



Innovation and Change – Planning Policy Team
Westminster City Council
City Hall
64 Victoria Street
London
SW1E 6QP

FAO: Damian Hemmings

By email: dhemmings@westminster.gov.uk

17 December 2020

Dear Damian,

Re: Toward Zero Carbon – The Role of Carbon Pricing

I am writing on behalf of the Westminster Property Association (The “Association”), the membership body for owners, investors, professional advisors and developers of real estate in the City of Westminster. A list of the 240+ member companies we represent is available [here](#).

The Association welcomes the opportunity to comment on the joint paper prepared by the City of Westminster, London Boroughs of Barking and Dagenham, Ealing, Haringey and the Royal Borough of Greenwich together with a group of consultants which looks at achieving greater carbon reductions on site. We look forward to working with you to achieve our shared aspirations and work together to address how we can all tackle the climate emergency.

Shared Vision and Objectives

The Association shares the aspirations and objectives of the commissioning boroughs to achieve net zero carbon by 2040. We have recently published our own [Zero Carbon Westminster White Paper](#) which provides a vision on how the development community help to meet our shared aspirations along with a number of policy recommendations for decision makers. There are several shared challenges; it is important that this is recognised in a fair planning system which promotes the best of sustainable development and new technologies, including through fair carbon pricing.

The Association endorses the need for a revised assessment methodology which focuses more on outputs rather than assessing efficiency against notional baselines under the current Building Regulations which are out of date and no longer fit for purpose. An updated and common definition for “net zero carbon” is something the Association strongly supports.

The Association recognises the role the built environment has to play in achieving a net zero carbon future, both from existing buildings and from development. The planning system can support sustainable, low and zero carbon development coming forwards, however it (at present) can only regulate and control new buildings or substantial refurbishments. There is much that needs to be done with existing building stock to bring it in line with modern energy efficiency standards, it is not however within the gift of the current planning system to enforce this. Whilst we agree that the planning system should absolutely seek to maximise and enforce

exemplary standards of sustainable development, it should sit alongside wider reform and regulatory frameworks which deal with bringing existing housing and commercial development up to modern standards.

The Association has sought to promote the role that sustainable design can have in achieving net-zero carbon. The joint Paper touches on the design, form and layout of new development, recognising the role that this has to play in reducing carbon emissions and promoting energy efficiency. We agree. This is why we consider that greater weight should be placed on promoting low carbon and sustainable design, particularly in a Central London context, when weighed against other policy objectives. If the contribution of new development to reducing carbon emissions is to be maximised it is inevitable that there will be changes to the design, layout and appearance of buildings.

Central London Specific Challenges

The Covid-19 pandemic presents significant economic challenges for Westminster as a national and global centre for commerce, shopping and leisure. The dense nature of the City of Westminster and its rich historic environment also raise challenges in the implementation of net zero carbon. This is the case for much of Central London and other built-up urban locations across the UK.

1. Carbon offsetting and viability

We note that the Paper considers the effect of the charges on scheme viability; it is essential that overall planning policy requirements are set in a way that low carbon development remains viable. However, carbon offsetting should be a direct, quantifiable cost of mitigating the effect of development by paying the cost of the negative externalities of that development. Consequently, offset contributions – as long as they are set at a level which genuinely reflects the cost of those externalities and align with recognised carbon offset principles, such as those set out by the UKGBC – should not, ordinarily, be subject to viability testing or open to negotiation on viability grounds. The priority should be to ensure the carbon price used genuinely reflects local carbon costs and that any carbon offset contributions are spent on verified, measurable carbon savings in a timeframe compatible with net zero policy and guidance.

It is important that there is flexibility in how carbon reductions are achieved. Where complete on-site reductions are not feasible, such as in Central London, there should be flexibility to use alternative methods which work toward net-zero carbon to address the climate emergency. This should include offsetting in kind, through off-site projects, or financial contributions that fairly reflect the costs of such projects, with appropriate monitoring, transparency and traceability. Other mechanisms, such as Power Purchase Agreements where the renewable energy purchased is certified as additional and traceable, e.g. as defined by forthcoming UKGBC guidance, should also be allowed to play a role.

2. Relationship with s106 and the CIL Regulations

It is necessary that any carbon offset price realistically reflects local carbon costs, to ensure that any carbon offset charge levied through the planning system through s106 complies with CIL Regulation 122(2), namely that it is fairly and reasonably related in scale and kind to the development and necessary to make the development acceptable in planning terms.

An approach that seeks to charge “penal” carbon offset charges that significantly exceed a local carbon price would not satisfy this requirement, as the financial contribution being levied – and resultant carbon offset – would exceed that necessary to achieve the policy objective of net zero carbon.

3. Carbon assessment methodologies

In the short term, there are challenges based on the existing methodologies for assessing carbon reductions in the planning system which can lead to disproportionate financial impacts on development. This needs to be considered carefully in context of post-Covid recovery. More broadly, it is important that the need to address achieving net-zero carbon in all areas of policy, not only within the planning system, is also recognised.

The Association would like to understand the modelling set out in the joint paper. in more detail. In particular, the assessment should consider the potential to use a new methodology for assessing carbon reduction (i.e. a shift away from the current building regulations Part L).

Using building regulations, “net zero carbon” under the Draft Replacement London Plan Policy SI2 means, in practice a 100% reduction (with a *minimum* 35% reduction achieved on site) over the relevant *notional* building, is not fit for purpose, especially if then linked to a tiered carbon pricing system. This would, in some cases, neither incentivise sustainable development, nor penalise those developments which are not maximising their efficiency.

