INTRODUCTION

CLLR ROBERT DAVIS

Planning is a vital tool for shaping and managing our City, all the more essential at a time of growth and change. If it is going to realise its full potential in realising our ambitions for a liveable, dynamic city that provides opportunity and quality of life for all its people, it is essential to have a clear policy framework in place setting the context for decision making and being clear to everyone the expectations the council will have of new development.

This is why the Council has made development of a new City Plan a priority. The Government has ended the requirement to have separate planning documents dealing with strategic policies and those on implementation, and we believe a single document will be easier to understand and use. The first step towards this was taken by approval of updated strategic policies. We are now consulting on detailed policies on City Management, initially through a series of informal booklets on particular topics – of which this is one.

This booklet deals with the broad spatial strategy behind the revision – the “where” to the issues about “what” and “when” in the other booklets in this series. This has been informed by some of the comments received on earlier policy proposals, and we would particularly welcome views on these major strategic issues.

It also deals with some detailed implementation issues about the way planning is administered and policies are applied in Westminster and asks for comments on our proposed approach.

I hope there will be a wide response to these booklets, and look forward to the debate as we move to a new City Plan for Westminster.

Councillor Robert Davis DL
Deputy Leader, Westminster City Council
Cabinet Member for Built Environment
## CONTENTS

### Overview
1. Introduction 1
2. Developing Westminster’s City Plan 2
3. Consulting on the City Plan 3

### Spatial Strategy
1. Westminster’s Spatial Strategy 4
2. A New Spatial Vision 5
3. Housing and Economic Development 6
4. Development Capacity 8
5. The Central Activities Zone 9
6. West End Special Retail Policy Area 11
7. Church Street and Edgware Road 12
8. Crossrail 13
9. Land Uses 16

### Implementation
1. Planning and infrastructure delivery 17
2. Place shaping and rights to light 19
3. Policy avoidance 23
4. Cumulative effects 25
5. Enforcement 27
6. Monitoring 29
7. Minerals 30

### Next steps
INTRODUCTION

This booklet deals with the council’s emerging ideas about spatial strategy underlying its review of City Management policies. It also deals with some detailed issues about how the council’s planning policies are put into effect. References in it to “the City Plan” are to the completed local plan integrating Strategic and detailed City Management policies which will be adopted at the end of the current review process.

Specific policies dealt with in this booklet include:
Strategic Policy S33 – Delivering Infrastructure and Planning Obligations
A new Strategic Policy on Rights to Light

Proposed City Management Policies:
• CM47.1 – Implementing the Presumption in Favour of Sustainable Development
• CM47.2 – Enforcement

It also deals with matters covered by Strategic Policies dealing with Westminster’s Spatial Strategy: S1 (Mixed Use in the Central Activities Zone); S2 (Special Policy Areas), S3-5 (Paddington, Victoria and Tottenham Court Road Opportunity Areas); S6 (Core Central Activities Zone); S7 (West End Special Retail Policy Area); S8 (Marylebone and Fitzrovia); S9 (Knightsbridge); S10 (Pimlico); S12 (North Westminster Economic Development Area) and S13 (Outside the CAZ and NWEDA)

We would welcome your views on:
• The spatial vision and policy options in the first section of this Booklet.
• The proposed new policy wording in the second section. This is shown as underlined or identified as an entirely new policy. Adopted policy is shown in **bold** and is not intended to be altered as a result of this consultation.
• The proposed approach to the council’s minerals planning responsibilities outlined in the third section of this Booklet.
OVERVIEW: DEVELOPING WESTMINSTER’S CITY PLAN

The planning system in England is plan-led. In taking planning decisions the starting point is the policies in what is called “the development plan” in each area. In Westminster, the development plan comprises the London Plan (published by the Mayor of London) and the City Council’s own local plan (at the moment the Westminster Unitary Development Plan, adopted in 2007 and the City Plan: Strategic Policies, adopted in 2013). In time it will also include any neighbourhood plans approved for areas within the City.

There are two types of planning policy:

• Strategic policies setting overall objectives and directions. These are currently set out in “Westminster’s City Plan: Strategic Policies”, which was formally adopted in November 2013.

• City Management policies which set out more detailed policies to supplement and implement the strategic ones. The council consulted on a draft City Management Plan setting out detailed policy in November 2011.

Following changes to the law, the council has decided that it would be better to have all its planning policies in one place, an approach now encouraged by national government. In May 2012 it gave formal notice it would be creating a comprehensive plan by inserting the city management policies into the strategic policies document. The result will be a new Westminster City Plan. This booklet – and others on particular subjects – is part of this process.
OVERVIEW: CONSULTING ON WESTMINSTER’S CITY PLAN

The council is continuing the consultation process on this through a series of informal topic or issue-based booklets giving some background, explaining the approach it is proposed to take and asking for comments. The first to appear – on Basements – was published in October 2013 with those on Mayfair and St. James’s and Flood Risk in December 2013, Food, Drink, Entertainment, Tourism, Arts and Culture; Housing: Need, Delivery and Quality; Social and Community Uses and Westminster’s Economy published in March 2014 and Design, Health, Well-being and Personal Safety, Open Space and Green Infrastructure, Planning and Pollution Control, Public Realm and Advertisements, Transport and Movement published in July 2014. The rest will be published later this year.

The booklets published so far have covered:

- Booklet 1: Housing: Need, Delivery and Quality
- Booklet 2: Flood risk
- Booklet 3: Basements
- Booklet 4: Mayfair and St James
- Booklet 5: Food, Drink, Entertainment, Tourism, Arts and Culture
- Booklet 6: Westminster’s Economy
- Booklet 7: Social and Community Uses
- Booklet 8: Design
- Booklet 9: Health, Well-being and Personal Safety
- Booklet 10: Open Space and Green Infrastructure
- Booklet 11: Planning and Pollution Control
- Booklet 12: Public Realm and Advertisements
- Booklet 13: Transport and Movement

So far the council has received around 400 responses to these booklets. Some of these comments have influenced the proposals in this Booklet.

