

# Statement of Common Ground

Westminster City Council, the  
Environment Agency and Thames Water  
March 2020

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## Introduction

Westminster City Council, the Environment Agency and Thames Water signed a Statement of Common Ground prior to the Submission of the draft City Plan 2019-2040 to the Secretary of State. All parties agreed that modifications to draft policies 31, 32, 34, 35, 36, 39 and 46 would be required to resolve the soundness issues raised at the Regulation 19 consultation. Westminster has shared proposed modifications, and all parties agreed to work together to seek to raise consensus on final policy wording.

## Proposed modifications to the City Plan

The table below presents the issues raised during the Regulation 19 consultation, the proposed modification, the parties commentary on this and sets out the status of the issue. Proposed modifications made by Westminster prior to Submission of the plan (as set out in the Schedule of Proposed Minor Modifications to the City Plan (WCC, November 2019)) are identified in red. Further modifications agreed through the engagement in preparation of this Statement of Common Ground are set out in blue.

Issue raised (Regulation 19)	Proposed modification	Commentary	Status of issue
<b>Policy 31 - Technological innovation in transport</b>			
<p>Part B of this policy covers current and new refuelling stations. The policy states that 'New or replacement refuelling facilities will be directed to accessible locations on the strategic road network'. However, refuelling stations pose a hazard to groundwater and this issue has not been addressed within the policy. Therefore further work needs to be done to address this issue. This will enable the City Plan to comply with paragraph 170.e of the NPPF.</p>	<p><b>Change made to supporting paragraph 31.5:</b>  31.5 / Where redevelopment is proposed, refuelling stations should be re-provided, preferably on-site, or in an appropriate location nearby where this is not possible, unless it can be clearly demonstrated that there are viable alternatives for refuelling already in the vicinity.</p> <p>New or replacement facilities will be directed to accessible locations on the strategic road network (TLRN or WSRN). As these routes still include sensitive land uses, impact on local amenity <u>and groundwater</u> will be considered through appraisals such as noise, <del>and</del> air quality and <u>land contamination</u> assessments.</p>	<p>Westminster and Environment Agency are in agreement on the proposed modification.</p> <p>Thames Water have no comment.</p>	Resolved
<b>Policy 32 – Waterways and Waterbodies</b>			
<p>Developments such as piers, moorings and other structures within the Thames have the potential to increase flood risk for future users as well as the wider Westminster area by unintentionally damaging flood defences.</p>	<p><b>Added point G 4:</b>  <u>4. Not compromise the integrity of the River Thames flood defences or the ability to raise it in the future in line with the Thames Estuary 2100 Plan; and</u></p>	<p>Westminster and Environment Agency are in agreement on the proposed modification.</p> <p>Thames Water have no comment.</p>	Resolved
<p>Policy 32 does not take flood risk into account therefore further work is required before we can find this policy sound.</p> <p>Moorings on the River Thames could have an adverse effect on the Thames Tidal flood defences consequently increasing the risk of flooding. We</p>	<p><b>Added point G 5:</b>  <u>5. Not negatively impact the intertidal foreshore, defined and protected within the London Biodiversity Action Plan and, where feasible, provide improvements to intertidal habitats. Where required, developers should demonstrate appropriate mitigation measures that will</u></p>	<p>Westminster and Environment Agency are in agreement on the proposed modification.</p>	Resolved

<p>recommend that the following additional point is added to point G: <i>Not compromise the integrity of the River Thames flood defences.</i></p>	<p><u>preserve the continued dynamism and biodiversity value of the foreshore.</u></p>	<p>Thames Water have no comment.</p>	
<p>Westminster has areas of intertidal foreshore. These areas are a prime habitat for invertebrates, wading birds and fish species. These areas are also identified in the Biodiversity Action Plans (BAP) and as a Site of Metropolitan Importance for Wildlife. Moorings have the potential to ground on the foreshore at low tide resulting in a loss of ecological viability through compaction. We recommend the following additional point is added to <b>policy 32.G</b>: <i>moorings shall not negatively impact the intertidal foreshore. Where moorings are proposed within these sensitive zones applicants must mitigate for any likely negative effects.</i> We also recommend the following supporting text is added to guide development proposals within these sensitive areas: <i>Mitigation could be provided by integrating timber grid systems into the proposal design to support moorings at low tide above the intertidal).</i></p> <p>Reference should be made to tidal defences and flood risk.</p> <p>Developers should take into account that any moorings or floating structures would themselves be a potential flood risk so would require that an FRA is submitted with any application. Include: Moorings also should not impact on flood defences and be able to extend anchoring for higher flows and depths.</p>	<p><b>Change made to supporting Paragraph 32.10:</b> Permanent moorings on the River Thames therefore need careful management to protect the character of the river, including its views and as part of the setting to important heritage assets, <u>to manage flood risk</u>, to protect its role as a continuous wildlife corridor and to avoid impeding river navigation.</p>	<p>Westminster and Environment Agency are in agreement on the proposed modification.</p> <p>Thames Water have no comment.</p>	<p>Resolved</p>
<p><b>Policy 34 – Local environmental impacts</b></p>			

