

Fitzrovia West Neighbourhood Forum

Fitzrovia West Neighbourhood Plan Basic Conditions Statement

**Regulation 16 Submission Version
February 2020**

Introduction

Reg. 15(1)(d) of the Neighbourhood Planning (General) Regulations 2012 (SI 2012 No. 637) provides that where a qualifying body submits a plan proposal to the local planning authority, it must include a statement explaining how the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990. As applied to neighbourhood plans¹, this paragraph stipulates the following “basic conditions” (para. 8(2))²:

- (i) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan,
- (ii) the making of the plan contributes to the achievement of sustainable development,
- (iii) the making of the plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
- (iv) the making of the plan does not breach, and is otherwise compatible with, EU obligations, and
- (v) prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the order.

This Neighbourhood Plan sets out the priorities and policy objectives of residents and local business in Fitzrovia West, based on extensive consultation over several years. In all cases our policies are designed to be in general conformity with the Westminster City Plan and the London Plan, both of which are undergoing revision. We have listed relevant strategic policies under each of our policies and in places have summarised or referred to these higher tier plans so that readers (especially residents and local businesses) are aware of the wider context and broader objectives and to inform their decision in the referendum. In implementing the neighbourhood plan attention should be paid to the precise wording of higher level strategic policies.

¹ By s. 38A(3) of the Planning and Compulsory Purchase Act 2004.

² The effect of paras 8(3) and (4) is that paras 8(2)(b) and (c) have no relevance.

Conditions (i) and (ii):

“having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan”

“the making of the plan contributes to the achievement of sustainable development

Introduction: the National Planning Policy Framework 2019 (“NPPF”)

1. The NPPF sets out the Government’s planning policies for England and how these should be applied (para. 1). So far as relevant in this context, it provides that the purpose of the planning system is to contribute to the achievement of sustainable development and how this is to be achieved (Section 2); contains policies on plan-making (Section 3); and then sets out the Government’s planning policies (Sections 5-17).
2. The rest of this section explains how the Neighbourhood Plan conforms to these policies and requirements so as relevant to the Area.

Achieving sustainable development (NPPF Section 2)

3. The NPPF (paras 7 to 13) states that the purpose of the planning system is to contribute to the achievement of sustainable development by means of three overarching and interdependent objectives which are to be delivered through the preparation and implementation of plans and the application of the policies in the NPPF, namely: (a) to help build a strong, responsive and competitive economy; (b) to support strong, vibrant and healthy communities; and (c) to contribute to protecting and enhancing our natural, built and historic environment (para. 8).
4. Para. 4.1 of the Plan sets out a “shared vision” for the area (NPPF para. 29), namely to ensure that the Area develops as a habitable, sustainable and neighbourly community in which to live and work. The 16 overall objectives of the Neighbourhood Plan aim to achieve sustainable development while meeting the needs of the community (para. 4.1).
5. Those objectives are set out in para. 4.1 under five heads: promoting regeneration; supporting business uses and development; protecting and increasing green and open space; promoting environmental quality; and various objectives and under the head of Mobility and Transport.
6. More specifically, the following policies promote sustainable development: Policy PR1 Promoting Regeneration; Policy PR3: Tourism, Arts, Culture and Entertainment Uses; Policy PR4: Leisure, Sports and Community Infrastructure; and Policy B1: Small Business Units.

7. In addition, the NPPF makes clear that the application of the presumption in favour of sustainable development means that neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies (para. 13). The way the Plan conforms with and supports the London and Westminster City Plans is set out below.

Plan making (NPPF Section 3)

8. Para. 16 of the NPPF sets out six requirements for all plans. The Neighbourhood Plan has been prepared in such a way as to conform with each of these requirements.
9. First, it has been prepared with the objective of contributing to the achievement of sustainable development (para. 16(a)). This is dealt with in the previous section.
10. Second, it has been prepared positively, in a way that is aspirational but deliverable (para. 16(b)). The Vision section of the plan (para. 4.1) sets out a series of positive objectives each of which is deliverable and each of which informs the policies set out in the plan.
11. Third, it has been shaped by early, proportionate and effective engagement with specified stakeholders (para. 16(c)). How this has been achieved is explained in paras 1.4 to 1.8 of the Plan and the Consultation Statement.
12. Fourth, its policies are clearly written and unambiguous (para. 16(d)). This has been achieved by a series of careful redrafts with the assistance of planning consultant, Tony Burton.
13. Fifth, it is digitally accessible (para. 16(e)). All drafts and the final version have been made available on the fitzwest.org website with a comment facility.
14. Sixth, it serves a clear purpose (as set out in the Vision section – para. 4.1) and avoids unnecessary duplication of policies that apply to a particular area (para. 16(f)).

