



Historic England

Examination of the Westminster City Plan 2019-2040
Matter 3 – The Spatial Strategy and Spatial Development
Priorities
Historic England, Hearing Statement
25/06/2020

Historic England is the principal Government adviser on the historic environment, advising it on planning and listed building consent applications, appeals and other matters generally affecting the historic environment. Historic England is consulted on Local Development Plans under the provisions of the duty to co-operate and provides advice to ensure that legislation and national policy in the National Planning Policy Framework are thereby reflected in local planning policy and practice.

The tests of soundness require that Local Development Plans should be positively prepared, justified, effective and consistent with national policy. Historic England's representations on the Publication Draft Local Plan are made in the context of the requirements of the National Planning Policy Framework ("the Framework") in relation to the historic environment as a component of sustainable development.

Historic England Hearing Statement

Introduction

- 1.1 This statement addresses the Inspector's questions with regards Matter 3, policies 1-7
- 1.2 This hearing statement should be read alongside Historic England's comments submitted at previous consultation stages of the Local Plan.

Inspector's Questions Matter 3

Issue: Whether the Spatial Strategy and policies for the Spatial Development Priorities are justified, effective, consistent with national policy and in general conformity with the London Plan.

Questions 1) What is the basis for the principles set out in Part A of Policy 1 and are they justified?; and 3) How do they align with the London Plan?

- 2.1 The draft plan does not contain a clear strategy to support the proposed level of growth while conserving the historic environment as required by the draft new London Plan and NPPF. This relatively limited consideration of heritage is symptomatic of the plan generally. We direct the Inspector's attention specifically to draft new London Plan (LP) policies¹ GG2; D1 part A (3, 7, and 12); part B (1 and 3); D3; and HC1; and adopted London Plan policies 7.4; 7.8; and 7.9². In our view, the approach to spatial development set out in the plan conflicts with the above policies and NPPF paragraphs 16, 20, 35, 124, and 185, and as such the plan will be unable to deliver sustainable development as understood by paragraph 8 of the NPPF. The plan is therefore unsound.

- **Policy 1 (part A, 1)** seeks to reflect draft new LP policy GG2 in terms of supporting higher densities. However, the overall aspirations of GG2 are to make the best use of land, in order to make places better for the people who use them, rather than merely increasing densities. Draft new LP policy GG2 tells us that this requires a design-led approach to determine optimum site capacity, and requires an understanding about existing places and character. Draft new LP policy GG2 is explicit that making the best use of land is more than just densification, and this important nuance is missing from policy 1. Policy 1 (part A, 1) does not

¹ Intend to Publish London Plan 2019 <https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/intend-publish-london-plan-2019>

² Consolidated adopted London Plan 2011

https://www.london.gov.uk/sites/default/files/the_london_plan_2016_jan_2017_fix.pdf

align policy GG2 as it will inadvertently promote a type of development i.e. densification, in isolation of the other qualities policy GG2 sets out as being necessary for good growth.

- Draft new LP policy D1 part B, requires boroughs to use the findings of area assessments to identify suitable locations for growth, and to follow a design-led approach (as set out in draft new LP policy D3). This is to establish optimised site capacities for site allocations. This demonstration of understanding of place and character is missing from Westminster's plan and its evidence base. The draft new LP paragraph 3.1.4 states that this analysis will be fundamental to inform decision making on how places should develop, speeding up the Development Plan making process, bringing about better quality development, and speeding up planning decision making by providing an easily accessible knowledge-base about an area.
- **Policy 1 (part A, 1)** places an emphasis on the use of modern architecture and implies that modern architecture is the preferred way for development to make the most efficient use of land and support intensification. However, the multidimensional issues that draft new LP policy GG2 seeks to address cannot be reconciled through architecture alone if the developments are not in the best places or do not have appropriate site capacities in the first instance. Policy 1 does not recognise the benefits of design alternatives to modern architecture. In some cases traditional architecture may be an appropriate response to context. Design and architecture should relate well to the site, and its local and wider context, while this will include modern buildings the plan should not focus on discouraging one style over another as this undermines a contextual approach to new development.
- **Paragraph 1.4** of the supporting text cements the conflicting slant of policy 1 by saying that developers are encouraged to combine sites "as this offers greater potential to increase the scale and mass of buildings through exemplary design". This does not defer to the need for design to respond to context or local character, but instead encourages development that is likely to undermine that local character. No indication as to what exemplary design is provided in the plan, how it will be tested or if exemplary design is a minimum requirement generally. This is a plan conflict with NPPF paragraph 124.
- **Policy 1 (part A, 7)** - we welcome the inclusion of this policy criterion as modified (M/S/03). However we remain concerned that other

