

Matter 8: Design and Heritage

Introduction

This statement sets out Westminster City Council's written response in relation to the Inspector's Matter 8 issues and questions regarding **Design and Heritage**.

Examination document reference numbers are used throughout for convenience e.g. EV_DH_001. References to modifications in the Schedule of Modifications are in the following format M/DH/01 or PS/DH/01.

Issue

Whether the City Plan is positively prepared, justified, effective, consistent with national policy and in general conformity with the London Plan in relation to design and heritage.

Question 1. Taking each individually, are Policies 39-46 justified, effective, consistent with national policy and in general conformity with the London Plan?

1.1 All policies in the Design and Heritage chapter are in general conformity with the adopted and New London Plan. In response to the Regulation 19 consultation, the Mayor of London confirmed this, raising no general conformity issues in relation to these policies (see SCG_007_V2). A number of modifications are proposed to improve clarity and effectiveness as discussed in answers to subsequent questions.

Policy 39

1.2 Policy 39 emphasises the importance of achieving high quality design, consistent with the National Planning Policy Framework (NPPF)'s recognition this is a key aspect of sustainable development (paragraphs 8b and 124). It sets out overarching principles for good design, in line with the six considerations listed in the NPPF (Paragraph 127a-f) and the ten characteristics of good design set out in the Planning Practice Guidance (PPG paragraph 001)¹. It promotes an integrated approach, which will address both social and sustainable as well as visual and functional concerns to ensure these are considered together at the start of the design process. This is informed by a wide range of guidance documents which advise on the different elements which contribute to good design including the NPPG and associated National Design Guide, the Urban Design Compendium², Building in Context Toolkit³ and a range of Historic England Research and Guidance Notes⁴. Context and evidence

¹ Reference ID: 26-001-20191001

² Urban Design Compendium, Homes and Communities Agency, 2013

³ <http://www.building-in-context.org/the-bic-toolkit/>

⁴ Including in particular GPA2 (Managing Significance in Decision Taking) para 53 <https://historicengland.org.uk/images-books/publications/gpa2-managing-significance-in-decision->

in relation to sustainable design within this policy is in part 6 of the Environment Topic Paper (EV_ENV_001). Evidence in relation to other policies below has informed the overarching approach.

1.3 It will be effective (with modifications as set out in the Revised Schedule of Modifications CORE_025_V3), ensuring the full range of relevant issues are considered at an early stage of the design process and setting out principles and standards to which development must adhere. Further detail is set out in response to Questions 2 and 3 below.

Policy 40

1.4 Policy 40 sets out a positive approach to the conservation of heritage assets, justified and informed by national policy and guidance as well as background evidence recognising the exceptional significance of Westminster's Historic Environment, as set out in the Heritage Topic Paper (EV_DH_001) and including the City of Westminster Archaeological Priority Areas Appraisal (EV_DH_007). It is consistent with national policy as explained in answer to Question 4 below and in the Heritage Topic Paper (especially paragraphs 7.6-7.8) and has been informed by Historic England Guidance especially the Good Practice Advice on Local Plans⁵. It will be effective (with modifications), providing a positive framework to manage change which will ensure the conservation and enhancement of Westminster's historic environment. This includes detail to ensure a proportionate approach to the conservation of different types of heritage asset having regard to their significance, designations and relevant statutory duties. The policy clearly emphasises the fundamental importance of the historic environment to Westminster and London's economy and as part of place making and good growth, responding to policy in the adopted London Plan (especially policies 7.8-7.10) and New London Plan (particularly policies HC1 and HC2). It has been developed in close consultation with Historic England as set out in the Statement of Common Ground (SCG_002).

Policy 41

1.5 Policy 41 details the approach to integrating new architecture and design of different scales into Westminster's existing townscape. This is justified by and consistent with national policy and guidance which stress the importance of development responding to local context and maintaining sense of place (especially NPPF paragraph 127 c&d, and National Design Guide p10-16⁶). It responds to analysis of Westminster's character as described within the Heritage Topic Paper (EV_DH_001) paragraphs 4.10-4.22 and in more detail within conservation area audits (EV_DH_008). Specific justification for the approach to roof extensions is set out in the Roofs Topic Paper (EV_DH_002) and in relation to views, is in the Views Background Paper (EV_DH_003), which also notably refers to the guidance in the London View Management Framework⁷. It conforms with the New London Plan which endorses a design-led approach, using assessment of character to inform

[taking/gpa2/](#), GPA 3 (Setting of Heritage Assets) and Technical Advice Notes on Access <https://historicengland.org.uk/advice/technical-advice/easy-access-to-historic-buildings-and-landscapes/>

⁵ <https://historicengland.org.uk/images-books/publications/gpa1-historic-environment-local-plans/>

⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843468/National_Design_Guide.pdf

⁷ <https://www.london.gov.uk/what-we-do/planning/implementing-london-plan/planning-guidance/london-view-management>

understanding of an area's capacity for growth. In his response the Mayor of London⁸ specifically welcomed the policy's support for upwards extensions. It will be effective (with modifications), requiring high quality new design which will optimise densities in response to Westminster's unique context and sets out expectations for applicants in relation to design of development of varying scales. Further detail is set out in response to Question 5 below.