Further consultations deal with:

- Heritage, Views and Tall Buildings
- Affordable Housing
- Mixed Use and Office to Residential
- The West End

If you wish to respond to this consultation, please go to [www.westminster.gov.uk/cityplan](http://www.westminster.gov.uk/cityplan) or if you do not have access to a computer, visit your local library to see copies or telephone (020) 7641 4240 to receive copies.

If you wish to be involved, please register your interest by telephone (020) 7641 4240 or email Sally Talbot at stalbot@westminster.gov.uk and we will add you to our consultation database.
WESTMINSTER’S SPATIAL STRATEGY

While reviewing the City Plan to include the city management policies, it is also a good opportunity to also think about whether the adopted spatial strategy and strategic policies can be improved. Key questions include:

- Is the adopted vision aspirational enough? Does it encourage and assist investment and development decisions?
- Is the appropriate balance struck between different land uses, particularly residential and commercial development? Should housing continue to be prioritised above other land uses? How can commercial development and economic development be supported?
- What does the proposed new housing target of 1,068 new units per year mean for the city?
- What is the development capacity of the city and is our scarce land resource being used efficiently and effectively?
- Does the differentiation between Core CAZ and the wider Central Activities Zone remain relevant? What would this mean for policies such as restrictions on extensions to existing offices in the wider CAZ, for example?
- What are the implications of the work carried out by the West End Commission, their report and their recommendations, and the on-going work of the West End Partnership, and to what extent can the City Plan serve as a vehicle for delivering/providing a statutory framework for the outcomes?
- What are the aspirations for the regeneration of council estates in the north of the borough and are we making the most of the opportunities afforded by these areas? Is a different response needed in these areas than the wider North Westminster Economic Development Area (NWEDA)?
- Are the opportunities of Crossrail fully realised?
A NEW SPATIAL VISION

The Westminster City Plan: Strategic Policies adopted in 2013 contains a “Spatial Vision”:

To make Westminster the foremost world class sustainable city: A city which values its unique heritage and accommodates growth and change to ensure the city’s continued economic success while providing opportunities and a high quality of life for all of its communities and a high quality environment for residents, workers and visitors alike.

Against the background of the growth trends described on page 11, it is sensible to consider whether this statement of spatial vision remains appropriate for the next decades. A revised version of this vision is suggested below, and comments on it will be particularly welcomed.

To make Westminster the foremost world class sustainable city: A city which values its unique heritage and accommodates growth and change to ensure the city’s continued economic success while maximising the economic, environmental and social benefits for all its people. Westminster will lead in:

- shaping, managing and protecting places and neighbourhoods for people to live, work and visit;
- encouraging both residential and commercial development to enable a high and improving quality of life for residents to deliver prosperity and to deliver economic success for enterprises;
- respecting and securing the benefits of its unique heritage; and
- addressing environmental challenges such as climate change and air quality.

A city that continues to make a special contribution to the success of London and the United Kingdom. A city people are proud to live or work in, and glad to visit and enjoy.
The City Plan, and the Core Strategy and Unitary Development Plan before it, were all based on the premise that without intervention, the market would fail to bring forward adequate housing, particularly in the Central Activities Zone (CAZ). From this is derived the strategic policy in the City Plan Policy S14 includes the following: “Residential use is the priority across Westminster except where specifically stated.”

This presumption does not reflect market conditions for a significant number of years now. This is discussed in detail in the ‘Mixed use and office to residential booklet’ including a range of possible options to address the issues, but key considerations are:

- Between 2000 and 2009, total commercial floorspace fell in Westminster and Camden, but rose in the City of London.
- In 2000, Westminster’s GVA was estimated to be 64% greater than the City of London: by 2011 that had fallen to just 15%.
- Office floorspace in Core CAZ has dropped from 48% of total floorspace in 2011 to 45% in 2013. In contrast, residential floorspace has increased from 13% to 15% of the total.
- Over recent years, particularly in the West End, commercial office and residential values have diverged (see graph).
- Across Westminster, between 2001 and 2012, well over 450,000 sqm (over 5m sqft) of offices have changed to residential use. Unimplemented consents bringing this closer to 550,000 sqm (over 6m sqft). This dwarfs the development of new office floorspace of 215,898sqm (just over 2m sqft) for the same period.
- In contrast, almost 1.2 million sqm (over 12.5m sqft) of residential has been developed over the same period. Over 350,000 sqm (almost 4m sqft) of this was in Core CAZ, and over 870,000 sqm (9m sqft) across the whole CAZ area.
Clearly, housing development is being readily developed across Westminster. Moreover this seems to be displacing offices, and has serious implications for Westminster’s (and London’s) competitiveness as a global city.

However, we also need to be aware of a likely increase in Westminster’s housing target from the Mayor of London, from 770 per annum to 1,068 per annum. This is a significant increase, and one which will be very challenging to meet. There is a balance to be struck between housing delivery and meeting other objectives such as economic development and growth of Westminster’s GDP and employment.

The City Plan Strategic Policy S18 also encourages commercial development. However consideration is needed as to whether this goes far enough to support economic growth specifically.Whilst policies such as the one being developed for mixed use within the CAZ (subject to the separate booklet) are intended to redress the current imbalance highlighted below, should the language in the strategic policies (and supporting text) be changed to reflect a new approach and shift in emphasis.
Given the extent of Westminster’s core commercial area, and its value both monetarily and in terms of global competitiveness, it is important to ensure that the development capacity of the borough is being fully realised.

It is also noted that, although greater development volumes have been delivered elsewhere in London, such as the City, Canary Wharf and the South Bank in the case of commercial development, this is often from a lower base: Westminster is already a relatively dense urban environment with few vacant brownfield sites.