<p>The policy should also ensure that occupiers of any new development will not be adversely affected by existing sources of noise, vibration or odour. This is necessary in order to ensure that the planning policies are effective at not only ensuring that new development does not adversely impact on the amenity of nearby residents but also that the amenity of future residents is not adversely impacted by existing sources of potential pollution or nuisance.</p>	<p><b>Change made to Point A:</b> The council will make sure that quality of life, <u>and</u> health and wellbeing <u>of existing and future occupiers</u>, and the natural environment are not adversely affected by harmful pollutants and other negative impacts on the local environment.</p>	<p>Westminster and Thames Water are on in agreement on the proposed modification.</p> <p>Environment Agency have no comment.</p>	<p>Resolved</p>
<p>It is positive to see that Policy 34 point E addresses contaminated land.</p> <p>However, we do not consider this sufficient to address the risk and implications associated with development within areas of contamination, or above areas of sensitive groundwater.</p> <p>The policy should aim to protect people and the environment by tackling land contamination and pollution. Developers should be required to; submit a Preliminary Risk Assessment (PRA) alongside any planning application where contaminated land is suspected. For potentially contaminated land developers should ensure that sites are suitable or made suitable for the intended use, and prevent contamination from being activated or spread during construction. The policy should promote the relevant guidance such as; The Environment Agency's approach to groundwater protection (2018), the Model Procedures for the Management of Land Contamination (CLR11), and Managing and reducing land contamination: guiding principles (GPLC).</p>	<p><b>Change made to supporting Para 34.8:</b> In order to ensure that occupiers or users are not exposed to health risks and environmental impact is avoided (e.g. on soil, watercourses or waterbodies) the history of the land uses need to be identified and if required used as a basis for any proposed remediation measures. <u>Applicants should follow the council's Contaminated Land Guidance for Developers and adhere to relevant guidance published by regulatory bodies (including the Environment Agency) and other stakeholders (including. Claire, CIRIA and British Standards).</u></p>	<p>Westminster and Environment Agency agree the wording of the proposed modification, but the Environment Agency would prefer if this was included in the policy wording rather than the supporting text. Westminster believes it is best placed in the supporting text as it relates to the application of the policy.</p> <p>Thames Water have no comment.</p>	

<p>The policy should prevent developers from discharging to ground through land affected by contamination. The Environment Agency does not regard the use of boreholes or other deep structures for the discharge of sewage effluent as a routinely appropriate disposal option, because they concentrate the flow of effluent at one location and bypass the soil layers. Where a proposed development is not located near surface water or foul sewers, drainage decisions should use the sustainable drainage system hierarchy and not resort to borehole soakaways.</p>			
<b>Policy 35 – Green infrastructure</b>			
<p>We are pleased to see that a Green Infrastructure policy has been included within the City Plan. However, we believe this policy is unsound due to not being consistent with national policies and Policy G6 Biodiversity and access to nature of the draft London Plan (consolidated version July 2019). The NPPF states in paragraph 170 that “planning policies and decisions should contribute to and enhance the natural and local environment by; ... d) minimising impacts on and providing net gains for biodiversity”. To reflect this the policy should include a requirement for proposals to achieve biodiversity net gain where it is feasible and proportionate to do so.</p> <p>The National Planning Practice Guidance (NPPG) has been recently updated to include an overview of net gain, how plans can encourage net gain, how BNG fits with the mitigation hierarchy, can be achieved and calculated against a baseline, and be of lasting value.</p>	<p><b>Changes made to Point G:</b>  <u>Developments should achieve biodiversity net gain, wherever feasible and appropriate.</u> Opportunities to enhance existing habitats and create new habitats for priority species should be maximised.</p>	<p>Westminster and Environment Agency are in agreement on the proposed modification.</p> <p>Thames Water have no comment.</p>	<p>Resolved</p>
	<p><b>Changes made to supporting Paragraph 35.11:</b>  35.11 / Development should aim to create net gains in biodiversity, leaving the natural environment in a better state than before. There are a growing number of tools and good practice guides available which can help <a href="#">[NEW FOOTNOTE: Including Natural England’s Biodiversity Metric 2.0]</a>.</p>	<p>Westminster and Environment Agency are in agreement on the proposed modification.</p> <p>Thames Water have no comment.</p>	<p>Resolved</p>