Conformity with relevant Government planning policies

15. This section sets out how the Plan conforms with and supports the Government's planning policies set out in the NPPF so far as relevant to the Area.

Delivering a sufficient supply of homes (NPPF Section 5)

16. Policy PR2(a) provides for the protection of existing housing provision from changes of use and the encouragement of new housing development; Policy PR2(d) provides that new affordable housing will be strongly supported; Policy PR2(e) provides that adequate provision should be made for accommodation to meet the needs of all age groups and incomes and those with special needs; and Policy PR2(h) provides for planning permissions to secure that all newly constructed housing is to be occupied as a 'principal residence'.

Building a strong, competitive economy (NPPF Section 6)

17. Policies B1(1), (3) and (4) provide for the protection and encouragement of business units of 250 sq. m. or less. Policy B1(2) encourages the provision of a range of unit types suitable for small and independent businesses in large B1 developments.

18. Policies B2(1) to (5) support retail uses, particularly in small units, but also provides that a wide variety of alternative uses should be considered if retail units have been vacant over longer periods. Policy B2(6) encourages meanwhile uses of retail units.

19. Policy T2 encourages measure opt improve the distribution and delivery of goods to local businesses.

Ensuring the vitality of town centres (NPPF Section 7)

20. The policies referred to under "Building a strong, competitive economy" all contribute to this objective.

Promoting healthy and safe communities (NPPF Section 8)

21. Policy PR2: Housing Provision provides that: (a) all new housing should normally be at least dual aspect, meet or exceed London Plan and London Housing Design Guide floor space standards and provide access to outdoor space; (b) all new housing should be well designed; (e) adequate provision should be made for accommodation to meet the needs of all age groups and incomes and those with special needs; and (f) provision should be made for refuse storage and related facilities and for additional community meeting and/or storage space in larger developments.

22. Policy PR4: Leisure, Sports and Community Infrastructure provides for the protection of community and social infrastructure (PR4(1) and (2)) and the support of proposals for new community, health and sports facilities (PR(3)).

23. Policy GS1 provides for the protection and enhancement of existing green and open spaces while Policy GS2 provides for the creation of new green and open spaces.

24. Policy EN1 provides for the promotion of improved environmental sustainability and air quality and Policy EN2 provides support for developments with minimal emissions.

25. Policy T1 provides for the support of development proposals that provide for increased efficiency and sustainable movement of people and goods in the Area.

Promoting sustainable transport (NPPF Section 9)

26. Policy PR2(g) provides that off-street car parking in new developments should only be provided in accordance with WCC policy.

27. Policy T1 provides that Development proposals will be supported that provide for increased efficiency and sustainable movement of people and goods in the area.

28. Policy T2 makes provision for improving the distribution and delivery of goods to local businesses.

Supporting high quality communications (NPPF Section 10)

29. The neighbourhood plan does not cover this issue.

Making effective use of land (NPPF Section 11)

30. Policy PR1(1) provides that the redevelopment or extension of existing buildings will be supported where applications meet highest quality design standards, achieve the highest levels of environmental sustainability and make a positive contribution to the public realm.

31. Policies PR1(2) and (3) provide that applications for refurbishment of unlisted building of merit and redevelopment of other building will be supported where they meet specified criteria.

32. Policy PR1(4) provides that applications will be supported where the scale and massing of adjoining buildings is respected.

33. Policy PR2(d) provides that new affordable housing created from conversion or new construction will be strongly supported.

