

Appendix 1 – WCC City Plan Repls – Reg 19

31st July 2019

City Plan 2019 - 2040 Consultation
Westminster City Council
6th Floor
5 Strand
London
WC2N 5HR

By email to: planningpolicy@westminster.gov.uk

Dear Sir/Madam,

Background

BMO Real Estate Partners (BMO REP) is a specialist real estate investment asset management company with £6.2 billion of assets under management in the UK and Europe. BMO REP has been responsible for the active asset management of St Christopher's Place for over 24 years.

St Christopher's Place is owned by SCP Estate Ltd and Rolfe Judd Planning hereby submits representations on behalf of the company and its advisors, BMO REP.

St Christopher's Place comprises 43 buildings with extensive retail, restaurant, offices and residential provision. For the purpose of this submission, the 'estate' is defined as the roadways and walkways known as, Barrett Street, Gees Court, James Street and St Christopher's Place. The area is a popular retail and restaurant area renowned for its pavement dining which has been recognised in the Oxford Street District Place Strategy and Delivery Plan (2018). The forthcoming plan seeks to protect and enhance this unique offer and ongoing consultation between BMO REP and Westminster City Council is reinforcing this strategic aim.

Shown for reference below in Appendix 1 is a plan outlining the extent of St Christopher's Place.

A supportive local planning authority and positive policy regime are essential to the ongoing success of St Christopher's Place. Continuity of planning policy and its application are essential to business planning.

Representations on City Plan (Regulation 19)

Introduction

Rolfe Judd Planning attended the Westminster Property Association (WPA) seminar on the 16th July 2019 to understand the latest changes to the draft City Plan and to understand the approach and aspirations pursued in its formation and we have thoroughly reviewed the Regulation 19 iteration of the plan in considerable detail also.

It was noted that the aspiration is that this plan is designed to be 'flexible' and 'not prescriptive', as local plans

of the past have been. The City Plan is to serve as a 'start of the conversation' with contextual approaches to development. This representation serves to contribute towards this dialogue and assist in aligning both the views of the Council and BMO REP.

BMO REP broadly welcomes this approach to planning as St Christopher's Place is unique with its own character and heritage, culture, community, economy, strengths and shortcomings; indeed reflective of Westminster as a whole. St Christopher's Place rely on a certain amount of flexibility to adapt to the changing retail environment, to the changing demands of office workers and to provide occupied and fit for purpose accommodation across the range of uses.

A general point on the Regulation 19 City Plan is that many policies would appear to be applicable in practice to 'Major' development proposals, but can be unclear or unduly inflexible when the policy text or supporting paragraphs are applied to 'Minor' development proposals, which is where the majority of planning applications in St Christopher's Place.

This is perhaps not unsurprising given the ambitious growth targets for housing and employment in the plan, much of which is likely to be achieved through comprehensive large scale redevelopments, particularly focussed in the identified Opportunity Areas and the Identified Sites.

The CAZ is also identified as a key location where development will be 'intensified'. Based on the indicative figures provided within the plan, we calculate for housing, for example, that the Opportunity Areas, Estate Renewal Locations and Identified Sites will deliver around 43.5% of the overall housing target. While of course not all of the remainder of the target will fall in the CAZ as the only other key location identified as to where housing will be provided, it is noted that the CAZ will have to play a significant role in the housing delivery of the plan.

BMO REP believes the CAZ's contribution to the success of the Plan will be from small sites (or repurposing individual buildings) given the townscape, heritage and conservation and land use complexity of the CAZ. This is why the plan states the CAZ will be 'intensified' rather than 'redeveloped', 'renewed' or 'regenerated'. We consider therefore the City Plan needs to have a greater awareness of the impact of the plan facing 'Minor' development schemes as we detail below.

BMO REP also observes that some policies in the plan do not sit comfortably with the Town and Country Planning (Use Classes) Order 1987 (as amended). Policies often comment on the management of ancillary uses, which do not require planning consent and fall outside the planning authority's remit, or the policies subdivide use classes such as seeking 'specialist retail' for example. While we recognise that the Council seeks a more flexible plan or defined approach in Special Policy Areas, and indeed that the Land Use Order has simply failed to keep up to date with the modern economy, it is nonetheless the system in which the plan is operating under. This approach therefore risks replacing 'flexibility' with a lack of clarity on key issues.

Policy 2 – Spatial Development Priorities: West End Retail and Leisure Special Policy Area (WERLSPA)

BMO REP welcomes the plan's support for diversifying the night-time economy so as to appeal to all, but we consider that supporting paragraph 2.10 is overly negative towards alcohol based activities and that this paragraph could be considered contrary to Policy 17's '*Protection of Public Houses*' where this is the primary activity. The key point of the policy/supporting text is that the night-time economy is managed in the interests of the local environment and people – of whatever activity is proposed.

Therefore, a reword of the first sentence of the paragraph is proposed: '*This activity will help ensure that evening and night-time economy is subject of detailed and enforceable management plans to support an environment for residents and visitors visiting central London outside of the daytime*'.

