

Westminster City Plan 2019-2040 Partial Review – Examination in Public

WPA Response to Inspector's Matters, Issues and Questions dated 11 February 2025

1. These representations address the following EIP documents:
 - i. Regulation 19 version of the Partial Review of the City Plan (February 2024)
 - ii. Proposed Modifications (November 2024)
 - iii. Suggested Amendments (February 2025)
2. And the following WPA documents:
 - i. Regulation 19 response dated 25 April 2024 (CORE 15 Response 050)
 - ii. Statement of Common Ground between WPA and WCC March 2025.

Executive summary

3. **Ensuring that optioneering for WLC reflects the development plan requirements for the site at the initial sift stage** (per GLA Guidance on London Plan Policy SI 2 - WLCA LPG [2.4/Fig 4]) **is critical for Effectiveness and consistency with both London Plan and NPPF policies** (including those directed to ensuring effective use of land – see Paragraphs 8, 11a and 124 of the NPPF and the London Plan especially Objective GG2 and Policy D3). **It is critical that this is properly reflected in, and capable of being understood from, Policy 43.**
4. To be Effective and Consistent with NPPF policy, policy should ensure that, where substantial demolition is proposed, applicants have demonstrated that realistically deliverable alternative options - that would meet the development plan requirements for the site (including making the most effective use of land) - for first retaining existing buildings and structures, and incorporating the fabric of existing buildings into new development, have been fully explored before considering substantial demolition.
5. The current policy does not do this. Where site optimisation / the most effective use of land can only be achieved by redevelopment, the policy would require that to be balanced against carbon harm, as one of (possibly several) public benefits. That does not provide clarity of outcome in those circumstances. Nor does it provide for certainty about the proper *starting point* for optioneering at the development plan level. The conflict with the GLA's WLC LPG approach, which does properly reflect this, would create substantial practical issues. The Policy is not, therefore, sound because it is not Effective.
6. Very minor changes to Policy 43 would be the minimum necessary to address this, to ensure the policy is Effective and consistent with the specific London Plan policies on WLC and in particular on development in the CAZ, which is recognised as one of the most

sustainable locations for development in the country. For clarity's sake, these are set out at Appendix 1.

Matter 2: Legal Compliance

Q10 Is the Plan in general conformity with the London Plan 2021?

7. WPA has remaining concerns that Policy 43 is not in general conformity with the London Plan and that Policy 43, in particular, is not Effective. Please see response to Q29 in respect of Policy 43.

Matter 3: Policy 13 - Affordable Housing

Q20 Is there need for affordable housing in the City of Westminster? What evidence is there for a need for different affordable housing tenures? To what extent is the need for different tenures of affordable housing being met?

8. There is need for affordable housing in Westminster, across a range of tenure types. Whilst the need for social housing is greater than the affordable housing capacity identified, this does not negate the need for other forms of affordable housing. There is extensive need for other tenures as well, whilst the challenges of delivery social rent in particular are well documented. This is addressed at Matter 10 of the WPA Statement of Common Ground at in Section 9.24-9.31 of WPA's Regulation 19 response.

Q21 What effect would adopting a 70:30 social homes: intermediate homes tenure split have on viability of development in the City of Westminster?

9. This will have an adverse effect on viability of development. Section 9.24-9.31 of the Regulation 19 statement sets out WPA's concerns regarding the tenure change, as noted above and Section 9.18 – 9.23 sets out WPA's concerns regarding the underlying viability evidence.

Q22 Is the requirement to provide affordable housing on small-scale residential developments consistent with national policy and in general conformity the London Plan? If not, what justification is there for doing so?

10. WPA has continued concerns that this requirement is inconsistent with national and regional policy and is unjustified. This is set out in Section 9.3 – 9.17 of the Regulation 19 Statement. WPA recognises that proposed further amendments address some of the areas of concern, especially in relation to changes / expansion to existing residential units.

Q23 What effect would the requirement for small-scale residential development to provide an element of affordable housing have on viability of such developments?

