

APPENDIX – STATEMENT – SHAFTESBURY Plc

Matter 5 – Economy and Employment (Policies 14, 15, 17 and 21)

Policy 14 – Supporting Economic Growth

Q.1 What is the evidence in relation to future jobs growth and the need for employment floorspace and does the policy reflect this?

We consider that the “measurement of success” or objective of Policy 14 to be ambiguous. The policy text refers to the plan’s target to deliver 63,000 jobs – this target is supported by other policies such as Policy 1, and ultimately this aspiration is for more jobs, rather than just delivering more floorspace which appears to be the main driver.

The ambiguity stems from paragraph 14.2, which details the estimated amount of office accommodation required to support this growth. The estimates have a huge variation of between 179,000sqm and 710,000sqm, with the target set rather crudely in-between at 445,000 sqm. Understandably the policy text details that the world of work is changing particularly with more people working from home and the move away from hot desking – where it was assumed more jobs may very well be delivered with less floorspace, this could change. Given the draft City Plan has given itself such flexibility in its estimate of the amount of office floorspace required, it is unclear why the policy text has adopted such inflexibility over the protection of office floor space.

The Plans position on the strong protection of office floorspace, and the ambitious targets to deliver an additional 445,000sqm is however fundamentally undermined by the policy approach in draft Policy 10 which seeks to capture housing contributions on any scheme which would in excess of 1,000sqm of new office floorspace. (See questions 30 and 31 under Matter 4).

COVID-19

The inflexibility regarding the protection of office floorspace should be given further consideration particularly as the question remains over what the office market will look like in a post COVID-19 market. The policy therefore needs to be able to react to such moving trends.

Q.4 Is the approach to the loss of floorspace set out in Parts D and E of the policy justified and effective?

The WERLSPA identifies 124,000 jobs over the plan period, which while shared with the London Borough of Camden, does mostly fall in within Westminster. While not all of these jobs would be office based, as per the 63,000 job target, it is clear the plan is relatively successful in identifying employment opportunities in the City. Therefore, the City Plan does not therefore need to be quite as protective over office use as proposed, particularly in consideration that delivering housing is a prime objective of the plan.

Under the existing City Plan, we have often had difficulty with planning applications that propose the change of use of small office units, (generally 30-100 sqm) to other uses that would optimise the use of that particular property and keep it occupied for either an alternative commercial use or for residential. Many Shaftesbury properties in the CAZ have complex mixed land uses often for historic reasons, where a different land use may be present on each floor of a building. This can create a situation where some floorspace can be 'trapped' in the property and prevent optimisation of the whole property if a too rigid 'numerical' approach to the replacement of land uses is taken. Draft Policy 14 retains this inflexibility and will therefore compromise optimisation, could exacerbate vacancy and prevent sensible development proposals from being supported.

Part D.3 of the policy is not fully justified. Why after completing an extensive 18 month vacancy exercise, should only educational, community or hotel uses be permitted as alternative uses? Surely after such marketing all alternatives should be considered to facilitate the efficient use of the building. Subject to other policy considerations it would make sense to include other commercial uses and residential as viable options?

Notwithstanding the above, it is considered that the 18 month marketing period (in this and other policies) is excessive. 12 months is the applied marketing period recognised by many other London boroughs, and the draft London Plan (in **Policy E1 Offices** at paragraph 6.1.7) reinforces this by seeking only a minimum of 12 months.

The following amended wording is proposed to Part D of Policy 14:

D. Proposals involving the net loss of office floorspace from the CAZ ~~will only~~ **may** be acceptable in **any of** the following ~~exceptional~~ circumstances:

1. the proposal is **for residential use** in a predominantly residential area **or building; or** ~~and would re-instate an original residential use~~
2. **the proposal would re-instate an original residential use; or**
3. any loss of floorspace is necessary as part of the renewal of outdated stock to secure a high-quality office development with ancillary facilities that meets the needs of modern working practices; or
4. the proposal is for the replacement of ground floor office space within the town centre hierarchy with an A1 or complementary town centre use; or
5. **The applicant can satisfactorily demonstrate that the loss of floorspace will either re-provide the same number or increase the number of jobs originally provided for; or**
6. there is no interest in the continued use of the site for office purposes, as demonstrated by vacancy and appropriate marketing for a period of **12** ~~18~~ months. The priority uses for the replacement floorspace will be educational, community, ~~or~~ hotel, **other commercial uses or residential use where appropriate.**

COVID-19

As central London emerges from lockdown, it is hard to know how demand for all types of space will materialise, but we do envisage some change to the pre-COVID situation. Ultimately the new Plan will need to be agile to respond to how the pandemic has affected activity, viability of uses and

Policy 15 - Town centres, high streets and the CAZ

Q.6 What is the evidence in relation to the need for additional retail floorspace?

