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**Westminster City Plan 2019-2040 – Examination in Public
Response to Inspector’s Matters, Issues and Questions
Respondent Number: 120**

Matter 4 – Housing (relevant policies 8-13)

Draft policy 9 Affordable Housing

Question 23) - What is the basis for the target of 35% and the approach to site size thresholds?

We support the comments of the WPA.

Question 26) Is the policy justified in terms of the approach to on site and off-site provision and payments in lieu? Is there sufficient flexibility? Is there sufficient clarity as to how the policy will be implemented in practice, particularly in terms of the calculation of payments in lieu?

We support the comments of the WPA.

Question 25) How has viability been taken into account in formulating the policy and how would the viability of schemes be taken into account?

We share the concerns of others, including the WPA, regarding the adequacy of the viability evidence relied upon by the City Council to support the City Plan’s approach to affordable housing, as set out in our comments on Draft Policy 10 and Question 33 below.

Question 29) Are the proposed modifications necessary for soundness? Are any other modifications necessary?

Paragraph 9.8 of the Draft Plan states that the Council does not support increases in affordable housing that do not result in an increase in the number of new homes. This is understood.

The second sentence of the paragraph states that outside of existing council housing estates, the Council does not permit the purchase of market tenure homes to change their tenure to meet affordable housing requirements.

We consider that this statement is not sufficiently clear, and its interpretation could be overly onerous. It is important that there should not be restrictions in policy which reduce the flexibility for the private sector to adopt innovative housing strategies to unlock development sites which may require a blend of new affordable homes and tenure changes from private homes to meet affordable housing policies and achieve viability.

For example, a scheme could propose the conversion of a private block of flats to affordable units, with the associated new build elements of the scheme being private, due to the sales values the new units would achieve, which would underpin the viability of the of the scheme as a whole. Such a scheme would deliver an overall uplift in new homes, with 35% affordable homes.

In this case, the scheme would be providing an increase in the number of new homes, in accordance with the first sentence in paragraph 9.8. However, it would involve the purchase of market tenure homes to change their tenure to meet the affordable housing requirements, in conflict with the second sentence in paragraph 9.8. We consider that this second sentence of paragraph 9.8 lacks clarity and is not justified. It should be deleted.



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We also wish to comment on the topic of affordable housing credits. A limited credits system is already envisaged in paragraph 9.13 in respect of development by public, charitable and non-profit organisations but there seems to us to be no legitimate justification for restricting the availability of this credits system; it should be extended to developers of all schemes

We also believe that there should be a policy expressly allowing any developer to agree to bring forward affordable housing in advance of policy demand. This would therefore allow for the early provision of affordable housing to be “drawn down” as a “credit” against future residential development in the vicinity generating the requirement for affordable housing. The principle of this has been accepted already by the City Council.

For this reason, we recommend that an expanded policy to add provision for affordable housing credits is added to the Draft City Plan.

Draft Policy 10 Affordable contributions in the CAZ

Questions 30) to 36)

We strongly object to Draft Policy 10 and consider that it is unsound as drafted. We support the detailed comments made by the WPA in response to Questions 30) to 36). Our additional comments are set out below.

Question 31) How would the policy affect commercial growth?

As set out in our original objection to the Draft Policy, we consider that the scale of affordable housing that is proposed to be required from commercial development schemes, will have an extremely detrimental effect on viability and will seriously undermine the ability of landowners and developers to bring forward new office and hotel schemes. This will have a direct and negative impact on commercial growth.

We acknowledge that market conditions vary over time, however even in the strongest peak of a market cycle, the proposed requirement to incorporate 35% of the net increase in office floorspace as on-site affordable housing (or a payment in lieu or on site provision at 15% on a hotel scheme) will be very difficult, if not impossible to achieve.

The proposed policy approach is onerous, lacks flexibility and will have a direct negative impact on economic growth. This is even more the case in the post COVID 19 world where there are likely to be long term impacts on the future viability of offices and for central London office space (and indeed for hotel rooms when there is likely to be less international travel).

The schemes that we bring forward are focussed on achieving the highest quality of design and sustainability and often involve significant investment in public realm and place shaping. Whilst we support the principle of mixed-use development and work hard to create vibrant and well-balanced mixed-use communities, we consider that the mixed-use requirements set out in Draft Policy 10 does not reflect the economic reality of achieving a viable development and cannot be justified.

Question 32) What is the basis for the percentage contributions and floorspace thresholds?

