiently clear. It is required for the policy to be effective.

### *Conclusion*

93. Subject to the main modifications referred to above, the City Plan has been positively prepared, it is justified, effective, consistent with national policy and in general conformity with the London Plan in relation to housing.

### **Issue 3 – Whether the City Plan has been positively prepared and whether it is justified, effective, consistent with national policy and in general conformity with the London Plan in relation to the economy and employment.**

94. Policy 14 provides a justified and positive approach towards economic growth which recognises the particular importance of the office sector. Main modification **MM16** is necessary to reflect the recent changes to the Use Classes Order, to recognise that some parts of the CAZ are predominantly residential in character and to provide adequate flexibility for changes of use. It is required for the policy to be effective.
95. A comprehensive and justified approach towards main town centre uses and the town centre hierarchy is set out in Policy 15. The recent changes to the Use Classes Order have had a significant effect on the implementation of the policy however and main modification **MM17** is required to reflect this. This main modification is also required to provide sufficient clarity on the detailed policy approach, including in different parts of the town centre hierarchy. It is necessary to ensure that Policy 15 is effective.
96. The visitor economy is of great significance to Westminster and Policy 16 provides a justified and sufficiently flexible approach to arts and cultural uses and hotels and conference facilities. Main modification **MM18** would provide necessary clarity in terms of the implementation of the policy and is required for effectiveness.
97. Policy 17 sets out a justified approach towards food, drink and entertainment uses which seeks to ensure that such uses are appropriate to their location, protect residential amenity and avoid harm to the vitality and character of the local area. Policy E9 of the London Plan establishes the principle that hot food takeaways should not be permitted within 400m of a primary or secondary school whilst giving Boroughs the opportunity to establish locally determined alternative distances. Given the high density of schools in Westminster, the 400m distance would be unduly onerous and Part C of Policy 17 is justified in reducing this to 200m. Main modification **MM19** would provide necessary clarity as to the implementation of the policy, including regarding the use of premises and outdoor spaces for shisha smoking given the particular concerns in relation to health impacts and residential amenity and the fact that it is not a licensable activity. It would also introduce necessary flexibility to allow for the potential change of use of ancillary space associated with public houses under certain circumstances. This main modification is required to ensure that the policy is effective.
98. Policies 18, 19 and 20 provide a positive and justified approach towards community infrastructure and facilities, education and skills and digital infrastructure, information and communications technology respectively. Subject to main modification **MM20**, which would provide necessary clarity

and flexibility in relation to the approach towards purpose built student accommodation in Policy 19, they are also effective.

99. The City Plan identifies Special Policy Areas for Soho (Policy 21), Mayfair and St James's (Policy 22), Harley Street (Policy 23) and Savile Row (Policy 24). Each of these areas has a particular concentration of specialised uses which forms an important part of their character. Policies 21 to 24 set out a positive and justified approach to these areas which seeks to ensure that new development respects and enhances their character and function. Main modifications **MM21**, **MM22**, **MM23** and **MM24** would provide necessary clarity as to the implementation of the policies and reflect the recent changes to the Use Classes Order. They are required for effectiveness.

### *Conclusion*

100. Subject to the main modifications referred to above, the City Plan has been positively prepared, it is justified, effective, consistent with national policy and in general conformity with the London Plan in relation to the economy and employment.

### **Issue 4 – Whether the City Plan is justified, effective, consistent with national policy and in general conformity with the London Plan in relation to connections.**