In recent years, Shaftesbury has adapted retail floor space in response to retailers who have seen their need for large floor space reduce, but still seeing it necessary to have some bricks and mortar presence. This has led to some retailers requesting a reduction in space. With a reduction in demand for large retail space, it is always useful to be able to repurpose space for uses that maintain the activity and vibrancy of the area, but that may not necessarily be traditional retail uses.

COVID-19

The evidence may soon become obsolete in the wake of the COVID-19 pandemic and the plan may not have sufficient flexibility which would allow the policy to adapt to market trends over the course of the plan period should the need for additional retail floorspace plateau or reduce.

Q.8 What is the basis of the Town Centre hierarchy and are the boundaries of the areas appropriate and justified?

We support the revisions made to the CAZ Retail Cluster Boundaries, particularly with regards to Charlotte Street/Fitzrovia which has been completely removed.

Q.10 Is the approach to the protection of A1 uses and the introduction of other uses justified and sufficiently flexible?

COVID-19

The requirement for marketing for a period of at least 18 months to demonstrate no reasonable prospect of a units' continued use for A1-retail purposes should be reconsidered in relation to the CAZ Retail Clusters, particularly in the light of the rapidly evolving retail market and given that the impact of the current pandemic on the retail industry is unknown.

Whilst there is the opportunity of permitted development rights to enable units to operate for alternative uses for 3 years, this is often an insufficient period of time for an occupier to obtain funding and/or invest fitting out a unit for a temporary period. Given the unknown longer term impact on the high street from the pandemic, having the ability to allow longer temporary permission of 5 years or greater flexibility on uses following a shortened marketing period would be welcomed.

Policy 17 - Food, drink and entertainment

Q.17 Is the approach to food and drink and entertainment uses justified? How will it be implemented in practice in respect of the issue of over-concentration and how will this be defined?

There is no clear guidance on what constitutes *over-concentration*, the policy leaves it open to interpretation by the Council for each new entertainment use, which can lead to inconsistency of decision making or influence.

Historically the council has designated the entire West End as a 'Stress Area' and set significant restrictions on new larger (over 500sqm) entertainment uses.

Whilst the current policy has its limitations it at least provided some structure to its application based on the proposed size of units (UDP Saved Policies TACE8, TACE 9 and TACE 10). Whilst the content of this policy is now outdated there is a concern that the draft policy is far too subjective and that applications which would have previously been considered relatively acceptable, may now become contentious and more open to challenge.

The policy should recognise that the West End, Soho and Chinatown have a concentration of such uses, which are an essential part of the character of these areas and their continued presence should be supported.

It should focus on the need for sound management of the use and premises and should look to mitigate any impact on nearby residential uses. The policy should require applications to include details such as capacity/no. of covers and opening hours of any new uses, and should appropriately consider its impact on residential amenity or the highway, i.e. servicing, patron and staff management etc.

Overall the wording of the policy is overtly negative, and doesn't address the significant economic and cultural contribution that the role of restaurant and other entertainment uses bring to Westminster, the West End and Soho in particular. The retail market is recognised to be struggling and yet it remains the council's aim to prioritise active ground floor uses throughout the CAZ and WERLSPA via retail, this alone will not maintain nor increase the level of footfall on Westminster's streets or see any growth in the contribution other uses can make to growth and jobs.

It is therefore should be clearly recognised that entertainment uses play an even more vital role in maintaining the vibrancy and offer of the West End.

It should also be noted that within the Mayor's adopted Culture and Night-time Economy SPG 'London has lost 103 nightclubs and live music venues since 2007, a decline of almost a third... [and] figures show that 1,220 pubs and bars shut between 2001 and 2016 – an average of 76 a year.' In support of this, the document states that boroughs should encourage the provision for night-time activities in order to expand their cultural offer.

Q.18 Is the approach to the protection of public houses justified and sufficiently flexible?

The request for 18 months marketing is considered excessive and a vacant unit for this length of time in the centre of WCC is harmful to the character of the area. The policy does not differentiate between active public house use and ancillary upper floor space. Shaftesbury has

successfully converted upper floors of public houses to alternative uses, whilst retaining a lock up public house at ground and basement floors.

Shaftesbury's view is that the policy pursues a "zero-sum" approach of either retaining the public house in its entirety or losing it in its entirety after marketing evidence. This policy may therefore have the unintended consequence of causing more public houses to be lost rather than saved. Often the upper floors of pubs can be underutilised and surplus to the operator's requirements, yet they continue to pay rent and business rates on the floorspace, undermining the premises viability. The notion of publicans residing in the upper floors of pubs is less common. Shaftesbury strongly supports the retention of pubs, indeed we have reinstated and opened new establishments in our portfolio, but we consider the policy should make allowances for the replacement of upper floors of the public house to other uses such as residential or commercial floorspace.