We are unclear on the basis for the percentage contributions. As set out above the proposed percentage contributions sought (35% for offices and 15% for hotels) is too high and will not be deliverable. In our experience this would not encourage new developments to be brought forward because they would simply be financially unviable.



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Subject to our concerns regarding Draft Policy 10 being satisfactorily addressed, we would support the use of appropriate floorspace thresholds for triggering affordable housing contributions. However, the current thresholds are too low. The WPA has proposed alternatives and we support their approach.

Question 33) How has viability been taken into account in formulating the policy and is the evidence on viability sufficiently comprehensive and robust?

We do not consider that the evidence base or analysis is sufficiently robust to justify the proposed significant increase in the amount of affordable housing required from commercial development. The need for robust viability evidence goes to the heart of these policies and without it they cannot be considered sound. We support the detailed comments of the WPA on this matter.

We have one additional point to add. We note that we are specifically mentioned in the BNP Paribas Viability Review report (dated January 2019), which has been published as part of the evidence base and topic papers. Paragraph 1.7 of this Report states:

“Westminster is also unusual in terms of the concentration of land ownership, with large landholdings by the Crown Estate and the Duke of Westminster (among others), as well as other developers prepared to take a longer-term view on the value generated by developments. These owners are often prepared to proceed with developments that are notionally unviable as a short term ‘speculative’ development, on the basis that their asset value is enhanced in the long term.” (our emphasis)

Given the context in which it is deployed this is a very misleading statement. It certainly does not lend any support to the viability case that the City Council puts forward in support of the Plan. The truth is that we, in common with most other private sector developers, are a commercial entity and rely upon achieving an acceptable rate of return on our development activity to reflect the considerable risks involved.

We have our own minimum financial return benchmarks and our own strict criteria for when we are prepared to accept anything less than the benchmark rate of return. It is not for the City Council or its advisors to speculate as to why in any given case we might choose to depart from our internal benchmarks, still less for it to speculate upon past redevelopment decisions to plug the substantial gaps in the viability assessment put forward.

There is comprehensive guidance in the NPPG on this topic within Paragraph: 018 Reference ID: 10-018-20190509, titled *“How should a return to developers be defined for the purpose of viability assessment?”*.

Question 35) Is the policy justified in terms of the approach to on-site and off-site provision and payments in lieu? Is there sufficient flexibility? Is there sufficient clarity as to how the policy will be implemented in practice?

In cases where the provision of affordable housing is justified, we have concerns regarding the provisions of draft Policy 10 concerning the location for the delivery of affordable housing units. We consider the approach is unsound.

In many cases off-site delivery of affordable housing will produce a better outcome than would be achieved by an insistence on on-site provision, especially in terms of the number of new homes that can viably be provided. The flexibility for agreeing delivery off-site is desirable without the requirement for a viability justification. Such flexibility would be likely to improve



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the delivery of both affordable housing and commercial development against the plans challenging targets, thus improving the effectiveness of the plan.

On commercial schemes, where the proposed requirement would result in a relatively small number of affordable housing units being required on-site, this would be inefficient and not cost-effective for a Registered Provider compared with much larger schemes. In addition, the preference for a 'tenure blind' approach can also lead to an unacceptably high ongoing maintenance burden for the Registered Provider which can reduce viability still further.

In these cases, a better overall result is likely to arise by locating a larger quantum of dedicated affordable housing off-site. The proposed policy and its supporting text should recognise this and provide flexibility to deliver the optimum outcome in terms of the quantum and quality of affordable housing without the need for a viability-based justification.

A further point to note is that not all parts of the CAZ are well-suited to residential uses. We have long recognised the role of residential use as part of the CAZ's mixed character. Nevertheless, when new residential uses are being considered as part of a mixed-use scheme it is essential that policy recognises that, especially in the busiest parts of the CAZ, a residential use may not be compatible with other nearby existing, and planned, commercial uses. This is because of the potential for future management and amenity issues to constrain commercial development capacity. Insisting on new residential accommodation co-located with commercial uses in existing areas that are unsuited to it risks constraining commercial development capacity whilst creating homes that may be less desirable than they would have been if located more appropriately. This could impact commercial growth and has long been recognised as a key issue by the City of London who face similar challenges.

This point is recognised in paragraph 1.9 of the Draft Plan but does not follow through to Draft Policy 10. We suggest this point is restated in connection with Policy 10 relating to affordable housing. It is vital that the compatibility of residential accommodation with the existing and planned commercial character of an area is taken into account when assessing whether on-site residential accommodation is appropriate or desirable.