11. We address this above. WPA remains concerned about the disproportionate potential effect of this policy change, especially when taken alongside the guidance in the Planning Obligations and Affordable Housing SPD. This will make relocating or reconfiguring existing pockets of residential considerably more challenging.

Q24 Is the wording of Policy 13 clear about when major and small-scale development is required to contribute towards the provision of affordable housing?

12. The wording as submitted at Regulation 19 was unclear. Subsequent amendments suggested by the City Council have gone some way to address these concerns and provide welcome additional clarification.

13. Matter 4: Policy 43 – Retrofit First

Q29 Is a retrofit first approach to limiting embodied carbon emissions consistent with national policy and in general conformity with the London Plan?

14. WPA consider that a retrofit first approach to limiting embodied carbon emissions **can** be consistent with national policy and in general conformity with the London Plan provided the policy wording continues to allow for the achievement of other London Plan objectives alongside the promotion of retrofit in preference to redevelopment.

15. WPA supports setting stretching but achievable embodied carbon targets for new development.

16. WPA did not consider Policy 43, as proposed at Regulation 19 or at Submission stage, to be consistent with national policy nor in general conformity with the London Plan, for the reasons set out, principally, in the Regulation 19 response at Sections 4, 5, 6 and 7.

17. WPA's position on Policy 43, as proposed to be modified in February 2025, is set out at 2.2.2(g) and Matter 1 of the Statement of Common Ground.

18. In summary, the February 2025 changes now proposed **partially address** WPA's concerns, through (i) the explicit reference to making the best use of land and (ii) the recognition of environmental, social, and economic benefits as public benefits.

19. The WPA considers that the **further changes** at SOCG 2.4.14 and 2.4.15 are the minimum necessary to address its remaining concerns and ensure the policy is Effective, so that it could properly be found Sound. Those concerns remain because, as proposed in the February 2025 version, Policy 43 continues to make achieving wider Development Plan objectives (which are outside the scope of the City Plan Partial Review) more challenging

and does not ensure that the starting point for WLC options assessment is clear and consistent with NPPF or specific relevant London Plan policy (SI2 and LPG Decision Tree guidance which makes clear the need to constrain optioneering to realistic options that meet the development plan requirements for the relevant site. This goes to the Effectiveness, and therefore soundness, of the policy, because of the narrow definition of “best use of land” and the relegation of site optimisation to simply being a potential public benefit in the ‘wash up’ at Step 4, rather than a fundamental first filter to option development. Further detail is set out at Section 2.4 of the WPA and WCC Statement of Common Ground. This is an issue that has the potential to substantially confuse and disrupt the planning application process, especially in relation to the critical CAZ area in which there are particular requirements for the most effective use of land as a key economic and sustainability tool of adopted policy.

20. Without these changes, the policy does not explicitly allow redevelopment that seeks to make best use of land where retrofit is not possible and is not therefore Effective. Instead, the public benefits of development would be weighed against perceived carbon harm, a process which is inevitably subjective and does not provide certainty of the proper starting point for options development and scheme design. This creates a serious risk (and, in the WPA's view, likelihood) of the policy confounding the objectives of the London Plan and the NPPF as well as the wider City Plan goal as a result of impacts on planning application submission, consideration and determination.

Q30 Is it clear to what type and size of development the policy applies? Where this is differentiated by height or use is that differentiation justified by evidence?

21. WPA consider that both the Regulation 19 and Proposed Modifications (November 2024) versions of the policy are clear to what type and size of development the policy applies in respect of embodied carbon targets by land use and building height. WPA support the proposed application of different upfront embodied carbon limits for residential buildings, including mixed-use buildings, over and under 18m, respectively.
22. If this question relates more narrowly to the definition of ‘substantial demolition’, the Regulation 19 and Proposed Modifications version of the policy was **not clear** as outlined in the WPA Regulation 19 submission (Paragraphs 6.14 - 6.18).
23. WPA consider the definition of ‘substantial demolition’ **is clear** as per the Suggested Amendments (February 2025) but do not agree that the definition is **appropriate** as set out at Section 2.5 of the Statement of Common Ground.

