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Dear Planning Policy Team,

Please find attached the Barbican & Golden Lane Neighbourhood Forum's response to the City of London's consultation on draft Modifications to the City Plan 2040.

We would be grateful if you could acknowledge receipt.

Thank you,

Liz Hirst  
Vice Chair BGLNF on behalf of the Forum's Steering Group



# CITY PLAN 2040 MODIFICATIONS

## BARBICAN AND GOLDEN LANE NEIGHBOURHOOD FORUM'S RESPONSE

The City of London designated the Barbican and Golden Lane Neighbourhood Forum in 2023, under the Localism Act 2011. We represent residents, businesses and community organisations in the designated area. About 50% of the City of London's residents live in this area and it is also home to internationally significant cultural enterprises such as the Barbican Arts Centre and the Guildhall School of Music & Drama.

### INTRODUCTION

The proposed **Main Modifications** (MM) introduce a number of changes to City Plan 2040. Modifications can be suggested by the Inspector, the Local Planning Authority, or representors. They are now subject to consultation without explaining whether they came from the City, the Inspectors, developers or the community. It is not made clear to consultees why each one is being sought. Some were not raised in the Plan Inspection Hearings, and planning officers at subsequent committees were not able to say what the source was. It is unclear the extent to which these really represent issues of soundness or legality. The Forum is particularly surprised to see changes which make the plan less precise and introduce concepts that are not to be found in the NPPF, nor in the Mayor of London's London Plan 2021; and one which the Supreme Court has specifically found to sit outside planning policy.

### KEY POINTS

1. **OLDER PERSON HOUSING (MM8)** – The Forum's evidence to the City and the Plan Inspectors of Housing Need by independent specialists using appropriate methodology, proved that there is an "identified need" for specialist older persons housing in the City. Given this, and the increasing weight of government policy on this topic, the Forum proposes includes "specialist older person housing" to Policy S3 (2) (c) to read: "providing an appropriate mix of affordable tenures, addressing identified need in the City of London, including social or London affordable rented housing, specialist older person housing, and where appropriate intermediate housing (living rent, shared ownership or other genuinely affordable products) for rent or sale."
2. **CULTURE MM20 & MM21** – In a rare meeting of minds, many participants in the Plan Examination pointed to the difficulties of piecemeal on-site provision of cultural contributions, when combining those contributions could be so much more effective. The Forum is therefore surprised at the intention to make off-site provision "not acceptable" for large developments (MM21). This policy has an absoluteness about it that virtually nothing else in this Plan shows. The effect of combining this without specifying the scale of the required provision invites less than world class facilities. The Forum therefore proposes a change of text (for developments over 10,000sqm gross floorspace, Off Site) to: "Not usually

acceptable, unless contributions to a specific existing or emerging cultural facility would clearly provide more benefit than on-site provision”.

**MM21 7.3.4** Part two of the policy requires on site provision for developments of 10,000sqm gross or more, regardless of the uplift in floorspace, but does not dictate the scale of the provision. The capacity of developments to incorporate a cultural use will be determined on a site by site basis and will be commensurate with the scale of the development.

|  | <u>On Site</u>   | <u>Off Site</u>  |
|--|--|--|
| <u>&gt; 10,000sqm gross floorspace</u> | <u>Yes. Provision will be commensurate with the scale of development</u>       | <u>Not acceptable</u>  |
| <u>&lt; 10,000sqm gross floorspace</u> | <u>Preferred. Provision will be commensurate with the scale of development</u> | <u>Yes if a specific project has been identified. Provision can be through a direct intervention to support the project or through a financial contribution. As per paragraph 7.3.5, financial contributions can be pooled</u> |

3. **AMENITY (MM22)** – The City of London’s Planning Committee members originally approved a policy about Hotels (CV 4(2)) which protects against adverse impacts on the amenity of neighbouring occupiers. For no discernible reason, MM22 proposes to water this down to read “unacceptable adverse impacts”. It has not made the plan more consistent, if anything it does the opposite, nor is clear how it would make the plan more effective. Qualifying “adverse” by the word “unacceptable” would in fact made the policy more imprecise for decision-makers. The impact is discriminatory, as it undermines to some extent policies HS3 (residential amenity) and HL3 (noise) for residents and, by lowering the extent of mitigation required for hotels proposed near existing homes, risks creating unnecessary, avoidable long-term conflict. Hotels and residential areas in the City can be happy bedfellows, but the high density of the existing urban fabric means that this is only the case if the adverse impact of deliveries, terrace bars, parking, noise, rooftop plant etc are properly mitigated. Adding the word “unacceptable” creates the risk that developers will instead lower the mitigation, leading directly to adverse impacts that would otherwise be perfectly preventable. Adding “acceptable” creates a loophole for hotel developers that cannot be justified on the grounds of soundness nor legality. The existing baselines for pollutants such as noise and air quality in the City already breach national and international benchmarks. Residential amenity has so many challenges in this dense economic area that the protections in City Plan 2040 should be clear. We question how this modification addresses an issue of soundness, as it conflicts with the London Plan and NPPF on Agent of Change. We suggest that instead of qualifying it, the word “adverse” should stand alone as a straightforward policy throughout the plan, as City of London elected members originally intended and as the Mayor of London does throughout the London Plan, and we therefore propose that “unacceptable” is deleted. “Adverse” should simply mean “adverse”.
4. **FREE PUBLIC TERRACES (MM35)** – This seeks to edit Policy DE4(3) so that it only applies to tall buildings (not all major developments). With developments increasingly taking up ground level open space and air space, the effect of this proposed policy change is likely to lead to more loss of open space from “groundscrapers”, which won’t even have to compensate with rooftop gardens. Since the City already