Notwithstanding the Association’s views on the use of a tiered carbon pricing system, if one is to be used it should be implemented through planning policy at a strategic level, so that it can be properly and independently examined, with the role of additional mechanisms such as off-site solutions, Power Purchase Agreements, and others considered.

The Association is concerned that, if the policy benchmark of the “percentage reduction in carbon emissions” continues to be set against Building Regulations (namely, Part L1/2A and Part L1/2B for redevelopments/new builds and extensions/refurbishments, respectively), this will not properly reflect the actual scale of carbon reduction possible or necessary, as the baseline targets between refurbishments and redevelopments will be significantly different, which will distort behaviour. This risks a situation where buildings, especially new builds, which in operation actually produce very low levels of carbon emissions would still be charged the penal offset rates proposed, because the percentage comparison used is against a Part L1/2A baseline. Whereas a similar refurbished building, emitting **more** carbon, would be compared against a less ambitious notional L1/2B baseline and so have an apparently greater percentage reduction (and so qualify for lower offset rates). This why Association has advocated a definition of net zero carbon buildings more akin to the UK Green Building Council (“UKGBC”) definition from 2019. As noted above, Power Purchase Agreements should also play a role.

4. Embodied carbon

The UKGBC definition of net zero carbon could also assist with addressing embodied carbon, which is not referenced in the paper. It is essential that the role of embodied carbon is also considered where assessing building performance – and carbon offsetting. This could better encourage a whole life cycle approach, whilst also having regard to other considerations such as the quality of existing space, the likelihood of actually being able to secure investment to improve the performance of existing buildings, and the potential quality and life expectancy of replacement buildings.

5. Approach to photo-voltaics

The Association notes that the Paper assumes that PVs are feasible in all scenarios for all development types. It is our experience that site-specific constraints and other development pressures can easily prejudice the introduction of extensive amounts of viable PVs, particularly for commercial buildings. A site’s form and position relative to neighbouring buildings which may overshadow it, heritage constraints and designations, alongside other policy aspirations for outdoor amenity space and/or urban greening all need to be carefully considered when assessing the viability of PVs in central locations.

The analysis of an office building on Page 38 illustrates how reliant buildings are on PVs to be able to achieve the lower level carbon offset contributions. In that example, should that building not have been able to achieve the contribution from PVs illustrated, which may often be the case in central London, it would have little realistic prospect of avoiding being charged the highest rate carbon offset contributions.

The proportion of roof space allocated to PVs is not specified, nor the ratio of PVs to overall floorspace / the size of the building. This will decline in larger, and taller, buildings.

6. Commercial building typologies

The Association would also like to understand what modelling has been carried out in respect of larger commercial buildings where traditionally, net-zero carbon has been very difficult to achieve using Part L and SAP10 as a baseline. The analysis of commercial buildings and mixed-use developments is based on only two typologies; a more representative sample of central London development should be considered.

7. Worked example

We have interrogated an example to illustrate the Association's concerns, by examining a commercial development which was considered by the determining authority to be an exemplary, sustainable mixed-use development. It included PV panels and highly efficient air source heat pumps which achieved a 50.2% reduction in carbon emissions overall for all uses of the building (against Part L1A and L2A). The shortfall to net zero is just over 1,850 tonnes over a 30-year period, in line with policy SI2 of the New London Plan, the carbon offsetting contribution was agreed as c.£177,000. Under the tariffs set out in the Paper, the development would be classed as falling within a "High Emission" and the carbon offsetting contribution would increase to over £1.85 million.

The development in question represents a significant reduction of regulated carbon emissions compared with the five existing buildings with a small resultant amount of carbon dioxide emissions over a 30-year period which would need to be offset to achieve net-zero.

This illustrates that, if a tiered pricing strategy is to be used, it is crucial that an appropriate baseline for categorising those developments under-delivering on onsite reductions is developed that recognises the particular circumstances and characteristics of larger commercial and mixed-use development, to avoid penalising them unfairly. This is illustrated by this example.

It may be that it is more appropriate to ensure that existing policy is applied consistently to ensure that development meets the minimum reduction of a 35% reduction required by policy SI2(A) of the New London Plan, rather than seeking to accomplish a policy objective by way of tiered carbon charges.

Conclusion

The Association is grateful to you for sharing this innovative work and analysis, the objectives of which are consistent with our own White Paper and desire to support a move to achieving net zero carbon buildings in the unique context of central London.

The Association supports the move towards the modelling and analysis of actual performance rather than a comparison against Part L, which appears increasingly outdated. We also suggest the role of embodied carbon, and whole life cycle assessments, requires consideration, to ensure the best actual carbon outcomes, including the reuse of existing buildings where practical, and their replacement where this leads to better overall outcomes.



The Association would welcome the opportunity to develop this model further with you although considers the concept of a tiered carbon price requires may need further consideration, as we are concerned it may not recognise constraints and incentivise sustainable development in the context of Central London development. The Association is concerned at the suggestion of introducing a penal level of carbon offset charge, which we do not consider would comply with national policy.

The Association would welcome the opportunity to carry out further modelling with the authors of the Paper to find a solution which would best achieve our shared aims and aspirations. We look forward to engaging with you further on how best to achieve our mutual aspirations to work towards net-zero carbon.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Rosie Day', with a horizontal line drawn through the middle of the signature.

Rosie Day
Director