
**WESTMINSTER HOUSING COMMISSION
BACKGROUND PAPER No6**

DELIVERY THROUGH THE PLANNING SYSTEM

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1. INTRODUCTION

- 1.1 This paper sets out Westminster City Council's track record of delivery of residential units, and particularly, affordable units. It sets out the priority given to housing within Westminster, and the improving speed and efficiency with which decisions are made on residential planning applications.
- 1.2 Following the Direction from the Secretary of State in relation to affordable housing, the paper also explains the reasoning behind the revised affordable housing policy, and the intention that this balanced approach will not only maintain but improve the delivery of affordable housing.
- 1.3 The adaptation of residential planning policies and the future delivery of affordable housing in Westminster will not occur in isolation. The paper also examines the potential impact to Westminster of changes to relevant national and regional policies and guidance, including the new Planning Policy Statement 3: Housing, and the Planning Gain Supplement Consultation Paper, introduced as part of the Government's Response to the Barker Report.
- 1.4 Finally, the paper explores potential solutions to the shortage of affordable housing in Westminster, including an investigation of the social/intermediate ratio, the location of tenures within Westminster and the use of residential land use credits.

2. WESTMINSTER'S RECORD OF DELIVERY

- 2.1 Westminster's track record of delivery can be measured by both the output, in terms of the number of residential units and affordable units given planning permission and built (and financial contributions in lieu of units), and by the speed and efficiency with which these units are produced.
- 2.2 The joint report recently produced by the National Audit Office and the Audit Commission focuses on improving the availability of affordable housing through improving efficiency. The report provides a useful starting point for considering the issue of delivery as well as containing a number of findings and recommendations relevant to Westminster.

National Audit Office/Audit Commission Report, December 2005

- 2.3 The report examines the performance of Government (ODPM), Government Offices (eg for London), Housing Corporation, Regional Housing Boards, and Local Authorities in the delivery of affordable housing in high demand areas where the pressure for housing is outstripping supply. Key areas for increasing efficiency include reducing unit costs, speeding up the delivery (eg time taken for Section 106 legal agreements), sharing services and removing duplication (eg sub-regional rather than local research), and making better use of assets (such as surplus public sector land).
- 2.4 The report found that Section 106 (S106) agreements have proved to be an effective lever for increasing the supply of affordable housing, although it is identified as an area that causes the most delays to the delivery of affordable housing. Audit Commission data shows that the time taken to complete S106 agreement can take between 6 and 67 weeks. This is particularly important for the city council as all affordable housing is currently provided through S106. The report outlines that the process is slowed due to disagreements over what an appropriate contribution of affordable housing should be, and also a lack of skills within Local Authorities for both negotiations and use of technical financial tools, although the report does recognise that negotiations can be complex.
- 2.5 The report also outlines other findings including the lack of clear practical advice from the ODPM following changes in guidelines, and a lack of clarity over the mechanisms for sub-regional working. It outlines the use of the Housing Corporation as a key vehicle for targeting resources, and the need to release surplus public sector land. In particular, the report recommends that local authorities should:
- work with local communities to understand their concerns about new housing and to involve them in the design and planning of new developments
 - overcome confusion and delay around negotiate of planning approval

- better integration of planning and housing functions, with consistent policy on affordable housing across the authority
- explore scope for increased joint-working between local authorities to pursue further sharing of resources.

2.6 The city council undertakes a number of measures in order to produce as efficient a delivery of housing and affordable housing as possible. For example, the city council has already established joint-working between planning and housing functions, and is enabling a more community-minded approach through its draft Statement of Community Involvement and emerging Local Development Framework. The section below provides a detailed summary of Westminster's level of efficiency, and the priority given to the delivery of housing and affordable housing units, taking into account the findings outlined by the National Audit Office report, including S106 negotiations.

Planning Policy

2.7 Westminster City Council is proactive in ensuring the delivery of as many residential and affordable units as possible. The provision of housing has traditionally held the highest priority in Development Plans produced by the city council. Policies included have typically sought to prevent the loss of housing and the use of housing by non-permanent residents, and the encouragement of the provision of housing, alongside a requirement to supply on-site affordable housing. In addition, the replacement Unitary Development Plan also contains innovative policies that ensure office and other commercial developments provide housing within the development.

Planning Briefs

2.8 In addition to the RUDP, the city council regularly produces planning briefs to facilitate development on potential sites. The use of planning briefs has enabled the effective development of residential schemes at Grosvenor Dock, the former British Gas site at Vincent Street/Causton Street, and the 'Tachbrook Triangle' on Vauxhall Bridge Road, among others. An updated brief is currently being produced for the redevelopment of Chelsea Barracks in 2008, one of the last remaining large development sites in Westminster.

Planning Applications

2.9 In terms of assessing planning applications, the city council regularly deals with complex mixed-use schemes, often involving detailed design and conservation area issues, which can prolong the planning permission process. As a result, the city council regularly consults and works closely with developers (for example during pre-application discussions), RSLs, and the city councils' Housing Department in order to help speed up the development process and avoid unacceptable proposals. In the last two years, Westminster City Council has permitted 53 major residential schemes¹ (90%), and refused just six. Of

¹ 10 or more residential units

these six, four were refused on design issues and amenity grounds, one was due to loss of a hostel, and one for the failure to provide affordable housing on-site. Therefore, no refusals were on the issue of the acceptability of residential use.

Speed of Decision

- 2.10 The time taken for planning application decisions has improved, from 44% of major residential schemes decided within 13 weeks in 2003, to 61% in 2004. Within the first three quarters of 2005, this figure has further improved, to 70% of major residential schemes decided within the 13 week period.

