

# Matter 1: Procedural/legal requirements

## Introduction

This statement sets out Westminster City Council's written response in relation to the additional Inspector's Matter 1 questions regarding **procedural and legal requirements**, specifically changes to the use classes order (INSP8).

Examination document reference numbers are used throughout for convenience e.g. CORE\_001. References to modifications in the Schedule of Modifications are in the following format M/Cx/01 or PS/Cx/01.

### Issue

Whether the Council has complied with relevant procedural and legal requirements.

## **Question 18 - What are the implications of the changes to the Use Classes Order set out above on the legal compliance and soundness of the City Plan particularly with regard to (but not limited to) objectives 2,3 and 4 and the policies contained within the Spatial Strategy, Housing and Economy and Employment sections of the City Plan?**

18.1 The new Use Classes Order represents a major shift in how land uses are categorised from when the City Plan was originally drafted and consulted upon and has significant implications in terms of the extent to which the mix of uses within Westminster can be managed and protected through the determination of planning applications. The council has therefore reviewed the contents of the submitted City Plan and believes that further modifications are now considered necessary for the plan to be up to date upon adoption and effective. A summary of key implications is provided below. For completeness, the Schedule of Modifications has also been updated. Document CORE\_025\_V4 Revised Schedule of Modifications (Sept 2020), therefore now supersedes CORE\_025\_V3 Revised Schedule of Modifications (June 2020).

## **Objectives**

18.2 No changes necessary. The council's broad objectives for the future growth of Westminster, including supporting jobs growth, enabling town centres and high streets to adapt to the challenges they face, broadening the cultural offer and managing the impacts of development on residential communities, all

remain. The modifications proposed to relevant policies have not altered these objectives or the ability of the Plan to achieve them.

### **Spatial Strategy Policies**

#### Policy 1 (Westminster's spatial strategy)

18.3 Modifications PS/S/15, PS/S/16, and PS/S/17 are now required in order to better reflect:

- the council's ability to halt the loss of office floorspace given some losses can now occur without needing planning permission; and
- the positive role a range of commercial uses can play in supporting modern workspaces and wider jobs growth beyond those provided by offices.

18.4 N.b. whilst not in response to changes to the Use Classes Order, the council has also included proposed modification PS/S/14 to address Historic England's concerns set out in their response to MIQ Matter 3 regarding any perceived preference for modern architecture within Policy 1 (Westminster's spatial strategy).

#### Policies 2 – 6 (Spatial development priorities)

18.5 As these policies set out the council's vision for key growth areas and do not impose prescriptive requirements on the precise mix of uses within them, they are not materially affected by the changes to the Use Classes Order.

18.6 However, in response to issues raised in London First's MIQ response to Matter 3, additional text has been proposed in modification PS/S/18 to clarify how the WERLSPA is distinct from the CAZ, within the reasoned justification to Policy 2 (WERLSPA and Tottenham Court Road Opportunity Area). PS/S/09 has also been updated for consistency with the council's earlier response to Matter 3, question 24, and the approach development target timescales for Paddington and Victoria Opportunity Areas.

#### Policy 7 (Managing development for Westminster's people)

18.7 No impacts identified.

## **Housing Policies**

### Policy 10 (Affordable contributions in the CAZ)

18.8 This policy now needs significantly amending to ensure affordable housing contributions can be sought from Class E development as opposed to B1 office floorspace which no longer exists as a distinct Use Classes, without undermining overall viability. As set out in PS/H/20 and the accompanying topic paper, a tariff approach on commercial development in the CAZ, in line with the definition in the council's CIL Charging Schedule, is now proposed, underpinned by updated viability testing.

### Other housing policies

18.9 No impacts identified.

## **Economy and employment policies**

### Policy 14 (Supporting economic growth)

18.10 As set out in PS/EE/24, PS/EE/25, PS/EE/26, PS/EE/27, PS/EE/28, PS/EE/29, PS/EE/30 and M/EE/02, a number of modifications are now necessary to:

- reflect the scope that now exists for conversion of office space to other Class E uses without planning permission;
- refer to the use of conditions as a means of ensuring that where new office floorspace is proposed in a planning application, it can (on a case by case basis) be protected for such purposes, in order to support central London's global office function and recognise that other uses within Class E may result in different servicing and amenity impacts that need to be considered;
- ensure protection still exists against large-scale loss of office floorspace from the CAZ to residential or hotel development, in order to protect the global office function of this part of central London in accordance with the London Plan. Proposed wording responds to evidence of large scale losses of office floorspace to the identified uses, as set out in paragraph 6.8.3 of EV\_H\_013 Housing Supply Topic Paper Addendum, and paragraph 4.11 of E\_V\_E\_002 Economy and employment topic paper.

18.11 In addition, whilst not related to changes to the Use Classes Order, some aspects of modifications PS/EE/24 and PS/EE/27 have also been proposed to address issues raised by Pimlico and Knightsbridge Neighbourhood Forums in their responses to MIQ Matter 5 regarding the need to avoid the commercialisation of those parts of the CAZ that are largely residential in character in order to protect residential amenity. Proposed modifications also

seek to recognise that there are some parts of the CAZ that are not captured by the town centre hierarchy (i.e. are not designated as CAZ Retail Clusters, International Centres, local centres, or within the WERLSPA), that have a commercial character, role and function, that should be maintained.