#### *Parking*

101. Policy T6 of the London Plan states that car-free development should be the starting point for all development in places that are (or planned to be) well-connected by public transport. The Council's approach to parking and associated standards are set out in Policy 28 and Appendix 2. The standards for residential development are consistent with those in Table 10.3 of the London Plan except for parts of the City identified as zones B and F where 0.4 parking spaces per residential unit would be permitted.
102. Westminster has exceptionally high levels of accessibility. It is served by four mainline rail stations, all London Underground Lines except the Waterloo and City Line and is well served by buses. It therefore has excellent public transport connections into which further significant investment is planned over the plan period including the Elizabeth Line.
103. Zones B and F cover roughly half of the City and include areas which are very well connected to public transport. Policy 28 and Appendix 2 would therefore allow more parking to be provided than the London Plan permits. It would therefore encourage car ownership and use in locations which are well connected by public transport, contrary to the car-free approach to development in the London Plan.
104. The majority of Westminster is covered by a controlled parking zone. As at July 2020 there were 30,602 active on-street residential permits with some

30,837 total available resident and shared-use parking bays<sup>7</sup>. In contrast with other London Boroughs it is the Council's policy to issue an on-street resident permit to any resident who lives within a controlled parking zone provided they satisfy basic criteria. Therefore, over the plan period as more parking permits are issued the demand for on-street parking spaces is likely to significantly exceed the supply. This could have negative consequences for highway safety and the environment.

105. The Council recognise this and the need to keep under review its approach to issuing parking permits. They also accept the need to monitor the effects of parking stress and mitigate any adverse effects through measures which may include (but not limited to) lifetime car club membership for all future residential occupiers and increased cycle parking within the development site.

106. Main modifications **MM28** and **MM50** would bring Policy 28 into line with the London Plan and recognise the need to monitor and mitigate any adverse effects associated with parking stress. They are therefore necessary to ensure Policy 28 is justified, effective and in general conformity with the London Plan.

#### *Sustainable transport*

107. Policies 25, 26 and 27 seek to promote sustainable transport and require major development to financially contribute towards such. However, for them to be effective and consistent with national policy main modifications are necessary to ensure they refer to all types of sustainable transport infrastructure and make clear contributions are only necessary to mitigate the impacts of the development. Even though transport and public realm improvements are covered by the Council's Community Infrastructure Levy the delivery of site specific transport or public realm mitigation necessary to make any development acceptable would not be prejudiced by these modifications.

108. Policy 26 refers to a requirement for cycle facilities specified in Appendix 2. These are justified, but, Appendix 2 is recommended to be deleted through main modification **MM50**. A main modification is therefore necessary to specify the cycle facilities requirements in the reasoned justification for Policy 26.

109. Main modifications **MM25**, **MM26** and **MM27** are therefore necessary to ensure Policies 25, 26 and 27 are consistent with national policy and effective.

110. Policy 29 recognises competing demands on highway space and ensures its effective use and access. However, main modification **MM29** is required for effectiveness to clarify new accesses shall be considered in the context of all aspects of the highway not just kerb space and some loss of highway may be justified where beneficial.

111. Policies 30 and 31 set out justified principles for managing freight and servicing associated with new development and technological innovation in transport. They are consistent with national policy and in general conformity

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<sup>7</sup> Post Hearing Note on Parking Permits (October 2020) EV C 009

with the London Plan. However, main modification **MM30** is required to Policy 31 to remove reference to an emerging electric vehicle strategy for effectiveness.

### *Waterways*

112. Reflecting the statement of common ground between the Council, the Environment Agency and Thames Water a main modification to Policy 32 is necessary to ensure the Council's approach to waterways and waterbodies reflects the approach to biodiversity enhancement in the NPPF and ensures new moorings on the Thames do not compromise the flood defences. Main modification **MM31** is therefore needed for effectiveness and to ensure consistency with national policy.

### *Conclusion*

113. Taking into account the above, we conclude that, subject to the main modifications referred to above, the policies relating to connections are justified, effective, consistent with national policy and in general conformity with the London Plan.

## **Issue 5 – Whether the City Plan is justified, effective, consistent with national policy and in general conformity with the London Plan in relation to the environment.**

### *Air quality*

114. The whole of Westminster is designated as an Air Quality Management Area. Policy 33 sets out the Council's approach to air quality and requires air quality positive status to be achieved for new development in the opportunity areas and housing renewal areas and a requirement for other major development to be air quality neutral elsewhere. Furthermore, it sets out when detailed air quality assessments will be required. These requirements are consistent with paragraph 154 of the NPPF.