Delivery of Residential Units

- 2.11 Since 1997 the city council has permitted over 11,700 residential units and over 2,300 affordable/RSL/public residential units. This represents 20% of all permitted residential units in Westminster.
- 2.12 In terms of development, over 1,950 affordable units have been completed between 1997 and the end of 2004. This represents 24% of all completed residential units for this period. In line with the Mayor's London plan definition, this figure includes RSL completions and individual properties that have been secured for social housing where planning permission was not required.
- 2.13 The permission and delivery of 20% and 24% respectively of affordable housing units represents a shortfall against the RUDP strategic policy (STRA 14 (C)) that states that 30% of new housing should be affordable (50% in revised policy). Reasons for this shortfall include:
- The variance of the affordable housing target since 1997, ranging from 25% to 30%;
 - The majority of residential schemes were below 15 units and so didn't trigger the requirement threshold for affordable housing;
 - The full 30% requirement was not triggered on schemes unless they were for 25 or more residential units.
 - The provision of a financial contribution in lieu of affordable housing, as well as the provision of other planning advantages on certain sites.

Comparison with other London Boroughs

- 2.14 The table below outlines a comparison of Central London Boroughs' housing performance, as compiled independently by London Residential Research in 2005.

Central London Residential Development Volumes in the Context of the London Plan									
	GLA Targets 1997-2016		Total Completions 1997-2003				Average Annual Completions 1997 to 2003	% of total average annual completions (Col 8 divided by 9647)	Annual Shortfall/ Surplus Compared to Annual Monitoring Target (Col 8 minus Col 3)
	Total Target	Annual Monitoring Target	Private	Affordable	Total	% of affordable/ total (Col 5 divided by Col 6)			
1	2	3	4	5	6	7	8	9	10
Camden	16940	850	1400	850	2250	38%	321	3%	-529
City	2100	110	1550	50	1600	3%	228	2%	+118
Hackney	14310	720	3650	3900	7550	52%	1079	11%	+359
H & F	8040	400	450	1500	1950	77%	279	3%	-121
Islington	18070	900	4300	1800	6100	30%	871	9%	-29
K & C	10800	540	2650	1150	3800	30%	543	6%	+3
Lambeth	28910	1450	3550	2600	6150	42%	879	9%	-571
Southwark	29530	1480	5650	3000	8650	35%	1236	13%	+244
Tower Hamlets	41280	2070	11600	4900	16500	30%	2357	24%	+287
Wandsworth	16470	820	4200	980	5180	19%	740	8%	-80
Westminster	19480	970	5900	1900	7800	24%	1114	12%	+144
Totals	205930	10310	44900	22630	67530	34%	9647	100	-663

Source: London Residential Research

- 2.15 According to the table, the proportion of completed affordable units to total completions (1997-2003) in Westminster equals 24%. In terms of absolute numbers of affordable housing, the table indicates that Westminster has contributed the fifth highest amount of affordable housing units, ahead of Camden, Hackney, Islington, Kensington and Chelsea and Wandsworth. Westminster also contributes the third highest amount of total residential units within Central London. This is an impressive figure given the competition for other uses in Westminster and the cost of land and development.

Financial contributions

- 2.16 Where affordable housing cannot be provided on site, the city council requires a financial contribution in lieu of affordable housing and this money is pooled into the Affordable Housing Fund (AHF). Since 1997, the total amount of financial contributions received instead of on-site affordable housing equals £25,252,022. In addition, a total of £18,855,194 has been agreed, but has not yet been received by the city council.
- 2.17 To date, a total of £12,620,000 has been spent from the Affordable Housing Fund on 20 affordable housing schemes, and 624 affordable housing units. Furthermore, the city council is committed to spending a further £9 million (February 2005), including an anticipated £6.5 million on the new Grosvenor Dock site.

Planning Obligations

- 2.18 In addition to the securing of planning obligations or benefits as part of a development, the city council uses Section 106 legal agreements (and unilateral undertakings) to secure affordable housing as a policy requirement, not as a 'planning gain'.
- 2.19 It is recognised by the city council that the completion of s106 agreements can have the potential to affect the speedy delivery of residential schemes. However, where possible, the length of time taken to sign the legal agreement is kept to the minimum. This is because:
- A robust clear policy framework for affordable housing means that there is a limited scope for negotiation on the detail of legal agreements (i.e. 30%/50% is a policy requirement, not a negotiated target)
 - The city council has standard clauses for legal agreements which are available from the website, so applicants know in advance what the legal agreement is likely to require.
 - Most legal agreements are therefore signed concurrently or very shortly after the case is agreed at committee.
 - In some cases the city council uses conditions rather than a legal agreement to secure the affordable housing
 - Applicants generally are more focused on having the scheme agreed by committee, and do not have such a rush on agreeing details of the legal agreement – despite planning permission only being formally granted when the legal agreement is issued, the decision point that matters to applicants is the committee resolution.
- 2.20 However, cases where delivery could potentially be slowed during the legal agreement process include:
- On city council owned sites, where sites are sold on with planning permission that the buyer of the site may seek to amend once they have purchased.
 - When the design of the affordable housing is not considered at an early enough stage. For example, at Brabazon House, where the RSL have said the units are not suitable for funding by the Housing Corporation a new planning application will need to be submitted.
- 2.21 Over the last three years the city council has dealt with approximately 45 S106 agreements per year. During the financial year 2004/5 and 2005/6 (to date), the city council has completed 49% of S106 legal agreements in under 10 weeks, and just 8% in over 30 weeks.

