

Shaftesbury

4 August 2020

Sent via Email: neighbourhoodplanning@westminster.gov.uk

Dear Sir/ Madam,

PUBLICATION OF THE FITZROVIA WEST NEIGHBOURHOOD PLAN (SUBMISSION VERSION)

REPRESENTATIONS ON BEHALF OF SHAFTESBURY PLC

Shaftesbury invests exclusively in the heart of the West End. Our portfolio extends across approximately 15 acres, largely within Soho and Covent Garden, including the internationally recognised destinations of Carnaby Street, Chinatown and Seven Dials. Smaller parts of the estate also encapsulate areas of Charlotte Street and Fitzrovia.

Having been assembled over 33 years, the estate portfolio has grown to comprise of circa 600 shops, restaurants and cafes, pubs and bars (approximately 1.1 million sq. ft). Additionally, those upper floors of buildings include a mixture of residential and office comprising circa 600 residential apartments and over 500,000 sq ft of small-medium enterprise (SME) office accommodation. It is estimated that nearly all our properties are located within Westminster's conservation areas with most buildings being on average over 150 years old and almost 20 per cent being statutorily listed. As such, we have a good understanding of the local area and its characteristics.

At Shaftesbury, our strategy is based on long-term ownership, investment and active management. Our goal is to carefully manage and shape for the future safe, attractive, vibrant and sustainable neighbourhoods; whether for work or leisure, as well as those whom live locally. Collectively, our estates have benefitted from a level of flexibility which enables our buildings to adapt to the changing retail environment and commercial operator needs – this has never been more relevant than in today's market and the far-reaching impacts of COVID-19.

The Fitzrovia West Neighbourhood Area encompasses part of Shaftesbury's Fitzrovia Estate and therefore the proposed policies contained within the draft Neighbourhood Plan are of great importance.

Representations

We have reviewed the proposed Fitzrovia West Neighbourhood Plan in detail and consider the policies to be broadly in line with existing Westminster's adopted City Plan, emerging City Plan and London Plan policies.

However, whilst we support the plan's overarching vision and objectives regarding regeneration, sustainability, design and suitable land uses, we wish to highlight areas of policy which we consider will negatively impact upon future development schemes, in particular certain sections of the office and retail policies.

We now set out below our comments on those particular policies which are relevant for the Estate:

- **Para 3.1 – CAZ Designation**

The Neighbourhood Plan (NP) states that the draft London Plan and draft WCC City Plan are proposing that the whole plan area should be so designated (in the CAZ). For clarity we confirm that the NP is already located within the CAZ designation.

- **Para 3.4 & Policy PR1.3D – Affordable Housing and 'Payment-in-lieu'**

The NP states that it 'aims to increase the proportion of affordable housing which should be fully integrated on the approved development site'. In this part of the West End, our estate is predominantly characterised by offices and commercial uses with limited residential accommodation on its upper floors. Over the years, this predominant commercial character has been acknowledged by Westminster's planning officers. It has been widely demonstrated through the adopted City Plan Policy S1 that a payment-in-lieu is acceptable rather than providing on-site affordable housing. The emerging City Plan further supports off site payments in exceptional cases.

Including affordable housing on small constrained sites for commercial-led developments will usually render schemes unviable. Working with historic buildings in Fitzrovia, typically there isn't enough space for separate cores or the provision of private amenity space. The introduction of residential uses into predominately commercial developments / areas also changes the character of a scheme and becomes less desirable for management.

We therefore question the need for the policy to be reiterated within the NP and with further restrictions added.

- **Policy PR1.2 – Refurbishment of Unlisted Buildings of Merit**

The NP states that 'applications for the refurbishment of all unlisted buildings of merit will be supported where they meet a number of set criteria (A-C).

The policy provides for a stringent list / criteria which new development for unlisted buildings of merit should be required to meet. Notwithstanding that the policy fails to acknowledge that the internal refurbishment of such buildings would not constitute development and therefore not require planning permission, the majority of the plan area is located in a conservation area which already protects the external character and appearance of the surrounding streets and buildings (listed or not).