115. However, air quality positive status may not be possible in all instances and reference specifically to solid biomass is counterintuitive to achieving air quality neutral development. The justification should also reference the most relevant and up to date strategies and guidance and the Council's commitment to produce updated guidance on the issue. Main modification **MM32** is therefore required for justification and effectiveness.

### *Local Environmental Impact, Green Infrastructure and Flooding*

116. Policy 34 sets out principles for managing the local environmental impacts of new development which are justified, consistent with national policy and in general conformity with the London Plan. However, main modification **MM33** is required for effectiveness to ensure the health and wellbeing of both current and future occupiers are not adversely affected.

117. The Council's approach to green infrastructure is set out in Policy 35. It aims to protect and enhance green infrastructure and in light of known deficiencies in green and open space it justifiably seeks to protect and increase provision where possible. It also says trees of amenity value will be protected and tree

planting will be encouraged. Overall, it sets out a proportionate approach to protecting and enhancing green infrastructure in Westminster.

118. However, main modification **MM34** is needed to ensure Policy 35 and its justification, including Figure 28 are accurate, effective and consistent with national policy with regard to biodiversity net gain, public and private open space and how development involving Metropolitan Open Land will be considered.
119. Policy 36 sets out a robust and proportionate approach to managing flood risk associated with new development. However, as set out in the statement of common ground between the Council, the Environment Agency and Thames Water a main modification is required which ensures current and future flood defences are not adversely impacted upon by new development and to manage local capacity issues and avoid associated adverse effects. Policy 36 should also require the occupancy of new development to be phased and aligned with any required off-site upgrades to the water or sewerage network to avoid issues associated with network capacity. Furthermore, a more up to date rapid inundation zone is available than that shown on Figure 30. Main modification **MM35** would address these issues and is therefore necessary for effectiveness.

### *Energy*

120. Since the submission of the City Plan the Council has declared a climate change emergency, committing to becoming a zero carbon city by 2040. This is broadly reflected in the Council's approach to energy set out in Policy 37. However, becoming zero carbon by 2040 requires all new major development to be net zero carbon unless such is proven to be unviable. Main modification **MM36** is therefore necessary to make this clear as well as provide more detailed explanation of what is expected from developers in demonstrating net zero carbon or that achieving it is unviable and if so, how carbon off-setting will be assessed and secured. Main modification **MM36** would add this detail and is therefore necessary for justification and effectiveness.

### *Waste management*

121. The Council is required to plan and manage its waste apportionment identified in the London Plan. Evidence shows limited existing capacity and potential capacity in Westminster to meet the apportionment over the plan period and an overall predicted decline in landfill space. National policy<sup>8</sup> states that there is no expectation that each local planning authority should deal solely with its own waste to meet the requirements of self-sufficiency and proximity. Furthermore, there are often economies of scale in local authorities working together to make efficient use of available waste management capacity. The majority of Westminster's waste is already managed outside of the City and statements of common ground demonstrate these agreements can continue whilst capacity exists. The Council has agreed with the London Borough of

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<sup>8</sup> Waste Planning Policy Guidance - Paragraph: 007 Reference ID: 28-007-20141016

Bexley<sup>9</sup> that it will take sole responsibility for meeting the Council's waste apportionment where there is known landfill space capacity.

122. A main modification to Policy 38 is necessary to fully reflect this position, explain how the apportionment target will be managed and clarify expectations for new development. Main modification **MM37** would achieve this and is therefore necessary for justification, effectiveness, to ensure consistency with national policy and general conformity with the London Plan.

### *Conclusion*

123. Taking into account the above, we conclude that, subject to the main modifications referred to above, the policies relating to the environment are justified, effective, consistent with national policy and in general conformity with the London Plan.