Policy 42

1.6 Policy 42 has been prepared with reference to national and London Plan policy and guidance. It was developed using a context-led approach, consistent with the NPPF's requirements to promote effective use of land, ensure well-designed places at appropriate densities which respond to the surrounding context and focus significant development in the most sustainable locations (paragraphs 103, 122-123 and 127). It builds upon the existing policy approach within the adopted City Plan (CORE_020)⁹ and was informed by a Building Height Study (EV_DH_004 and 005). The latter recognises that the opportunities for tall buildings are limited by Westminster's unique character and extensive heritage assets but identifies the evolving context and mixed character of the Opportunity Areas and Housing Renewal Areas have greater potential for additional height and are a focus for growth and change. Further detail of the background evidence and consistency with National and London Plan policy is set out in the Building Height Topic Paper (EV_DH_006). This approach will be effective in directing tall buildings to the most appropriate parts of the city and provides criteria against which tall buildings proposals can be assessed in any location. Further detail including proposed modifications to improve effectiveness are set out in answer to Question 6 below.

Policy 43

1.7 Policy 43 sits alongside Policy 42, is justified by the same background evidence and is consistent with national and London Plan policies and evidence as referred to above. The Housing Renewal Areas are specifically addressed within the Building Height Topic Paper (paragraphs 6.7.1 and 6.7.2). The policy has been informed by the masterplan for Church Street (EV_H_008) as well as previous permissions and emerging proposals for the Ebury Bridge Housing Renewal Area which are currently being developed in consultation with residents. It will be effective in ensuring development will optimise the potential to deliver high quality new housing and an uplift in affordable housing. Further detail is given in response to Question 7 below.

Policy 44

1.8 Policy 44 is justified by and consistent with the NPPF, which recognises the importance of streets and spaces to well-designed places (paragraph 127, parts D&E) and healthy and safe communities (paragraph 91). It builds on the approach in our Westminster Way SPD¹⁰ which has been effective in shaping Westminster's public realm since it was adopted, and is informed by more recent national and London-wide guidance on public realm including the NPPG (paragraph 001)¹¹ which identifies public

⁹ Policies S3, S4, S26

¹⁰ Westminster Way Public Realm Strategy 2011

http://transact.westminster.gov.uk/docstores/publications_store/Westminster_Way_Public_Realm_Strategy_Adopted_September_2011.pdf

¹¹ Reference ID: 26-001-20191001

space as a key characteristic of good design, Transport for London's Streetscape Guidance¹² and Historic England's Streets for All and Streets for all London¹³.

1.9 It is strongly linked with objectives elsewhere in the plan to prioritise accessibility and ease of movement and promotes an inclusive, clutter-free environment as required by the NPPF (para 110 part c), including through the effective management of street commerce and public art.

1.10 It will be effective in requiring design to contribute to an attractive, inclusive, safe and accessible public realm. Recognising its potential contribution to place making, it encourages new public art as part of development, supporting aspirations within both the Mayor's adopted and Westminster's emerging Cultural Strategies¹⁴. It includes a Monument Saturation Zone based on the existing approach in our Statues and Monuments SPD and which will allow us to effectively manage new statues and monuments in the city¹⁵. Due to their potential to affect the public realm and the buildings that frame it, it provides criteria to make clear to applicants how we will ensure advertisements are sensitively managed having regard to public safety and amenity (in line with the NPPF, paragraph 132).

1.11 Some additional minor modifications to Policy 44 (which are not necessary for soundness) are proposed to improve clarity and effectiveness as set out in the Revised Schedule of Modifications (CORE_025_V3).

1.12 In addition, modifications are proposed (PS/DH/26 and PS/DH/27) to the reasoned justification which are necessary for soundness. The change to paragraph 44.14 is necessary to differentiate between new public art installations which we encourage as integral within new development (and would not often be statues or monuments) and proposals for statues and monuments which are more often stand-alone proposals within the public realm.

Public art demonstrates a shared commitment by us and applicants to high quality public places and a public affirmation of pride in new development projects. It contributes to creating a sense of place and a visually stimulating environment, which adds to public enjoyment of the public realm.

Permanent public art installations should usually be integrated into overall building design, be publicly accessible and designed to maintain pedestrian movement.