We don’t monitor the additional floorspace of small applications like conservatories or loft conversions, so can never give an exact figure for the development gains across Westminster. However, we do know that in the last 16 years, almost 2.5m sqm (over 26m sqft) of new floorspace has been delivered. This equates to over 20 Shards, more than one a year.

Much of Westminster lies within Conservation Areas (75%) and there are more than 11,000 listed buildings. However, it is clear that opportunities are being identified and taken to deliver new floorspace within the existing urban form.

**KEY QUESTIONS**

1. *Is an appropriate balance maintained between protecting Westminster’s heritage and allowing development to fully realise the development capacity of the borough?*

2. *If not, what policy interventions should be considered?*
The Central Activities Zone (CAZ) is the area at the heart of London recognised as the strategic centre for government, strategic finance and business, specialist and large-scale retail, tourist and cultural uses as well as for residential and more locally-focussed purposes.

The London Plan identifies the CAZ across 8 boroughs and sets strategic policies. Boroughs must draw the detailed boundaries and implement CAZ policies appropriately at a local level.

Westminster’s CAZ is made up of a number of areas: Core CAZ, Pimlico, Knightsbridge, Paddington and Marylebone & Fitzrovia. Each has its own policy, reflecting the different character and historic management of different areas. In particular, Pimlico, Knightsbridge and Marylebone & Fitzrovia have policies that acknowledge their more residential character. Collectively these are often referred to as ‘wider CAZ’.

In moving to the wider CAZ area required by the London Plan, our Core Strategy kept the distinction between Core CAZ, which was broadly the area identified in our earlier policies in the Unitary Development Plan, and the wider CAZ, the additional areas that the London Plan required to be included. This was considered important to make clear that Pimlico, for example, was not of the same commercial character as Core CAZ, and is a predominantly residential area. As part of this review, we are looking again and the differentiation between these areas. In reality, some parts of Core CAZ are also predominantly residential, including parts of Mayfair and St James’s. We could drop the separate policies for different areas and Therefore, rather than designating ‘Core CAZ’ and the wider CAZ areas, we could take a different policy approach which is to simply have a different policy approach for those parts of CAZ that are predominantly residential. This would simplify the City Plan (for example removing the need for “named streets” in Marylebone and Fitzrovia). It would enable a comprehensive approach to planning for all of the functions of the CAZ and provide a degree of flexibility in implementing policies. It would also provide consistency between predominantly residential areas inside Core CAZ such as parts of Mayfair with similar areas currently outside the Core CAZ such as parts of Pimlico.

It is also timely to ask whether the CAZ designation goes far enough. Is there potential to extend CAZ into areas to the north and west of Paddington, and into the more commercially-oriented part of the North Westminster Economic Development Area (Map on page 13). New opportunities for growth arising from Crossrail and the implementation of High Speed 2 should be maximised. Additionally, significant improvement and development outside Westminster, in the Opportunity Areas at Kensal Canalside, Park Royal and Old Oak could provide development opportunity nearby within Westminster. Bringing the area within CAZ would signal the Council’s encouragement of economic growth in this part of the borough.

**KEY QUESTIONS**

1. **Should we remove the different areas within the Central Activities Zone, and focus instead on protecting predominantly residential areas from inappropriate development, wherever they are in the CAZ?** (see also the West End booklet which discusses the possibility of a separate West End designation and policy approach)

2. **Should CAZ be extended to maximise the opportunities offered by new transport links to facilitate nearby growth and regeneration?**
This map provides indicative boundaries of areas in the north of the City and around Paddington which might be appropriate for extending the current Central Activities Zone, to highlight the strategic importance of the area for Westminster, central London and the capital as a whole and signal additional capacity for growth.

1. North Marylebone, although characterised by development of a more local scale, is surprisingly close to Marylebone Station.

2. These sites were originally excluded from Westminster's CAZ, although they do fall within the Mayor's CAZ designation. Part of the site already has permission for over-site development. The remainder of the site could accommodate cantilevered development east of Royal Oak station over the railway.

3. This area around Praed Street is designated as a District Shopping Centre and therefore a range of town centre uses (including offices, hotels etc) are already allowed for.

4. An extension of the CAZ into the Edgware Road/Church Street area is discussed in more detail on page x below.

5. The Harrow Road includes a District shopping centre, and surrounding areas which have a wide range of uses and development scale. The shopping centre currently underperforms, particularly given its proximity to the West End. A masterplan will be prepared to look at the potential for the area and opportunities for future investment.
STRATEGIC POLICY: WEST END SPECIAL RETAIL POLICY AREA

The West End Special Retail Policy Area (WESPRA) was identified in the London Plan to recognise the uniqueness of the West End offer. The City Council identified its extent to cover its main shopping streets (Oxford, Regent and Bond streets), the wider Soho area and Covent Garden.

The City Plan states that within WESRPA the priorities are improved retail space, appropriate retail growth, improvements for pedestrians and to public transport, development of oases of rest, improved linkages to and from surrounding retail areas and visitor attractions, and encouragement of service uses (such as banks and cafes) that complement the shopping environment. It also allows a more flexible approach to the requirement for residential floorspace as part of new commercial development at the eastern end of Oxford Street.

Since this time, the importance of this area has been underlined by the work of the independent West End Commission chaired by Sir Howard Bernstein, its report in 2013 and the on-going work on the future of the area undertaken by the West End Partnership. This work is reflected in carried through in a separate ‘West End’ booklet.

A number of those commenting on the “Westminster’s Economy” booklet have suggested that WESRPA should be extended to cover a wider area around Bond Street Underground Station given that the opening of Crossrail is likely to boost the number of visitors and increase demand for retail space. They point to growing demand for additional retail space in the West End causing investors to seek assets in this area.