## **Issue 6 – Whether the City Plan is positively prepared, justified, effective, consistent with national policy and in general conformity with the London Plan in relation to design and heritage.**

### *Design*

124. Policy 39 sets out overarching principles for good design which are consistent with the considerations in paragraph 127 of the NPPF. However, Westminster is a location which is classified as seriously water stressed and a requirement for water efficiency for residential development to meet the optional efficiency target set out in the London Plan is justified and should be referenced. Main modification **MM38** addresses this and is therefore necessary for effectiveness.

### *Heritage*

125. The preservation and enhancement of Westminster's historic environment is implicit in the City Plan's overarching vision and objectives. Policy 40 sets out detailed criteria to be applied to proposals which impact on heritage assets including Westminster's World Heritage Site, conservation areas, listed buildings, archaeology, registered historic parks and gardens and non-designated heritage assets. Policy 40 would be applied to proposals alongside other policies of the City Plan, particularly Policy 39 which requires, among other things, for proposals to have regard to the character and appearance of an area, there is no need for it to duplicate those requirements.
126. However, whilst generally consistent with national policy and the statutory duties, some of the detailed criteria require amendment to make it effective and consistent with national policy and legislation. Particularly, clause B should make reference to climate change. Clauses D and E should be more closely aligned with the evidence base for the World Heritage Site as well as recognise

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<sup>9</sup> See SCG 009

the Council's commitment to lead the production and review of an updated World Heritage Site Management Plan.

127. Clause Q should make clear it relates to registered historic parks and gardens to reflect the statutory duties and national policy and also to avoid confusion and duplication with Clause R relating to non-designated heritage assets which includes reference to open spaces of interest.
128. Main modification **MM39** addresses these issues and is therefore necessary for effectiveness and to ensure consistency with national policy.

#### *Townscape and Architecture*

129. Policy 41 sets out detailed design guidance on townscape and architecture including extensive development, alterations and extensions and views. The density of existing development and the pressure for new development in Westminster mean extensions to existing buildings will inevitably have a significant role to play in meeting the growth targets in the City Plan.
130. A significant amount of Westminster's building stock is Georgian and early Victorian housing laid out in terraces historically with consistently detailed roofscapes<sup>10</sup>. These types of buildings are particularly sensitive to roof extensions. The requirement for a coordinated approach to roof extensions to rooflines which are unimpaired by roof extensions is therefore justified.
131. However, whilst the policy positively supports roof extensions it is currently unclear where and is unnecessarily restrictive in terms of use and the number of residential units permissible. Main modification **MM40** addresses these issues and is therefore necessary to make Policy 41 effective.

#### *Tall Buildings*

132. Policy D9 of the London Plan requires the City Plan to define what is considered to be a tall building for specific localities and say where new tall buildings may be appropriate.
133. Informed by a detailed and comprehensive Building Height Study (EV DH 004), Policy 42 sets out the Council's approach to tall buildings and states tall buildings may be appropriate in the Opportunity Areas, Housing Renewal Areas and at the Marylebone/Edgware Road junction. These areas are clearly defined in the City Plan and we consider they are soundly based localities where the Council considers new tall buildings may be appropriate.
134. Clause E sets out locational principles for the areas where new tall buildings may be appropriate in Westminster. Drawing on the Building Height Study it gives a prevailing context height for each locality and says buildings of 2 to 3 times this context may be appropriate. This is not a height limit and proposals for tall buildings would be assessed against the general principles for tall buildings set out in Policy 42 as well as other policies in the City Plan where

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<sup>10</sup> Roof Extension Topic Paper (November 2019) EV DH 002

applicable such as those relating to design and heritage. The Council's forthcoming Site Allocations DPD will also provide more detailed site specific guidance on building height where necessary. Overall, we find the Council's approach in this regard is in general conformity with the London Plan, justified by proportionate evidence and would be effective.