Q31 What effect would a retrofit first approach have on the viability of development in the City of Westminster? Would it materially limit other objectives of the Plan or London Plan, including optimising site capacity through a design led approach?

24. WPA consider that the Regulation 19 version of Policy 43 would materially limit the delivery of other Development Plan objectives because it does not on its face recognise that there are circumstances where redevelopment may be the best outcome where retrofit would not be realistically able to achieve the most effective use of land as specified in particular adopted policies (in line with the NPPF). The Policy – even as modified – would simply 'push' this to an overall wash up as a matter of planning judgement at each Committee. This is fundamentally unnecessary and ineffective, since it deprives the policy of valuable benefit of clarity about what applicants need to do *in submitting their proposals* to show compliance with policy.
25. WPA consider that the February 2024 Suggested Modifications, alongside WPA's further proposed changes at 2.4.14 and 2.4.15 of the SOCG are the minimum necessary to ensure conformity with the London Plan 2021 in respect of optimising site capacity through a design led approach. **Equally, it is not clear why there is any practical concern about these proposed changes.**
26. Without those changes, the policy would not be sufficiently clear on the criteria necessary to achieve planning permission. This causes uncertainty for funders and funding challenges, thereby presenting a barrier to investment in the City of Westminster.
27. WPA notes, in this context (a) the continued reduction in major planning applications within Westminster and (b) the growing shortage of Grade A / good quality office accommodation in core locations within the West End, both of which indicate that other City Plan objectives are not being achieved.¹
28. WPA consider that the viability is not suitably evidenced by the Viability Review by BNP Paribas (February 2024) or the Viability Study Addendum (October 2024) for the reasons set out in the Regulation 19 response (Paragraphs 5.65 – 5.72) and Section 2.12 of the Statement of Common Ground.

¹ See, for example, London Property Alliance's Global Cities Survey, March 2025, which notes London has the lowest vacancy rates of its comparator global cities ([Global Cities Survey \(March 2025\) - London Property Alliance](#) page 12), and Knight Frank's February 2025 London Insight (<https://www.knightfrank.com/research/article/2025-02-11-unlocking-london-shifting-behaviours-emerging-opportunities>) which notes Prime vacancy rates in the West End Core market of only 0.3%, essentially representing a total of only five available buildings.

Q32 Are the meanings of terms used in the policy clear and effective? How can these be defined for the purposes of the policy?

29. WPA was concerned that the meanings of terms in the Regulation 19 and Submission versions of the policy were not clear.
30. WPA consider that the meanings of terms used in the policy are, now, clear in the Suggested Amendments (February 2025).
31. Notwithstanding this, WPA do not agree with all terms. In particular, the definition of 'substantial demolition' as set out above, noting the City Council's explanation at 2.5.9-2.5.11 of the SOCG that it does not consider a proposal that involved the demolition of more than half the existing floorspace as retrofit, without regard to the carbon intensity of the material to be retained / replaced and its effect on carbon emissions. This definition is not effective to the purported purpose of the policy.
32. In short, GIA is not an accurate proxy for retained embodied carbon. Requiring 50% floorspace retention prioritises retention of floorplates, which are often relatively low carbon. Modelling existing structure is standard practice and can be undertaken to a high degree of accuracy.
33. Furthermore, as outlined in the Regulation 19 consultation response (Paragraphs 5.21-5.23) and Sections 2.4 and 2.11 of the Statement of Common Ground, WPA do not consider that the policy will be effective as WPA do not consider that the policy is in conformity with the Development Plan and national policy (Section 2.4 of the Statement of Common Ground) and because WPA do not consider it is clear how WCC will effectively monitor the effect of the policy (Section 2.8 of the Statement of Common Ground).

Q33 Are the requirements for additional information in terms of audits, assessments and statements necessary and proportionate for all types and sizes of development to which the policy applies? Is the policy the appropriate mechanism for requiring the submission of information with planning applications?