Reasoned justification paragraph 44.15:

*It is not possible to continue to accommodate new statues and monuments in Westminster on the same scale as in the past, and the most central areas are already saturated. However, new statues and monuments ~~are strongly encouraged~~ **may be supported in appropriate locations** in other areas of Westminster, where public art is under-represented **and where these relate***

¹² Transport for London Streetscape Guidance <http://content.tfl.gov.uk/streetscape-guidance-.pdf>

¹³ Historic England Streets for all <https://historicengland.org.uk/images-books/publications/streets-for-all/heag149-sfa-national>; Streets for all London <https://historicengland.org.uk/images-books/publications/streets-for-all-london/heag149c-sfa-london>

¹⁴ www.london.gov.uk/get-involved/culture-strategy-london pp90-94; https://www.westminster.gov.uk/sites/default/files/wcc_culture_strategy_20-24_draft_for_consultation3.pdf p33

¹⁵ WCC Statues and Monuments Supplementary Planning Document (2008)- https://www.westminster.gov.uk/sites/default/files/monuments_supplementary_planning_document.pdf

to the site or context, particularly where they help tell the stories of our diverse communities or under-represented histories. Where these are sited on the public highway, or in Westminster's parks, gardens or open spaces, financial provision will be secured by appropriate planning conditions or legal agreements for future maintenance.

Policy 45

1.13 Policy 45 requires applicants to consider integration of security measures in the design of development and the public realm. This is consistent with the NPPF which promotes healthy and safe communities (Chapter 8) and requires design to create places which minimise crime and fear of crime (Chapter 12, especially 127-part F).

1.14 This policy approach is justified and informed by a wide range of national advice and guidance in particular Secured by Design¹⁶, Crowded Places Guidance¹⁷ Protecting Crowded Places: Design and Technical Issues and Integrated Security¹⁸ and the Public Realm Design Guide for Hostile Vehicle Mitigation¹⁹.

1.15 As set out in the reasoned justification, Westminster's high profile and crowded places make it particularly vulnerable to terrorism and the policy therefore includes specific reference to counter-terrorism measures. As advised by the NPPF (paragraph 95) the design of development is expected to respond to up-to-date police information about the nature of potential threats and in the reasoned justification encourages the use of security consideration assessment process to identify security vulnerabilities of development (as per PPG 010)²⁰.

1.16 This approach will be effective, ensuring security measures are considered and integrated into design at an early stage and in a proportionate manner, based on an understanding of potential threats. This will ensure development is well-designed to minimise opportunities for crime and anti-social behaviour.

Policy 46

1.17 Policy 46 builds on the approach within Westminster's adopted Basement policy²¹. The original policy was developed using technical evidence prepared by Alan Baxter's and Associates²² and was found sound in examination in 2016. It is consistent with the NPPF (in particular paragraphs 178, 180 and 183). The existing policy has been used by the council to mitigate the harmful impacts of basement development and this approach has been maintained and simplified. Recognising the particular challenges associated with basement development, it will be effective requiring applicants to demonstrate full consideration has been given to the impacts of basement development and ensuring harmful impacts are avoided or mitigated. The Mayor of London's response to the Regulation 19 consultation²³ specifically welcomed

¹⁶ <https://www.securedbydesign.com/guidance/design-guides>

¹⁷ <https://www.gov.uk/government/publications/crowded-places-guidance>

¹⁸ <https://www.gov.uk/government/publications/protecting-crowded-places-design-and-technical-issues>

¹⁹ CPNI Integrated Security A Public Realm Design Guide for Hostile Vehicle Security (2014) <https://www.cpni.gov.uk/system/files/documents/40/20/Integrated%20Security%20Guide.pdf>

²⁰ Reference ID:53-010-20190722

²¹ Policy CM28.1- <https://www.westminster.gov.uk/basement-extensions>

²² Westminster Residential Basements Report (2013) Alan Baxter
http://transact.westminster.gov.uk/docstores/publications_store/1672-10_Westminster%20City%20Councils%20Residential%20Basement%20Report_July2013.pdf

²³ See CORE_011, pages 350-378

Westminster's approach to basement development which aligns with policy D10 of the New London Plan. Further detail is set out in answer to Question 8 below.

Question 2. Do Policies 39-46 effectively deal with the full range of issues?

2.1 Yes, taken together and read in conjunction with other policies throughout the plan policies 39-46 deal with the full range of issues in relation to design and heritage in Westminster comprehensively and effectively.

2.2 As set out above, policies in this chapter promote an integrated approach which will ensure early consideration of key issues which influence design, including security, access, health and well-being, sustainability and conservation of the historic environment. Policies include positive and clearly worded criteria to ensure applicants understand where we will and will not be able to support applications on design grounds. These set out overall principles and standards and more detailed policies which apply these to different scales and types of development, having regard to Westminster's unique character and predominant development types. It also directs larger scale development, including tall buildings, to the most appropriate locations. We consider the approach is clear and will be effective in managing development to ensure high quality design and the conservation of heritage assets, thereby contributing to the delivery of good growth as envisaged in the plan.

2.3 However, it is also recognised that design and heritage are cross-cutting issues, and as such are embedded in and aligned with other policies in the plan. Other policies also include criteria relevant to design e.g. climate change adaptation and mitigation, inclusive and healthy places and good standards of amenity – notably in Policy 7, Policy 13 and policies within Chapter 7. It is also particularly important to read the design policies alongside the key objectives and area-based policy in the Spatial Strategy, especially its support for optimising densities to achieve growth targets.

