MIXED USE AND OFFICE TO RESIDENTIAL CONVERSION
DEVELOPING WESTMINSTER'S CITY PLAN

Booklet No. 18
Westminster City Plan Revision
December 2014

City of Westminster

Foreword

Cllr Robert Davis DL

Westminster has had a long standing and successful mixed use policy which actively requires residential alongside commercial development in the Central Activities Zone. However, unprecedented changes have been seen recently. While the office market is still very strong, the residential market – once something which needed policy intervention to grow in central London – is now outbidding office revenues at levels that would have been unthinkable a decade ago. Much of this residential growth has come from a change of use of office stock that cumulatively contributed to Westminster's nationally and internationally important employment base. Westminster needs to *grow* it's commercial floorspace, particularly offices, in order to remain globally competitive. The need to reverse the current trend cannot be overstated given Westminster's role in the London and UK economy.

Although Westminster has always been in favour of residential development there is some concern that the balance between office and residential has tipped too far and if these extremely strong market trends continue the mixed character of the Core Central Activities Zone (CAZ) is in danger of being lost as the office stock is further eroded. Additionally, the housing that is being provided is often unaffordable to most people and we are therefore sacrificing our office stock for housing products that don't meet local housing needs.

The removal of the priority for residential use across the city has already been proposed in the Spatial Strategy booklet, and it is revisited here in light of the city council's need to address the loss of offices, and the need to plan for strategic employment growth in the city.

This booklet describes the issues in detail and then offers a number of policy options which may address the fluctuations in the office and residential market. Each policy option is assessed for its effectiveness to improve and maintain mixed use in the CAZ, as well as enabling housing and employment growth.

The council welcomes comments on each of the policy options. We would also welcome any evidence from the development industry and other stakeholders to help inform the final decision on the most appropriate way forward, and to ensure Westminster's and London maintains its global competitiveness as a place to live, invest and do business.

Councillor Robert Davis DL
Deputy Leader, Westminster City Council
Cabinet Member for Built Environment

Introduction

This booklet sets out options for mixed use and office to residential conversions, taking into account the objectively assessed needs for housing and office growth in Westminster.

The policies options considered in this booklet are concerned with changes to or exemptions from the adopted strategic policy S1: Mixed use in the Central Activities Zone and protection for small offices. Five preferred policy options are presented and exact policy wording will be drafted following feedback from consultation. **We welcome your views on each of the policy options.**

Whilst all policies will need to be taken into account, some aspects of this topic are addressed in other booklets, namely:

- Westminster's economy
- Food, drink, tourism and entertainment
- Housing, Need Delivery and Quality
- Affordable Housing
- West End
- Spatial Strategy and Implementation

These booklets are available to view on our website.

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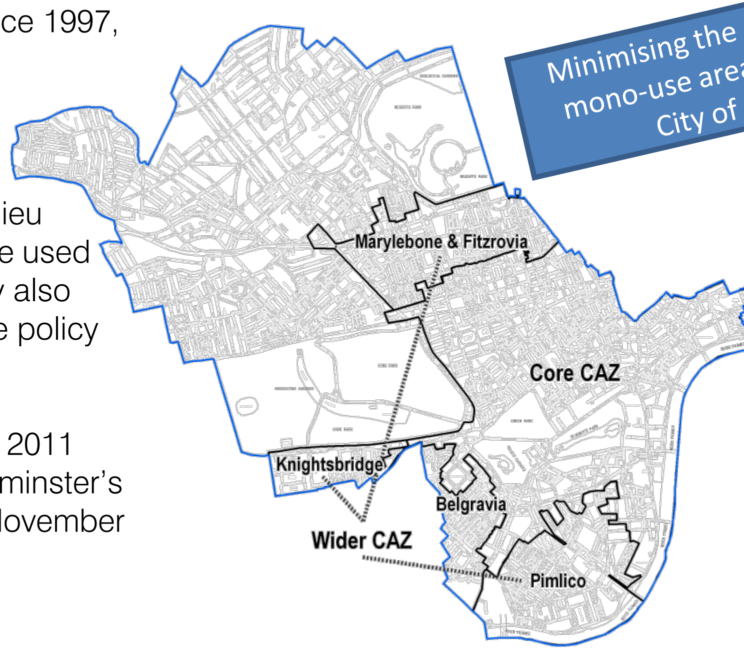
What is mixed use and why do we want it?