Draft Planning Obligations Supplementary Planning Guidance

- 2.22 The city council has also revised its draft Supplementary Planning Guidance on Planning Obligations. This draft SPG will be available for consultation from late-February for a period of ten weeks, and is included as in Appendix 1 of this report.
- 2.23 An earlier draft of the SPG was published for public consultation in October 2003 but was subsequently not progressed beyond the draft stage due to anticipated changes in the S106 system. The current draft has been updated to take on board those developments, particularly the publication of Circular 05/05 in July 2005 and relevant best practice. It now includes standard clauses, formulae and charges to help calculate planning contributions, and the provision to pool contributions to address the cumulative impact of multiple developments. The SPG has also been updated to reflect the provisions of the Mayor's London Plan and the city council's emerging Local Development Framework. It is the city council's view that the SPG will further speed up the delivery of housing as well as other planning benefits.

Case Study 1

- 2.24 The case study below provides an example of the granting of a planning permission for a large amount of residential units including affordable units, based on the clear policy framework, involving a legal agreement, delivered in an efficient manner.

Case Study 1: Development at 34-38 Aybrook Street, W1U 4AR

The site is located outside the Central Activities Zone (CAZ) to the west of Marylebone High Street. It consisted of a vacant building in lawful office use formerly occupied by London Electricity, and two additional buildings used for office and storage purposes. None of the buildings were listed, but the site lies within the Portman Estate Conservation Area. The area immediately surrounding the site is considered to be mixed in character, with retail, residential, offices, a hotel, and a public car park with Paddington Street Gardens adjoining the site to the north.

In line with planning policies for this area of Westminster outside CAZ, the application sought planning permission and conservation area consent for the demolition of the existing buildings (behind retained facades), and the redevelopment to provide 127 residential units and a retail unit. Of the residential units proposed, 38 were to be affordable, with Octavia Housing chosen as the Registered Social Landlord. This equated to 30% of the total provision and complied with the then 30% requirement contained within the RUDP policy H4. Agreement was also reached with colleagues in the Housing Department over the proposed mix of 9 shared ownership, 3 key worker and 27 social housing units. Within the development the market and affordable units will be separated in order to aid their management, although the development will appear as a single building.

As a result of pre-application discussions, and negotiations throughout the course of the application, permission was issued (S106 agreement signed) just two weeks after the planning committee date.

As part of the legal agreement, the applicant agreed to secure:

- A financial contribution of £80,000 towards the provision of children's play equipment.
- The provision of affordable housing
- Financial contribution of £20,000 towards tree planting in the area
- The repaving of the footway adjacent to the site on Blandford Street and Aybrook Street
- The provision of public art to a value of £75,000.

Under use of residential stock

- 2.25 Despite the delivery of residential units through the planning system, the city council is often unable to control what happens to these properties after they have been developed. Notwithstanding an individual's right to buy, rent or own property, many properties in Westminster are bought purely for investment purposes (see Case Study 2 below) and are left empty, or are used as second homes or short term lets². In Westminster, it is estimated that there are approximately 3,000 dwellings that are used as short term lets, as well as 2,500 empty homes in the private sector, and about 15,000 second homes.

Short Term Lets

- 2.26 Short-term letting is a considerable problem throughout Westminster, partly because of the appeal of Westminster as a visitor attraction to tourists – it is in relation to holiday lets that the city council receives most complaints. To counter this inefficient use of housing stock the RUDP contains a planning policy (H2) that prevents the use of housing as temporary sleeping accommodation. The city council also attaches a condition to grants of planning permission for new or converted housing to prevent the use of housing for this purpose, and also takes enforcement action against such unauthorised uses. Under the GLC (General Powers) Acts 1973 and 1983, the use of housing for temporary sleeping accommodation occupied by the same person for fewer than 90 consecutive nights is a material change of use for which planning permission is required.
- 2.27 Since 1998 the city council has had a dedicated 'short term let' enforcement team who proactively monitor blocks of flats with a known history of short term letting, and also act upon information provided by permanent residents. During 2005 the team dealt with 560 short-term

² Temporary sleeping accommodation is defined as the occupation of premises as sleeping accommodation by the same person for less than 90 consecutive nights, provided by way of trade for money or by reason of the employment of the occupant. (Greater London Council (General Powers) Act 1973, amended in 1983).

let enforcement cases and 'closed' 264 cases. At any one time, the enforcement team has over 1000 short-term let cases under review. This illustrates not only the scale of the problem in Westminster, but also the length of time and effort it takes to enforce against. Not only does the city council have to prove that someone was occupying a property for less than 90 consecutive days but that a payment also occurred. It is worth noting that the city council has had absolute support from the Secretary of State in terms of short-term let enforcement appeals, partly because of the strength of the planning policy.

Empty Homes

- 2.28 The city council has an empty homes strategy that is used to encourage owners of empty homes to let or sell them so they can be occupied. In extreme cases, the city council uses its compulsory purchase powers to bring vacant properties back into housing use. Whilst the city council discourages the use of dwellings as second homes, it recognises that it cannot prevent the use of housing for this purpose.

Investment/Buy-to-let

- 2.29 Despite the measures taken by the city council there is often little the council can do to prevent the under use of residential stock, including the use for investment purposes, as outlined below:

Case Study 2: West End Quay

Located at 12-20 Praed Street and 2-5 South Wharf Road, West End Quay was the first phase of the redevelopment of the Paddington Basin. The city council permitted a predominantly residential scheme consisting of over 468 residential units and 2,205sqm of retail floorspace on a two-acre site.

This first scheme was central to the objectives of the Paddington Special Policy Area (PSPA). The development enabled the commencement of area-wide regeneration through the provision of infrastructure improvements and associated social and community projects. In order to help deliver these benefits the council accepted a financial contribution of over £3 million in lieu of affordable housing. Affordable housing has been provided as part of other developments within Paddington Basin.

