

## **EXAMINATION OF THE WESTMINSTER CITY PLAN 2019-2040**

### **NOTE No 1 FROM THE APPOINTED INSPECTORS**

#### **TO WESTMINSTER CITY COUNCIL**

#### **Introduction**

1. Brian Sims has been appointed Lead Inspector along with Luke Fleming, albeit we will act independently in presiding over our respective hearing sessions with equal authority. The joint appointment is to ensure continuity of Inspector availability for the duration of the Examination and will shorten the overall post-hearing reporting time. We are already in touch with the Programme Officer (PO), Charlotte Glancy, with whom Brian Sims has worked previously.
2. This first note is intended as no more than an early introduction to acquaint the Council with our initial thoughts and impressions based on a necessarily cursory initial perusal of the volume of submitted correspondence. Therefore, although this note seeks comments on the specific matters and questions set out below, it is forwarded entirely without prejudice to any later questions or conclusions which will be much better informed by more detailed reading of the documentation.
3. ***Where this Note seeks specific responses from the Council, our questions and requests are labelled Q\* and are set out in bold italic font and Council responses may be made by way of an annotated version of this Note but with its own document reference.***

#### **Q1**

***We first ask that the Council acknowledge receipt of this Note immediately, with an indication of when a full response will follow.***

#### **Provisional Procedure and Programme**

4. The PO will shortly issue an initial letter to Representors to outline the Examination Process.
5. Subject to some particular comments and requests set out below, the submitted documentation appears well ordered, with clear summaries of issues.
6. We hope to rely on the relatively modest volume of Original Representations without further written statements and to complete the Examination essentially on the documentary evidence available, together

with such oral discussion as may be required according to our detailed Matters, Issues and Questions (MIQs) to be published later and the numbers of Representors who ultimately exercise their right to appear in person.

7. As an initial impression only, we do not anticipate that discussion of the compliance of the Plan with the Duty to Co-operate, Statement of Community Involvement or other legal matters will need to occupy much hearing time.
8. We hope to publish detailed MIQs and a Guidance Note to Representors before or shortly after the end of December, such that a programme could be agreed in January and hearings could potentially commence in February 2020.
9. That is, of course, subject to the response by the Council to this Note and the views and preference of the Council as to sitting dates, availability of the venue and pace of the Examination, having regard to Council staff availability and pressures. It is of course too early to predict the details or length of the programme of hearings but we would anticipate sitting Tuesdays to Thursdays as outlined in published guidance.

## **Q2**

***It would be helpful if, based on local knowledge, the Council could indicate its own best current expectation of the likely numbers of hearing participants and sitting days, as well as any preferred dates.***

10. We may make an initial visit to the City in advance of the hearings to undertake any appropriate unaccompanied site visits and see the hearings venue, albeit we are content to leave the detailed arrangements for the hearings to the experienced PO in liaison with ourselves.

## **Representations Database**

11. We have some concerns with the navigability of the representations database and these have been discussed with the PO who will address them directly with the Council team.
12. However, we would emphasise that, for efficiency and completeness, we must be able, quickly and directly, to cross-refer between the summaries of issues within the Consultation Statement and the Original Representations.

## **Q3**

***To that end, we ask the Council to correlate the useful end-notes to the Reg 19 Consultation Statement CORE 0010 with the related Rep Nos in CORE 011***

## Documentation and Web Page

13. We note that the Council has used its prerogative to place before us certain late representations. We therefore consider these on an equal basis to those duly made.
14. We have already agreed verbally via the PO that the Council should submit further **Statements of Common Ground** (SOCGs) because such documents are potentially crucial to the assessment of legal compliance. If these are submitted at this relatively early stage and published on the Council Examination Web Page, there is no disadvantage to Representors.
15. However, all submitted and future SOCGs must be signed by the parties to them and we have noticed that the Neighbouring Boroughs SOCG is not signed by the London Borough of Wandsworth and the Lambeth SOCG has not been signed by Lambeth.

### Q4

***The Council is asked to confirm that all SOCGs will be completed and signed and placed in the Examination Library on the Examination web page by the end of December at the latest.***

### Q5

***The Council is also asked to ensure that the Examination Library is kept up to date with a very clear e-link from the web page.***

## Modifications to the Plan

16. The Council has submitted **CORE 02 - Schedule of 'Minor Modifications'**.
17. As clearly advised in published guidance, minor modifications do not address soundness or legal compliance, are not for examination and must be distinguished from **Main Modifications (MMs)**.
18. We gather informally via the PO that the Council Team is alert to the prospect that some of the mms deserve MM status. We agree.
19. For example, the change to **DHP42** on Building Height, as well as several changes in response to the Mayor's consideration of General Conformity with the (emerging) London Plan on the strategic Affordable Housing threshold, Parking Standards and Waste appear to us, albeit on a mere incomplete perusal to date, to constitute MMs and there may be many others. It is also noted that the SOCGs include a number of proposed modifications but it is unclear to us whether or not these have been incorporated into the submitted Schedule.