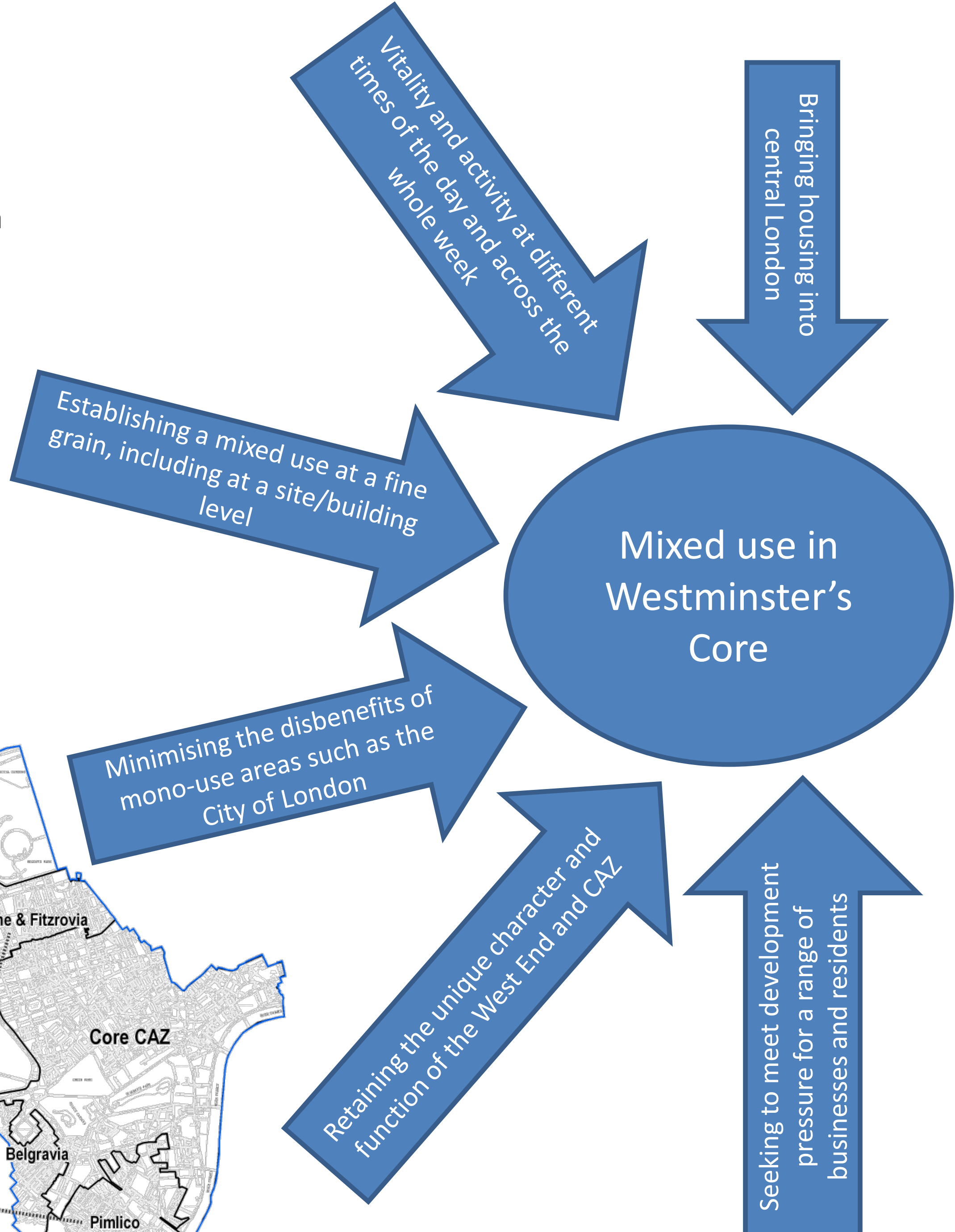
When faced with a general unwillingness for the market to deliver housing in central London in the 1970s-1980s, at a macro scale we introduced a mixed use policy approach to incentivise housing development. This was to increase Westminster's residential population and enable people to live in Central London. At a micro scale, it was also about creating mixed use buildings and mixed use areas in the Central Activities Zone (CAZ) to ensure vitality and activity at a neighbourhood level, at different times of the day through a mixture of uses.