aspects of the spatial framework and policy 1 will undermine the ability of this to be fully implementable.

- **Policy 1 (part A, 8)** we refer the Inspector to our Regulation 19 representation. It is still not clear what is intended with regards to the North bank or what area this specifically relates to.

6) What is the background to and justification for the area based approach to growth set out in Part B of Policy 1?

2.2 The evidence to justify the proposed area based approach is inadequate as no heritage or character assessments have been provided to support the growth options set out in the plan. While we agree that further intensification within Opportunity Areas and Housing Renewal Areas is appropriate, subject to the protection of heritage, the draft plan does not adequately set out how the growth within Opportunity Areas will be managed in terms of building heights. Furthermore sites outside these areas appear to be allocated for intensive regeneration, this is not justified.

- The majority of allocated sites within the growth areas and Key Development Sites have not been tested in the Building Heights Study. This could impact upon the level of growth that could realistically be delivered sustainably.
- Key Development Sites are labelled differently in the Building Heights Study tests making comparison difficult and causing unnecessary confusion.
- Key Development Sites with very high heritage sensitivities have not been tested despite these being outside the areas broadly identified as appropriate for tall buildings e.g. Hyde Park Barracks: Queen Alexandria Hospital.
- The draft plan policies are ambiguous and there is no link between this policy and policy 42 which sets approximate heights for these areas. The policy wording is unclear e.g. “tall buildings *may* be acceptable *in this area ...*”, it does not say on which sites tall buildings will be acceptable or at what height as required by draft new London Policy D2. The implication is that they could go anywhere.
- The Buildings Heights Study is not robust. For example the Victoria Opportunity Area (see tested views pg. 51 onwards in Westminster

Building height Study Appendix³. Site V1 (as labelled in Westminster Building height Study Appendix) appears to be site 16 in the draft Plan (or Terminus Place, see pg. 41 draft Reg 19 plan). The Buildings Height Study tests only this site when the plan allocates 5 additional sites in the immediate vicinity. It is not clear why only 1 of these 6 sites has been modelled for height testing, and would suggest that cumulative impacts have not been factored in.

- The Commercial Growth Topic Paper (June 2019) talks about scenario testing in terms of delivering additional growth through increased building heights. The results of the scenario testing are provided but the actual assessments are not. The Topic Paper states that the setting of listed buildings and conservation areas has not been identified as a constraint for the purposes of scenario testing. This is a major flaw in the evidence as it is the setting of heritage assets that is often most vulnerable to tall building development.

Opportunity Area Boundaries

- The initial Regulation 19 draft of the plan involved expanding the Victoria Opportunity Area further towards several conservation areas, listed buildings, and to abut the Westminster World Heritage Site (WWHS) boundary. However there was no indication in the plan that this was to occur, and there was no evidence to support this change so it was easily missed. We now note that the boundary will no longer be changed and will remain the same as that adopted in 2016⁴. Clarification is required as to what the plan's intentions are towards Opportunity Area boundaries. If Opportunity Area boundaries next to the WWHS are going to change we would like to see a Heritage Impact Assessment looking at the options and potential impacts to avoid any harm occurring to the site's Outstanding Universal Value (OUV).

12) What was the intended purpose of including the Key Development Sites in Appendix 1 and referring to them in Policy 1? What is their status in terms of allocations and what evidence is there to support their inclusion for example in terms of flood risk and the effect on heritage assets?