has a massive deficit of Open Space, this is an unacceptable change. The Forum proposes that this Modification is removed.

5. **REDEVELOPMENT OF EXISTING TALL BUILDINGS (MM55)** – and AM 73 – The London Plan requires tall buildings to be clustered together in defined areas, and the City of London’s previous draft Plan (the 2036 version) was rejected because it allowed tall buildings too liberally across the City, undermining the careful curation of London’s skyline. Now MM55 seeks to introduce the following paragraph into Chapter 11 Heritage and Tall Buildings:

**MM55** 11.5.13 On sites that contain a tall building (both within and outside the tall building areas identified in Figure 14), the existence of a tall building is likely to be a material consideration in the determination of development proposals. The retrofit or redevelopment of sites with existing tall buildings outside of the tall building areas may therefore be considered appropriate, where demonstrated that they would meet the requirements of Policy S12 (8), (9) and (10) in relation to their impacts and design, and other relevant development plan policies.

This Forum is astonished that this last-minute attempt to re-introduce tall buildings outside the clusters is considered an issue of soundness, especially as it undermines the elected Mayor of London’s Plan for grouping tall buildings within defined areas. This will surely present decision-makers with conflicting intentions. At committee, City planning officers were unable to say where this addition had come from and the Forum therefore questions its inclusion at this late stage. We also fail to understand how it can possibly correct *un-soundness* given City Plan 2040’s overwhelmingly permissive approach to development.

The Forum fundamentally disagrees with the introduction of wording that attempts to pre-judge what is a “material consideration” when this is a matter of law. There is good reason why this wording is not found in the London Plan, nor in the draft City Plan 2040 approved by elected members originally. It is for the courts to establish the weight that attach to material considerations, and whether they are sufficient to outweigh a Development Plan like the Mayor’s London Plan, or the clustering of tall buildings in City Plan 2040. The Supreme Court has held that a matter does not become material merely by saying so (“even planning policy cannot convert something immaterial into a material consideration for planning purposes”). The Forum’s view is that MM55 should be withdrawn in its entirety as being confused speculation as to what the courts may (or may not) determine, misleading decision-makers by asserting that they take account of something unproven but “likely”.

The effect of MM55, combined with a definition of “Tall” (75m AOD), in City Plan 2040 creates an unacceptable risk that very tall buildings could be built outside of the areas designated in the plan for Tall Buildings. It will surely provide a perverse incentive to redevelop rather than retrofit, and for slightly shorter buildings to add rooftop extensions prior to redevelopment (even by adding uninhabitable plant rooms or similar) in order to qualify as a “Tall Building” outside the cluster. These outcomes are unsustainable.

City Plan 2040 Policy S12 (8), (9) and (10) applies impact, design and public access requirements to any new Tall Building. However, the height of new buildings in the clusters would be guided by the heights

used in the contours, in effect if not in policy. MM55 would allow for the redevelopment of isolated existing tall buildings, with no such constraint. The Forum does not understand why S12 (5) has been omitted from the revised text (subject also to amendment, please see also our response to AM71, below).

If the City is determined to continue to permit the development of Tall Buildings outside the clusters, the only way that MM55 could be rendered even marginally acceptable would be by applying a small wording change, as follows:

- First, the definition of the height of an existing Tall Building in Strategic Policy 12 should be clarified by adding the following, *"excluding uninhabitable space, such as plant rooms and lift overruns"*.
- Second, the proposed 11.5.13 should be reworded to read as follows:  
*"On sites that already contain a tall building (both within and outside the tall building areas identified in Figure 14), the existence of a tall building is likely to be a material consideration in the determination of development proposals. The retrofit or redevelopment of sites with existing tall buildings outside of the tall building areas may therefore be considered appropriate, provided the development is not significantly taller than the existing building and it is demonstrated that it would meet the requirements of Policy S12 (5), (8), (9) and (10) in relation to their impacts and design, and other relevant development plan policies"*.
- Third, Policy S12 (5) should be reworded to apply to Tall Buildings outside clusters as well as inside, as the Forum proposes in AM71 (below) - to read *"5. The suitability of sites for tall buildings within the identified areas will depend on the sensitivity of the relevant context to such proposals. Their and their design, height, scale and massing should ensure that they take into consideration local preserve and enhance the significance of heritage assets and take into consideration other localised factors relating to townscape character and microclimate."*

6. **URBAN HEAT ISLAND (MM59 – MM62)** – Given the substantial overheating in the City caused directly by dense development, the Forum asked for stronger policy on UHI. We note that S15 and other policies have been reworded and that MM61 and MM62 are clearer. MM59's use of the word "address" is too imprecise for decision-makers, however, and the Forum suggests "Development must seek to minimise the urban heat island effect;"

7. **CULTURE (AM 30 – AM 41)** – The Forum's view continues to be that City Plan 2040 suffers from the lack of an overall Cultural Strategy or Vision which would provide a blueprint for policies to help cultural providers and developers to collaborate effectively. A clear Strategy could make the City a powerhouse of cultural production and consumption, rather than a scattering of small-scale ad hoc offerings. In this vacuum we note the City policy is to be advanced through a Culture SPD in future (MM20). Unfortunately, this leaves a muddled approach in City Plan 2040 now which the Additional Modifications only partly address. This is made worse by shoehorning in a new concept of "Cultural contributors" (AM 31) which add confusion for decision-makers and do not improve the Plan's soundness, nor legality. The Forum proposes this element is removed on the grounds that it does not reflect national or London-wide planning policy, is so wide as to be meaningless and doesn't include affordable workspaces for artists and producers; ~~"Cultural contributors are complementary uses that facilitate cultural infrastructure, these can include restaurants, bars, clubs, public houses, retail areas and tourism facilities"~~. Changing the title of policies CV1 and CV2 is not trivial (AM33 and 36); it muddles culture with tourism; the Forum objects to this fundamental change to elected members' original intentions. Protections for the listed so-called "contributors" are wholly covered elsewhere in

the Plan; restating them here but with the additional concern as to whether they are de facto supporting culture or not, is an unnecessary complication for decision-makers. The Forum proposes that the original policy wording is reinstated except for the sole change to “*cultural infrastructure*” to replace references to arts and/or cultural uses as proposed at the Inspection hearings (AM32 and 35).

8. **SUITABLE SITES FOR TALL BUILDINGS (AM71)** The Forum proposes that this should be a Main Modification. We do not understand why MM55 seeks to encourage tall buildings outside the clusters without also requiring a change to Policy S12(5) to apply outside the clusters, too. The proposed AM71 should apply everywhere, for the avoidance of doubt, given that the City has signalled its intention in MM55 to allow Tall Buildings outside the “identified areas”. The Forum therefore proposes the following small amendment to AM71 to delete the phrase “within the identified areas” to policy S12 to read “5. The suitability of sites for tall buildings ~~within the identified areas~~ will depend on the sensitivity of the relevant context to such proposals. Their and their design, height, scale and massing should ensure that they take into consideration local preserve and enhance the significance of heritage assets and take into consideration other localised factors relating to townscape character and microclimate.”

Second, given that tall buildings are such a significant feature of the City of London, and City Plan 2040, it is crucial that the definition of “scale” given in the National Design Guide is put into the City Plan 2040 glossary, for the avoidance of doubt, to read: “Scale is the height, width and length of each building proposed within a development in relation to its surroundings. This relates both to the overall size and massing of individual buildings and spaces in relation to their surroundings, and to the scale of their parts. It affects how a space can be used and how it is experienced.”

#### **COMMENTS ON REMAINING MAIN MODIFICATIONS**

|               |                            |  |
|---------------|----------------------------|--|
| MM1           | Reworded Vision statement  | Following Forum representations, we are pleased to see that the City’s Vision now includes reference to the people who live here. However, we lament the lack of ambition and note that for the next fifteen years the City of London; <ul style="list-style-type: none"> <li>- Doesn’t seek to <u>protect</u> heritage</li> <li>- Doesn’t seek to actually <u>improve</u> the health of people</li> <li>- Doesn’t seek to be a world-class city.</li> </ul> |
| MM23          | Infrastructure             | The Forum’s position remains that the City’s Infrastructure Plan is wordy, vague and ignores the evidence of its own LAEP. It was never properly debated at committee and was never consulted on. There is no assurance, in practical terms, that the City will have the infrastructure to meet this Plan (infrastructure includes health and social facilities as well as open space, green/blue infrastructure, district cooling, heating, drainage etc).  |
| MM24 – MM33   | Carbon, sustainability etc | The Forum made a number of points about carbon, retrofitting, UHI etc during the Plan Inspection Hearings. By and large, the Main Modifications represent a small move in the right direction in planning policy to recognise retrofitting, whole life-cycle carbon and sustainability, even though we take the view that the climate emergency demands a more ambitious approach.   |
| MM 38, 39, 40 | Reduced cycle parking      | In response to developers’ complaints that the Mayor of London’s cycle parking standards are too generous and costly, the Modifications would allow for alternatives (such as off-site provision) or temporary usage until demand increases to fill it with bikes. The Forum does not understand why a similar level of flexibility is not being applied to cultural provision.  |

