

Ms K West
Planning Policy Team
Westminster City Council
City Hall
64 Victoria Street
London
SW1E 6QP

By email: planningpolicy@westminster.gov.uk

18 January 2021

Dear Kimberley,

**Westminster City Plan 2040
Consultation on Main Modifications**

I am writing on behalf of the Westminster Property Association (The “Association”), the membership body for owners, investors, professional advisors and developers of real estate in the City of Westminster. A list of the 240+ member companies we represent is available [here](#).

This letter is to respond to the final consultation on the Main Modifications proposed to the City Plan following the conclusions of the Examination in Public Hearing Sessions. Where the Association has not specifically responded to the further proposed Main Modifications, we would refer to our previous consultation response to the Submission Version of the City Plan, Interim Statement (ref OTH/001) and to our Hearing Statements.

MM36 – Policy 37 (Net Zero Carbon)

The Association supports the proposed alteration to Policy 37 in MM36, relating to net zero carbon.

The proposed modifications provide welcome additional clarification on the way in which the net zero carbon requirement will be applied. The Association looks forward to continuing to engage with the City Council on development of supplemental guidance relating to carbon reduction, given the pressing importance of addressing climate change.

MM12 - Policy 10 (Affordable Housing from commercial development)

The Association regrets the deletion of Policy 10 in its entirety, as proposed by MM12.

The Association supports the principle of commercial development making an appropriate contribution to the provision of much needed affordable housing in Westminster, as long as this does not undermine the deliverability of new employment, retail and leisure accommodation and does not lead to significant additional delay or uncertainty, or other distortive effects. As set out at the relevant hearing session, the City Council’s proposed tariff-based approach proposed in its Proposed Main Modification PS/H/20 was a pragmatic suggestion that would have contributed to affordable housing delivery, whilst still encouraging investment in commercial development. It would have, broadly, addressed the Association’s serious concerns with the submitted version of Policy 10, subject to confirmation that the tariffs would have been set at an appropriate, proportionate, level.

Policy 7 (Amenity: sunlight and Daylight)

The Association notes that the Inspectors have not recommended that the suggested wording put forward by the City Council, in discussion with the Association following the hearing sessions, to Policy 7A (residential amenity), is taken forward as a Main Modification.

The City Council had proposed the following revised wording for Policy 7A:

“Protecting and where appropriate enhancing amenity, by ensuring that surrounding buildings are provided with sufficient levels of daylight and sunlight that are appropriate to their context, and preventing unacceptable impacts in terms of sense of enclosure, overshadowing and overlooking.”

Following the hearing session, the City Council had also proposed further changes to the reasoned justification, at paragraph 7.3, to explain, in more detail, the proposed approach:

Negative effects on amenity should be minimised as they can impact on quality of life. Provision of good indoor daylight and sunlight levels is important for health and well-being. While it is acknowledged that it may not always be possible to meet standards set out in the Building Research Establishment (BRE) Guidelines¹ due to the specific constraints of each site, the Guidelines will be used as a starting point to assess proposals. In instances where material losses of daylight and/ or sunlight would occur, particular regard will be had to the retained daylight and/ or sunlight levels for neighbouring properties when assessing whether they would continue to receive sufficient levels of daylight and/ or sunlight. This approach will be used to assess the impact of new development on daylight and sunlight received by existing housing, but may also be applied to any non-domestic buildings where the occupants have a reasonable expectation of daylight, as identified in the BRE Guidelines. ...”

The City Council’s previous Proposed Main Modification M/S/20 is, also, not taken forwards.

We understand that the effect of this will be that the wording of Policy 7A will revert to the Submission Version, referring to **“preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure...”**.

For the reasons set out in the Association’s Matter 3 Hearing Statement, changes to the Submission version of the policy are necessary to ensure that the proposed policy is consistent emerging London Plan Policy D6(D), which states that:

“The design of development should provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context, whilst avoiding overheating, minimising overshadowing and maximising the usability of outside amenity space.”

The proposed post-hearing changes to Policy 7A and 7.3 would have ensured that the policy regarding daylight and sunlight was clearly consistent with strategic policy, by referring to the need to ensure surrounding buildings receive light levels appropriate to their context rather than preventing change.

On the assumption that the Association’s understanding that the policy will revert to the submission wording is correct, the Association’s concern remains that the reference to “preventing unacceptable impacts” within the policy text is not sufficiently clear, in its own right. This is because it does not explain what an “unacceptable impact” is. The revised post-hearing wording proposed by the City Council is more positively worded, and clear that the objective should be to retain levels of light appropriate to the local context.

The Association’s view remains that this change should be made.

¹ ‘Site layout planning for daylight and sunlight’ (2011) Building Research Establishment (BRE)

Without prejudice to this view and for the avoidance of doubt, should this not be changed and the wording, instead, revert to the Submission version, it is essential that some minor consequential changes are made to paragraph 7.3 so that it is fully consistent with the submission version of Policy 7A. It is not currently. In particular, the generalised reference to minimising negative effects on amenity is not consistent with Policy 7A, which seeks to avoid unacceptable impacts rather to minimise negative effects. This is an important distinction when applied to sunlight and daylight.

The Association suggests that this generalised reference should be qualified, in relation to daylight and sunlight, to explain what “avoiding unacceptable impacts” means. Paragraph 7.3 could be amended to include a sentence stating:

“In instances where material losses of daylight and/ or sunlight would occur, particular regard will be had to the retained daylight and/ or sunlight levels for neighbouring properties when assessing whether they would continue to receive sufficient levels of daylight and/ or sunlight.”

Again, for the avoidance of doubt, the Association restates its strong objection to the wording within the Proposed (pre-hearing) modification to Policy 7A, M/S/20, which would have prevented material losses, although it is out understanding that this modification is **not** to be taken forwards.

MM44 – Implementation (mixed used credits)

The Association supports MM44, introducing recognition of the continued role of existing mixed use credits in satisfying requirements for affordable housing, where the registered floorspace is affordable housing itself.

Conclusion

The Association welcomes this further opportunity to comment on the proposed modifications in advance of production and final adoption of the plan. I trust that these further comments are helpful. If it would be helpful to discuss the content of this letter further, please do contact me.

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[Redacted contact information]