

EXAMINATION OF THE WESTMINSTER CITY PLAN 2019-2040

NOTE No 2 FROM THE APPOINTED INSPECTORS TO WESTMINSTER CITY COUNCIL

Dear Ms Hopkins

Introduction

1. We refer to your reply to our introductory Note 1 by way of Documents WCC-Letter-01-03 and to our subsequent email correspondence via the Programme Officer wherein the Council has indicated that, *whilst the council has the requested data available* [in response to Question 9 of Note 1], *additional work is required to collate and present this as it is not held in an easily publishable form. Its publication will also need to be agreed between various internal stakeholders, including the Cabinet Member for Place Shaping and Planning. There has also been recent political change at the council. The Leader of the council has announced she is stepping down following her election to parliament, and a new leader is due to be elected on 22nd January. Following this, there may be a change in the composition of the council's Cabinet which is likely to delay approval of the publication of the data.*
2. In the circumstances, in order to allow the Council time to produce the necessary documentation, **we will pause the Examination** in terms of paragraphs 3.5 and 9.1-4 of the Procedure Guide for Local Plan Examinations [5th Edn – Planning Inspectorate June 2019]. In doing so we have regard to the advice on the evidence base to the Plan in paragraphs 1.9-12 of that Guidance. We also take into account the cost implications for the Council if the Inspectors continue to work on the plan at this stage with an incomplete evidence base.
3. It will be necessary for the Programme Officer (PO) to circulate a further letter to Representors to explain this and for the examination web page to carry the same information.
4. In summary, the areas of evidence where we have indicated that we require further information and reassurance as to the legal compliance and soundness of the Plan are:
 - Delayed Statements of Common Ground
 - Conformity with the London Plan
 - Post-Regulation 19 - Pre-submission suggested Main Modifications to be scheduled separately from minor changes
 - Clarification of the quantum of development in certain areas
 - Consideration of reasonable alternative spatial strategies
 - Developability and Deliverability of Key Development Sites including
 - Flood Risk Assessment and sequential and exception tests in Flood Zone 3

- Reliance for Housing Supply largely by windfall (12,000 out of 22,000)
 - Relationship of the submitted City Plan 2019-2040 with a projected Site Allocation DPD scheduled in the current LDS for 2020, and
 - Housing requirement and five year supply calculations.
5. In order to assist the Council in co-ordinating further documents for submission, we provide below more detail of the information we consider to be required. In this connection ***the Council is at liberty to contact us via the PO or the Plans Administration team at the Planning Inspectorate for any further advice.***

Information Required

Note 1 Questions 2-8

6. Dealing first with your initial reply to our Note 1, we were essentially content with your responses to Qs2-8, commenting only that:
- a. Q2 – Programme and Hearing dates - these will ultimately depend upon our detailed Matters, Issues and Questions (MIQs) in the light of the new evidence now to be provided. We do not now anticipate completing MIQs or inviting participation in discussions or setting a programme for Hearings until the new evidence is published. The PO will be asked to explain this in her next circular letter to Representors. We comment below on any need for further consultation and written statements.
 - b. Q3 – the ‘End-note to Representation Number’ cross referencing [WCC-Letter-02] is helpful and sufficient for the time being.
 - c. Q4 – the delayed submission dates for SoCGs are unlikely to cause difficulty, provided they are made available before, or at the same time as the further evidence.
 - d. Q5 – The link to the Examination page on the website is commendably clear, as is the document library and other information set out within it. However, within Section 2 we ***would suggest that:***
 - i. ***it would be appropriate to note that the development plan will in due course include the Site Allocations DPD, which is included in the LDS and referenced in the Plan itself,***
 - ii. ***that the reference to pre-hearing statements is potentially confusing and a matter best left to our written guidance in due course,*** and
 - e. Q6 – the submission date of 16 January 2020 for the travelling Schedule of suggested MMs is acceptable.
 - f. Q7 – the Council’s request for MMs is noted.

- g. Q8 – as for the submission date of 17 January 2020 for the further SoCG with the GLA on conformity with the London Plan, the same comment applies as for Q4 and Q6 above.

Additional Evidence

Legal Compliance including Duty to Co-operate

7. In our Note 1 we indicated our initial impression that we did not anticipate that discussion of the compliance of the Plan with the Duty to Co-operate, Statement of Community Involvement or other legal matters would need to occupy much hearing time. That is still our provisional view at this stage but our judgement on all aspects of legal compliance will ultimately depend upon the further evidence, including the several new and updated SoCGs, yet to be submitted, as well as ensuring full and fair public consultation upon it.
8. The requisite Strategic Environmental Assessment and Sustainability Appraisal are contained within the Integrated Impact Assessment (IIA). The question of legal compliance is related to the adequacy of the SA. To be adequate, we consider that the SA should deal expressly with:
 - a. Reasonable alternative strategies with regard to the Plan's
 - i. Spatial Development Priorities
 - ii. Key Development Sites
 - b. Flood Risk Assessment including:
 - i. Sequential and Exception tests where applicable to:
 1. Key Development sites in Flood Zone 3, and
 2. Any Other Sites.
9. With regard to the general conformity of the City Plan with the London Plan, we anticipate considering the following matters in light of your projected update of the SoCG with the GLA:
 - a. Conformity with the adopted London Plan and also the degree of conformity with the emerging New London Plan, in view of its current stage of preparation.
 - b. The Affordable Housing strategic 50% threshold, although this is also a soundness Matter.
 - c. The Waste disposal apportionment, also a soundness matter
 - d. Parking standards, also a soundness matter.

