



**Westminster City Plan 2019-2040 – Examination in Public
Response to Inspector’s Matters, Issues and Questions
Representations on behalf of the Church Commissioners for England
Respondent Number: 66
Matter 3 - The Spatial Strategy and Spatial Development Priorities**

Policy 6 – Church Street/Edgware Road Housing Renewal Area

(51) – Do they cover all necessary issues?

The Church Commissioners support the redevelopment of the Edgware Road Housing Renewal Area, including the emphasis on improving mobility through infrastructure improvements to support active travel and the knock-on effects this would have on the surrounding areas.

In order to be more effective, the Policy should address wider improvements to the Edgware Road, particularly in terms of calming traffic flow and the pedestrian experience because it acts as a barrier to the West End along its entire length. The Church Commissioners consider that there should be a focus on improving not only north-south connections across the Westway, but also east-west connections across the Edgware Road itself.

Policy 7 – Managing Development for Westminster’s People

63) Are the criteria in Policy 7 sufficiently clear and effective? Is it justified?

65) Are the proposed modifications necessary for soundness? Are any other modifications necessary?

The Church Commissioners do not consider that Policy 7, as drafted and as subject to Main Modification M/S/20, is justified. This is because aspects of it do not represent the most appropriate strategy. It is inconsistent, in places, with the emerging draft Replacement London Plan and national guidance.

Amending the policy to prevent ‘**material losses**’ of daylight and sunlight and to prevent ‘**significant increases**’ in sense of enclosure, overshadowing and loss of privacy and overlooking is a materially different approach to preventing unacceptable impacts.

It does not recognise that, in a densely built up urban environment such as Westminster’s achieving the scale of growth sought by the Plan will, in some cases, involve changes to levels of daylight, sunlight and other aspects currently enjoyed by surrounding residents. These changes may be ‘material’ or ‘significant’ given a low baseline in certain circumstances but that does not mean they would necessarily be unacceptable.

Policy should seek to prevent unacceptable impacts, as initially drafted, rather than seeking to prevent any material change. Preventing material change whilst accommodating growth has not been shown to be deliverable.

The July 2019 update to the NPPG requires decision makers to consider whether a proposed development would have an unreasonable impact on the daylight and sunlight levels enjoyed by neighbouring occupiers. The NPPG also expands on the wider considerations which should be assessed when considering appropriate levels of daylight and sunlight and acknowledge that what is appropriate will “**depend to some extent on the context for the development as well as its detailed design**”.

Draft Replacement London Plan policy D6(D) will require new development to “**provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context,**

whilst avoiding overheating, minimising overshadowing and maximising the usability of outside amenity space.” It does **not** seek to avoid material changes.

The emerging London Plan policy require decision makers to have regard to **“context”**. The term **“sufficient”** gives focus to retained levels of daylight and sunlight i.e. what amenity is left behind as opposed to what has been taken away.

Adopted London Plan policy 7.6 seeks to avoid **“unacceptable harm”** to daylight and sunlight. The city Council’s approach

The City Council’s approach within Policy 7, as modified by M/S/20, would not be consistent with the PPG or adopted or emerging London Plan policy.

A two stage approach to, firstly, identifying if a material deterioration in daylight and sunlight will occur and, then, in cases where a material deterioration would occur, assessing if that would be unacceptable, has been endorsed by the High Court and recent appeal decisions. In appeal reference APP/E5900/W/17/3191757, the Inspector acknowledged the role of a two-stage process, stating:

“A recent Court judgment has clarified [that this should be] a two-stage process . In essence, first, as a matter of calculation, whether there would be a material deterioration in conditions and second, as a matter of judgement, whether that deterioration would be acceptable in the particular circumstances of the case.

“The Court held that the first question can be answered by applying the BRE Guidelines... If the guidelines are exceeded the deterioration would be material. In answering the second question - whether that deterioration is acceptable – wider considerations come into play. This indicates to me that the acceptability of a material deterioration in living conditions must be judged in its local context.”

Policy 7(A) as drafted within the Submission Version follows this two- stage approach. The Church Commissioners would support this. It does not support the proposed amendments which would be inconsistent with this approach, and the direction of national guidance and regional policy.

M/S/20 should not, therefore be incorporated. Instead, paragraph 7.3 should be amended to align with the original wording of Policy 7(A).

The final sentence in paragraph 7.3 states that even when there is **“no material loss of daylight and sunlight, new developments should prevent significant adverse increases in the sense of enclosure.”** Reference to **“no material loss of daylight and sunlight”** is inconsistent with the main policy wording as originally drafted.

Additionally, the Commissioners do not support the policy’s equation of daylight and sunlight with sense of enclosure. The BRE Guidelines do not purport to provide tests or checks to judge sense of enclosure. It is not rational to suggest that because a property may (or may not) suffer a material loss of daylight and sunlight that one can jump to the conclusion that there will be unacceptable impact to sense of enclosure.

The Church Commissioners suggests the following amendments:

“Negative effects on amenity should be minimised as they can impact on quality of life. ~~Provision of good indoor d~~ Daylight and sunlight levels is are important for health and well-being and to decrease energy consumption through reduced need for artificial heating and lighting. Overshadowing affects the quality or operation of

¹ Rainbird v London Borough of Tower Hamlets, 2018

adjacent buildings and can negatively impact on the use of public and private open space for recreation, rest and play. Positioning, scale and orientation of buildings as well as the incorporation of design measures should be considered to minimise overshadowing and overlooking and ensure adequate levels of privacy. ~~Even when there may be no material loss of daylight or sunlight, new developments should prevent significant adverse increases in the sense of enclosure.~~"

The 'balanced approach' referred to within paragraph 7.1, recognising the wider benefits of a scheme, should be incorporated within the policy. Policy should provide that significant weight will be given to the extent to which the proposal will contribute to meeting other priorities of the plan, including housing and employment targets.