#### Policy 15 (Town centres, high streets and the CAZ)

18.12 Modifications PS/EE/31, PS/EE/32, M/EE/03, PS/EE/34, PS/EE/35, M/EE/04, M/EE/05, M/EE/06, PS/EE/36, PS/EE/38, PS/EE/39, PS/EE/40, PS/EE/41 and PS/EE/42 are now necessary to:

- reflect that A1 retail can no longer be protected from change of use to other uses within Class E;
- clarify the council's vision and ambitions for different centres in town centre hierarchy given that a distinct approach to levels of A1 retail protection within different centres can no longer be applied;
- refer to the uses of conditions as a means of ensuring that where new retail floorspace is proposed in a planning application it can, on a case by case basis, be protected for such purposes, in order to support the role and function of the relevant centre, and recognise other uses within Class E may result in different servicing and amenity impacts needing to be considered;
- ensure proposals for Class E developments outside of the town centre hierarchy cannot be used as a means of circumventing requirements for retail impact assessments;
- recognise the scope that now exists for isolated convenience stores (that do not meet the definition of F2 local community uses) and units in small undesignated parades, to be used for a variety of purposes under Class E.

18.13 In addition, whilst not related to changes to the Use Classes Order, modification PS/EE/33, and elements of modification PS/EE/41 have also been proposed to Policy 15 and its reasoned justification to respond to issues raised by Pimlico and Knightsbridge Neighbourhood Forums in their MIQ Matter 5 responses - regarding the need to avoid the commercialisation of those parts of the CAZ that are largely residential in character. Modification PS/EE/37 has also been proposed in response to issues raised by Knightsbridge Neighbourhood Forum regarding Knightsbridge International Centre.

#### Policy 16 (Visitor economy)

18.14 No impacts identified.

#### Policy 17 (Food, drink and entertainment)

18.15 Modifications PS/EE/50, updated M/EE/10, and PS/EE/52 are now necessary to recognise that it is no longer possible for the council to limit over-concentrations of restaurants and cafes, as increases in their supply can now

occur without planning permission through the conversion of a wide variety of premises also falling within Class E such as retail and office floorspace. Policy therefore now focusses on the over-concentration of uses that can be more effectively controlled as a result of being classified as sui generis. Further modifications PS/EE/48, PS/EE/49, and PS/EE/51 have also been proposed or updated in response to issues raised by representors.

#### Policy 18 (Community infrastructure and facilities)

18.16 Modifications PS/EE/43 and PS/EE/44 are now necessary to:

- refer to the uses of conditions as a means of ensuring that where new community infrastructure and facilities are provided that fall within Class E, their later loss to other uses will require planning permission; and
- recognise that there are limitations on the extent to which some forms of community infrastructure and facilities (e.g. medical facilities) can now be protected, given the scope that now exists for them to be converted to other Class E uses such as retail and offices without needing planning permission.

#### Policy 19 (Education and skills)

18.17 No impacts identified.

#### Policy 20 (Digital infrastructure, information and communications technology)

18.18 No impacts identified.

#### Policy 21 (Soho Special Policy Area)

18.19 In line with modifications to policy 17, modifications PS/EE/45 and PS/EE/46 are also now necessary to recognise that it is no longer possible for the council to limit over-concentrations of restaurants and cafes, as increases in their supply can now occur without planning permission through the conversion of a wide variety of premises also falling within Class E such as retail and office floorspace. Policy therefore now focusses on the over-concentration of drinking establishments and hot food take-aways – uses that can be more effectively controlled as a result of being classified as sui generis.

#### Policy 22 (Mayfair and St James's Special Policy Areas)

18.20 Further amendments beyond those put forward in the council's response to MIQ Matter 5 are now required. Modifications M/EE/19 and PS/EE/53 now clarify the role of conditions in protecting uses that are secured through redevelopment proposals that are important to the character of these SPAs.

### Policy 23 (Harley Street Special Policy Area)

18.21 Further amendments beyond those put forward in the council's response to MIQ Matter 5 are now required. Modifications PS/EE/20 now reflect the extent to which medical facilities can be protected now that they will largely fall within Class E, and to set out the intention to limit the conversion of new facilities to other uses within Class E.

### Policy 24 (Savile Row Special Policy Area)

18.22 Further amendments beyond those put forward in the council's response to MIQ Matter 5 are now required. Modifications PS/EE/21, PS/EE/47, and PS/EE/23 now ensure policy better recognises the scope that exists for a variety of Class E uses beyond retail and offices that now exists within the SPA.

### **Glossary**

18.23 Several updates to definitions to the glossary are now required to remove references to use classes that have been removed as set out in modifications PS/G/09, PS/G/10, PS/G/11, PS/G/12, PS/G/13.

18.24 Modification PS/G/14 has also be proposed to align with proposed modification M/DH/33 to Policy 42 as this modification was missed in error in the last schedule of proposed modifications.