Further, policy states that roof extensions will only be permitted where there is 'precedent' in

adjoining buildings. This would go against the accepted principle that each application be considered on its own merit and unnecessarily prohibit the possible extension of buildings which could sensibly make the most 'effective use' of land within Fitzrovia for additional commercial or residential accommodation. All future design and impact upon heritage assets would be subject to those existing City Plan design and heritage policies.

We therefore seek the removal of Policies 2A, B and C to allow for continued flexibility in the redevelopment of properties. Existing City Plan policies will ensure the protection of those surrounding designated heritage assets.

- **Policy PR1.3 – Assessment of Daylight and Noise**

NP Policy PR1.3G requires that there is no loss of daylight or sunlight or increases in ambient noise levels from new development.

The wording of this policy is overly restrictive. National BRE guidance acknowledges that schemes may have an impact on the daylight/sunlight into adjoining properties and indicates at which level this becomes unacceptable. The level of impact has to be assessed on a case by case basis and where minor must be considered against the wider objectives of the Local Plan and wider planning benefits. We consider the wording needs to be amended to reflect Government guidance and remove reference to 'no loss of daylight or sunlight'.

Akin to this, the assessment of noise is a particularly technical matter. New development will likely cause a slight increase in noise, however the assessment must conclude for the Council's consideration whether any slight increase in noise is significant or would impact upon those nearby sensitive receptors. Again, this policy wording needs to be amended to remove reference to 'no' increase in ambient noise levels.

- **Policy PR2.F – Residential Design Guidance**

The NP requires that 'in all developments refuse storage and related facilities should be provided and if more than 5 units are provided, additional community meeting and/or storage space should be considered'.

This requirement goes above and beyond the adopted London Plan and National Space Standards. It is often difficult to find space for ancillary functions for cycle's storage etc. let alone 'community space' of which is not defined. Trying to secure storage space for 5 units, which is a minor application, will prove difficult for the majority of developments. We are unaware of any local evidence suggesting the need for further community space and therefore the wording needs to be amended to achieve storage 'where possible' and completely remove reference to 'community meeting space' which will generate operational costs increasing over time that would have to be met by future residents via service charges.

This policy may have the unintended consequence of preventing even modest residential development from coming forward.

- **Policy PR2.H – Legal agreement for ‘Principal Residences’**

It is recognised that this policy is targeted towards the pressures of short term lettings (such as Air BnB) which can be problematic for local residents. This is also an issue for Shaftesbury and the safe management of our buildings. In an effort to combat such issues, the NP seeks to adopt a condition or legal agreement to planning permissions to ensure that newly constructed housing is occupied as a ‘principal residence’ only.

This may not be a lawful use of a condition or obligation and it is not clear how it would be monitored or enforced by the Council. For example, it is relatively straight forward to register with a doctor / dentist and not live in the area and electoral role can easily be achieved. It may also restrict the opportunity for people to legitimately utilise their flats mid-week and not stay at the weekend. We therefore question whether this restriction is required or effective, when City Council Policy already restricts short-terms lets.

- **Policy PR2.J – Building for Life ‘Criteria’**

Policy PR2J states that ‘in designing new housing developments, applicants should demonstrate how they have addressed the guidance in Building for Life 12 criteria in order to achieve the highest standards of place-making and enhancing local distinctiveness’.

We question the need for additional design guidance which is now outdated and superseded by the London Plan and National Space Standards. We do not consider another level of design guidance is required at this policy level and suggest that this policy be deleted.

- **Policy PR3.5 – Tables and Chairs**

The NP states that chairs on the pavement will be supported where there is at least two metres or more remaining for pedestrians. Given the recent effects of Covid-19 and need for many shops and restaurants to maximise the use of space outside, including on the public highway, it may be that such limits cannot be enforced. At this time, businesses need maximum flexibility in the placement of tables and chairs to support local businesses to survive.

There are also several existing policies relating to the use of the public highway for tables and chairs, and much used TfL comfort guidance that work well already, in a pre-COVID and hopefully post-COVID context.

- **Policy B1.1 – Small Business Units (Less than 250 sqm)**

The NP states that ‘applications for redevelopment of existing buildings which include business units of less than 250sq.m will be supported where the redevelopment involves provision of an equivalent or increased number of such units’.