Westminster has been successful in these aims and has delivered housing into central London and created mixed use areas. Because of its success, this approach has been carried through into the London Plan since 2004 and applies across the whole of Central London. The City of London has more recently worked to provide a greater mix of uses, recognising the benefits in making places more attractive to work, live and visit.

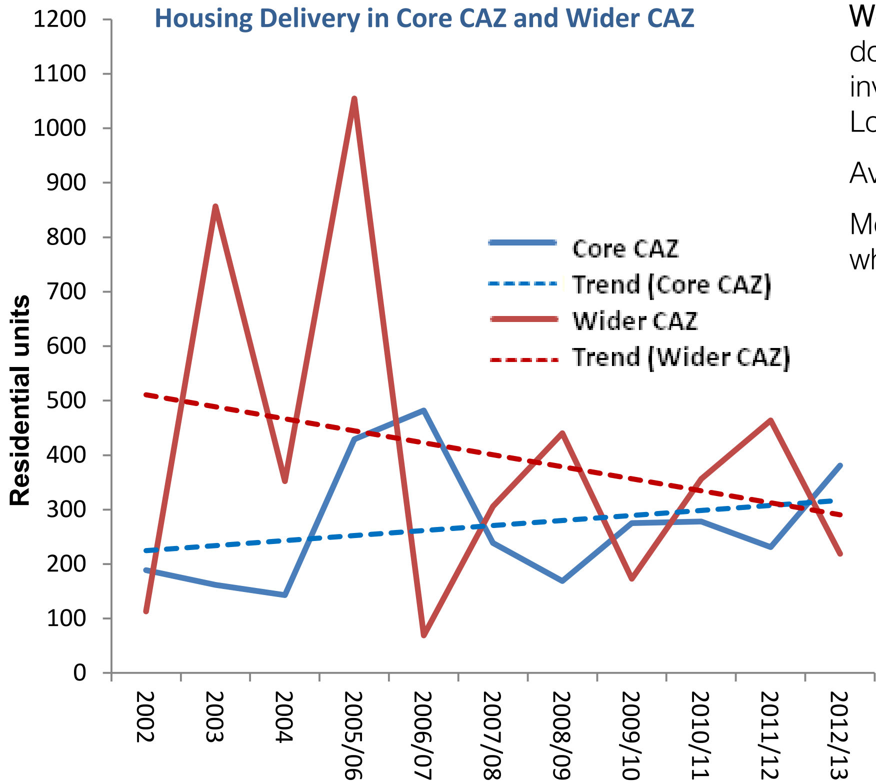
The current policy approach, in place since 1997, seeks an equal amount of residential floorspace as any new commercial floorspace. If the residential floorspace cannot be provided on-site, it must be delivered off-site, or a payment made in lieu of the provision. The payments in lieu are used to deliver affordable housing. This policy also applies to changes of use to offices. The policy only applies to Westminster's CAZ.

It was carried through into Westminster's 2011 Core Strategy, and then the current Westminster's City Plan: Strategic Policies adopted in November 2013.