2.4 Proposed modifications for this chapter have sought to respond to the consultation comments to improve clarity on our expectations and requirements as set out in response to other questions below.

Question 3. Does Policy 39 have sufficient emphasis on water efficiency? Is it in general conformity with the London Plan in this regard? Have the viability implications been fully taken into account? Are the proposed modifications necessary for soundness?

3.1 Yes, with proposed modifications as set out in the schedule, Policy 39 has sufficient emphasis on water efficiency having regard to Westminster location within an area classified as "seriously" water stressed.

3.2 As set out in the Draft Statement of Common Ground with the Environment Agency and Thames Water (SCG_006_V3), modifications are proposed to include further reference to water efficiency and a requirement for new residential development to meet the optional water efficiency target in the Building Regulations (110 litres/person/day).

3.3 Although this has been worded to include the allowance for external water use, this is in line with the adopted London Plan Policy 5.15 which requires residential development to be designed to meet a target of 105 litres or less per head per day excluding an allowance of 5 litres or less per head per day for external water use. The New London Plan Policy S1 5 similarly requires development to minimise use of mains water in line with this standard through the use of planning conditions – a minor modification has been proposed to reasoned justification paragraph 39.10 to specify this will be secured by condition (M/DH/09).

*...that contribute to climate change. **Westminster falls within an area classified as "seriously" water stressed, all development should maximise water efficiency. Residential development should meet the optional water efficiency requirement set out in Part G of the Building Regulations (110 litres/person/day), of in line with the London Plan. This will be secured by condition.***

3.4 The New London Plan also includes a target for water use for non-residential buildings in policy SI5, requiring a 12.5% improvement over baseline standard. Policy 39 Clause E require all non-residential buildings over 500sqm to achieve BREEAM Excellent. The minimum performance standards under BREEAM Excellent require the 12.5% improvement for water efficiency. Our target is inherent within Clause E and therefore consistent with the London Plan

3.5 The Viability Report (EV_GEN_001) has tested the sustainability requirements of the Plan (including the BREEAM standards) and concluded that sustainability requirements in the City Plan have a modest impact on overall viability and should be readily accommodated in almost all circumstances. Policy 39 (and specifically the water standard) is in general conformity with the London Plan, the viability of which has already been sufficiently tested and the viability implications of developer requirements can be deemed to be duly considered.

3.6 Five proposed modifications (M/DH/01, M/DH/02, M/DH/03, PS/DH/01, and M/DH/09) are necessary for soundness as explained in the Revised Schedule of Modifications (CORE_025_V3).

Question 4. Is Policy 40 consistent with national policy and the statutory requirements associated with heritage assets? Is it clear? Are the proposed modifications necessary for soundness?

4.1 Yes, Policy 40 is consistent with national policy and statutory requirements associated with heritage assets. In line with paragraph 185 (parts a-d) of the NPPF, it provides a positive strategy for the conservation and enhancement of Westminster's heritage in particular as is set out in Clause A and B. Clauses C-R detail how we will conserve different types of heritage assets *in a manner appropriate to their significance* in line with the NPPF (paragraph 184). It provides criteria for assessing applications affecting different types of heritage assets and their settings, providing a proportionate approach, taking into account their level of designation, whether they are designated or non-designated heritage assets and associated statutory requirements.

4.2 In drafting these criteria, we have had regard to the relevant Acts and statutory duties that apply to designated heritage assets including the requirement to have

special regard to the desirability of preserving listed buildings and to preserving or enhancing the character or appearance of conservation areas as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990. The particular requirements in relation to listed buildings²⁴ and conservation areas²⁵ are reflected in policy wording which also notes that conservation areas will be kept under review in line with the requirements of the Act²⁶. We have also had regard to the provisions of the Ancient Monuments and Archaeological Areas Act 1979, the Historic Buildings and Ancient Monuments Act 1953 and the UNESCO Convention concerning the protection of the World Cultural and Natural Heritage.

4.3 In line with the NPPF (paragraph 193), the policy (with modifications) recognises the need to give greatest weight to conservation of designated heritage assets, recognising the World Heritage Site as of the highest level of significance (paragraph 40.4) and requiring a balanced and proportionate approach when considering proposals affecting non-designated assets (clause R).

4.4 The policy also details the need when considering potential impacts of proposals on heritage assets to balance harm against public benefits, encouraging proposals which avoid or minimise harm in line with the PPG (paragraph 008)²⁷ and referring to the relevant tests in paragraphs 193-197 of the NPPF. It deliberately does not seek to re-state these, given the differing tests to be applied depending on the degree of harm and level of designation (whether designated or non-designated). Instead these tests are signposted throughout and supporting text at paragraph 40.2 identifies the need for applicants to provide *justification for any harm caused taking into account the significance of the asset, its designation, the degree of harm caused (whether substantial or less than substantial), alternatives which have been considered, any public benefits (which may include heritage benefits) and the circumstances of the case*. The consideration of these issues will allow a balanced judgment to be made when considering proposals affecting heritage assets. Further detail on how we have addressed national guidance and policy is set out in the Heritage Topic Paper (EV_DH_001).