More widely it has been suggested that policy for the WESRPA could be strengthened by giving specific encouragement for new retail beyond the primary shopping streets. This might include encouragement of larger scale retail and complementary uses across the area, subject to protection of smaller-scale uses in places where these contribute to special local character and the diversity that forms an important element of the West End’s unique “offer”. This may be addressed by the following page.

KEY QUESTIONS

1. **Should the West End Special Retail Policy Area be extended south from the West One Shopping Centre, along Davis Street, to Brook Street?** (see map above) See also the West End booklet which discusses the possibility of a separate West End designation and policy approach.

2. **Should additional policy support be given to commercial floorspace within the City Plan Strategic Policies, to signal a change in approach and stimulate investment and economic growth?** Importantly, should the plan explicitly say that housing and commercial development are of equal priority? Or that, in this area, commercial development is of greater priority?
STRATEGIC POLICY: CHURCH STREET AND EDGWARE ROAD

The Council has agreed proposals for the regeneration of the Church Street and Paddington Green area in North Westminster. The approved Futures Plan to be delivered over the next 15-20 years will see:

- 776 new homes (a net increase of 470 homes)
- 10,335 sqm of retail floorspace (a net increase of 5,570 sqm)
- 7,478 sq m of new office space
- 7,875 sq m of community facilities (a net increase of 1,075 sqm)

These proposals are already recognised in the City Plan: Strategic Policies. The area forms part of the North Westminster Economic Development Area (NWEDA). The booklet on “Westminster’s Economy” also includes a proposed policy for greater emphasis on promoting and protecting employment uses in NWEDA, subject to protection of residents’ amenity. However, this is one of the few remaining areas in the city which is not subject to extensive heritage designations, and provides real opportunities. The current redevelopment of Church Street and the surrounding area is therefore a once-in-a-lifetime opportunity.

Although these areas lie within existing designations, the review of the plan is a good opportunity to reconsider the importance of this area in meeting Westminster’s growth challenges, and to the Council’s development aspirations – particularly for housing and local services and for workspaces suitable for a range of enterprises. There are a number of other potential regeneration and development sites nearby, at West End Green and along the Edgware Road. Together, these represent a development opportunity on the kind of scale recognised in the London Plan as an area for intensification (built up areas with good public transport accessibility which can support redevelopment at higher density and with significant capacity for new homes and jobs). However, in such close proximity to the existing Opportunity Area at Paddington, it may be more appropriate to extend the existing Paddington Opportunity Area designation. Alternatively, the city council could pursue its own designation outside of the London Plan.

A new designation developed in conjunction with the Mayor of London would put the area and its growth potential on the London-wide agenda and establish it as a priority in future discussions about regional resources. This would also give an opportunity to reassess the potential of the wider area and scope for synergies between different forms of residential and commercial development. It would also allow a different approach to this area than other parts of the NWEDA, reflecting its different character and potential, the development meets the needs of the area, its residents and the City as a whole – perhaps including those on development density and building height.

It is noted that this area has designated Neighbourhood Forums for Church Street and Westbourne, and possible forums for Marylebone and Little Venice & Maida Vale which may be affected by any changed designations. Their understanding of the community and areas they represent will be invaluable.

KEY QUESTIONS

1. Should parts of Church Street and/or Edgware Road be designated as an Area of Opportunity or an Area of Intensification? See also the West End booklet which discusses the possibility of a separate West End designation and policy approach.

2. If so, what would be an appropriate policy approach to these areas? Should there be areas recognised within this of being of different character e.g. Paddington, Church Street, Westbourne etc?

3. Have we been ambitious enough in our aspirations for the area? What role can the area play in relation to the work by the West End Commission.
Crossrail 1 will open in 2018 – in the early years of the period covered by the new City Plan. It will link Westminster with Heathrow, the City and Canary Wharf; with three stations in Westminster (Paddington, Bond Street and Tottenham Court Road), it will allow an extra 1.5 million people to travel to the heart of London in 45 minutes or less. Major improvements are also underway at the three stations in Westminster, which will improve existing Underground capacity as well as providing new Westminster gateways to parts of London experiencing major employment and housing growth. These stations could well see a tripling in the level of usage over the years to 2030.

These are dramatic changes on a historical scale. This boost to local accessibility will make the area vastly more attractive to employers and will help support employment growth in the West End of over 60,000 jobs by 2030. These new workers in turn will increase local demand for shops and leisure opportunities. On top of this, more and more visitors are likely to take advantage of the new transport services to enjoy the West End’s world class retail, leisure and other attractions – have to offer.

All of this will inevitably change the context for development, both immediately around the three Crossrail stations and further afield. Paddington and Tottenham Court Road are in areas already recognised as Opportunity Areas (defined by the Mayor as places with significant capacity for new housing (typically 2,500+ new homes), commercial or other kinds of development (typically 5,000+ new jobs). In preparing the new City Plan we will have to consider whether the boundaries of the Opportunity Areas should be changed, or the indicative minimum figures for development in each which indicate the scale of opportunity should be reassessed. The issues at Bond Street are different, given the location of the station in an area characterised by existing high value and locally-important uses and heritage designations. The following page discusses policy changes that could be made to recognise the new opportunities Crossrail will bring.
Paddington

Currently identified as having the capacity for 5,000 new jobs and 1,000 new homes, there has already been significant office and housing development in Paddington. This area is likely to increase in strategic importance into the 2030s with new transport links to growing places in west London (including the proposed new opportunity area at Old Oak Common and the Crossrail/High Speed 2/Great Western Mainline interchange there) and the Thames Valley beyond including access to Heathrow.

This booklet already raises the suggestion of an extension of the Central Activities Zone around the Opportunity Area, and questions about making the most of development potential of the city more generally. However, the key questions relating to Paddington Opportunity Area as currently designated should also be considered.