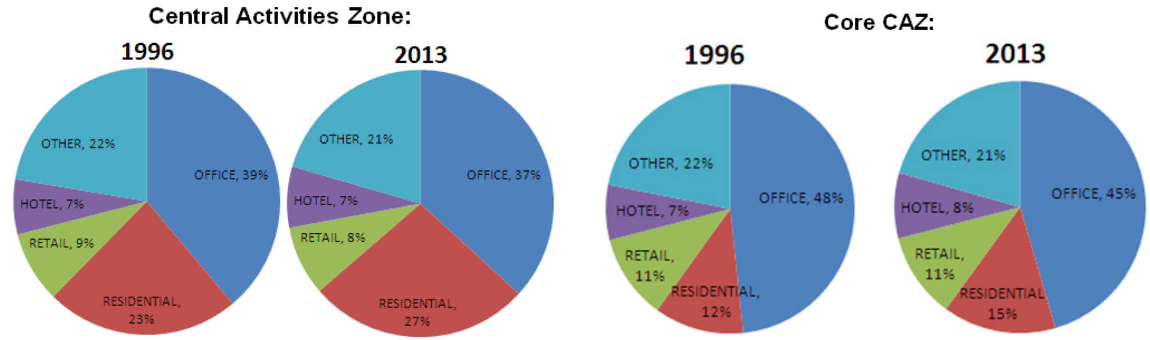
Is the mixed use policy required to bring forward residential now?

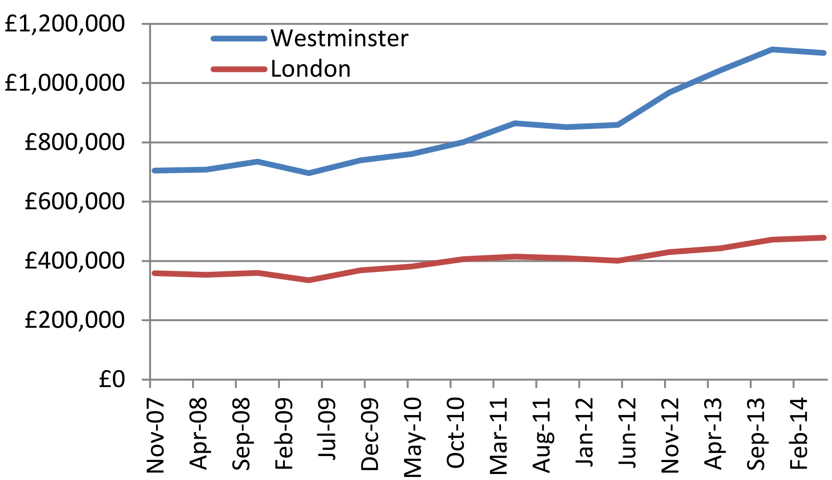


Westminster's residential market has shown resilience during the recent global economic downturn, the result of a number of drivers including the availability of finance, international investment and the long-term performance of London's housing market, particularly the central London market.

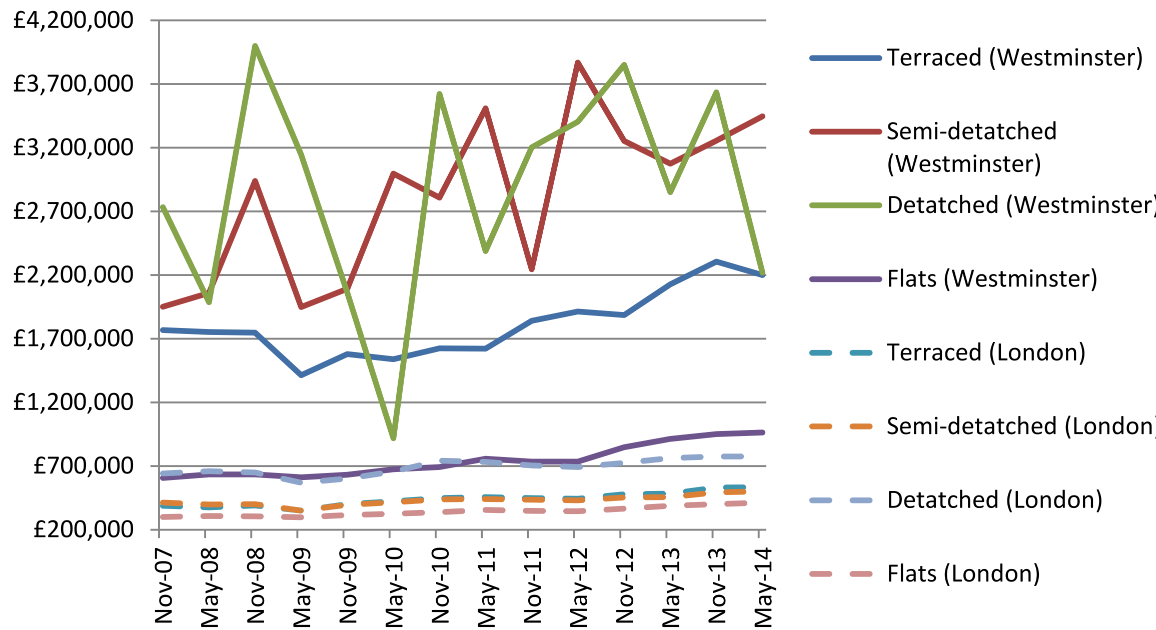
Average house prices (see below) have tripled since 2003 and rents are rising steadily.