<p>The guidance also gives an overview of Environmental Net Gain and how it can be achieved. We recommend the City Plan is amended to reflect this national guidance.</p>			
<b>Policy 36 – Flood risk</b>			
<p>Comments to Point G: Westminster is heavily reliant on the Thames Tidal flood defences therefore it is positive to see that this policy has been incorporated to protect this infrastructure. However this policy should be further strengthened with quantified requirement for a development free buffer zone to be in line with paragraph 16.d of the NPPF which reads ‘Plans should: contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals’. Undeveloped buffer zones around flood defences are critical to allow emergency repair work to be carried out if a defence gets damaged while also allowing room for any future raising required to keep up with rising sea levels resulting from climate change. Wording should be added to require a quantified buffer zone. Ideally this should be 20m however 10m is the minimum.</p> <p>Comments to Point H: Paragraph 20.d of the NPPF states that ‘Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for: planning measures to address climate change mitigation and adaptation’.</p> <p>The Thames Estuary 2100 (TE2100) plan was created to prepare London for climate change especially rising</p>	<p><b>Changes made to Point G:</b> G. All existing flood management infrastructure will be protected, including access for maintenance. <u>Wherever possible, an undeveloped buffer zone of 16m should be maintained around flood defences structures, including buried elements of the flood defence should be maintained.</u></p>	<p>Westminster and Environment Agency are in agreement on the proposed modification.</p> <p>Thames Water have no comment.</p>	<p>Resolved</p>
	<p><b>Changes made to Point H:</b> H. Improvements to flood defences will be secured through planning conditions and / or legal agreements where the size, type and / or location of development impacts on flood risk. <u>Development should not limit future raisings of flood defences outlined in the Thames Estuary 2100 Plan.</u></p>	<p>Westminster and Environment Agency are in agreement on the proposed modification.</p> <p>Thames Water have no comment.</p>	<p>Resolved</p>
	<p><b>Changes made to supporting text Paragraph 36.4a:</b> <u>In addition, sleeping accommodation below modelled breach level in areas identified at risk of flooding will not be supported in the event of a breach in Thames tidal flood defences, as set out in Environment Agency guidance.</u></p> <p><u>Sleeping accommodation below the modelled breach flood level will not be supported in areas at risk of flooding from a breach in the Thames Tidal Flood Defences, unless it can be adequately demonstrated that there is a permanent fixed barrier to prevent water ingress, as set out in Environment Agency guidance.</u></p>	<p>Westminster and Environment Agency agree the wording of the proposed modification, but the Environment Agency would prefer if this was included in the policy wording rather than the supporting text. Westminster believes it is best placed in the supporting text as it</p>	<p>Resolved</p>

<p>sea levels. The plans requires tidal defences to be raised in London and that development should not limit these future raisings. Therefore, this policy should be amended to achieve this and to comply with the NPPF. This policy should be strengthened to make developers aware that they would need to demonstrate how defences can be raised in line with TE2100 targets where there is potential to limit future defence raising options.</p>		<p>signposts to existing EA guidance.</p> <p>Thames Water have no comment.</p>	
	<p><b>Changes made to supporting text Paragraph 36.5:</b> 36.5 / Besides the Thames Barrier, Westminster is protected from tidal and fluvial flooding by Thames Tidal Flood Defences including the Embankment wall. We will protect flood management infrastructure to ensure the risk of flooding is minimised. <a href="#">Development within 16m of a tidal flood defence would only be acceptable if it can be demonstrated that the defences can be raised and maintained for the lifetime of the development.</a> Access to defences for maintenance and emergency purposes must be retained, and their improvement will be sought as a condition or via legal agreement where appropriate.</p>	<p>Westminster and Environment Agency agree the wording of the proposed modification, but Westminster believes this is best placed in the supporting text as it relates to the application of point G of the policy, whilst Environment Agency would like to see it included in the policy wording.</p> <p>Thames Water have no comment.</p>	Resolved
<b>Policy 39 – Design principles</b>			
<p>It is very concerning that no reference has been made to the fact that Westminster falls within an area of ‘serious’ water stress and that no reference has been made to water efficiency targets.</p> <p>Policy S15 Water Infrastructure of the draft London Plan requires an internal use target of 105 litres/person/day when designing residential development (excluding an allowance of 5 litres or</p>	<p><b>Changes made to point D-3:</b> 3. optimising resource <a href="#">and water efficiency.</a></p>	<p>Westminster and Environment Agency are in agreement on the proposed modification.</p> <p>Thames Water have no comment.</p>	Resolved
	<p><b>Changes made to point D:</b></p>	<p>Westminster and Environment Agency</p>	Resolved