We object to this policy requirement. This policy will prevent offices being developed which offer prospective tenants (and landlords) with flexibility in the letting and use of the space. The policy seeks the same number of small office suites to be reinstated into redevelopments. We request the removal of the requirement for smaller offices to ensure maximum flexibility to the market place, especially during this current time when offices need maximum flexibility to operate safely with Covid-19 guidance. In small compact offices meeting such guidance is often impossible, and there may be unintended consequences of insisting on smaller office units that would therefore remain unoccupied resulting in development not coming forward.

- **Policy B1.2 – Small Business Units (More than 1000sqm)**

The NP states that applications for development of buildings for B1 use in excess of 1,000 sq.m. gross floor area shall include where possible a range of unit sizes and types suitable for small and independent businesses including at least one business unit of less than 250 sq.m per 1,000 sq.m'

The assumption that small and independent businesses stay small and need small spaces becomes obsolete as a business grows and prospers. Additionally, often small businesses especially in the creative sector prefer to co-locate to expand creative capability and collaboration. Policies which limit office sizes may have the unintended consequence of forcing independent businesses out of the areas and moving employment with it.

Comments given to Policy B1.1 apply to this policy also. The request for schemes to introduce smaller offices will restrict flexibility and desirability of new commercial developments. We request the removal of such requirements for small offices and suggest a policy that welcomes a mix of commercial unit sizes to ensure maximum flexibility for the market and prospective occupiers.

- **Policy B2.1 – Marketing of Retail Units**

The NP notes that 'where there is evidence that a retail unit has been vacant and advertised to let for more than 18 months, alternative uses, such as A2, A3 and leisure uses can be considered'.

In our experience, the provision of 18 months marketing is too long to wait for an alternative use. Having a unit vacant for that length of time is detrimental to the character of the area, creates inactive frontages and proliferates the issues currently facing high streets dominated by traditional A1 retail. Marketing of a unit for six months should be considered long enough to understand whether the use of a particular unit needs to change to meet with the changing nature of a particular street or neighbourhood to encourage vitality and occupation of the ground floor. This will become especially important in a post-COVID environment where there may be a large number of units that become vacant and need to be occupied by an alternative use to keep the frontage active.

Also, we note the Government's new Use Class Order which seeks maximum flexibility of town centre uses. The NP will need to be updated to reflect the new Use Class E.

- **Policy B2.2 – Small Retail Units**

The NP requires all applications for redevelopment of existing buildings which include retail units of about 150 sq. m. (defined by WCC as ‘small retail units’) will be supported where the redevelopment involves provision of an equivalent or increased number of such units’. We consider this restricts redevelopments which seek a mix of of larger and small retail units. While we acknowledge that many retailers have been requesting smaller spaces, we have also seen online businesses seeking bricks and mortar sites with larger floor plates. We recommend the removal of such requirement for smaller retail units to ensure maximum flexibility. If a protection is considered necessary, the policy should refer to floor space rather than the number and size of the retail units.

- **Policy T1.C – Bicycle Storage**

The NP notes support for developments which provide off-street space for bicycle storage, deliveries, servicing and refuse collection. It is very rare that a development site is large enough to accommodate off street servicing. This policy should be an aspiration where possible and practical to do so.

Summary

We trust our comments on the above policies will be taken into consideration during the final review of the Neighbourhood Plan by Westminster prior to the independent review by an Inspector. We at Shaftesbury welcome the opportunity to continue to have a constructive dialogue over the ongoing development of the Neighbourhood Plan and very much hope these comments can assist in achieving its ambitions.

We look forward to hearing from you would be very happy to meet with officers to help present first-hand how our work is helping shape this vital part of the City. We confirm that we would wish to participate in a public hearing if one is held to discuss the plan.

Should you have any questions, please do not hesitate to contact us or our planning consultant Rupert Litherland at Rolfe Judd Planning (rupertl@rolfe-judd.co.uk).

Yours Faithfully,

Lydia Clarkson

HEAD OF PUBLIC REALM AND PLANNING