More recently, we have seen a trend for more residential completions in the Core CAZ, whereas previously most housing was delivered in the Wider CAZ (see graph to the left).





Average sales values for Westminster and London *(Source: Hometrack)*



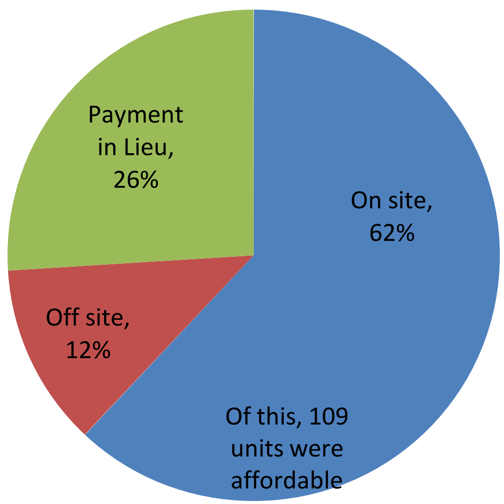
Average market sales values for Westminster and London by housing type *(Source: Hometrack)*

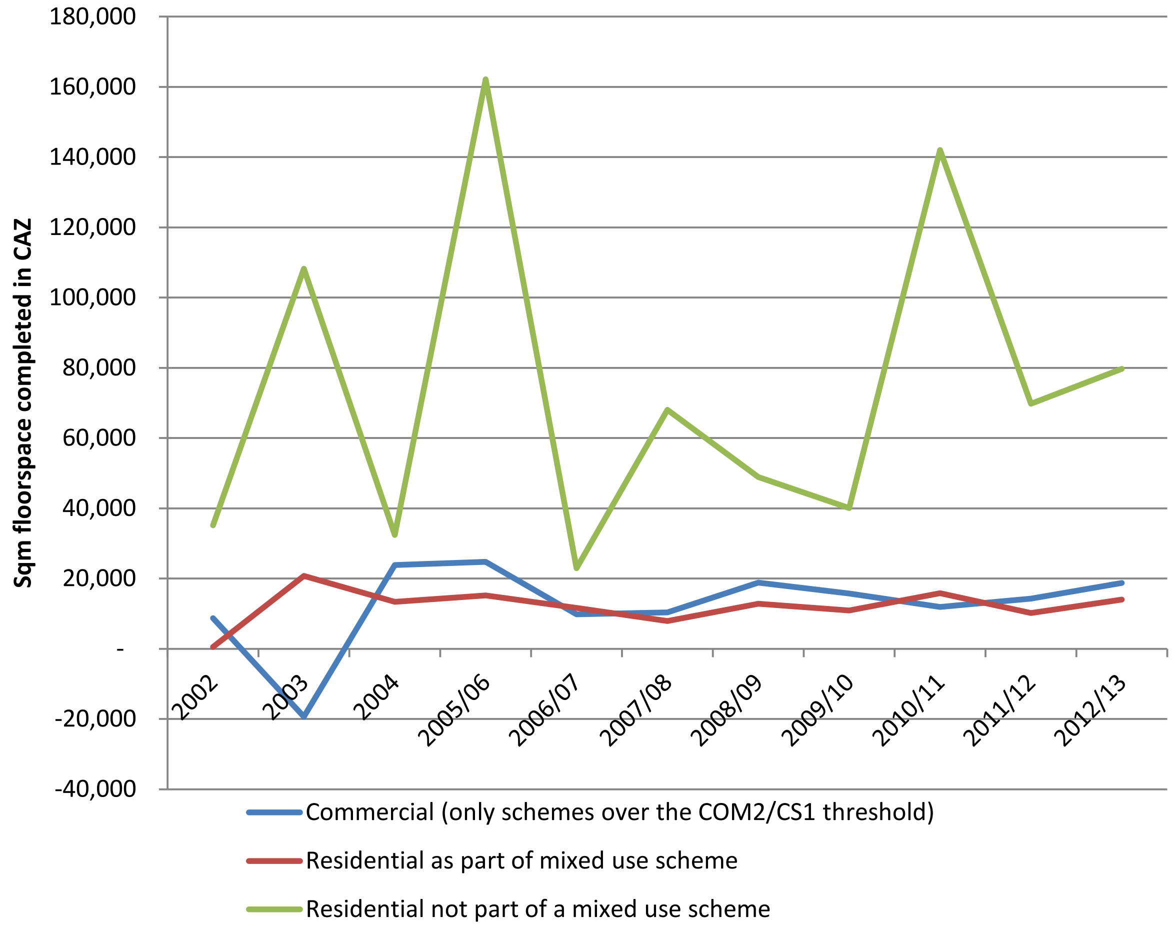
Is the mixed use policy required to bring forward residential now?