Housing Land Requirement and Five Year Supply

10. On the Housing Land Requirement of the Plan we do not necessarily seek fresh evidence. However, we will require reassurance on the validity of the Council's approach of combining a calculation based on the Local Housing Need (LHN) methodology of the Planning Practice Guidance (PPG) with the extant or emerging London Plan figures, with the latter apparently inflated, rather than capped, by 40% for the first 10 years. That is, given the PPG advice that, in establishing the plan housing requirement, the requirement

figures of the spatial strategy (ie the London Plan) should not be revisited (ID: 2a-013-20190220).

11. On Housing Land Supply, we note reliance upon small windfalls of up to 25 units was a subject for the New London Plan Examination, resulting in a recommended reduction in Borough housing requirements across London, including that of Westminster.
12. However, we will require reassurance that the comparatively high reliance of the City Plan on some 8,000 large windfalls out of its total requirement of 22,222 is soundly based. We are not presently persuaded that the extrapolation of past trends is a sufficient basis for assuming future supply from this source and will look for quantitative evidence of its likely continuation.
13. We further see a complication in the intention, stated in the Plan and in the current Local Development Scheme, to bring forward a Site Allocations Development Plan Document (DPD) in the current year 2020. We should like clarification of the role of this DPD in relation to the Spatial Development Priorities and Key Development Sites or the anticipated quantum of large windfall sites and whether it would promote additional sites or merely add detail to the large windfall element of supply anticipated from the City Plan. Notwithstanding the stated aim of the Council to be more pro-active in promoting suitable housing sites to boost supply, it will be important to avoid any confusion in the preparation and consultation upon the sites DPD overlapping with the current City Plan Examination. Looking to the future, the existence of both Plans could make the five year supply at any given time and in connection with any individual application difficult to calculate and agree.
14. Further on the matter of the five year supply, having set the commendably ambitious plan requirement and supply trajectory for the first ten years, it is not clear on what basis the immediate five year supply should be calculated. It appears that comparing the annual requirement in the early years with the Council's own estimate of supply would barely meet or could even fall short of the requisite five year supply.
15. This question is related to our initial concern, set out above, regarding the calculation of the Plan requirement and whether that requirement in the early years should be raised above the London Plan figures. The objective to exceed the requirement is a supply matter and does not necessarily need the requirement figure itself to be inflated. We suggest that, by thus avoiding the conflation of requirement and supply, the five year supply figure, as measured against requirement, could be enhanced.
16. We will expect to see clear calculations to justify the basis for estimating the five year housing land supply.

Development Land Supply in Detail

17. Turning to the developability and deliverability of individual sites, we shall require more detailed qualitative and quantitative evidence that the

anticipated supply of development land, especially for housing and employment, is likely to be forthcoming in accordance with the expected trajectory.

18. In this connection, we refer to our original comments at paragraphs 32 to 35 of our Note 1 in relation to the growth locations and Key Development Sites with respect to clarification of the amounts of development and their deliverability, including with respect to flood risk and any other constraints.

Deferment to Supplementary Planning Documents

19. Finally, we have noted several instances where the City Plan refers to projected Supplementary Planning Documents (SPDs) for detailed policy. These relate to:
 - a. Policies 9D and 9F on affordable housing with respect to:
 - i. Calculation of payments in lieu of on-site provision
 - ii. Income levels for intermediate housing
 - iii. Tenure
 - iv. Housing credit
 - v. Land Swap
 - b. Policy 18 - Reliance upon draft Infrastructure Delivery Plan EV GEN 007, and
 - c. Policy 19 - development contributions to improved employment prospects.
20. It is not generally appropriate for the Plan to rely upon external SPDs where their contents would more properly form part of the development plan and may be required for the Plan to be justified, effective and sound in itself. In this respect, Regulation 5 defines what should comprise local development (local plan) documents, as distinct from SPDs.
21. ***The Council should therefore consider where such detail proposed for inclusion in SPDs should be brought into the City Plan.***

Further Consultation and Written Statements

22. Clearly it will be necessary for fairness and compliance with the Statement of Community involvement for all fresh evidence and documentation to be made public with sufficient notice for further comment. Depending on the amount and nature of the new data, that might need to comprise either a separate round of public consultation and response or at least advance circulation to existing Representors.
23. As indicated in our Note 1, we will not necessarily invite or accept further written hearing statements where original representations provide the case for any changes required for legal compliance or soundness. Representors should bear in mind that this is not a requirement of the examination process.
24. However, we ultimately err in favour of ensuring a fair hearing for all relevant points of view and this may now justify accepting written position

statements in relation to specific matters and issues. We will provide appropriate guidance on this matter in due course.

Conclusion

25. ***We would strongly request the Council to indicate as soon as possible its preferred timescale for the resumption of the Examination. This must include setting out a schedule of the titles and purposes of each new evidence document it intends to add to the evidence base with dates for submission.*** Upon receipt of this, we will consider the steps necessary to ensure the efficient progress of the Examination. In establishing the timescale and programme for the remainder of the Examination, it has to be borne in mind that the availability of the Inspectors will require to be considered in relation to their other commitments.

B J Sims and L Fleming

Inspectors