³ Exam ref. EV_DH_005 - Building height study appendix, Urban Initiatives for WCC, June 2019
https://www.westminster.gov.uk/sites/default/files/ev_dh_005_building_height_study_appendices_urban_initiatives_for_wcc_june_2019.pdf

⁴ Exam ref. CORE-005, Schedule of Changes to Policy Map, November 2019
https://www.westminster.gov.uk/sites/default/files/core_005_schedule_of_changes_to_the_policies_map_wcc_november_2019.pdf

Status of Key Development sites in Appendix 1:

- 2.3 The Key Development Sites in Appendix 1 are identified sites which have been assigned a development capacity in the plan. The development capacities assigned are necessary to demonstrate housing target delivery. Therefore these are allocated sites.
- 2.4 It is clear that the Key Development Sites are a strategic part of the plan and so more detailed site specific policies are required. Policy 1 part B (5) of the initial regulation 19 draft plan originally confirmed that the key development sites in Appendix 1 are a strategic component of the plan. Policy 1 is identified as a strategic policy in Appendix 3.
- 2.5 In April 2020⁵ the Council produced further modifications to remove the term “Key Development Sites” from the plan. This does little to prevent the inclusion of these sites being interpreted as anything other than allocations. Indeed they must be considered allocations in order to comply with draft new London Plan policy H1, which requires development plans to allocate sites to ensure that ten year housing targets are achieved, and NPPF paragraph 23. The sites are specific and the plan sets in principle development capacities and therefore they will be interpreted as allocations. If the Appendix 1 sites are not allocations then sites with ‘no planning status’ should be removed entirely. It should also be noted that some of the sites with ‘no planning status’ are those identified by the Council’s own evidence as having high heritage sensitivities e.g. Queen Alexandra Hospital.

Evidence:

- 2.6 There are serious shortcomings in the evidence used to support the inclusion of the sites set out in Appendix 1 in the plan in relation to heritage. The evidence that has been produced is inadequate and not proportionate; the plan is not justified in this respect (NPPF paragraph 35).
- First, there is a lack of evidence. The evidence topic papers submitted by the Council state that an assessment that considered heritage, character, and townscape was carried out. However, this assessment has not been provided or submitted. As such we cannot see how this was done to confirm whether heritage issues were appropriately considered, nor can we see how conclusions were drawn. The Housing Topic Paper⁶ (Nov 2019) states that massing and footprint sketches were produced as part of the site suitability assessment (see pg. 51) alongside high-level design assessments (pg. 52), but none of this has

⁵ Exam ref. CORE-025-V2 Revised Schedule of Modifications April 2020
https://www.westminster.gov.uk/sites/default/files/uploads/core_025_v2_revised_schedule_of_modifications_april_2020.pdf

⁶ Exam ref. EV-H-001 Housing Topic Paper (November 2019)

been provided to substantiate the plan. It is noted that the Topic Paper refers to the sites as allocations.

- We note that an additional Housing Supply Topic Paper Addendum (Exam ref. EV-H-013⁷) dated March 2020, has been submitted to the Examination by the Council. However this provides no additional detail regarding the site assessments. It continues to say that site assessments had regard to heritage; the implication is that this work has been done so it is unclear why the assessments have not been produced.
- Second, the Appendix 1 sites and associated site capacities were set out in the pre-regulation 19 draft plan (2018) which pre-dates The Tall Buildings Study of June 2019, and yet the sites and their capacities remain the largely the same (in some cases the capacities have increased). We are unclear how site suitability can remain largely unchanged despite the production of a crucial piece of evidence relating to building heights.
- Third, The London SHLAA (2017)⁸ confirms that LPAs can review or amend the default densities and site capacities set out by the Mayor to account of heritages assets within or adjacent to sites. Additionally it confirms that sites can be excluded altogether where harm to heritage assets would be caused. The evidence does not show how or if site capacities have been amended to ensure development can be delivered while conserving the historic environment.
- Fourth, the WCC Housing Topic Paper (Nov 2019) confirms that Key Development Sites which had very high heritage sensitivities were identified. Yet they have still been carried through into the plan and development capacities set. The same document tells us further heritage assessment is required but that this will be deferred to the Site Allocations DPD. This approach promotes a spatial approach based on the retrospective gathering of evidence. We do not think that is an appropriate approach when considering sites that affect listed buildings, Conservation Areas, Registered Parks and Gardens, Scheduled Monuments.

