

CITY PLAN 2019 – 2040

POLICY 10 TOPIC PAPER
SEPTEMBER 2020

1. Introduction

- 1.1. This paper sets out the council's new proposed approach to City Plan Policy 10, which requires affordable housing contributions from commercial development in the Central Activities Zone (CAZ). This approach has been developed in response to the additional question posed by the inspectors as part of the City Plan Examination in Public, which asks about the implications of the governments recent changes to the Use Classes Order (UCO) for the City Plan
- 1.2. The CAZ is described in the new London Plan as “the vibrant heart and globally-iconic core of London” and “one of the world’s most attractive and competitive business locations”. Paragraph 2.4.2 states:

The density, scale and mix of business functions and activities in the CAZ are unique and are underpinned by the connectivity provided by public transport, walking and cycling networks. This agglomeration results in exceptional levels of productivity, which is not replicated elsewhere in the UK, and provides national benefits. It requires different or tailored approaches to the application of national policy to address its distinct circumstances.

- 1.3. Westminster's CAZ hosts nationally and internationally significant office, retail and leisure clusters and a unique concentration and diversity of cultural, arts, entertainment, night-time economy and tourism functions. These different roles and functions result in a unique agglomeration and mix of land uses, which provide national benefits.
- 1.4. The CAZ also has a local function, containing housing, social infrastructure and community uses, complementing its character. There remains a need for these uses within the CAZ to ensure its overall function, particularly the provision of affordable housing for those in key worker and service industry roles who support the CAZ's vital economic role.

2. Historic policy approach

- 2.1. A mixed-use policy was first introduced into Westminster's planning framework through the Unitary Development Plan (1997) in response to an imbalance in the delivery of commercial and residential floorspace in the CAZ. At that time, commercial developments were considered more profitable than residential development and there were concerns that this would lead to the character and diversity of the CAZ being lost if residential development did not come forward, thereby threatening the building of sustainable communities. This policy required the provision of residential floorspace alongside commercial development, with a proportion of the residential element to be delivered as affordable housing if the affordable housing policy threshold was triggered.

- 2.2. Since first being introduced, the policy has had several iterations in response to the market fluctuations and changes to national planning policy. Most recently, in response to the loss of office floorspace, the policy was relaxed to give an incentive to applicants to provide office floorspace, reducing the amount of residential floorspace required to be provided alongside the commercial element. This is the current form of adopted City Plan Policy S1 (CORE_020).

3. Draft City Plan approach

- 3.1. In drafting the new City Plan it was felt that the current policy approach is not incentivising growth in office floorspace, nor contributing sufficiently to the delivery of affordable housing in the CAZ. The existing approach has not successfully delivered sufficient affordable housing, although it has delivered market housing. This is largely due to the number of alternative options available to applicants under Policy S1, such as making payments in lieu, or delivering affordable units off-site or via land swaps outside of the CAZ.
- 3.2. The submitted draft City Plan sought to adjust the requirement to focus more on the provision of affordable housing rather than simply providing mixed-use development. Therefore, rather than a requirement for mixed-use development with an element of affordable housing, only affordable housing was sought alongside commercial floorspace. This idea was initially put to the council by the development industry. The contribution was to be secured through a stepped requirement based on the amount of additional commercial floorspace delivered, on a percentage basis. The larger the amount of uplift, the higher the percentage requirement became. Once a minimum threshold of new commercial floorspace was reached, a percentage of this floorspace would be required as affordable housing. At the lower end of the scale, a payment in lieu of affordable housing would be required, up to the point that enough new floorspace could be secured to be delivered as affordable housing on-site and managed by a Registered Provider. The threshold and the stepping of the requirement was based on viability evidence carried out by BNP Paribas.

4. Problems with the draft City Plan approach and recent legislative changes

- 4.1. The recent changes to the Use Classes Order (UCO) caused problems with the proposed approach. The inability under the amended UCO to distinguish offices as a separate use class meant that the approach as drafted could not be put into practice effectively. The approach had not been viability tested for all types of commercial development falling under the new Class E.
- 4.2. In revising our approach, the council has also considered criticisms from representors regarding unintended consequences of the approach in the submitted City Plan.