34. Policies PR3(3) and PR(4) provide for the support of cultural activities and new community, health and sports facilities where appropriate.
35. Policy B2(6) makes provides that temporary, pop-up uses of vacant retail space will be supported where they do not create adverse environmental impact.
36. Policy GS2(4) provides that temporary, meanwhile uses which provide additional landscaping or play space will be supported.

Achieving well-designed places (NPPF Section 12)

37. Policy PR1(1) provides that the redevelopment or extension of existing buildings will be supported where application meet the highest quality design standards and make a positive contribution to the public realm.
38. Policy PR1(3) is provides that heating and air cooling plant shall not diminish the amenity of adjoining occupants.
39. Policy PR1(3) contains provisions designed to ensure that new developments are in keeping the character of size of adjoining properties and the street and Area as a whole and that tenures are appropriately mixed.
40. Policy PR2 makes a variety of provision to ensure that new housing provision is well designed and contains suitable provision for a diverse population.
41. Policy GS2 provides that all new development should incorporate an appropriate and well-designed new open or green space and this Policy and Policy T1 contain provisions to support the creation of 'healthy streets' and the conversion of existing streets to provide for increased pedestrian, cycling and shared use and better design.
42. Policies EN1 and EN are designed to promote developments that make a positive contribution to improving air quality, minimise energy use (especially non-renewable energy use) and maximise the production and use of renewable energy.
43. Policy T2 is designed to reduce traffic flows and congestion and support the increased use of electric vehicles.

Meeting the challenge of climate change (NPPF Section 14)

44. Policy GS2(2)(b) is designed to encourage the use of living and green roofs, gardens, tree planting, sustainable urban drainage systems and rain gardens, green wall and soft landscaping where appropriate.

45. Policy EN1 provides that application that make a positive contribution to reducing greenhouse emissions and surplus heat will be supported.

46. Policy EN2 is designed to support the use of renewable energy.

47. Policies T1 and T2 are designed to support the increase in walking, cycling and sustainable movement of people and goods.

Conserving and enhancing the natural environment (NPPF Section 15)

48. Policies GS1 and GS2 are directed at protecting and enhancing existing green and open spaces and creating new green and open spaces.

Conserving and enhancing the historic environment (NPPF Section 16)

49. Policy PR1 is designed to preserve unlisted buildings of architectural merit where appropriate and to ensure that new developments are in keeping the character of size of adjoining properties and the street and area as a whole with special attention being given to points of access and street frontages.

50. Specifically, Policy PR1(4) provides for careful assessment of proposed tall buildings to ensure that they do not have adverse impacts on the setting of a listed building, views to or from Conservation Areas or strategic viewing corridors.

Condition (iii): the making of the plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)

51. Revised London and Westminster City Plans are in preparation but at present the Development Plan comprises: the London Plan (March 2016), the Westminster City Plan (November 2016) and the Westminster Unitary Development Plan Saved Policies 2010.

52. In its response to the Regulation Consultation (by email dated 12.08.19) the GLA stated that the then draft of the Plan was in general conformity with the current and emerging London Plans. The email also contained guidance to be followed so as to improve the emerging neighbourhood plan and align it more closely with the draft new London Plan.

53. The following table sets out how the Plan is in general conformity with the strategic policies of these plans.

Policy	London Plan Policy	Westminster City Plan and Saved Policies
PR1 Promoting regeneration	2.12 CAZ -Predominantly Local Activities 4.3 Mixed Use Development and Offices 5.3 Sustainable Design and Construction 7.5 Public Realm	S1 Mixed Use in the CAZ S5 Tottenham Court Rd Opportunity Area S7 West End Special Retail Policy Area S8 Marylebone and Fitzrovia DES 1 Urban Design and Conservation DES 3 High Buildings
PR2 Housing Provision	3.4 Optimising Housing Potential 3.5 Quality and Design of Housing Developments 3.8 Housing Choice 3.9 Mixed and Balanced Communities 3.11 Affordable Housing Targets 3.12 Negotiating Affordable Housing on Individual Private Residential and Mixed Use Schemes 7.1 Lifetime Neighbourhoods	S14 Optimising Housing Delivery S15 Meeting Housing Needs S16 Affordable Housing S29 Health, Safety and Well-Being H2 Housing by Non-Permanent Residents H3 More Housing H4 Affordable Housing H8 Homes for Long Term Needs

