

**Westminster City Plan 2019-2040 – Examination in Public
Response to Inspector’s Matters, Issues and Questions**

Matter 5 – Economy and Employment

Policy 22 – Mayfair and St James’s Special Policy Areas

Question 33 – Is it sufficiently clear how the policy will be implemented in practice? In particular how will judgements be made in relation to the effect of development on the character and status of the areas?

1. No. In land use terms, the Policy as drafted risks the decision maker making a planning judgement based on potential commercial occupiers. This is not a matter for the planning system.
2. No other guidance is provided as to how development should complement, support and enhance the character and status of the areas.
3. Whilst the full effects of the structural change that is being caused to retail and town-centre type uses by Covid-19 are not clear, more, rather than less, flexibility is likely to be required in order to maintain active and interesting retail-type uses, even within central London. Introducing additional restrictions is unlikely to support the retention of active, interesting, ground floor uses that support the character of an area.

Question 34 – Is the approach to the loss of gallery floorspace justified and is the policy sufficiently flexible?

4. No. The justification inferred is that art galleries contribute to the character and status of the SPAs as centres for the art trade and luxury retail, and therefore net loss of gallery floorspace should be resisted. No empirical evidence has been provided in the Special Policy Area evidence base document to justify the policy approach, aside from evidence that several art galleries and antique traders are present in the area.
5. The Estate has previously raised concerns to WCC¹ about the principle of using a SPA to encourage clustering and effective business development. In fact, the protection of certain uses acts as a disincentive for these uses to flourish where there may be demand. This in turn is at odds with the policy intent to support the areas as centres for the art trade. This is demonstrated in the Estate’s representations² which show the ‘unintended consequences’ of existing policy. This has resulted in potential gallery occupiers being turned down for fear of open A1 retail use being converted to gallery use and then subject to additional protection.

¹ Contained in the representations to the City of Westminster’s Local Plan Booklet No.4 “Mayfair & St James’s” (dated 13 February 2014)

² Contained in the representations to the Regulation 19 Publication Draft City Plan 2019 – 2040 (dated 30 July 2019)

The existing, and proposed, policy has, therefore, not been effective in achieving additional uses of this type.

6. In addition, the Pollen Estate is a committed landowner whose ambition is for Cork Street and the surrounding streets to remain a world-renowned art destination. With a SPA in place, this limits the ability of the Estate to manage and control its properties in order to ensure that the area is successful and complementary to the rest of the London Luxury Quarter³.
7. As drafted, Part (B) would make Policy 22 unsound. This is because preventing the loss of space would prevent the promotion and delivery of additional space, contrary to the objectives of the policy.
8. Should Part (B) remain, the Policy should be more flexible to address this potential for unintended or counter-productive consequences.
9. Given that antique traders, existing niche luxury and specialist A1 retailers are identified in Part (C) as complementing the character of the SPAs, Part (B) should be amended to allow changes of use from art galleries to these uses. It is noted that Part (B) has been amended in the Schedule of Minor Modifications to reflect the point regarding antique traders, which is welcomed. This approach should be adopted for existing niche luxury and specialist A1 retailers.
10. Part (B), in respect of the Mayfair SPA, should therefore be reworded as follows:

B. Additional floorspace for use as art galleries and antique trading is supported in principle within both SPAs. The net loss of gallery floorspace from the Special Policy Areas that existed at the point of adoption of this plan will be resisted, except when changed to another antiques use, niche luxury or specialist A1 retailer use.
11. This would ensure that the policy is deliverable.
12. It is recognised that the intention of Part (C), and paragraph 22.5, is to protect existing luxury, niche and specialist retail, and galleries, including when sites containing such uses come forward for redevelopment. This approach strikes an appropriate balance and we support this wording. It should not be extended to requiring that new Class A1 space introduced into the area should necessarily be subject to controls, through conditions / s106 obligations.
13. The changes to the land use swaps text in the Implementation section as set out in the Schedule of Minor Modifications are welcome in that they have been made to be clear that land use swaps will be acceptable in principle across the City.

³ London Luxury Quarter as defined and referred to in the February 2014 representations

Question 35 – In overall terms does the policy set out a justified and effective approach, which is consistent with national policy?

14. No. Art galleries, niche luxury, specialist A1 retailers and antique traders would all likely fall under Use Class A1. No reference is made in the Use Classes Order (1987) or any other relevant legislation that these uses should be treated distinctly and separately from other Class A1 uses.
15. The NPPF seeks to promote strong and competitive economies and proactively encourage sustainable economic growth. Whilst the intentions of Policy 22 are to encourage the art trade, in reality, the Policy restricts the ability of the areas to respond to market demand and be economically strong.
16. The reputation of the Mayfair SPA as a centre for the art trade will drive demand for art galleries and similar uses in this area. However, placing restrictions on existing uses not only limits the ability for the SPA to evolve in line with market demand, it also disincentivises the exact type of uses which the City Council is seeking to protect and enhance.

Question 36 – Are the proposed modifications necessary for soundness? Are any other modifications necessary?