Original purchaser profile records of residential units within the development indicate that 61% of all purchases were for investment purposes. In addition, over 11% of units were to be occupied on a part time basis either as a London 'pad' or as a second home. Only 5% of original purchasers intended to live full time at West End Quay. The purchaser profile records also indicate that nearly 20% of sales took place in Hong Kong and Singapore.

3. NEW AFFORDABLE HOUSING POLICY

Replacement Unitary Development Plan (RUDP): Affordable Housing Policy – Pre-Inquiry version

- 3.1 Affordable Housing Policy H4 of the pre-Inquiry UDP requires affordable housing to be provided on-site (where feasible) in all housing schemes providing 15 or more additional residential units. The proportion of affordable housing required is 30% on schemes over 24 additional units. Schemes between 15 and 24 units are subject to a stepped approach to prevent threshold 'abuse'.

Inspector's Report

- 3.2 The Inspector's Report into the Westminster UDP was published in November 2003. The inspector supported the city council's approach and affordable housing policy and accepted the 30% figure despite its divergence from the 50% target in the draft London Plan, voicing the view that the difference was 'justifiable'. However, the Inspector did state that the policy would have to be reviewed in light of the finalised London Plan.

Secretary of State Direction

- 3.3 On 9th December 2004 the city council received a Direction from the First Secretary of State (FSS), requiring it to modify its policies relating to affordable housing. Specifically, the Direction required

- that the threshold at which the policy should start to apply should be lowered from 15 additional units (or 0.5 hectare) to 10 (or 0.3 hectare);
- that the full policy requirement should apply from 15 units upwards, with the requirement introduced in 'steps' between 10 and 15 units;
- that outside the Central Activities Zone the proportion of affordable housing to be sought should be raised from 30% to 50%.

Reasoning behind policy approach

- 3.4 In response to the Direction, two revised policies, STRA 14 and H 4 have been drafted. These new policies reflect informal discussions held with Government Office for London (GoL), during which the city council supplied information to GoL to justify the approach taken in the evolving revised policy. It is the city council's case, consistently argued throughout the evolution of the RUDP, that applying a policy with a wide-ranging 50% requirement would have the opposite effect by discouraging residential development. This is because many Westminster sites already have high or very high existing use values (even outside the CAZ), and construction costs are also unusually high. Any policy that discourages housing development will, of course, also reduce affordable housing supply, defeating the very purpose of the Direction.

- 3.5 The discussions with GoL have sought to address this concern by exploring a balanced policy option that goes as far as possible towards the requirements of the Direction whilst preventing the more serious potential negative impacts on overall housing supply.
- 3.6 The modified policies seek to secure a proportion of affordable housing which varies according to the number of residential units in the proposed development and its location. The city council believes that they will enable Westminster to make a substantial contribution to meeting the need for affordable housing in London without discouraging developments which provide new housing of all kinds which the London Plan also requires that Westminster should provide.
- 3.7 The strategic policy STRA 14 has been further revised in response to the Mayor's comments, to include a borough-wide strategic 50% affordable housing target.

New Affordable Housing Policy

- 3.8 The percentage requirements set out in the revised detailed policy, H4, can be summarised in tabular form:

Summary of Westminster's Proposed New Affordable Housing Policy				
No. of Additional Residential Units Proposed	Percentage of Affordable Housing Required			
	Inside CAZ, CAZ Frontages and PSPA	Outside CAZ and CAZ Frontages and PSPA		
		1. RSL Schemes	2. Low existing use value	3. Other sites (not covered by 1 and 2)
0-9	0	100%*	0	0
10-24	Stepped to 30%	100%*	Stepped to 50%	Stepped to 30%
25-39	30%	100%*	50%	30%
40 -79	30%	100%*	50%	Stepped to 50%
80+	30%	100%*	50%	50%

* except where a proportion of the units are 'market housing' needed to subsidise the affordable housing

- 3.9 Thus, the policy retains the 30% policy inside CAZ, on the CAZ Frontages, and within the PSPA; and applies the same policy to smaller sites outside CAZ, except those that have a low existing value. The potential impact of the lower threshold, i.e. 10 units, is lessened by the use of a stepped approach to 24 units (as is the case with the 15-24 stepping in the pre-inquiry version of the RUDP). Likewise, the impact of the application of the 50% affordable housing requirement when it is applied to larger sites outside the CAZ is cushioned by the use of a stepped approach to developments between 40 and 79 additional units, reaching 50% in schemes with an additional 80 units. Also, as with previous draft policy H 4, and in accordance with

Government Guidance, account will be taken of site specific circumstances and the need to meet other planning objectives.

- 3.10 It is considered that the revised policies are the best solution that can be achieved. They constitute an acceptable way forward which it is hoped would not seriously prejudice overall housing supply and allows the city council to progress towards formal adoption of the whole RUDP as a statutory development plan.
- 3.11 The policy is also considered to offer the best solution to the Direction by meeting the intentions of the Direction whilst overcoming the shortcomings of its precise terms, which in officers' views would restrain housing development (including affordable housing) in Westminster. The new policy achieves this by:
- i) avoiding the shortcomings of a 10-14 stepping which would mean there would be little incentive for a developer to provide more than 9 units;
 - ii) avoiding a negative impact on the prospects for development of medium sized sites outside CAZ by applying a 30% requirement to such sites between 25 and 39 units (unless such sites are deemed to have a low existing use value) and by applying a 'stepped' proportion (between 30% and 50%) between 40 and 79 units.
 - iii) treating the CAZ Frontages the same way as CAZ (i.e. by applying a 30% policy) in recognition of these streets' function and status in the London Plan and Westminster's RUDP, as locations for commercial development.
 - iv) applying a 30% policy to the Paddington Special Policy Area in recognition of its role as a major economic development and regeneration area in London.
- 3.12 The revised affordable housing policy is currently on deposit, until 24th February 2006.