The graph to the right shows that residential floorspace is coming forward in the CAZ regardless of the mixed use policy. It also shows that the housing being delivered by the mixed use policy is a sizeable but not major proportion of the housing coming forward.

As can be expected from a mixed use policy that takes half of all commercial floorspace as residential (except where there is a payment in lieu), the commercial and residential floorspace from the mixed use policy broadly match each other (red and blue lines on graph opposite).

Mechanism for delivering housing from the mixed use policy 2002-2013





Payments in lieu make up 26% of the schemes over the past 11 years. Over £18 million has been secured for affordable housing delivery from these payments, and a further £47 million is committed from unimplemented schemes. This is a major contributor to Westminster's Affordable Housing Fund (AHF) and has successfully helped to delivery 271 affordable housing units. However, most of this is spent outside the CAZ because that is where the sites are available at an affordable cost.

The mixed use policy has directly resulted in

825 = 10% or 19%

new residential units in the last 11 years.

of all residential units gained across the whole city

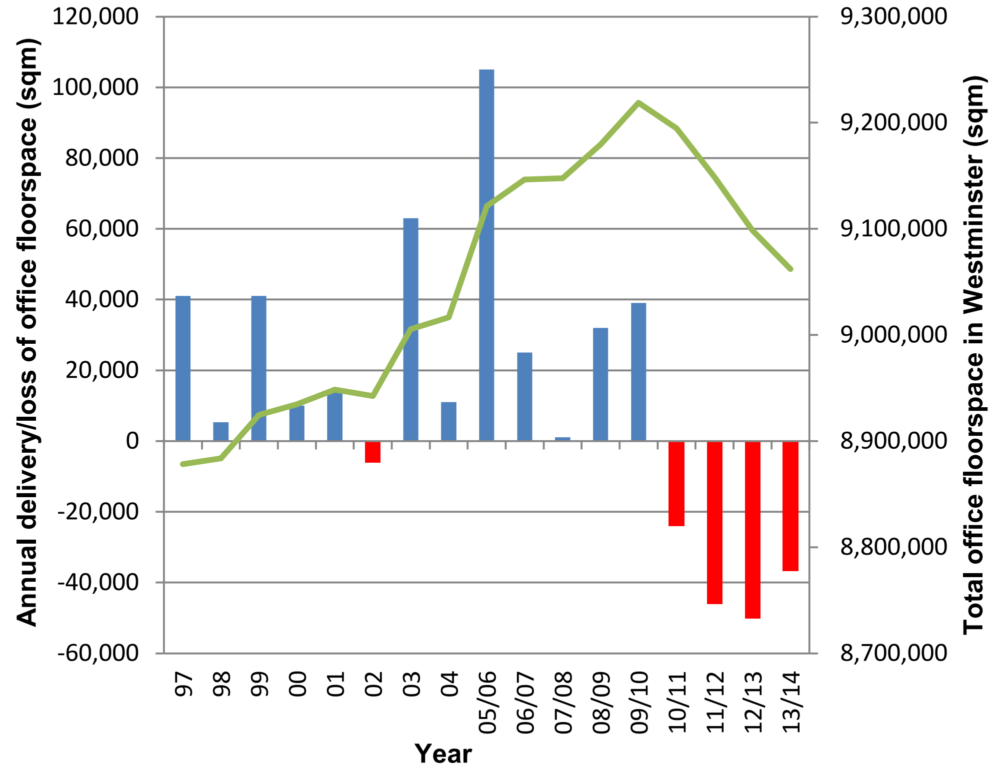
of all residential units gained across the CAZ