PR3 Tourism, Arts, Culture and Entertainment Uses	4.6 Arts, Culture, Sport and Entertainment	S22 Tourism, Arts and Culture TACE 5 Arts and Cultural Uses TACE 8-11 Entertainment Uses
PR4 Leisure, Sports and Community Infrastructure	3.17 Health and Social Care Facilities	S34 Social and Community Infrastructure SOC 10 Community Facilities
B1 Small Business Units	4.3 Mixed Use Development and Offices	S20 Offices and Other B1 Floorspace
B2 Retail and Related Uses	4.8 Successful and Diverse Retail Sector	S7 West End Special Retail Policy Area S21 Retail SS3-5 Policies for the CAZ and CAZ Frontages
GS1 Protecting and Enhancing Existing Green and Open Spaces	7.18 Protecting Open Space and Addressing Deficiency	S35 Open Space S38 Biodiversity and Green Infrastructure ENV 15 Public and Private Open Space
GS2 Creating New Green and Open Spaces	7.18 Protecting Open Space and Addressing Deficiency	S35 Open Space S38 Biodiversity and Green Infrastructure H10 Gardens and Community Facilities ENV 4 Planting around and on Buildings ENV 13 Amenities, Daylight, Sunlight and Environmental Quality ENV 15 Public and Private Open Space
EN1 Promoting Improved Environmental Sustainability and Air Quality	5.7 Renewable Energy 7.14 Improving Air Quality	S28 Design S40 Renewable Energy STRA 34 ENV 5 Air Pollution
EN2 Renewable Energy	5.7 Renewable Energy 7.14 Improving Air Quality	S28 Design S40 Renewable Energy ENV 5 Air Pollution
T1 Pedestrian Movement and Sustainable Transport	6.9 Cycling 6.10 Walking	S29 Health, Safety and Well-Being S41 Pedestrian Movement and Sustainable Transport TRANS 1 Protecting Environment from Effects of Transport Activities TRANS 3 Pedestrians TRANS 9 Cycling

		TRANS 10 Cycle Parking
T2 Improving the Distribution and Delivery of Goods to Local Businesses	6.11 Smoothing Traffic Flow and Tackling Congestion	S42 Servicing and Deliveries TRANS 15 Traffic Reduction

The neighbourhood plan has also been prepared with a view to ensuring strategic conformity with the emerging London Plan and Westminster City Plan.

Condition (iv): the making of the plan does not breach, and is otherwise compatible with, EU obligations

54. The Neighbourhood Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act. Considerable emphasis has been placed throughout the consultation process to ensure that no sections of the community have been isolated or excluded. The Consultation Statement provides evidence of a robust consultation and engagement process with the local community and demonstrates that the Plan has been amended in the light of consultation feedback.
55. A screening process was carried out by Westminster City Council which determined that the Neighbourhood Plan did not require a Strategic Environmental Assessment (SEA). The SEA screening assessment concluded that 'the Fitzrovia West Neighbourhood Plan is unlikely to have significant environmental effects. The Fitzrovia West Neighbourhood Plan therefore does not need to be subject to a Strategic Environmental Assessment' (WCC Screening, January 2020).
56. A screening process was carried out by Westminster City Council which determined that the Plan did not require a Habitats Regulations Assessment (HRA). The HRA screening assessment concluded 'that there are no likely significant effects in respect of European sites. Further stages of Appropriate Assessment are therefore not required' (WCC Screening, January, 2020).
57. The outcomes of both these screening exercises are subject to the views of Natural England, Historic England and the Environment Agency.

Other matters

58. This Basic Conditions statement also confirms that:

- As a designated neighbourhood forum (5 February 2015) Fitzrovia (West) Neighbourhood Forum is a suitable Qualifying Body.
- The Plan relates to a designated neighbourhood area (28 March 2014) which does not overlap with any other neighbourhood area.
- The Plan's policies relate to development and land use issues.
- There is a defined Plan period running from 2019 to 2034.
- The Plan does not include policies relating to excluded development.