4. POLICY CHANGES

- 4.1 Recent changes to the relevant planning policy context within which Westminster delivers affordable housing have the potential to impact upon the current delivery of residential and affordable units. The Government's Response to the Barker Report sets out the Government's approach for a wholesale change in the provision of housing, including a new Planning Policy Statement 3: Housing (PPS3), and proposals for a Planning Gain Supplement. At the regional level, there are proposals for additional powers and responsibilities for the Mayor and Assembly in relation to planning and housing. In addition, the Mayor has also outlined draft alterations to the London Plan in terms of housing provision, as well as new housing supplementary planning guidance.

Government Response to Barker Report, December 2005

- 4.2 The Government's response to Kate Barker's Review of Housing Supply sets out how the Government proposes to respond to, and implement, the Barker Review's conclusions published at Budget 2004. The response outlines the Government's objectives for housing, and its ambition to achieve a 'step-change' in housing provision through reform of the planning system and increased investment in infrastructure to support housing growth.

The key issues raised by the Government's response relate to:

- reforms to the planning system to make local and regional plans more responsive to housing markets and increase land supply;
- its ambition over the next decade to increase new housing supply in England to 200,000 net additions per year, compared to around 150,000 at present;
- consultation on the Government's response to Kate Barker's recommendation for a Planning-Gain Supplement (PGS) to help finance infrastructure and ensure that local authorities share in the benefits growth brings;
- a cross-cutting review in the run-up to Comprehensive Spending Review (CSR) 2007 to co-ordinate infrastructure provision across departments.
- a commitment to set out ambitious plans for increasing social housing supply at CSR 07, with new investment alongside efficiencies and innovation in provision
- further measures to ensure the environmental sustainability of new housing.

The City Council's View

- 4.3 Despite the general aim of increasing housing supply, the Draft Alterations to the London Plan (see below) has reduced the target for housing provision in Westminster from 974 per year (1997-2016) to

680 per year (2007/8 to 2016/17). This is in recognition of the increasing scarcity of suitable large housing sites within Westminster.

4.4 It is too early to comment fully on the implications of the cost-cutting review, though it is likely that the measures are not particularly applicable to Westminster. The review is likely to determine the social, transport and environmental infrastructure implications of housing growth, and examine the use of targeted investment through the Community Infrastructure Fund and Growth Areas.

4.5 As part of the Government's Response to the Barker Review of Housing Supply, two key consultation papers have been produced, namely the draft *Planning Policy Statement 3: Housing* and the *Planning Gain Supplement* consultation paper. These are outlined below, together with a review of their likely impact/relevance to Westminster.

Draft PPS3, December 2005

4.6 The purpose of PPS3 is to provide a national policy framework for housing for regional planning bodies and local authorities to take into account in developing regional spatial strategies and local development frameworks. PPS3 will replace Planning Policy Guidance 3: Housing published in March 2000 and Planning Circular 6/98: Planning and Affordable Housing.

4.7 PPS3 outlines the Government's objectives of ensuring a choice of housing type (both affordable and market housing), a better balance between housing demand and supply, and the creation of sustainable, inclusive mixed communities. In order to meet these objectives, PPS3 states the need for:

- plans and policies for housing to take greater account of housing market and need and demand for housing
- increased land supply for housing development with 15 year horizon, and 5 year supply of land
- planning system to reflect long term objectives for affordability, set out at both national and regional level (detailed proposals to come as part of CSR)
- regions to determine level of housing provision in their region

4.8 At the local level, planning authorities will be responsible for allocating a five-year supply of land and the bringing forward of brownfield land for development. As land is developed, local authorities will be required to monitor delivery against provision.

The City Council's View

4.9 The city council appreciates the need to increase housing supply and supports the general objectives of draft PPS3 to increase housing supply in England. However, there is very little in within the guidance which is applicable to Westminster (or which we are not already doing)

and there is a concern that in comparison with PPG3 and Circular 6/98, it fails to provide sufficient statutory framework for local policies or individual planning applications. Matters that were previously covered in PPG3 and Circular 6/98, that provided a useful framework for housing policies, have been omitted. A number of issues likely to be of interest to Westminster may be included in the companion guidance which will accompany PPS3 but which is as yet unpublished.

- 4.10 The city council is already proactive in ensuring the delivery of as many residential and affordable units as possible. Not only does housing currently have the highest priority in the RUDP, but the speed with which planning decisions are made on large residential schemes has dramatically increased (see Section 2).
- 4.11 There are also likely to be difficulties in using the housing market to inform housing provision in Westminster where demand and need will always outstrip supply. Furthermore, it is not particularly applicable nor indeed possible in a densely-built metropolitan area like Westminster to increase land supply – there is already a shortage of suitable large housing development sites. The City Council has to increasingly rely on ‘windfall’ sites coming forward – these are difficult to predict and are often reliant on the viability of alternative uses.
- 4.12 In determining the regional level of housing provision and its distribution, it must be noted that in London the housing sub-regions are fairly arbitrary divisions. Housing need and demand may well need to be met outside the sub-region. For example, Westminster and other boroughs in the north sub-region may wish to access housing in the growth areas e.g. Thames Gateway/Ashford.
- 4.13 Westminster agrees that planning authorities should develop density policies for their plan area. However, the Mayor also sets out densities for different parts of Westminster which conflict with our own density zones which were agreed with local stakeholders and communities (whilst those in the London Plan alterations were not), and supported at the UDP Inquiry.
- 4.14 There is also concern over the definition of ‘intermediate housing’. This definition must be changed to include the relationship between housing cost and income, ie. affordability. As currently worded the definition is incorrect and could easily be abused by developers. Housing below market rents, by no means makes it ‘affordable’. This is particularly the case in Westminster where house prices are very high on average (over £590,000 for period October to December 2005, according to the Land Registry). Intermediate housing needs to be defined in terms of its affordability (as set out in the London Plan). This definition must be much more precise in terms of incomes and proportions of income that housing costs should be.