4.5 Representations at Regulation 19 stage have led to a number of proposed modifications which will improve the clarity and effectiveness of this policy and as a result of changes Historic England have agreed that all key areas of concern in relation to this policy had been addressed as set out in the Statement of Common Ground (SCG_002).

4.6 Since this statement was signed, the council is now proposing a number of further modifications to those proposed to improve the clarity of the policy including:

- Amendment to M/DH/16 to be clear the policy relates only to parks and gardens identified on the Register of Historic Parks and Gardens - a further modification is proposed to make this clear.
- PS/DH/06 - Reference to conservation areas within the policy on non-designated heritage assets has been removed.
- PS/DH/09 amendments to paragraph 40.27 to reflect the above changes and clarify the approach to non-designated heritage assets.

²⁴ Sections 66 & 16(2) Planning (Listed Buildings and Conservation Areas) Act 1990

²⁵ Section 72 Planning (Listed Buildings and Conservation Areas) Act 1990

²⁶ Section 69 Planning (Listed Buildings and Conservation Areas) Act 1990

²⁷ Reference ID: 18a-008-20190723

4.7 With these further modifications, the policy provides a clear approach setting out how we will consider potential impacts of proposals in relation to different types of heritage assets. In total, nine proposed modifications (M/DH/12 - M/DH/16 inclusive, PS/DH/06, M/DH/23, M/DH/24, PS/DH/09) are necessary for soundness as explained in the Revised Schedule of Modifications (CORE_025_V3).

4.8 Some additional modifications have been proposed post submission for clarity which are not necessary for soundness (listed as minor in the CORE_025_V3)

Question 5. Is Policy 41 justified and consistent with national policy, particularly with regard to storey limitations, upwards extensions and density? Is it clear when each of the criteria in Policy 41 would be applicable? Particularly, is predominantly residential area clearly defined? Are the proposed modifications necessary for soundness?

5.1 Yes, Policy 41 is consistent with the NPPF requiring development to make the most efficient use of land (paragraph 117) and to respond to local context (paragraph 127). The approach is justified in response to Westminster's densely developed character and extensive heritage assets, where smaller-scale infill development and incremental change through extensions and improvements to existing buildings are of particular importance. Given this context, the policy does not seek to impose density ranges or limitations but promotes a design-led approach to allow the potential of sites to be optimised in response to context, while conserving, enhancing and incorporating features which positively contribute to character and significance of heritage assets and townscape.

5.2 As set out in the Roofs Topic Paper (EV_DH_002), the policy seeks in particular to encourage a positive approach to roof extensions. This is consistent with paragraph 118 (part E) of the NPPF which makes specific reference to use of airspace for delivery of new housing. The NPPF also supports a positive approach to growth within town centres (chapter 7) and the Commercial Growth Paper (EV_E_001), notes the importance of redevelopment and upwards extensions in meeting our commercial growth targets. Recognising that many large commercial thoroughfares in the city are characterised by larger scale buildings and are a focus for commercial growth, policy applies less specific and more flexible criteria for roof extensions which will deliver commercial floorspace within these commercial locations. A number of stakeholders have suggested a more flexible approach should apply across a wider area, but this is not considered appropriate, given the sensitivity of the townscape and extent of heritage assets. Across the city, the policy encourages sensitively designed roof extensions which will deliver new housing.

5.3 Policy 41 does not propose storey limitations. This was originally proposed in the Informal Consultation Draft of the City Plan (CORE_018). The Regulation 19 draft sought to remove limits and focus on identifying locations where roof extensions are likely to be acceptable having regard to townscape impacts and as part of a more flexible, design-led approach that can better respond to the unique circumstances of individual sites.

5.4 However, aspects of the wording in the Regulation 19 draft policy are insufficiently clear in relation to when each policy criteria applies. Given the mixed-use character of Westminster and large residential populations and areas within the Central Activities Zone, what constitutes a 'predominantly residential area' (as

referred to in Clause E of the submission draft) is difficult to clearly define and apply. In the context of roof extensions, this is linked to townscape character, as well as land-use. Large areas of Westminster are still dominated by terraces originally designed for residential use and many remain in residential use. However, these areas are not exclusively residential. In light of consultation responses, a modification is proposed to Clause E (M/DH/26) which makes this clause apply to any roof extension with the exception of those specific areas identified in Clause G. A number of further minor wording changes have also been proposed to the policy criteria post submission to improve clarity (M/DH/25, M/DH/28, M/DH/30, M/DH/31, M/DH/32).

5.4 To retain the intent of a positive approach towards housing delivery and enabling families to extend to stay in Westminster, wording in Clause E has been moved to Clause F of the policy. This makes clear that in principle we encourage roof extensions which help deliver new or family-sized housing where they are sensitively designed. A further modification is now proposed to remove the reference to predominantly residential areas (M/DH/26).