Tottenham Court Road

This area straddles the Westminster-Camden boundary. It has been identified as having capacity for 5,000 new jobs and an increased housing figure of 500 new homes (up from 420 set in 2011) is being proposed as part of draft alterations to the London Plan. The area will be served by Crossrail and the substantially upgraded Underground station, and anchors the eastern end of Oxford Street. There are already plans for ambitious over-station development which are likely to catalyse demand for new offices, homes and shops and there will be a need to ensure that growth targets and plans keep pace with change in the area. At the same time there will be places on the fringe of the area (such as Soho) where the special character and existing economic sectors and workspaces will merit support or protection from increased development pressures. This issue is likely to be addressed in future booklets on mixed use development and the West End. Any future plans for the Opportunity Area need to take account of the need to safeguard the route for Crossrail 2, on which consultation is due later this year.

**KEY QUESTIONS**

1. *Is there scope to increase the amount of growth/floorspace in either of the current Opportunity Areas?*

2. *Do either of the strategic policies need amendment to optimise the area’s potential? (City Plan Policy S3 for Paddington and S5 for Tottenham Court Road)?*

3. *In the case of Paddington, should the extent of the Opportunity Area be increased to provide a ‘land bank’ for future development, or does the North Westminster Economic Development Area already achieve this?*

4. *For Tottenham Court Road, what opportunities are there for maximising the benefits of new transport links beyond the boundary of this small Opportunity Area? Does the existing policy framework already provide for appropriate development uplift? If not, are there specific areas that are identified, or is the constraint related to area-wide policies?*
Identified as having capacity for at least 4,000 new jobs and 1,000 new homes up to 2031. The area has seen significant development along Victoria Street and at Victoria Station, including strategically important larger floorplate offices which will provide an important addition to the West End commercial “offer” and help develop Westminster’s economic base.

Looking forward, particularly with the increase in transport capacity and improved accessibility to the area from different parts of London that Crossrail 2 may bring (and the need to safeguard its route will be a consideration in this area), the City Plan could foreshadow a review of the remaining development opportunities in the Victoria area, particularly to examine the scope for additional commercial and residential development – and to examine how these might change into the 2030s.
STRATEGIC POLICY: LAND USES

Different land uses are allowed in different parts of the city, and some are only allowed in certain circumstances as set out in policy.

Because some of this information is within the area-based policy in Part III of the plan, and some is in the City-wide or Infrastructure sections of the plan (Parts IV and V) it may be helpful to include a table to provide a quick check. One is proposed below.

As can be seen, retail is already an appropriate use throughout Core CAZ including WESRPA, addressing the issue raised on the previous page.

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<th>Marylebone &amp; Fitzrovia</th>
<th>* Named Streets</th>
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<th>* Strategic Cultural Area</th>
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KEY QUESTIONS

1. **Would use of a table make the plan easier to use?**
2. **Should hotels also be explicitly directed to the Named Streets?**
3. **Are there any other changes to the land uses which should be considered?**

It is noted that there is overlap across a number of areas. For example, WESRPA lies within Core CAZ and CAZ, and covers part of the Tottenham Court Road Opportunity Area. The extent of each area can be found on the Policies Map.

* In this table, the reference to Marylebone & Fitzrovia excludes the Named Streets and Knightsbridge excludes the Strategic Cultural Area. There are also shopping centres (including very small local centres) in Marylebone & Fitzrovia and Knightsbridge that are appropriate for town centre uses such as A1 shops.

✓ Appropriate use
× Inappropriate use, not allowed
S_ May be appropriate in some circumstances, subject to the restrictions given in the policy number
Almost all development adds pressure to the City’s infrastructure, and the planning system has recognised this by allowing councils to enter into agreements with developers to contribute towards addressing these impacts. These agreements are known as “planning obligations” or “section 106 agreements” (after the legislation under which they are made). They are used to deal with site-specific issues, and where impacts are more widespread they can secure contributions from a number of developments which can be “pooled” for particular purposes. They have, for example, been used in this way by the council to fund public realm improvements and social and community benefits.

National government has introduced a new way of raising contributions to the cost of infrastructure needed to support growth – the Community Infrastructure Levy (CIL). Once set, the CIL is paid by most new developments involving buildings, although social housing and some charitable developments are exempt. In time the CIL will replace the use of section 106 agreements to pay for infrastructure as after April 2015 the ability to “pool” contributions using section 106 agreements will be restricted.

In London, both the Mayor of London and individual boroughs can set a CIL (the Mayor is using his to help pay for Crossrail). There is a formal process for setting the levy with two rounds of public consultation and a public examination; these steps particularly test the effect of proposed rates on the economic viability of development.

The council is working on its own CIL proposals, and has published a preliminary draft CIL charging schedule.

“The Government has decided that this tariff-based approach provides the best framework to unlock land for growth”

The council has published an update of its Strategic Infrastructure Plan.

**S33 PLANNING OBLIGATIONS AND DELIVERING INFRASTRUCTURE**

The council will ensure that development and growth is supported by the transport, utility, green, social and community and other infrastructure required to ensure it is sustainable and consistent with the policies in this plan. The council will work with its partners to identify this infrastructure, its costs and any shortfalls in funding and will ensure it is:

1. Phased and delivered in a timely manner to support growth; and
2. Funded through the Community Infrastructure Levy or through planning obligations, where this is appropriate and complies with relevant legislation.

In considering development proposals the council will make appropriate use of planning obligations to secure new or improved infrastructure where this:

1. will not be funded through the Community Infrastructure Levy; and
2. is necessary to make the development acceptable in planning terms, where the need for infrastructure is directly linked to the development and is fairly and reasonably related in scale and kind to the development,

The council will take appropriate account of development viability when considering requiring planning obligations and in setting its Community Infrastructure Levy.