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| MM 41 –<br>MM 50 | Heritage & conservation    | When it comes to applying these policies to new planning applications, the Forum takes the view that being obsessed with office growth without considering the damage to heritage is contrary to national policy. Previous political administrations in the City of London managed to deliver growth without waging war on heritage and amenity. We do not understand why the current political administration finds it so hard to strike the required balance. Given the tests of NPPF to give 'great weight' to the conservation of heritage assets in balancing harm against public benefits, the City of London has an obligation as well as the tools to challenge those schemes with high heritage harm and very limited public benefits. It needs to use them more effectively. |
| MM58             | Trees in SUDS              | The Forum pointed to the problem of low-level SUDS schemes squeezing out space for trees, which are more important for climate resilience. We applaud the changed text which now says trees and SUDS can be combined.  |
| MM64<br>&MM 65   | Smithfield & Barbican KAOC | S23/24 - The Forum requested that the policy about freight and amenity should apply to the whole area (not just Smithfield) and we applaud this change.  |

### ADDITIONAL MODIFICATIONS

|            |                             |   |
|------------|-----------------------------|---|
| AM7, 8 & 9 | Air Quality                 | <p>Although the City's Vision is to create a "healthy environment" (MM1 above), the text has been changed to show a <b>reduced</b> commitment to air quality, removing the WHO target for PM2.5 particulates and extending the deadline for reaching the NO2 target by 5 years*. The City is remarkably incurious about PM2.5, even though these tiny particles cause significant harm. It only has a couple of monitors, even though demolition and diesel generators are key sources in the City (along with car engines and tyres). The fine print of the City's Air Quality Strategy says that reductions in 2023 were due to "rainfall" not policy. Laughably, in a place awash with demolition and construction, it also says that cooking is the main culprit to PM2.5 levels within the City (this is from a report which uses American data to speculate that kebab and hamburgers are to blame). Quite how this work has been given credence, or why there is no serious strategy for measuring and reducing this killer in City air is a complete mystery. We regret that City Plan 2040 is not doing more.</p> <p>*they should be down at 10 (annual mean µg/m3) by 2040 to meet government targets - and 5 to meet WHO standards</p> |
| AM16       | Health inclusion and safety | The City's policies on public toilets remain inadequate to match policies elsewhere in the Plan that support increased visitor activity.  |
| AM17       | HIA                         | For avoidance of doubt, "housing" needs adding as a sensitive use.  |
| AM22       | Housing                     | The Forum made representations about loss of "real" housing to student housing and is pleased to see this changed text:<br><i><u>"The net loss of existing housing units, including to other residential products such as student or co-living, will be resisted because of the limited opportunities to replace it in the City".</u></i>   |
| AM 23 & 24 | Amenity                     | The Forum suggested a small change to HS3. We applaud it being reflected in this Modification.  |
| AM57       | Daylight/sunlight           | The Forum asked for policy DE7(1) to be strengthened. It is still inadequate and the <u>cumulative loss</u> of daylight/sunlight to people's homes should be taken into consideration.  |

|               |                              |   |
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| AM63          | Servicing - impact           | The Forum made representations about the impact of servicing on residential areas. We note that text (but not policy) has been changed to recognise this.   |
| AM 87, 88, 89 | Temple                       | The Forum continues to maintain that the special status of The Inner and Middle Temple as <i>“a mix of workspaces, residential, commercial and communal uses”</i> is equally applicable to the Barbican and Golden Lane – and that if the Temple’s <i>“mix of uses contributes to the historic interest and high environmental quality of the area and should be maintained”</i> that is applicable, too. |
| AM95 – AM 99  | Smithfield and Barbican KAOC | The Forum made representations, which are reflected in the changed text. We say thank you!  |
| AM 105        | City Landmarks               | The Forum asked for Barbican Towers and Great Arthur House to be added as City Landmarks. We are pleased to see their inclusion.  |
| AM 106        | Neighbourhood Forum          | The Forum asked for this text and thanks the City of London for including it.   |