5.5 Criteria at G apply to roof extensions providing new commercial floorspace within the specific listed streets only. These are shown on the map in Figure 1 of the Roof Extensions topic paper, as referenced above. Such extensions would not be required to meet the criteria in part E and modification M/DH/26 is proposed to make this clearer.

5.6 Three proposed modifications (M/DH/26, M/DH/27 and M/DH/29) are therefore necessary for soundness to improve clarity and effectiveness as explained in the Revised Schedule of Modifications (CORE_025_V3). Other minor wording changes are proposed to improve clarity but are not necessary for soundness.

Policy 41, Clauses E & F Modification (M/DH/26):

~~*E In predominantly residential areas an additional roof storey will be permitted where this adds new residential floorspace to an existing unit or creates a new self-contained residential unit. **Roof extensions should** and fulfils one of the following criteria:*~~

- ~~*1. the application site forms part of a terrace or group where a variety of roof additions or alterations create an established mixed pattern and **where** further development of a similar form would not cause additional harm or would help to unify a group of buildings and townscape; or*~~
- ~~*2. **the development would take a coordinated approach, adding roof extensions of consistent and appropriate design to each property within** -in the case of a terrace or group of unlisted buildings which has an existing roof line unimpaired by extensions, the development would take a coordinated approach, adding roof extensions of consistent and appropriate design to each property within the complete terrace or group; or*~~
- ~~*3. in other locations where the proposed roof form is of appropriate design, sympathetic to the architectural character of the building and does not cause harm to amenity or heritage assets.*~~

~~*F On residential buildings or in predominantly residential areas an additional roof storey will be permitted **supported in principle** where this adds new residential floorspace to an existing unit or creates a new self-contained residential unit and meets one of the following criteria **in Part E***~~

Policy 41, Clause G (previously clause F) (M/DH/27):

*Within the Opportunity Areas, in the International Centres of the West End and Knightsbridge and the Major Centre, and in other commercial locations on the Transport for London and Strategic Road networks, ~~upwards~~ **roof** extensions of one or more storeys which create additional commercial floorspace **will not be required to meet the criteria in part E and will** be permitted ~~on~~ ~~unlisted buildings~~, provided they are of appropriate and high quality design, do not impact adversely on heritage assets and **are designed to** ~~incorporate set-backs to minimise visibility from street level,~~ **incorporating set-backs** where appropriate*

Reasoned justification paragraph 41.11 (M/DH/29):

*... However, we will consider applications which would take a coordinated approach, adding roof extensions of consistent and appropriate design to a complete terrace ~~or group~~ of unlisted buildings with a uniform roofline. **This will typically be Georgian and Victorian properties where mansard roofs can be accommodated behind a parapet. In such cases we will require extensions across the whole terrace group to be implemented at one time and this may be secured by legal agreement....cont.***

Question 6. Is Policy 42 justified? Is it positively prepared? Are tall buildings and exceptionally tall buildings clearly defined? Are the proposed modifications necessary for soundness?

6.1 Yes the policy (including proposed modifications) is positively prepared and provides an appropriate framework in line with the London Plan which is clear which areas are appropriate in principle for tall buildings - where growth is anticipated as set in the Spatial Strategy, and it sets out parameters which will allow growth to be delivered within these areas. The policy (with modifications) also provides an appropriate and justified approach to managing tall buildings and has been prepared with reference to the NPPF (particularly Chapter 16), national guidance, the New London Plan (Policy D9) (including the London View Management Framework²⁸) and informed by the council's Building Height Study (EV_DH_04 and EV_DH_05). The latter study builds upon the council's existing policy approach backed up by characterisation work in conservation area audits (EV_DH_008), and detailed consideration of particular sites, applications and appeals. It found that there are five areas in the city suitable in principle for tall buildings.

6.2 A one-size-fits-all definition of a tall building expressed in metres or storeys is not an effective or appropriate way to define what tall – or exceptionally tall - means in Westminster owing to the varying characteristics both across the city and at a micro level within specific areas. It depends on the context of the local and surrounding areas as to whether a building is deemed tall. These concepts are illustrated in Figures 4.1 – 4.3 in the Building Height Study (EV_DH_004). The London Plan (paragraph 3.9.3) sets out that tall buildings are those that are substantially taller than their surroundings and cause a significant change to the skyline. In line with this approach

²⁸ www.london.gov.uk/what-we-do/planning/implementing-london-plan/planning-guidance/london-view-management

and existing and emerging Historic England Guidance²⁹ the policy seeks to define tall buildings in relation to context, recognising what might be considered tall will vary according to the nature of the local area and it directs tall buildings and significant development to the most appropriate locations based upon an analysis of context. Further detail is set out within the Building Height Topic Paper (EV_DH_006).

6.3 Modifications are proposed (M/DH/34, PS/DH/13, PS/DH/15, PS/DH/16) to further provide clarity on how tall buildings are defined and how the policy is to be applied to positively balance growth against the need to protect heritage and to make it more effective. This also addresses the misunderstanding from stakeholders that the policy sets a limit of 30 metres for any new building – this is not the intention.