When negotiating planning obligations, the council will secure the mitigation of the directly related impacts of development and ensure the development complies with policy requirements within the development plan; and, if appropriate, seek the provision or contributions for supporting infrastructure.

Planning obligations and Community Infrastructure Levy contributions will be sought at a level that ensures the overall delivery of appropriate development is not compromised.

Legislation limits the extent to which planning obligations can be used to fund infrastructure after April 2015. They will then continue to be used for infrastructure related to a particular development.

This policy ensures compliance with statutory tests about when use of planning obligations is appropriate.

CIL legislation requires that development viability is taken into account when rates are set. Planning obligations have to be "reasonable", and viability is a key consideration in this.

Following the introduction of a Westminster CIL, this will be the more usual way of securing supporting infrastructure.
Throughout the series of booklets already published, and in those that have yet to come, we note that there is enormous pressure on Westminster for additional floorspace of all types. Development sites should not stay vacant or under-used as this wastes the precious land resource of Westminster and harms the area and its investment potential and economic development.

In most cases, development is forthcoming across the City. However, occasionally there are barriers to development, or the right development that cannot be overcome by the usual negotiations, market activity and planning and other procedures. In these rare cases, the City Council may need to intervene to ensure that appropriate development can proceed. In such cases the council has other powers available to it such as compulsory purchase and Section 237 powers relating to rights to light.

Compulsory purchase is where the council buys land from individual land owners and paying market value through negotiation. It is used very rarely for planning, and often just to secure a small number of remaining sites where agreement can't be reached and which are otherwise preventing regeneration and redevelopment at a wider scale. For example, the council has most recently used its compulsory purchase powers to enable comprehensive redevelopment in the Victoria Opportunity Area.

Rights to light are discussed in more detail on the following pages.
In some circumstances, the law protects the rights of landowners to benefit from light gained across the land of a neighbour to enable the use of their buildings. These are commonly known as “rights to light”.

These rights usually arise over time and without an explicit agreement; those affected may not even be aware that they apply to their land. A landowner benefitting from rights to light can go to court to enforce them, including by obtaining an injunction preventing development of the neighbouring land in such a way as to block the light and thereby infringe on the rights of the neighbours – or in some cases even demolish things already built.

While these rights are often an important protection for landowners and the amenity of their property, dealing with right to light claims can cause major expense or delay – or even stop development. Some developments are affected by several sets of rights. Resolving the issues can involve very extensive negotiations and costly court hearings; it can be in the interests of some neighbours to refuse to engage and effectively hold a major development to ransom, simply to increase the amounts they can demand.

Comments are invited on how this issue is perceived and in what role, if any, the City Council should perform in such cases where conflict restricts development coming forward.

"...rights to light can have a profound effect. They are valuable to landowners and can protect the amenity of properties, but in doing so they allow those who benefit to exercise a potentially significant control over what can be done on neighbouring land."


“Ancient lights occupy...a most important position with reference to building enterprise...most of all in London...Serious complaints are made in all quarters...Demands are made for legislative interference and even Chancery judges confess themselves bewildered”

Robert Kerr (1865) On Ancient Lights
IMPLEMENTATION: POWERS RELATING TO THE RIGHT TO LIGHT

A High Court judgement in 2010 (HKRUK II (CHC) Ltd v Heaney) suggested that injunctions would be more easily available in rights to light cases. Given the effect that an injunction can have, and the costs that can result, there is major concern that this will make it more difficult to secure development funding and for schemes to be built.

Local authorities do have some powers to override rights to light (and other similar rights) in certain circumstances under section 237 of the Town and Country Planning Act 1990. Where the council has given planning permission for development it may decide to either “appropriate” the land (if owned by the council) or “acquire” it (if on land owned by the developer) for planning purposes, if this is in the public interest and certain other tests are met. This allows the development to go ahead even if it involves overriding rights like rights to light. Compensation is still payable to the person losing their right.

These powers have been used by some councils, including Westminster, to help development go forward. The Law Commission has consulted on possible changes to legislation on rights to light given the increasing frequency of rights to light issues (particularly in densely developed urban areas). The result of its consideration is awaited; in the meantime the council is considering the further action it can take itself.

“The availability of modern, good quality office, residential and commercial space is important to the success of modern ..city centres. To the extent that lenders and developers have become more cautious since the decision..there is the potential that this might contribute to a shortfall in..new buildings..to satisfy the needs of businesses or our urban population” ”

Law Commission (2013), Rights to Light: A Consultation Paper
RECOMMENDATIONS:

RIGHTS TO LIGHT

These sections of the 1990 Act allow local planning authorities to acquire land for planning purposes. Development of the land in accordance with the permission overrides rights to light and similar rights (e.g., rights of way or access).

Use of these powers is complex and resource-intensive, and their effects on landowner’s rights can be far-reaching. They will only be exercised where there is a real risk that a development of general public importance will not go ahead because of rights to light, and where the developer has made every effort to resolve the dispute through negotiation. Where necessary, the land will not be transferred back to the developer until practical completion of the scheme to ensure that development actually proceeds where these powers are used. Supplementary guidance will be published to explain the process the Council will use in using these powers.

Use of the powers involves the council formally acquiring or appropriating the land, and gives rise to liability to pay compensation. It will be essential to ensure that no part of the cost falls on the council. Payment may be required in advance.

NEW POLICY S47 RIGHTS TO LIGHT

The council is committed to ensuring development is delivered which meets its planning objectives. It will therefore consider, acquiring or appropriating land for planning purposes under sections 237, 226, and 227 of the Town and Country Planning Act 1990 (as amended) and section 122 of the Local Government Act 1972 (as amended) in respect of which planning permission has been granted, to allow developments to proceed.