Planning Gain Supplement (PGS) Consultation Paper, December 2005

4.15 Produced in December 2005, the focus of the paper relates to how increases in land value created by planning decisions can be released more effectively to help finance the infrastructure needed to stimulate and service growth, and ensure that local communities better share in the benefits that growth brings.

Key elements of the PGS include:

- 'significant' majority of PGS revenues will be recycled to local level for local priorities. Will ensure local government will receive more funding through PGS than was raised through s106.
- PGS revenues will be dedicated to financing additional investment in local and strategic infrastructure necessary to support growth. Anticipates majority of PGS funds will be recycled within the region it was derived.
- PGS will be recycled to deliver strategic/regional as well as local infrastructure.
- PGS will involve scaling back of planning obligations – reduced scope.

The City Council's View

4.16 The city council already uses the S106 agreement mechanism effectively to share the 'benefits of growth'. However, with high land values in London and the potential to negotiate valuable S106 agreements, there is a risk that the introduction of PGS may mean a drop in the level funding from the current S106 position. The scaling back of the S106 system to cover only cover site specific measures and affordable housing would remove almost all discretion from the city council to determine what the priorities are for each site. This could result in the potential loss of funding for social, community and employment projects in Westminster. PGS also represents the further centralising decision-making and removing the link between local community benefits and the development site.

4.17 In the city council's view, if the tax is to be set at 20% of the uplift in land value, as has been speculated, this will have such a detrimental effect on the development economy as to discourage development.

4.18 Furthermore, it is debatable whether the PGS system would actually speed-up the planning system. The elements proposed to be taken out of the S106 negotiations are the ones for which formulae are readily used, whereas the elements that are left are the ones that require complex negotiation and the transfer of land, such as highways and open space matters, which often result in delay. It is also highly likely that many more applicants would raise viability issues on the overall scheme in relation to the remaining S106s, causing further delay.

4.19 There are likely to be issues relating to how the funds generated through PGS will be allocated. It is not clear whether funds will be

allocated once per financial year, or on a case-by-case basis, or whether they will be distributed locally or regionally.

ODPM consultation paper on proposals for additional powers and responsibilities for the Mayor and Assembly, November 2005

Planning

- 4.20 The ODPM paper sets out options for greater planning powers for the Mayor. These include:

Development plans

Option 1 – giving the Mayor powers to direct boroughs to amend their Local Development Schemes (LDSs) and to sign off LDS's; and to direct boroughs' Development Plan Documents (DPD's) to ensure consistency with the London Plan, including overriding binding Inspector's recommendations;

Option 2 - direct on LDSs and DPDs in relation to defined strategic issues

Development control

Option 1 - making the Mayor the development control authority for a defined class of application or in relation to defined strategic sites

Option 2 – giving the Mayor powers to direct refusal or approval for defined categories of strategic application (with or without the safeguard that such directions are referred automatically to the Secretary of State for consideration for call-in)

The City Council's View

- 4.21 The Mayor's concern should be to ensure implementation of strategic planning policy in London. His existing powers have been shown to be sufficient to ensure conformity with the London Plan and there is no apparent need for an extension to his powers in planning. There would be no discernible benefit in improving delivery of up to date plans, but there would be a loss of local accountability – with the Mayor able to dictate local policy making rather than setting the strategic framework.

- 4.22 There is no evidence of the need for change

The paper fails to examine whether the existing arrangements for planning in London are working well or to demonstrate why change is needed. If there is to be any change, or any loss of powers from the boroughs, it must be based on real evidence of failure to deliver by London's local planning authorities.

- 4.23 Loss of accountability

At present, the boroughs are consulting on their draft Statements of Community Involvement, which are being welcomed for the opportunities they bring for involvement in the planning system. However, giving the Mayor the powers to direct will potentially allow him to override considerations raised by local consultation.

Any proposal to give the Mayor powers to decide strategic planning applications or direct approval would have potential to override local concerns. An increase in the Mayor's powers to direct or decide

planning applications should be matched by a new planning committee of Assembly members to ensure open decision making and to provide a democratic check on decisions. The law specifically prevents a local authority from delegating planning decisions to a single member, and so it seems anomalous that the Mayor, a single member, has just such a power. Furthermore, it is a possibility that the Mayor's local consultation will not be as effective as boroughs' established consultation mechanisms, will result in duplication and could exclude the involvement of the local community, particularly through elected representatives at the borough level.

4.24 Increasing delays in decision making

The purpose of binding inspector's reports, introduced with the Planning and Compulsory Purchase Act 2004, was to speed up delivery of up to date development plans. Giving the Mayor powers to direct the content of a DPD would lead to uncertainty and delay after the publication of the inspector's report – obviating the improvement in performance achieved by the recent reform. Making the Mayor a party to negotiations on S.106 agreements will make negotiations much more complex and difficult to agree and could potentially lead to significant delays for major developments.