6.4 The Building Height Study (EV_DH_004 and EV_DH_005) analysis identified Paddington and Victoria Opportunity areas as most likely to be able to accommodate tall buildings. It also identified the fringes to Paddington Opportunity Area and Housing Renewal Areas as having some potential to accommodate additional height. The Opportunity Areas and Housing Renewal Areas are where we expect to see the greatest amount of change and/or growth as outlined in City Plan Policy 1, 3, 4 and 6. Further opportunities for tall buildings across the city are limited due to various constraints and sensitivities as detailed in the Study. While it was not considered proportionate to undertake detailed modelling for all sites across the areas some sites within and at the fringes of these areas were modelled as part of the Building Height Study (see Appendix EV_DH_005).

6.5 Alongside the consideration of permissions and proposals within the areas, this has allowed area-based ranges of heights to be set, based on the characteristics of these areas and context heights identified for the wider area that recognise the changes in scale between the opportunity areas and surrounding areas. Clause E of the policy explains what the prevailing context heights are across the areas identified are and what ratio against that context height may be appropriate. These are broad ranges within which development is likely to be acceptable and do not set limitations but recognise that the identification of further specific sites for tall buildings and the appropriate form and height for these sites would only come through detailed urban design analysis. A modification is proposed to paragraph 42.8 (M/DH/36) to make it clearer that this is intended to guide proposals, not set an absolute limit – thereby making the policy more effective.

6.6 The policy is also positive prepared in that it does not completely rule out tall buildings outside of the five areas – it recognises that there may be rare instances where a building which makes a significant change to the skyline outside these areas is appropriate. Clauses C and F of the policy (and associated reasoned justification) address this point. However, the council considers that spreading the issue across two clauses is confusing and that clause F and the reasoned justification sufficiently explains under what circumstances this will be appropriate. Clause C is therefore proposed to be deleted (M/DH/35), and modifications to Clause F (PS/DH/12) and paragraphs 42.2 (PS/DH/14), 42.4 (PS/DH/16) and 42.9 (PS/DH/18) of the reasoned justification are proposed to ensure clarity and effectiveness.

6.7 Alongside the intentions of Clause F (renamed Clause E) the policy also seeks to balance harm and benefits where height is proposed to go beyond the broad context height ranges set out in clause E (renamed clause D) where is delivers exceptional

²⁹ <https://historicengland.org.uk/images-books/publications/tall-buildings-advice-note-4/>

benefits. This approach has been clarified and strengthened through proposed modifications (PS/DH/19 and PS/DH/17) which all taken together contribute to a positively prepared approach to tall buildings in Westminster.

6.8 The policy (with proposed modifications) provide realistic information about the likelihood of a tall building being appropriate within Westminster's opportunity areas, and a clear delivery strategy about the likely form of development in those areas during the lifetime of the plan.

6.9 The council has set out in its Local Development Scheme (CORE_023) an intention to produce a stand-alone Site Allocations DPD. This document will provide more guidance on large development sites, including more detailed guidance on appropriate building heights, based on detailed modelling and assessment of all relevant factors. For clarity, it is important to note that the City Plan has been drafted in a way that ensures it can be implemented as a standalone document, and that schemes can be determined using the policies within it in advance of the production of the Site Allocations DPD.

6.10 As set out in the Revised Schedule of Modifications (CORE_025_V3), modifications marked as 'Main' are necessary for the soundness of the policy for the reasons set out in the document.

Question 7. Is Policy 43 consistent with Policy 42?

7.1 Paragraph 43.1 explains why the council has chosen to have a policy specifically relating to building height in the housing renewal areas owing to the inherent complexities of large-scale estate renewal. The policy seeks to balance facilitating much-needed renewal of Westminster's existing housing estates (with all of the public, social, environmental and health benefits these projects will bring) with managing impacts on residential amenity and heritage and conservation. Although any tall building proposal will be determined by balancing these factors, large-scale estate renewal is more complicated compared to the redevelopment of individual blocks owing to the scale of whole-estate renewal and additional costs, as set out in paragraph 43.1. Housing estate renewal also delivers more in the way of social benefits compared to other tall building proposals which could in principle in exceptional circumstances outweigh the harm.

7.2 Policy 42 A (with modification M/DH/33) states that tall buildings are defined as anything of twice the prevailing context height or more or those which result in a significant change to the skyline. Policy 43 does not contradict this approach. Where the two policies differ is Policy 42 identifies the broad context heights in the areas identified in principle as suitable for tall buildings location, whereas Policy 43 does not. But the difference does not create any inconsistency. The Housing Renewal Area developments which will trigger Policy 43 are identified in the council's 2010 Housing Renewal Strategy, are subject to a strategic policy in the Plan to guide the principles of their redevelopment and have been subject to more extensive local resident consultation than other types of developments (see the council's Statement on questions relating to Policy 6 in Matter 3). This includes the development of detailed urban design frameworks which set the detailed parameters for development within the areas. It is therefore justified to have a policy specifically dedicated to building height for these types of development given their unique status in Westminster.