2.7 The inclusion of the Key Development Sites and approach to areas based growth is without evidence and therefore is unjustified and does not comply with the draft new LP. Given the extremely high sensitivity of Westminster's

⁷ Exam ref. EV-H-013 Housing Supply Topic Paper Addendum (March 2020)
https://www.westminster.gov.uk/sites/default/files/uploads/ev_h_013_housing_supply_paper_wcc_march_2020.pdf

⁸ Exam ref. EV-H-009 Parts 2.40; 2.61; 2.100; 2.108

heritage Historic England is very concerned that sites would be allocated without evidence to show how they can be developed while conserving the historic environment.

15) Are the proposed modifications necessary for soundness?

2.8 **M/S/03⁹ (regarding policy 1 part A (7))** – this proposed modification is required to make reference to “setting” as set out in with the 1990 Act, NPPF, and draft New London Plan policies.

2.9 **All modifications Appendix 1¹⁰** - It is not entirely clear what the proposed modifications to Appendix 1 are, but changes to wording and titles is not enough to address the fundamental issue of the plan’s evidence base and so do not make the plan sound in this respect. If the Council does not intend the Key Development Sites to be allocations then any reference to individual sites in Appendix 1, with assigned development capacities and “no existing planning status”, should be deleted. Otherwise the plan is ambiguous, contrary to NPPF paragraph 16, and therefore potentially harmful to the historic environment.

16) What role will the Site Allocations DPD have in relation to these sites?

2.10 It is stated that a Site Allocations DPD will be produced to evidence the sites and to include specific development criteria. Deferring this type of information to a DPD when the plan itself sets in principle site capacities raises serious concerns. The production of a DPD will take time and so there will be a gap between the adoption of the plan and the DPD when there will be no detailed guidance or policy basis to manage the development of these (potentially highly sensitive) sites. Inadequate evidence has been provided to support the in principle site allocations and we do not consider it appropriate to produce this information retrospectively. We are not convinced that other the plan policies are strong or clear enough to work in tandem with Appendix 1 to ensure that these sites can be developed sustainably in period where there is no DPD.

Conclusion

3.1 Westminster has an exceptional historic environment. Over 70% of the city is covered by conservation areas: it contains 1 of only 17 cultural WHS’s in the

⁹ Exam ref CORE-025 v2

https://www.westminster.gov.uk/sites/default/files/uploads/core_025_v2_revised_schedule_of_modifications_april_2020.pdf

¹⁰ As set out in Exam ref CORE-025 v2

country; by the Council's reckoning there are over 11,000 listed buildings; it contains five Royal Parks; contains 1 of only 17 cultural WHS's in England; and has innumerable non-designated assets¹¹. The combination of high heritage significance and almost unique development pressures (as illustrated by WCC regularly being the LPA with the highest number of planning applications in the country, particularly affecting heritage) means that there is a very high risk attached to a poor policy response for spatial development.

- 3.2 The draft Plan does not set out a positive strategy for the conservation and enhancement of the historic environment; it is not justified by reason of a lack of evidence; nor is it compliant with national policy. The plan contains ambiguities which mean that it is not clear how applicants or decision makers should react to development proposals e.g. where tall buildings can go; sites with assigned dwelling figures. The plan does not conform with NPPF paragraphs 16, 20, 35, and 185, or the draft New London Plan policies GG2; D1 part A (3, 7, and 12); part B (1 and 3); D3; and HC1; or adopted London Plan policies 7.4; 7.8; and 7.9; and is therefore unsound.

¹¹ these are shown in CA Audits as unlisted buildings of merit