In considering whether to exercise these powers the council will take the following, among other relevant considerations, into account:

1. Clear evidence that such action is necessary: that the developer has made what the council considers to be its best endeavours to make appropriate indemnity arrangements, to remove the risk of injunction by negotiating the release of rights such as rights of light by voluntary agreement with the relevant affected parties, or making reasonable modifications to the proposal; and that it is demonstrably probable that development is likely to be prevented by injunction/s prohibiting infringements of third party rights.

2. That the council is satisfied on the basis of clear evidence that that taking this action is in the general public interest, having regard to the promotion or improvement of the economic, social and/or environmental well-being of Westminster.

3. Clear evidence of a compelling case in favour of the acquisition or appropriation which would, in the circumstances of each case, be proportionate and justify any interference with private rights.

4. All financial liabilities, legal and other costs of the council incurred in the exercise of these powers will be indemnified in full by the developer.
IMPLEMENTATION: POLICY AVOIDANCE

Several of the council’s planning policies only apply to developments above a certain size. This applies, for example, to policies on mixed use development and affordable housing:

• Affordable housing is sought from developments of either 10 or more additional units, or over 1,000 sq m of additional residential floorspace.
• Commercial developments in the Central Activities Zone increasing floorspace by 200 sq m (400 sq m for A1 retail or private education/health/leisure) will be expected to provide an equivalent amount of residential floorspace.

These policies contain thresholds because the council recognises that it would be unreasonable and not cost-effective to impose a requirement on smaller developments. In these cases, the likely benefit would be so small as to be unproductive, and the additional cost might make smaller-scale developments unviable and involve a level of complexity that a smaller developer might not be equipped to deal with.

It is important to ensure that these thresholds are not abused, for example by artificially treating what is really a single development as several small ones or manipulating the floorspace of a development by minimising it with the sole purpose of policy avoidance.

Given the constraints of a densely developed area like Westminster, with multiple pressures on available space, it is vital that land is used efficiently, rather than in ways intended merely to evade planning policy. This kind of evasion would undermine policies vital to Westminster’s sustainable development, as well as being unfair to the developers who do not seek to evade their obligations. Policies are being proposed (see page 27) to ensure the council can address this kind of deliberate evasion.
IMPLEMENTATION POLICIES: THRESHOLDS

POLICY CM47.1: IMPLEMENTING THE PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT

When considering development proposals, the council will take into account in applying policies in this plan subject to a unit or floorspace threshold:

- The extent to which phased development of a site, or neighbouring and interdependent developments, will, once completed and taken together, exceed a threshold set by a policy in this plan; or
- The extent to which there is evidence that the floorspace of the planning unit has been unreasonably minimised in order to fall below a threshold set by a policy in this plan.

Where appropriate and reasonable, the council will in such cases apply policies in this plan as though any threshold has been exceeded.

A number of council policies set thresholds above which certain policy requirements apply, e.g. Policy S16 – proposals for housing development of 10 or more units, or over 1,000 sq m of residential floorspace will be expected to provide affordable housing.

This policy guards against the artificial manipulation of units or floorspace simply to evade these policies.

This allows the council to take account of developments built in stages, which, once all the stages are completed, will exceed the relevant threshold.

This allows the council to take account of developments which have been artificially separated but which adjoin each other, are interdependent, and are effectively a single unit.
IMPLEMENTATION: CUMULATIVE EFFECTS

Planning law requires the council to consider each planning application on its own merits and in the light of all material considerations – including its impacts on things like local amenity or the character of a conservation area.

Doing this in a complex and rapidly-changing urban environment like Westminster’s – which covers areas of heritage importance and sensitive residential areas – demands a careful approach taking account of change over time.

The planning system does allow consideration to be given to cases in which there is clear evidence that, where there have been a number of developments of a particular kind in an area, an additional development of the same kind might take it beyond a “tipping point” beyond which further development would have an unacceptable impact and cause material harm. Examples include the excavation of basements, hard standing impacts on surface flooding, non-retail units such as banks and cafes within shopping parades or loss of public houses.

Planning law also allows councils to refuse planning permission in cases where there is evidence that to grant it would be likely to lead to a proliferation of applications for similar developments which would have adverse effects, and which the council would find difficult to refuse.

This means going beyond considering proposed developments in isolation, but looking at evidence about their effects on top of what exists at the moment and developments coming forward afterwards – in other words, looking at cumulative effects. This has to be done with care, and only on the basis of clear and robust evidence, so that decisions taken on this basis can be successfully be defended should they be appealed.
This policy makes clear when deciding planning applications the council will consider the impacts of a particular development in the context of existing and proposed developments so that cumulative effects can be taken into account. This is particularly to deal with cases where a “tipping point” is being approached in a particular area.

Applicants for planning permission should bear these cumulative impacts in mind, using the City Plan and the Authority’s Monitoring Report to think about cases in which a “tipping point” is being approached and consider ways of mitigating harmful impacts from their own proposals.

Where a sequence of applications of a particular kind is anticipated, the council may attach an “informative” note to a planning permission making clear that further development of that kind is unlikely to be acceptable.

One way of doing this may be to attach a condition to a planning permission controlling the hours of use of a development so its cumulative effect in a particular area is reduced.
IMPLEMENTATION: ENFORCING THE PLAN

Planning enforcement is a very complex area. Planning law seeks to strike a balance between the freedom of owners to use or alter their property as they wish, with the need to safeguard the amenities of their neighbours and the conservation of historic buildings or areas.

Planning enforcement legislation is itself complex, and has been extensively interpreted by the courts and the Secretary of State through appeal decisions. There is also a large amount of Government guidance that must be given due regard in each case. The challenge for the council is to ensure that despite this complexity, where formal action against breaches of planning control is warranted, it is taken as quickly as possible, and its effectiveness is not reduced by protracted negotiation or delay by those responsible for the breach.