As an example Shaftesbury has achieved this at 28 Rupert Street where the upper floors were converted to two separate flats and the public house now successfully trades without the unnecessary ancillary space. Our development saved a public house and provided more homes.

Shaftesbury proposes an additional clause is added to the policy as follows:

'Replacement of ancillary spaces to public houses, such as function rooms or accommodation, may be acceptable where it can be satisfactorily demonstrated that loss of this floorspace will not compromise the viability or function of the public house.'

The Council will be aware that Class A4 of the Land Uses Order does not distinguish between public houses and other drinking establishments such as bars – they are simply all encompassed under the term 'drinking establishments'. Given the position of the Land Uses Order, clarification should be provided in the policy text as to how this policy applies to other drinking establishments, such as bars.

Q.19 What is the basis for the approach towards hot food takeaways and deliveries and is it justified? Specifically, what is the basis for the restriction on hot food takeaways within 200m walking distance of schools?

The basis for hot food take-away and deliveries is understood, but the applicant should have the opportunity to justify why take-away and deliveries are acceptable from their premises, when policy may presume otherwise.

It must also be recognised that some schools within Westminster, such as Soho Parish Primary School are right in the heart of the West End where A3 and A4 uses proliferate. Therefore, the policy preventing takeaway uses should not have such a 'blanket' all-encompassing restriction preventing hot-food takeaways within 200m of any school and should instead include some reference to local context and character.

In addition to this, it would not appear to be as relevant to include primary schools in this policy. Primary schoolchildren are far less likely to have their own money and to be able to spend it regularly in takeaway outlets.

In any event the restriction on take-away within 200m of schools is not considered to deter secondary school children from buying take-away food. Children will walk further than 200m to visit a take-away or order the take-away online to be delivered to them. This policy will continue to have less relevance as the world moves to an online model and will instead act as an unnecessary barrier to growth.

The provision for food deliveries from restaurants or cafés, including facilities for platform-based delivery should be more robustly supported within the Plan, which currently appears to read more negatively with regards to the problems that delivery drivers can cause.

COVID-19

Ideally policy should be recognise those circumstances where existing A3 uses may seek to expand its takeaway operations beyond those of an ancillary component, particularly as the ability to diversify and widen your consumer base may become even more essential in light of the COVID-19 impact on the hospitality industry.

Should the development plan be more supportive of the role that online delivery platforms can provide, which has been evident throughout the lock down period. They have supported existing food businesses and have helped to access residents (in particular those who are vulnerable). These platforms also offer a sustainable alternative to food delivery as they result in reduced journeys.

Policy 21 - Soho Special Policy Area

Q. 30 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 scale and grain of the built environment, the character of the area and the mix of uses?

Soho as a place evolved many times, and continues to be an ever changing neighbourhood with a rich mix of uses. The policy as drafted struggles to define what the special nature of Soho is, as it remains many things to many different people. Therefore, we feel the policy is ambiguous.

Part B of the policy lists a number of 'uses' that will be supported within the Soho Special Policy Area. However, some of the 'uses' listed are framed in terms of 'occupier' rather than land uses as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended), i.e. small and medium enterprise (SME) workspace, particularly in the *creative sectors*; and *specialist retailing*. It is a long established principal that the planning system governs land use and not the 'occupiers' of premises.

For instance, 'specialist retailing' is Class A1 use, the land use makes no distinction over the

'type' of retailing. Any attempt to condition such a use to 'specialist' retailing would in our view fail to meet the tests of a condition as detailed under the Community Infrastructure Levy Regulations 2010 (as amended).

Under Part A, the policy states that development should demonstrate how it *"respects, protects and enhances the existing scale and grain of the built environment and the unique mixture of uses present there"*.

Paragraph 21.3 states that the *'amalgamation of units behind retained facades, particularly at ground floor level, will be considered in the context of the existing scale and grain of development.'* As the City Council is aware planning permission is not required to amalgamate non-residential floorspace where they are in the same use. The limitation of this paragraph should be acknowledged.

Paragraph 21.5 – 21.6 considers the clustering of Class A3 and Class A4 uses, seeking to deter a mass that is considered detrimental to the area's overall mix and character. This policy unnecessarily duplicates the policies contained with Policy 17, and as is the case with that policy, the wording here is equally unclear as to the measure in which it will be considered that there has been an 'over concentration' of these uses. As drafted the wording completely ignores the evolving character of Soho as a destination for world renowned food and drink.

Furthermore, some consideration should be given to the fact that it may often be preferable to concentrate such uses in particular areas where servicing, freight and plant requirements can be consolidated, as Shaftesbury has achieved at Kingly Court, for example.