<p>less per head per day for external water consumption). We expect the London Borough of Westminster to require new residential developments constructed to meet the higher water efficiency standard of 110 litres/person/day, as per Requirement G2 in Part G of the Building Regulations 2010, or demonstrate support for the London Plan Policy.</p> <p>We suggest that an additional point is added to this policy to require developers to submit a water efficiency calculator report, or equivalent information, at the planning stage to demonstrate compliance with such a policy.</p> <p>Achieving 110 litres/person/day can be done with existing technology by installing efficient showerheads, spray taps and low flush toilets. Complex greywater recycling and rainwater harvesting schemes are not typically required to adhere to this water efficiency standard</p> <p>Point E.1 We emphasize 'maximum water credits' because the BREEAM standard can be achieved without the water efficiency measures which are critical to the London area (e.g. low flush toilets, water metering, leak detection systems and water butts, etc). The alternative is that buildings meet 'best practice' level of the Association for Environment Conscious Buildings (AECB, Water Standards).</p>	<p><u>6. maximising opportunities for greening including incorporation of living roofs, walls, landscaping and nature based sustainable drainage where appropriate.</u></p>	<p>are in agreement on the proposed modification.</p> <p>Thames Water have no comment.</p>	
	<p><b>Changes made to supporting Paragraph 39.10:</b> All development should ensure the reduction, reuse or recycling of resources and material and minimise energy use and emissions that contribute to climate change. <u>As Westminster falls within an area classified as "seriously" water stressed, developments proposals should maximise water efficiency. Residential proposals should meet the optional water efficiency requirement set out in Part G of the Building Regulations (110 litres/person/day), in line with the London Plan.</u></p>	<p>Westminster and Environment Agency are in agreement on the proposed modification.</p> <p>Thames Water have no comment.</p>	Resolved
<b>Policy 46 – Basement developments</b>			
<p>The Environment Agency will be expecting all sleeping accommodation to be located at or above the modelled tidal breach flood level. Therefore this policy</p>		<p>Westminster and Environment Agency agree that this issue is</p>	Resolved

<p>should be amended accordingly. We believe an additional point should be added into the relevant sections to address this change.</p> <p>No sleeping accommodation is permitted below the modelled breach level in areas identified at risk of flooding in the event of a breach in the Thames tidal flood defences.</p>		<p>appropriately addressed through modifications to policy 36.</p> <p>Thames Water have no comment.</p>	
<p>The policy needs to be more explicit and robust in relation to measures required to protect basement development from sewer flooding – positive pumped devices of equivalent should be provided to protect basement development from the risk of sewer flooding.</p>	<p><b>Changes made to supporting Paragraph 46.3:</b> Given their nature, basements can be vulnerable to flooding from a number of sources including the overflowing of drains and nearby watercourses, groundwater flooding and surface water flooding. A site-specific Flood Risk Assessment (FRA) will be required for basement developments. Measures to be incorporated <del>may</del> include Sustainable Drainage Systems (SuDS) and positive pumped devices or and equivalent to address sewerage flooding, <del>or and</del> other measures recommended in the FRA.</p>	<p>Westminster and Thames Water are in agreement on the proposed modification.</p> <p>Environment Agency have no comment.</p>	Resolved

### Signed confirmation

All parties agree that this statement is an accurate representation of matters discussed and the respective position on Westminster's City Plan 2019 - 2040.

<b>Signed on behalf of Westminster City Council</b>		
<b>Name and position</b>	<b>Signature</b>	<b>Date</b>
Councillor Matthew Green, Cabinet Member for Business and Planning		25/03/2020

<b>Signed on behalf of Environment Agency</b>		
<b>Name and position</b>	<b>Signature</b>	<b>Date</b>

<b>Signed on behalf of Thames Water</b>		
<b>Name and position</b>	<b>Signature</b>	<b>Date</b>