4.25 Overlap with the Secretary of State's powers of direction

If both the Mayor and the Secretary of State have powers of direction, there will potentially be scope for confusion and delay. If a scheme or plan affected by the Mayor's direction could then be directed again by the Secretary of State (or could the Mayor's direction itself be directed?) there will be considerable delay and uncertainty. There is general acceptance of the need for the ODPM to have powers of call-in and direction, and the ODPM is trusted to carry out a reasonably independent and objective assessment of strategic schemes against national policy.

Housing

- 4.26 Proposals for additional powers for the Mayor and assembly also relate to housing, and in particular, the allocation of the affordable housing portion of the Regional Housing Pot.

The City Council's View

- 4.27 By providing the GLA with the power to control affordable housing decisions through the Regional Housing Pot will only serve to remove the ability of local authorities to steer such vital resources to where they are most needed. Whilst there are many commonalities between London Boroughs, where joint approaches make sense, there are also as many differences in needs and priorities.
- 4.28 The potential for the Mayor's decisions on funding to favour the new growth areas where cheap, more affordable housing can be developed would represent the concentration of investment where housing targets can be more easily achieved, rather than in all areas of need.

Alterations to the London Plan (Housing Provision), October 2005

- 4.29 The Mayor recently published, for public consultation, draft alterations to the London Plan on housing provision, and waste and minerals. Following the completion of the 2004 London Housing Capacity study, the Mayor has proposed alterations to the London Plan housing provision targets for London and individual boroughs. These alterations proposed a new London-wide target of 31,090 homes a year from all sources.

The City Council's View

- 4.30 The city council supports the new revised annual capacity for Westminster of 680 units and will seek to deliver a minimum of 6,800 new homes between 2007-2017. The housing provision target accurately reflects the reality of the situation in Westminster of declining numbers of large sites coming forward in the future. This new target represents a reduction from Westminster's housing provision target in the London Plan, of 974 units per year for the period 1997-2016.
- 4.31 The draft alterations also proposed a number of minor changes to the London Plan text, in relation to the principles of sustainable residential quality and density. The reference to the principles of sustainable residential quality (SRQ) proposed in the amendment to Policy 3A.2 also supported by the city council. However, the city council questions the 'intensification of housing provision through development at higher densities' where consistent with 'the density location and parking matrix in table 4B.1' of the London Plan. The city council remains concerned that the density matrix should be accurately applied to reflect differences of density within Westminster. The city council is of the view that 'Central setting' densities are inappropriate in large parts of 'outer' Westminster that are residential in character, for example, St John's Wood, which is more suburban in character. The concept of SRQ is too simplistic, and has failed to take into account townscape, heritage, or available open space. The city council is of the view that the four density ranges set out in the City of Westminster Replacement UDP (RUDP - Map 3.6), and agreed through consultation with local stakeholders and communities, will achieve maximum densities whilst ensuring sustainable residential quality throughout the City.
- 4.32 Westminster City Council supports the acknowledgement that the delivery of housing provision targets is dependent on adequate funding for transport infrastructure, social infrastructure and affordable housing (paragraph 3.14a). In view of this, it would have been more beneficial if the proposed alterations to housing targets and subsequent provision did not occur in isolation, but as part of wider review of the implications for infrastructure within London. The city council also questions the timing of the Draft Alterations to the London Plan in relation to other guidance produced by the GLA. For example, the Housing SPG

produced in November 2005 does not include the new Borough level targets for housing provision 2007/8 to 2016/17.

- 4.33 The city council also supports the acknowledgement that the delivery of housing will be affected by market factors. In Westminster, the prevailing market conditions have the ability to affect the availability of residential sites, the level of residential planning applications submitted, and also the implementation of residential planning permissions by private developers.

GLA Housing SPG, November 2005

- 4.34 The guidance covers policies on housing provision and affordable housing. The SPG provides detailed guidance for boroughs on how to develop sites for housing and how to determine housing mix and density. The guidance emphasizes the need to make the most effective and appropriate use of the land available, consistent with the principles of Sustainable Residential Quality, and to include a higher level of new family housing.

The City Council's View

- 4.35 The city council supports the principle of seeking the maximum provision of housing. However, the city council has concerns over the application of the density location matrix. The city council already has clear planning policies in relation to density. Policy H11 in the RUDP specifies four zones with different density ranges. The RUDP allows for densities to exceed these figures where the circumstances of the site, its surroundings, and the development in question make such a density feasible.
- 4.36 In terms of family housing, Policy H5 (B) in the RUDP requires 33% of housing units in housing developments to be family-sized (3 or more bedrooms).

5. DISCUSSION POINTS

5.1 Despite the priority given to housing in Westminster and the increasing efficiency of delivery, and potential changes to the policy background, it is recognised and acknowledged that there is a residential affordability problem in Westminster. The following sets out ideas for discussion that could address the problem, although they don't necessarily represent Westminster City Council's viewpoint. They should be seen as a basis for discussion.

- Re-examine the social rent/intermediate affordable housing ratio, with more weight given to intermediate housing? – would they lead to social polarisation?
- Location of different tenures – locate social housing units in less expensive areas, concentrate on intermediate housing within other parts of Westminster. As above would this lead to social polarisation or acute area differences?
- Accept that only smaller residential units can be developed in Westminster, and that larger family-sized units should be located elsewhere? E.g. Barnet/Thames Gateway – what would this mean for long term, mixed sustainable communities?
- Increase residential density – however this may be difficult to undertake, because of historic built heritage/conservation areas etc. The city council does approve residential schemes with higher densities than outlined in the RUDP, but is generally more concerned that proposed developments meet other policies in relation to design and amenity.
- Better use of land – WCC study being carried out at the moment. Housing estates – relatively little scope? Do we want to build on all available land/open space?
- Increased role for private sector – don't have to be an RSL to provide affordable housing – what can we do to encourage them?
- Encouragement of 'Pocket'-type residential development schemes – see below:

Pocket is a private developer that produce 100% affordable key-worker housing schemes of 20 to 50 homes on infill sites within Central London. The developments use modular construction techniques to produce relatively compact units (26sqm to 33sqm for a studio and 37sqm to 45sqm for a one bedroom flat). The units are Housing Corporation compliant and meet lifetime homes standards.