34. As outlined in Section 2.2.2 (Part K) of the Statement of Common Ground, WPA agree with the City Council that minor works of demolition / fabric removal should not require the submission of a Circular Economy Statements, as per the Suggested Amendments (February 2025). For the avoidance of doubt, WPA did not agree with the thresholds as set out in the Regulation 19 submission or Proposed Modifications (November 2024), as it was onerous to require all developments involving any degree of demolition such as a shopfront application to submit a Circular Economy Statement.
35. As outlined in Section 2.2.2 (Part L) of the Statement of Common Ground, WPA agrees with the City Council that the submission of a Whole Life Carbon Assessment is not required in some circumstances, including where only a change of use is proposed, as per the Suggested Amendments (February 2025). For the avoidance of doubt, WPA did not

agree with the thresholds as set out in the Regulation 19 submission or Proposed Modifications (November 2024), as it was onerous to require all major developments including those involving solely a material change of use to submit a Whole Life Carbon Assessment.

36. WPA consider that the deliverables requirements more generally are not clear as existing deliverables set out in the WCC Validation Checklist e.g., Pre-Demolition Audits are being rebranded as Deconstruction Audits and are proposed to form part of the Circular Economy Statements. WPA understands these are separate to Pre-Redevelopment Audits which are required to be prepared as part of the Sequential Test. It has also noted the potential for confusion because of the simultaneous work on revisions to the Environment SPD.
37. WPA and WCC agree and are clear what documents are required to be third party reviewed in respect of the Sequential Test. Please see Section 2.2 (Part J) of the Statement of Common Ground.
38. WPA continues to have residual concerns about the complexity of Policy 43 and the deliverables required to conform to it. WPA is concerned that Policy 43 could create an additional barrier to entry and a regulatory burden, thereby having a disincentive effect on developers from bringing proposals forwards and for land use change requiring planning permissions.

Q34 Are the criteria in Part A (Part D if modified as suggested by the Council) clear as to their meaning? Are they applicable individually or together?

39. WPA consider that criteria set out in the Regulation 19 version of Policy 43 were not clear and it was unclear how they applied. Please see Section 6 of the WPA Regulation 19 Representations.
40. WPA consider that the Proposed Modifications (November 2024) went some way to providing greater clarity. WPA consider that the Suggested Amendments (February 2025) are substantially clearer, but further modifications are required to ensure policy is effective in achieving overall development plan objectives.
41. WPA understands that the tests in the Sequential Test are applicable sequentially i.e., individually.
42. WCC and WPA agree that Test 2 is optional. WPA has suggested that Test 1 should also be optional and, at least, not require third party validation where not relied upon.

Q36 What is meant by the term ‘public benefits’ in Part A1 (Part D4 if modified as suggested by the Council)? What is meant by ‘substantially greater’ in Part D4 as proposed to be modified by the Council?

43. WPA has consistently set out its position that policy should be clear that public benefits **“could be anything that delivers economic, social and environmental objectives as described in the [NPPF]”**, in accordance with paragraph 18a-020-20190723 of the PPG. Whether they do, or do not, exceed the objectives of the Development Plan is incidental, as it has itself been drafted in the public interest and to deliver public benefits.
44. WPA therefore considered that it would be unsound to require public benefits to be substantially greater than the Development Plan in line with the recent combined judgment,² which confirmed that “there is no legal principle that where a development makes provision for something which is required by a policy or by legislation, that [it] cannot be regarded as a benefit at all” and that “a genuine benefit remains a benefit whether or not it is required by policy or legislation.”³
45. WPA supports the proposed Suggested Amendments (February 2025) which includes explicit reference to economic benefits and removes the requirement for benefits to exceed Development Plan objectives.
46. There is a concern remaining here that public benefits and the weight to be given to them when balanced against carbon harm is, necessarily, subjective. It follows that, if achieving site optimisation is only considered as one amongst other public benefits at Step 4 (See draft Guidance document, Table 2.6, Economic row) there is no certainty as to the outcome of that balancing exercise, contrary to planning policy.