7.3 Policy 42 is intended to work alongside Policy 43 to determine proposals for tall buildings in the housing renewal areas. Clause A of Policy 43 makes it clear that the principles in clause D of Policy 42 (re-named clause C) apply to developments that are triggered by Policy 43 and paragraph 43.1 explains that applicants are required to demonstrate how clauses A-D (renamed clauses A-C of Policy 42) are adhered to, creating consistency in the approach to tall buildings across the two policies.

7.4 Clause B of Policy 42 (with modification M/DH/34) requires any building which is classed as tall to satisfy the general principles in 42D (renamed clause C) and locational principles in clauses E & F (renamed D & E) and Policy 43 doesn't contradict this approach, but instead works with it to make the policies work effectively. Policy 43 Clause A essentially adds an additional level of material considerations on top of these in that it seeks to balance an appropriate height against the wider public benefits the scheme is able to viably deliver because of the unique complexities of housing estate renewal.

7.5 Clause E (renamed clause D) of Policy 42 defers to the specifics of Policy 43 for development in the HRAs and the two policies are therefore consistent in this respect.

7.6 Clause F (renamed clause E) of Policy 42 only applies to locations outside those identified in Policy 42 clause E (renamed clause D) (of which the HRAS are referenced) – these clauses therefore have no contradictions / inconsistencies.

7.7 Concerns were raised at Regulation 19 consultation³⁰ that the differentiation between the two policies would lead to lower standard of amenity protection for people living in housing renewal areas. The Plan is intended to be read as a whole with all policies having equal weight. Policies such as Policy 7 and Policy 39 therefore provide sufficient protections for residential amenity and design quality.

Question 8. Is the one storey limit in Policy 46 justified? Does Policy 46 take full account of flood risk?

8.1 Yes. Policy 46 largely carries forward the criteria within the existing adopted Basements policy no CM28.1 within the adopted City Plan (November 2016), albeit in a more succinct and clearer way. This policy was subject to examination in public in 2016³¹.

8.2 The rationale for the one storey limit is to limit the disruption to neighbours. Basement developments have increased in popularity within Westminster and due to the dense urban environment can often have significant impacts on the amenity of neighbouring occupiers, as well as on ground conditions, biodiversity, heritage assets, local character and garden settings.

8.3 It is acknowledged that multi-level basements are a common requirement for commercial development, which can enable a growth in floorspace without the often unacceptable impacts from increased height. The justification for the one storey limit originally focused on impacts on residential amenity and therefore exceptions were

³⁰ Church Street Neighbourhood Forum

³¹ The Inspectors Report can be found here:

http://transact.westminster.gov.uk/docstores/publications_store/planning/policy/basement_revision_inspectors_report.pdf

made for commercial basements. However, given the mixed and densely developed character of commercial sites, they often have equally significant impacts on residential amenity. It is therefore justified to limit basement extensions across the city but exceptions to the limit relate to size and accessibility of the site rather than its use as per the adopted policy.

8.4 This will be achieved by a limit on the amount of soil that must be excavated, (indirectly reducing the length of the overall construction programme), as well as limiting vehicle movements to the site (i.e. fewer vehicles to remove excavated soil). While the relationship between programme and size of basement is not necessarily straightforward, it is linked to site access as well as construction methodology.

8.5 The risk of flooding to basement dwellings has been informed by the draft SFRA (EV_ENV_010, particularly section 5.4). Paragraph 46.2 of the policy's reasoned justification requires a structural methodology statement to be prepared by applicants for basement developments and paragraph 46.3 requires Flood Risk Assessment (FRA) to be provided for basement development proposals. A further (M/DH/39) modification is proposed to this paragraph to better align it with the requirements of Policy 36 which directly addresses mitigation of flood risk:

*Given their nature, basements can be vulnerable to flooding from a number of sources including the overflowing of drains and nearby watercourses, groundwater flooding and surface water flooding. A site-specific Flood Risk Assessment (FRA) will be required for basement developments **located in flood zone 2 or 3, or surface water flood risk hotspots. Flood risk considerations are also addressed in the structural methodology statement required for all basement developments.** Measures to be incorporated may include Sustainable Drainage Systems (SuDS) and positive pumped devices or equivalent to address sewerage flooding, ~~or~~ **and** other measures recommended in the FRA.*

8.6 The Integrated Impact Assessment (IIA) (CORE_006) also informed the approach to basements in its assessment of the policy against IIA Objective 7 Flood Risk and Water Quality water quality, which it was found to have a major positive impact on.

Question 9. Are any other modifications to Policies 39-46 necessary for soundness?

9.1 As set out above in relation to individual questions, a number of additional modifications are proposed and considered necessary for soundness.

9.2 Consultees suggested at Regulation 19 consultation (see CORE_010) that the Plan should identify the potential for new 'district landmarks' in the Opportunity Areas however the council rejects this suggestion as these areas already have buildings of this nature and more are not appropriate. No further modifications beyond those set out above and identified in the schedule are therefore necessary for soundness.