- 4.3. Whilst the approach proposed in the draft City Plan would have potentially resulted in more affordable housing being delivered in the CAZ, representors have pointed out that it may also have led to the unintended consequence of disincentivising commercial growth, particularly in larger developments. By requiring on-site delivery of affordable housing above certain size thresholds, sites could have effectively been 'sterilised' for future commercial redevelopment, as it is generally much more difficult to relocate residential occupiers rather than commercial ones. Additionally, when combined with stronger protections for existing offices in Policy 14, the policy approach could have served to incentivise refurbishment of office space rather than ensure adequate growth in commercial floorspace took place to meet the City Plan's job targets.
- 4.4. Several representors have argued that the effect of the affordable housing requirements of Policy 9 alongside the approach in Policy 10 as drafted would mean that mixed-use developments providing market housing would become unviable as they would be required to contribute from both the housing and commercial elements of a scheme. This could have effectively disincentivised provision of market housing in the CAZ, leading to a shortfall in both overall housing delivery and affordable housing delivery, undermining the purpose of the policy. These potential viability issues raised by representors had not yet been resolved and could have meant that all mixed-use schemes would have been subject to individual viability assessment to determine the amount of affordable housing that could be provided.

5. New suggested approach

- 5.1. For the reasons outlined above, the council has now reconsidered its approach to affordable housing contributions from commercial development in the CAZ. It is now proposed that this will take the form of a tariff on commercial development above a size threshold of 1,000sqm of additional new-build floorspace, calculated on a similar basis to the Community Infrastructure Levy (CIL). As with CIL, it would not apply to changes of use of existing floorspace. This approach will serve to protect the strategic economic functions of the CAZ whilst increasing the amount of affordable housing delivered through contributions from commercial development. It will give the council flexibility to use these contributions in areas within reasonable travel distances to the CAZ, and thereby maximise the amount of affordable housing delivered.
- 5.2. A wider range of commercial development will be expected to contribute towards affordable housing under this approach, in line with the definition of commercial development in the council's CIL Charging Schedule. This will ensure that the majority of applications for commercial floorspace under the new Class E are captured. Class E floorspace falling outside the definition of commercial development in the CIL Charging Schedule, such as for medical or educational use, will be expected to be controlled through the use of planning conditions.
- 5.3. The 1,000sqm threshold has been set in order to comply with the NPPF requirement that only major development should be expected to contribute towards provision of affordable housing. It is also based on data on the nature of commercial development

in the CAZ over the past five years. This data shows that smaller scale commercial development has typically been providing a higher level of lower value-generating uses such as A1 retail and A3 café/restaurant uses, rather than B1 office or C1 hotel floorspace, which the previous approach was targeting. Larger scale schemes over 1,000sqm of additional floorspace have provided significantly higher amounts of office and hotel uses. Whilst all commercial growth generates jobs, larger schemes will generate higher numbers, leading to a higher need for new homes to support these. The 1,000sqm threshold is therefore considered reasonable and appropriate.

- 5.4. The tariff will be calculated on a £/sqm basis on the Gross Internal Area (GIA) of the whole of the new-build floorspace, i.e. not only that portion above the 1,000sqm threshold. Rates will be set based on new viability evidence that the council has commissioned from BNP Paribas and will differ across the CAZ according to the pre-existing charging areas defined in the council's CIL Charging Schedule. This evidence will be completed and placed in the examination library prior to the start of the hearing sessions. The charge will also be index linked in the same way as CIL, to the RICS CIL index. This gives certainty to the development industry prior to the acquisition of sites and in bringing forward development proposals, whilst ensuring that the tariff is set at a level that will not undermine overall scheme viability. It will also ensure that the problems with mixed-use proposals under the previously proposed approach will not be encountered, as the two policies will work separately but in conjunction with one another. Commercial floorspace will not have to be reduced to provide affordable housing on-site, and payments in lieu on the residential element of a mixed-use proposal will be calculated differently to the tariff on the commercial element.
- 5.5. This approach will ensure that most schemes will not need to be subject to individual viability assessment at planning application stage, in line with the Planning Practice Guidance (PPG). Nevertheless, provision is made in the policy for individual schemes to be subject to viability testing where the tariff does impact on scheme viability, in line with the threshold approach to applications set out in the London Plan.

6. Conclusion

- 6.1. The revisions to Policy 10 set out in the revised Schedule of Modifications introduce a tariff approach to affordable housing contributions from commercial development in the CAZ. The tariff will be calculated on a £/sqm basis on new commercial development above 1,000sqm of additional floorspace. This approach will ensure the CAZ's strategic economic function is maintained whilst maximising contributions from a range of commercial development towards the provision of affordable housing. This will support the workers who enable the CAZ to thrive.

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City of Westminster