The council has discretion about when enforcement action should be taken in the light of the facts of each case and the policies in the local plan. National guidance states that action taken should be proportionate in each case, and recommends that local authorities publish policies to manage enforcement proactively, in a way appropriate to their area.

“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control”

Department for Communities and Local Government (2012) National Planning Policy Framework
POLICY CM47.2 ENFORCEMENT

The council will investigate breaches of planning control and will pursue enforcement action where it is considered expedient to do so. In determining whether it is expedient to pursue enforcement action, regard will be had in so far as it is considered material to relevant legislation, national policy and guidance, the London Plan, Westminster’s City Plan and supporting planning guidance, policies and priorities and to any other material considerations.

When pursuing enforcement action, the council gives priority to:

- prevention of harm to residential amenity;
- effective functioning of lawful business premises;
- preventing the loss of permanent residential accommodation and other priority uses; and
- preservation or enhancement of our heritage assets and prevention of harm to visual amenity.

All breaches of planning control will be considered on their individual merits. The council will prosecute offenders under the relevant legislation where it is considered expedient and in the public interest to do so.

This policy makes clear that the council will use its planning enforcement powers in light of both national legislation and its own policy on enforcement action - ensuring action is taken in an equitable, open, consistent and proportionate way.

Legislation states that enforcement action should be taken where the council considers it “expedient”, having regard to the development plan and any other material considerations in each case.

Other priority uses are those identified for protection in the policies in the City Plan.
IMPLEMENTATION: MONITORING

Planning is a continuous process. Having put policies in place it is important to monitor how effectively they work in practice, to identify which are working well, which need to be refined, and which need to be dropped or replaced.

Planning policies should be based on a sound evidence base about the social, economic and environmental forces driving change in an area. This is particularly true of a dynamic and ever-changing place like Westminster. What has happened in the recent past is a good starting point for considering what might happen in the future and the kinds of actions that might be needed to bring about desired outcomes.

To support this process, like most councils Westminster identifies key topics (such as the number of new homes delivered against the target of 770 per annum) in which indicators that can be used to assess success in delivering headline objectives will be developed. The council is legally required to publish an annual monitoring report (known in Westminster since 2012 as the Authority Monitoring Report) which sets each of these indicators, reports progress against each, and presents a wide range of other information about developments in the City and its planning activity.

“Each local planning authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the social, economic and environmental characteristics and prospects of the area.”

Department for Communities and Local Government (2012) National Planning Policy Framework
Under planning legislation, Westminster Council is a minerals planning authority, and is required to produce a Local Aggregate Assessment (LAA). This is an assessment of all the options for supply of the aggregates (sand, gravel and crushed rock) required for construction in the area. This should be based on a rolling average of 10 years sales data and other relevant local information, and an assessment of all supply options including marine, dredged, secondary and recycled aggregates.

Only 4 London boroughs have land-won aggregate resources within their areas and each of these are preparing their own LAA. The Mayor of London is preparing an LAA suitable for adoption by the other 29 boroughs, meaning they do not have to produce separate documents that will contain little information or the same data.

The City Council intends to adopt the Mayor’s draft LAA. The current draft is available on the Council’s website at www.westminster.gov.uk (NB FULL REFERENCE WILL BE ADDED HERE). If adopted, the Assessment will form part of the evidence base for the City Plan and its relevant policies (such as that on encouraging recycling of construction and demolition waste).

The Council would welcome comments on this proposed approach and, in particular, whether there are any Westminster-specific issues that it does not adequately cover.
Consultation through these booklets is an informal stage in the process leading up to formal approval of the City Plan.

The comments given at this stage will be used to refine our proposed policies. At this stage there will be a viability assessment of the draft Plan - all the policies will be considered individually and together to ensure they are financially deliverable by developers and the council.

The policies will then be finalised and drawn together in a draft Plan for formal public consultation, when there will be a further opportunity to comment. After this it will be submitted to the Secretary of State, and there will be an examination in public conducted by an independent inspector.

The inspector will report to the council, and may recommend changes. The council will consider any recommendations of this kind, and can then move to formally adopt the new Westminster City Plan.

The council can give the policies greater weight in taking planning decisions as the process goes forward. Once they are formally adopted they have full legal weight as part of the development plan.
Have Your Say

This booklet is part of the informal consultation for developing the statutory policies in Westminster’s local plan. It builds on previous consultation on the City Management Plan. Further information can be found at westminster.gov.uk/planning-policy.

This booklet only includes the proposed policy. However, Westminster’s local plan will include supporting text, including:

- Introductory text, setting out the background to the topic.
- Policy application: guidance as to how the policy will be applied, including details of how things will be measured or calculated etc.
- Reasoned justification: this is an explanation required by law to accompany a policy, setting out why a policy is applied.
- Glossary definitions: the statutory definitions used for terms that are included in the policies.

If you wish to discuss the issues raised in this booklet with somebody, please telephone 020 7641 2503.

To comment on anything in this booklet, please email planningpolicy@westminster.gov.uk or write to us at:

City Planning
11th Floor
Westminster City Hall
64 Victoria Street
London SW1E 6QP

Your comments will form part of the statutory record of consultation and will be made available on our website and to the public. Your contact details will not be made available, but we will use them to stay in touch with you about future policy development. If you do not want us to stay in touch, please let us know in your response.

Reading List

Legislation
The Community Infrastructure Levy Regulations 2010 SI 2010//987 (as amended)
Town and Country Planning (General Permitted Development) Order 1995 SI 1195/418 (as amended)
Town and Country Planning (Use Classes Order) 1987 SI 1987/764 (as amended)

These regulations are frequently amended, so it is worth checking you are looking at the most up-to-date version.

Publications
National Planning Policy Framework (2012) DCLG
The London Plan (2011); Draft Further Alterations to the London Plan (2013) Mayor of London

Further information about how the City Council deals with planning applications can be found at http://www.westminster.gov.uk/services/environment/planning/