Rather than owning a share, buyers own 100% of their property that range in price starting from £90,000 for a studio to £125,000 for a one bed flat.

- Enable greater use of existing stock through incentive schemes for under occupiers, empty homes initiatives (doing this already, but can we do it more intensely?).
- Prevention of the use of residential properties for investment purposes (potentially controversial and difficult to do through planning system), or ensure that properties are diverted away from the investment market, for example through Community Land Trusts. However, problem in Westminster is the high cost of land.
- More creative use of payments in lieu eg purchasing of existing properties, development of own schemes, using money to buy properties outside Westminster. Would need to lobby Government to lift restrictions on spending
- Greater use of land use credits system (see below), although the development of commercial schemes currently has to be in the vicinity of the 'credits'. Would this system enable the development of more affordable units if the vicinity requirement is relaxed? Realistically, how many landowners/developers would be able to offer alternative sites?

Westminster's approach to residential land use credits

- 5.2 In response to requests from large landholders such as the Grosvenor Estate and the Crown Estate, the city council has already set out its system of land use credits and how it envisages the system will be operated. To test its effectiveness in practice and to limit potential complexities initially this will only be applied to major residential and commercial schemes. To date, the credit approach has only been used to address the balance of commercial/residential floorspace in schemes. However Land Securities are currently seeking to expand the approach to include the creation of affordable housing unit credits (with their Wilton Road Plaza scheme being reported to Planning Committee on 23rd February 2006).
- 5.3 The aim of the affordable and residential credit system is to enable the construction of a higher quantity and quality of residential accommodation earlier on in the development process than might otherwise have occurred, in a consistent and transparent manner.
- 5.4 It is intended that the residential accommodation will be provided first on a site formerly in commercial use. Where accepted by the city council, the affordable housing created and the net increase in residential floorspace on the site would both form separate and distinct credits, that could be drawn down for an agreed period of time after the

date of the permission for the credits. This commercial scheme should generally be within the *vicinity* of the site where the residential credit has previously been accumulated. In relation to the affordable housing credit the vicinity issue has yet to be finalised, although supporting text to the revised affordable housing policy states:

If off-site affordable housing is proposed at a distance from the application site, the city council will require the applicant to show why provision in the vicinity is not possible, or to show that provision at a distance secures other substantial planning advantages (paragraph 3.36 Draft Policy H 4).

- 5.5 In reporting the proposed residential scheme to Committee, the Committee would be asked to consider whether the residential increase should be considered as forming a residential credit and if so for what time period. The Committee's acceptance of a residential credit from the site would need to be reflected in the Committee resolution. This would then form a material consideration in determining future planning applications for commercial schemes where the city council accepts that these could be counted against the banked residential credit, once that residential floorspace has been completed and been made ready for occupation.

6. CONCLUSIONS

- 6.1 This paper has set out Westminster City Council's track record of delivery of residential and affordable homes. This track record has highlighted the priority given and the steps undertaken to ensure the provision of housing in Westminster.
- 6.2 Residential uses have the highest priority in the city council's RUDP. In addition, the city council regularly produces planning briefs on a site by site basis to facilitate residential-orientated development.
- 6.3 In terms of assessing residential planning applications, the use of pre-application discussions and closer working with partners has resulted in the approval of 90% of all major residential planning applications in the last 2 years. Furthermore, these residential planning applications have been decided increasingly efficiently, with 70% decided within 13 weeks during 2005. Many of these schemes are complex mixed use schemes.
- 6.4 Westminster has experienced one of the highest levels of residential development of all central London Boroughs (1997-2003), and delivered nearly 2000 affordable homes (1997-2004). Where affordable housing cannot be provided on-site, planning policy dictates that a financial contribution in lieu is provided for a dedicated Affordable Housing Fund. Since 1997, the total amount of financial contributions received instead of on-site affordable housing equals £25,252,022.
- 6.5 The city council uses S106 legal agreements as a mechanism for securing planning obligations, and has taken measures to ensure the process is as efficient as possible. This has included the use of standard clauses (available on the website), and the recent production of a revised draft planning obligations supplementary planning guidance.
- 6.6 Following the Direction from the Secretary of State in relation to affordable housing policies, the city council has worked closely with Government Office for London to produce a balanced policy approach. This approach goes as far as possible towards the requirements of the Direction whilst preventing the more serious potential negative impacts on overall housing supply. The city council believes that this will enable Westminster to make a substantial contribution to meeting the need for affordable housing in London.
- 6.7 Recent Government and Mayor proposals have the potential to affect the provision of housing in Westminster. As part of the Government response to the Barker Report, the government has outlined reforms to the planning system to make planning more responsive to housing markets and to increase land supply for housing – both difficult objectives to fulfil in Westminster. The city council also has concerns regarding Planning Gain Supplement proposals, which could threaten

the effectively used S106 mechanism and remove almost all discretion from the city council to determine what the priorities are for each site. In addition, proposals for additional powers for the Mayor have raised concerns at the removal of key local decision making powers for local authorities, and potentially create more delays and confusion in the planning system.

- 6.8 Westminster City Council recognises that there is a residential affordability problem within the Borough. This paper also outlines a number of ideas for discussion that could be employed to address this problem, including Westminster's current approach to residential land use credits.

APPENDIX 1: Planning Obligations Supplementary Planning Guidance