17. It is considered that the principle of the SPA policy does not meet the tests for soundness, in that the policy is not positively prepared, justified or consistent with national policy. The policy would stifle economic growth and therefore is not in line with the strategic economic objectives set out in the NPPF. Whilst the Special Policy Areas topic paper submitted as evidence shows that art galleries / antique traders are present in Mayfair, no evidence is provided as justification for why a SPA is an appropriate tool.

Policy 24 – Savile Row Special Policy Area

Question 40: Is it sufficiently clear how the policy will be implemented in practice? In particular how will judgements be made in relation to the effect of development on the role, character and function of the area?

18. No. In land use terms, the Policy as drafted risks the decision maker making a planning judgement based on potential commercial occupiers. This is not a matter for the planning system.
19. The supporting text at paragraph 24.4 is vague with references to 'bespoke items', which is not a defined term and one which will lead to confusion for decision makers, landowners and tenants. It should not be the role of the planning system to dictate what shops can sell.

20. Uncertainty and disruption within the retail sector caused by Covid-19 is likely to make attempting to identify the appropriate type of commercial occupiers for the area within the Plan, for the plan period, even more challenging. Ultimately, this is unlikely to be effective.
21. It is not necessary for the Policy's supporting text (at paragraph 24.4) to place a restriction on the size of retail units by way of legal agreement. This size limit is not in-keeping with the retail and architectural character of the street and is considered unnecessarily restrictive. For example, along the street, retail units at numbers 2, 10, 11, 14 and 30 Savile Row are well in excess of 300 sqm (495 sqm, 393 sqm, 430 sqm, 743 and 400 sqm respectively). The tailoring unit at 9 Savile Row also slightly exceeds 300sqm, measuring around 340 sqm.
22. It is suggested that Part (B) of the Policy be amended as follows:

“B. New bespoke tailoring uses will be supported, particularly at lower floor levels. Any new retail or complementary town centre uses will be of a scale that respects the unique role, character and function of the area.”

Question 41: Is the approach to the loss of dedicated tailoring floorspace justified and is the policy sufficiently flexible, including in relation to the size of new retail uses?

23. No. The justification appears to be based on the London Plan classification of the area as a specialist cluster and demand for tailoring floorspace within the area being strong. The statement on demand does not appear to be supported by any evidence. The justification goes on to state that the reason for the resistance to net loss is to enable the tailoring industry to **“thrive and grow”**.
24. The Estate has previously raised concerns to WCC⁴ about the principle of using a SPA to encourage clustering and effective business development. In fact, the protection of certain uses acts as a disincentive for these uses to flourish where there may be demand. This in turn is at odds with the policy intent to support the areas as centres for the tailoring industry. This is demonstrated in the Estate's representations⁵ which show the 'unintended consequences' of the Policy which resulted in potential tailoring occupiers being delayed in their occupation of units to ensure that the units they were going would not, as a result, be subject to future restrictions on their use and flexibility as a result of the SPA policy. The Estate's July representations set out clear examples of the challenges this has caused to the letting of additional space to tailoring uses.
25. In addition, the Pollen Estate is a committed landowner whose ambition is for Savile Row and the surrounding streets to remain a world-renowned tailoring destination. With a SPA in place,

⁴ Contained in the representations to the City of Westminster's Local Plan Booklet No.4 "Mayfair & St James's" (dated 13 February 2014)

⁵ Contained in the representations to the Regulation 19 Publication Draft City Plan 2019 – 2040 (dated 30 July 2019)

this limits the ability of the Estate to manage and control its properties in order to ensure that the area is successful and complementary to the rest of the London Luxury Quarter⁶.

26. The Pollen Estate therefore considers that Part (C) of Policy 24 should be removed as it would make the policy ineffective. This is because similar provisions within the adopted City Plan have been shown to be ineffective, as they have prevented or delayed the delivery of additional space.
27. Should Part (C) remain, the Policy should be made more flexible to try and combat the counter-productiveness as set out above.
28. It is noted that the November 2018 version of the draft City Plan included wording which set out that tailoring uses could be removed where evidence of vacancy was been provided. Whilst this approach would not provide the necessary flexibility that the Estate requires to encourage and enable the introduction of new tailoring uses, it would provide a small element of flexibility. It is disappointing that this has been removed from the submission version of the City Plan.
29. Part (C) should be amended as follows:

“C. The net loss of dedicated tailoring floorspace from the SPA that existed at the point of adoption of this Plan will be resisted. Its loss will only be permitted where there is no reasonable prospect of its continued use, as evidenced by vacancy and appropriate marketing for a period of at least 18 months.”

30. This would allow additional space to be provided for tailoring uses without becoming subject to additional protection, whilst seeking to protect the existing amount of tailoring space.

Question 42: Are any modifications necessary for soundness?

31. The principle of the SPA policy does not meet the tests for soundness, in that the policy is not positively prepared, justified or consistent with national policy. The policy would stifle economic growth, therefore it is not in line with the strategic economic objectives set out in the NPPF.
32. Whilst the Special Policy Areas topic paper submitted as evidence shows that tailors are present in Savile Row, no evidence is provided as justification for why a SPA is an appropriate tool.
33. As described above, the policy is unlikely to be effective as it will discourage additional space from being provided for tailoring uses.

⁶ London Luxury Quarter as defined and referred to in the February 2014 representations