Policy 14 – Supporting Economic Growth

With respects to Part A1 of the policy the CAZ contains the WERLSPA. It is therefore not considered there is a need to refer to the WERLSPA in the policy text as it is a doubling up of requirements.

The policy, along with Policy 1, makes clear reference to the number of jobs that the Council wants to deliver over the plan period; however it does not detail how much floorspace will be required to meet the policy objective of more jobs, due to changing working practices, more efficient buildings etc. The plan estimates it could be as low as 179,000 sqm or as high as 710,000sqm – so target the middle range of 445,000sq.m. This ambiguity aside, the principle of the legislation is to accommodate more jobs and a more “flexible” plan.

BMO REP considers that the Council should approve a loss of office space if an applicant can demonstrate that the employment numbers of a site is maintained. Part D.2 of the policy potentially hints at this, but the policy needs greater clarity.

Further to this, it is not clear why part D.3 of the policy states, after completing an extensive 18 month vacancy exercise, only educational, community or hotel uses would be permitted as alternative uses. Where small areas of floorspace are concerned, these uses could not appropriately function. Therefore, residential could be one of the most appropriate uses given the priorities of the plan and the nature of the CAZ, however this should not preclude the Council considering customer-focussed service uses such as beauty services, salons, etc.

It is considered that the 18 month marketing period (in this, and other policies) to be excessive. 12 months is the normally applied marketing period recognised by many other London boroughs, and the draft London Plan in paragraph 6.1.6A reinforces this by seeking only a minimum of 12 months.

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

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

- 1. the proposal is in a predominantly residential area or building*
- 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 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;*
- 5. 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 months. The priority uses for the replacement floorspace will be educational, community, hotel, residential use or other suitable service-focussed uses where appropriate.*

Policy 15 - Town Centres, High Streets and the CAZ

The updated policy wording removes the requirement for 18 months marketing for changes of use away from A1 retail within certain locations, however this marketing period still applies to the West End International Centre and the CAZ Retail Cluster.

The following St Christopher’s Place Estate properties fall within these clusters:

West End International Centre:

- 21-23 Barrett Street
- 7-14 Gee's Court
- 6-24 James Street (Excl 16-18 and 22 James St)
- 372-374 Oxford Street

CAZ Retail Cluster

- 67-77 Wigmore Street

Paragraph 15.21 states that CAZ Retail Clusters have been determined as designations of strategic function through the London Plan [and] some additional areas have also been re-classified from designations in the previous City Plan as *'other centres in the CAZ'* or *'named streets'*.

It is considered that the 18 month marketing period to be excessive. 12 months is the normally applied marketing period recognised by many other London boroughs, and the draft London Plan in paragraph 6.1.6A reinforces this by seeking only a minimum of 12 months. However it is considered that both the 12 month and 18 month marketing periods are far too extensive and represent an inordinate span of time for a unit to be vacant when other uses could bring the unit back into use, albeit a non-A1 use. We would therefore suggest that 6 month marketing is a more appropriate amount of time to allocate to this policy.

Part C3 of the policy dictates that developments within the West End International Centre and CAZ Retail Cluster will *'not result in two or more non-A1 uses consecutively in the ground floor frontage of an International Centre, or three or more non-A1 uses consecutively in the ground floor frontage of a CAZ Retail Cluster'*. This policy will negatively impact the St Christopher's Place properties within the designation as it greatly affects their flexibility and, in many cases, prevents existing properties from converting into the restaurant units which contribute towards the extensive food and beverage offer of James Street; a provision which the Oxford Street District Place Strategy has identified as a positive and welcomed influence on the local and wider area.

This is a 'broad-brush' approach to policy and does not take account of the individual circumstances of specific areas (in this instance the unique offer of the estate), differing building types which may be more suited to specific land-uses and the existing make-up of the properties within this designation. Furthermore, where neighbouring properties are in differing land-ownerships, this policy could promote conflict between them in which they would 'race' to convert their property to the non-A1 use once the policies are adopted. The first property to received consent for changes of use would therefore force the neighbouring property to remain in their current use.

The Oxford Street District Place Strategy and Delivery Plan has proposed alterations to the lower part of James Street which is located within the West End International Centre. The southern end of James Street (south of the junction with Barrett Street) is proposed to be pedestrianised and closed to general traffic at certain times. The aims of this strategic plan are to promote a 'diversity of uses' and increasing flexibility of uses within the area (Page 9 and 11 of the Plan).

Principle 13 for the Oxford Street district (page 39) is to *'Diversify land use and extend the life of Oxford Street'*. The principle highlights that *'retail is changing and evolving. The economic vitality of Oxford Street will be strengthened by its ability to adapt and experiment and offer a range of attractions and ancillary complementary uses that support the retail and commercial activities in the district'*. The proposed restrictions surrounding consecutive non-A1 uses directly contradict this aspiration and will greatly reduce the ability of tenants/landowners to meet the aims of the emerging strategy.

Page 27 of the Plan details the wide mix of uses at ground floor level across the district and specifically along James Street. The mix of uses which have emerged organically across the estate operates very successfully. It relies on flexibility to maintain its success and should not be inhibited by this new policy.