Q37 In Part B, are the London Energy Transformation Initiative (LETI) metrics justified and effective for use in the policy? Is the modified approach suggested by the Council in Part G using numerical figures justified and effective?

47. As outlined in the Regulation 19 representations (Section 7), WPA does not consider the inclusion of references to LETI targets was justified or sound.
48. WPA supports the removal of the LETI targets in place of specific numerical figures.
49. WPA supports the specific numerical figures, whilst noting that they remain challenging to achieve as outlined in Section 2.2.2 (Part D) of the Statement of Common Ground.

² *Vistry Homes Ltd v Secretary of State for Levelling Up, Housing and Communities; Fairfax Acquisitions Ltd v Secretary of State for Levelling Up, Housing and Communities* [2024] EWHC 2088 (Admin) (at [148]-[163])

³ [Weighty matters for Biodiversity Net Gain](#)

Q38 What is the purpose of including aspirational targets in the policy? Are they necessary or effective?

50. WPA supports the inclusion of aspirational targets within the policy on the understanding that Applicants are required to demonstrate how they have aimed to achieve the targets but that the baseline limits are the targets required to be achieved.
51. WPA understands that the inclusion of aspirational targets is linked to the proposed carbon offset crediting mechanism proposed by WCC, whereby schemes outperforming the aspirational targets are able to credit the tonnes of upfront embodied carbon saved against the carbon offset contribution for operational carbon.
52. WPA queries how the offsetting will function in practice as it is understood that the tonnes of upfront embodied carbon saved is confirmation at **practical completion**⁴, whereas carbon offset contributions are often pre-commencement obligations.
53. WPA would be grateful for clarification on this point in the forthcoming update to the Planning Obligations and Affordable Housing SPD.

Q39 Is the wording of Part D (Part H if modified as suggested by the Council) sufficiently clear as to the weight to be given to retrofit development which involves townscape, design or heritage impacts? It is consistent with national policy, in general conformity with the London Plan

54. WPA consider that the current proposed wording is consistent with national policy and in general conformity with the London Plan, but is insufficiently robust to be effective in influencing development management decisions to achieve this objective.

Westminster Property Association

28 March 2025

⁴ Additional Table 2 for Retrofit First policy – Appendix 5 of Scheduled of Proposed Modifications
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Appendix 1

Proposed amendments to Policy 43 Sequential Test

As Proposed by WCC, February 2025 (CORE_002d)	As proposed by WPA, March 2025 (SCG_014)
Test 1 Are existing buildings on site structurally sound and therefore can be retained and re-repurposed either partially or in full?	Test 1 Are existing buildings on site structurally sound and therefore can be <u>realistically</u> retained and re-repurposed either partially or in full, <u>in accordance with development plan requirements for the site?</u>
Test 2 Where test 1 is not met, <u>it is demonstrated that neither a retrofit nor deep retrofit option could deliver design</u> and access requirements which: <u>secure the best use of land; meet a statutory requirement; or address a justified operational need (optional).</u>	Test 2 <u>Where the answer to Test 1 is “yes”,</u> it is demonstrated that neither a retrofit nor deep retrofit option could <u>do the following in accordance with development plan requirements for the site:</u> secure the best use of land; meet a statutory requirement; or address a justified operational need (optional).
Test 3 Where test <u>1 or</u> 2 is not met, the whole life carbon <u>emissions</u> of the proposed development is less than a retrofit or deep retrofit.	<i>[no change]</i>
Test 4 Where test 3 is not met, additional public benefits <u>including economic, social and environmental benefits, which could not be delivered by</u> a retrofit or deep retrofit must be demonstrated.	<i>[no change]</i>
<u>(Text shown in track</u> is proposed additions to Submission Version including Proposed Modifications, CORE 002 / CORE 002a)	<u>(Text shown in track</u> is further additions proposed by WPA in SCG_14 to the February 2025 version)