135. However, the Council's overall definition of a tall building is more than 30 metres or those which are more than twice the prevailing context height (whichever is the lower). The Building Height Study is primarily aimed at informing the City Plan policies and any proposals for tall buildings will need to include detailed contextual analysis. The reference to 30 metres could be interpreted as a height limit and may not be appropriate in every context and is not therefore effective or justified.
136. Policy 42 also says Westminster is not generally suitable for tall buildings. This is not positively prepared and contradicts the evidence which says there is potential for tall buildings in the locations specified. Furthermore, even though the Building Height Study notes the proposed Merchant Square development provides the highest point in the Paddington Basin there is no justification for requiring any tall building in the Paddington Opportunity Area to step down from the central local/high point at One Merchant Square.
137. Policy 43 should reference the Housing Renewal Areas by their full names consistent with those used elsewhere in the City Plan. It should also be modified to take account of the main modifications necessary to Policy 42.
138. Main modifications **MM41 and MM42** would address these issues and are therefore needed to ensure Policies 42 and 43 are justified and effective.

### *Conclusion*

139. Taking into account the above, we conclude that, subject to the main modifications referred to above, the policies relating to design and heritage are positively prepared, justified, effective, consistent with national policy and in general conformity with the London Plan.

### **Issue 7 – Whether the City Plan is justified, effective, consistent with national policy and in general conformity with the London Plan in relation to infrastructure, implementation and monitoring.**

140. The Council's viability assessment robustly demonstrates the cumulative impact of the policies in the City Plan will not compromise development viability. The Infrastructure Delivery Plan sets out a range projects which can reasonably be expected to be delivered when envisaged to support the delivery of the development proposed in the City Plan.
141. The Implementation and Monitoring section of the City Plan explains a range of measures to assist implementation. Land swaps have been a useful tool in recent years reflecting the pressure for land and the Implementation and Monitoring section makes clear land swaps will continue to be used where appropriate. The Council have also historically operated a system of mixed use credits through Policy S1 of the City Plan 2016. The credits already registered under Policy S1 will continue to be used to offset the affordable housing requirements of Policy 9 in the CAZ. However, main modifications **MM43** and

**MM44** are needed for effectiveness, particularly to specify the circumstances within which land swaps will be considered appropriate and the transitional arrangements for mixed use credits.

142. A main modification is also needed to reference and explain the circumstances in which early delivery of off-site affordable housing can count towards future affordable housing requirements in accordance with Policy 9 and paragraph 9.13 of the City Plan, as a measure to assist implementation. Main modification **MM45** achieves this and is therefore needed for effectiveness.

143. The effectiveness of the policies will be monitored against a range of key performance indicators detailed in the Council's Monitoring Framework. However, those indicators need to be adjusted to reflect the other main modifications and to more clearly explain the need to keep the City Plan under review and what actions will be taken if policies are not being implemented as envisaged. Main modifications **MM46**, **MM47** and **MM48** achieve this and are therefore needed to ensure effectiveness.

### *Conclusion*

144. Taking into account the above, we conclude that, subject to the main modifications referred to above, the approach to infrastructure, implementation and monitoring is justified, effective, consistent with national policy and in general conformity with the London Plan.

## **Overall conclusion and recommendation**

145. The City Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that we recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issues set out above.

146. The Council has requested that we recommend main modifications to make the City Plan sound and capable of adoption. We conclude that the duty to co-operate has been met and that with the recommended main modifications set out in the Appendix the Westminster City Plan 2019-2040 satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

147. We conclude that if adopted promptly (with the recommended main modifications) the City Plan establishes a five-year supply of deliverable housing sites. Accordingly, we recommend that in these circumstances the Council will be able to confirm that a five-year housing land supply has been demonstrated in a recently adopted plan in accordance with paragraph 74 and footnote 38 of the NPPF.

*Luke Fleming and Kevin Ward*

Inspectors

This report is accompanied by an Appendix containing the Main Modifications.