In short, the policy is too prescriptive and threatens to cause significant conflict between landowners if implemented. It does not conform to the Oxford Street District Draft Place Strategy and Delivery Plan. The policy should be amended to reflect the previous policy (three or more non- A1 consecutive) uses and add the line '*unless specific site circumstances dictate otherwise*'.

Policy 17 – Food, Drink and Entertainment

Part B of the policy refers to the '*Protection of Public Houses*'. BMO REP'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 outdated. BMO REP strongly supports the retention of pubs 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.

BMO REP 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.

Paragraph 17.2 – The supporting text suggests that the management plan should be provided with the planning application. Sometimes developments are undertaken speculatively with no end-user identified – particularly as both the planning process and construction work may take a significant period of time where a prospective tenant will not delay for its resolution. We consider it is more appropriate to secure the final management plan at condition stage (pre-occupation) when an occupier is known.

Policy 11 – Housing for Specific Groups

The current wording of the policy applies a blanket approach to unit mix, and while it is easier to accommodate the mix in larger redevelopment schemes, it is not clear how this policy applies to 'minor' 1-9 unit schemes bearing in mind that within the CAZ, historic buildings may limit the size of unit that can be provided.

Furthermore draft London Plan Policy H12 states that 'Boroughs should not set prescriptive dwelling size mix requirements (in terms of number of bedrooms) for market and intermediate homes.' This policy appears to go against this principle.

Policy 41 – Townscape and Architecture

BMO REP supports the principals of this policy which sensitively seeks to balance growth with the existing, particularly the historic environment. The change which acknowledges that extensions to residential extensions could be to either enlarge existing accommodation or provide new homes is welcomed. It is not particularly clear however why commercial extensions may be appropriate for two storey extensions, but residential only one. As paragraph 41.7 acknowledges:

'41.7 / Works to alter and extend existing buildings will be supported where they are successfully integrated

with their surroundings. To achieve this, extensions should be subordinate to the host building, respecting the scale, detailing and materials of both existing buildings and adjoining townscape. Care should always be taken not to disfigure buildings or upset their proportions.'

Given the key test of the policy is whether the extension suits the host building and townscape it is not clear why the land use should also restrict the extent of extension. This unnecessarily restricts sites where more residential housing could be provided, thereby compromising the optimisation of sites. References to the land uses within the policy could be removed and the policy simplified in this regard. Similarly, we do not consider that Part F of the policy should be retained on the basis that the assessment should be on whether an upward extension is appropriate to the host building and townscape; the land use and strategic designations are irrelevant from this perspective and the CAZ needs to be able to deliver additional accommodation to meet the aspiration of the Plan.

Other comments on the Regulation 19 City Plan

BMO REP has the following additional comments on other policy areas of the plan.

Policy 8 – Housing (Strategic)

Policy 8 recognises the importance of delivering homes on small sites and permitting upward extensions in appropriate areas. BMO REP welcomes this policy and feel that St Christopher's Place can contribute greatly in regard to these aims.

Policy 11 – Housing Mix

It is not clear how these criteria apply to smaller schemes (1-9 units) and primarily seems to apply to major schemes. Draft London Plan Policy H12 states that Boroughs should not set prescriptive dwelling size mix requirements (in terms of number of bedrooms) for market and intermediate homes. This policy appears to go against this principal.

Furthermore BMO REP consider that the reconfiguration of existing floorspace should be to deliver the most suitable housing mix for that area, which may not in every case be family sized housing

Policy 13 – Housing Quality

The policy seeks additional private amenity space for housing developments, including via conversions. BMO REP do not object to the principal of the policy provided paragraph 13.7 is retained which acknowledges the need for flexibility in the approach to the policy, particularly through conversions within the historic environment.

Policy 25-28

BMO REP consider that these policies do not fully reflect the modern challenges faced on the public highway, from the influx of rentable bicycles, home shopping deliveries, Uber, Deliveroo and electrical charging points. All of which are not fully addressed within these policies. Each of the aforementioned uses can have extensive implications for the public highway and restaurant uses which utilise the public highway for outdoor seating.

BMO REP considers that a further study should be undertaken to review these challenges and produce an action plan to address them.

Policy 39 – Design Principles

It is considered that Part E of the policy should be reviewed. Part E(2) refers to both conversions and extensions aiming to achieve “Excellent” in BREEAM domestic refurbishment. This target can only apply to ‘refurbishment’ not ‘extension’, i.e. new build and therefore the wording should be reviewed.

Part E(1) states that non-domestic refurbishment ‘will’ achieve at least BREEAM “Excellent” as opposed to ‘aim’. It is considered Part E(1) should reflect the Part E(2) and state ‘aim’ which would allow for flexibility over heritage buildings and financial viability.

BMO REP welcomes the opportunity to continue to have a constructive dialogue over the ongoing development of the City Plan and hopes that these comments help to achieve its ambitions.

We look forward to hearing from you further over the coming months and would be very happy to meet with you to outline how St Christopher’s Place is helping shape this vital part of the City.

Yours faithfully,

Chris Brown

Chris Brown
Rolfe Judd Planning
On behalf of SCP Estate Limited and BMO Real Estate Partners