20. As published guidance clearly states, any change which addresses soundness, ie is required to make an unsound part of the Plan meet the tests of positive preparation, justification or effectiveness of the Plan or its compliance with national policy, must be published for public consultation equivalent to Reg 19. We suggest it is appropriate to err in favour of designating a change a MM where there is any doubt.
21. In this case, no such consultation has taken place post Reg 19 and pre-submission and therefore any MM must ultimately be considered within the Examination and scheduled for post-hearing public consultation by the Council for at least 6 weeks.
22. Accordingly, we consider it necessary for the Council, at this stage, to review the submitted schedule of modifications CORE 002 in light of the foregoing and where the suggested changes amount to MMs which are necessary to make the Plan sound or legally compliant, to indicate why, with specific reference to the relevant tests. The Inspectors will then consider during the Examination whether or not each MM is necessary and appropriate, bearing in mind that the Examination is not concerned with improving the Plan if it is judged to be sound as submitted. A new, separate Schedule of Suggested MMs should be produced as a travelling draft, to be updated as the Examination progresses and ultimately to form the basis of an agreed MM Schedule for public consultation.

#### **Q6**

***We therefore ask the Council to review its Schedule of modifications, separating out the proposed minor and Main Modifications and to provide clear justification for each MM based on the tests of soundness.***

23. It is necessary under **Section 20(7C) of the 2004 Act** for the Council to make a formal request for the Inspectors to recommend MMs if required to make the Plan sound.

#### **Q7**

***We therefore invite the Council to make a formal request under section 20(7C) of the 2004 Act for the Inspectors to recommend MMs if necessary to make the Plan sound and legally compliant with immediate effect (or in any event before any Schedule of Proposed MMs is published for consultation later in the Examination).***

#### **General Conformity with the London Plan**

24. It is a clear requirement of the Plan that it is judged to be in general conformity with the London Plan and we note SOCG 003 with TfL and the Mayor on Parking Policy 28, including some as yet unresolved differences.

25. For the purposes of this Examination, we consider it appropriate to regard this requirement for general conformity as applying to the emerging New London Plan with its recommended modifications, in view of its advanced stage of preparation, albeit the extant London Plan cannot be disregarded.
26. In the Mayoral Statement of Conformity with the London Plan CORE 017 the main areas of concern, subsequently addressed in the proposed changes, are clearly set out in terms of the affordable housing strategic threshold, and waste apportionment as well parking standards and Policy 28 but there are other points raised where it is not clear whether they are pursued as matters of non-conformity or mere comments or advice.
27. We consider that clarification at this stage would be helpful to the progress of the Examination as to: (i) whether the lesser points raised in the Statement CORE 017 have anywhere been addressed by the Council and (ii) whether and to what extent there is agreement with the Mayor (perhaps by SOCG yet to be submitted?) as to whether the post-Reg 19 proposed modifications in CORE 002 satisfy all the questions of non-conformity raised. This clarification would best be contained in a single comprehensive and up to date SOCG or response by the Council to CORE 017, indicating any further points of disagreement outstanding.

## **Q8**

***We accordingly request the Council to provide clarification of the conformity of the Westminster City Plan with the (New) London Plan.***

## **Evidence Base for Spatial Strategy and Housing**

28. As explained above, we will provide our detailed MIQs in due course. We note that there is a lack of substantive public challenge to the Plan housing requirement of 22,222 units or its front-loaded trajectory of 1,495dpa in the first 10 years. However, based on our initial reading, we are likely to raise some questions of our own on the spatial strategy of the Plan and its housing provisions, in order to be satisfied that the Plan is sound. That is with particular regard to whether the strategy and housing requirement are justified and the provisions for the housing land supply are effective, including that a five year housing land supply is available in terms of the NPPF.
29. To that end, we are studying the submitted evidence of the derivation of the overall housing land requirement and calculation of the five year supply, including with reference to the Housing Topic Paper and draft Five Year Supply Statement.
30. With respect to the spatial strategy and housing land supply we should appreciate the assistance of the Council in directing us to the appropriate elements of the Evidence Base, or otherwise providing additional

documentation, to aid our understanding of certain matters, as set out below.

31. Please note that these questions of evidence are not exhaustive and have arisen in our limited reading so far. There may be others raised in connection with our detailed MIQs in due course.

#### *Spatial Strategy*

32. Policy 1(B) sets out four specific locations where the growth proposed in the Plan is expected to be delivered, with some indication in the supporting text as to the respective amounts of housing and employment development anticipated in each. It would be helpful to see these quantities tabulated, together with evidence of whether reasonable alternatives for the spatial distribution of development have been assessed through the Integrated Impact Assessment (IIA).

#### *Key Development Sites and Windfall Housing Development*

33. It is not yet clear to us how the Key Development Sites (KDSs) have been considered in the IIA, including how any reasonable alternatives may have been considered. Further, we have not found any detailed evidence for each KDS as to whether they are or will be developable or deliverable in terms of the NPPF, or the quantum of housing each KDS is expected to deliver for each year of the Plan period by way of a detailed trajectory.
34. With particular regard to flood risk, we note that only a draft Strategic Flood Risk Assessment has been submitted and that a further SFRA is emerging. Given that several KDSs are within that large part of the City within Flood Zone 3, we would expect to find evidence that the sequential and exception tests have been applied in their assessment, in terms of NPPF paragraph 157.
35. Finally, whilst noting from the submitted Local Development Scheme the intention of the Council to prepare a Site Allocations Development Plan Document during 2020, we are likely to seek quantitative evidence in support of the small and large windfall allowances comprised within the overall housing land supply, given the proportion of the total requirement these sources represent.

#### **Q9**

***We request the Council provide clarification as to where the foregoing elements of supporting evidence are or will be available.***

*B J Sims and L Fleming*

Inspectors