Loss of Offices

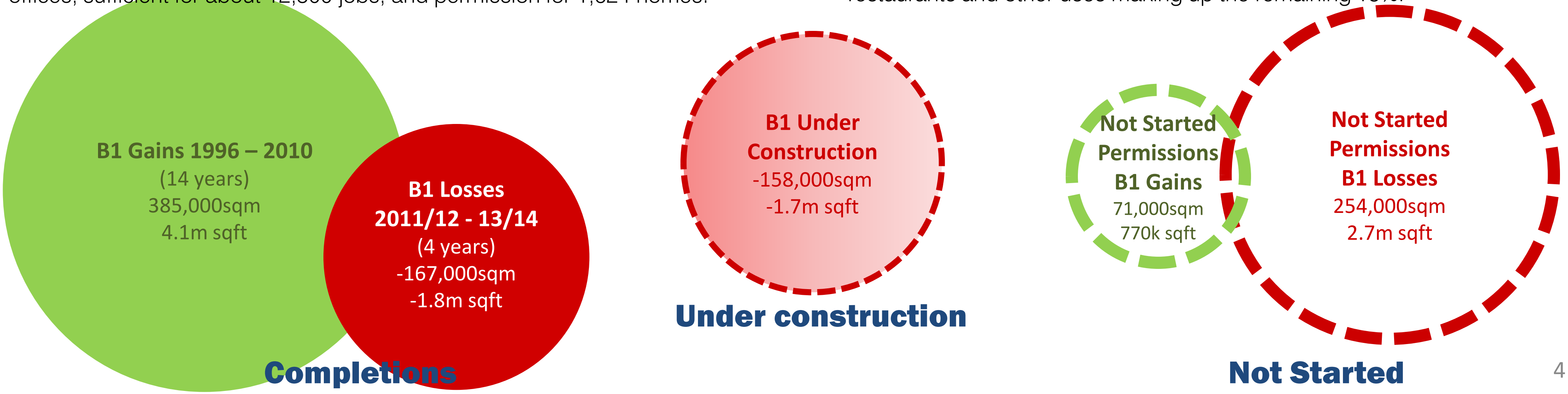
Westminster has never protected office floorspace as the market has historically delivered it without intervention.

The increasing disparity between office and housing values in recent years has led to a significant increase in office to residential conversions. The trend emerged during the lead up to adoption of Westminster's Core Strategy (2010) but during the independent examination of that document it had not come through in completions. The trend was becoming more marked during the development of Westminster's City Plan (2013) and the council committed to monitor it to determine whether it was a longer-term trend, or more as a result of the Olympics and introduction of the Mayoral Community Infrastructure Levy in 2012.

We have continued to monitor office to residential conversions, and office losses more generally (including redevelopments which result in a net loss of offices, and changes to other uses than residential). We monitor both the completions (those permissions that are actually built, shown on the left below) and the pipeline (permissions granted, shown on the right below). It is important to note that many permissions are never built. The completed schemes (below left) over the past 4 years has delivered 1,278 homes, and the loss of office floorspace comparable to an estimated 11,500 jobs. The loss of offices from schemes currently under construction will create a further 2,220 homes, but represents the loss of floorspace capable of accommodating almost 11,000 jobs. Permitted schemes that have not been started represents a net loss of 183,000sqm of offices, sufficient for about 12,500 jobs, and permission for 1,624 homes.

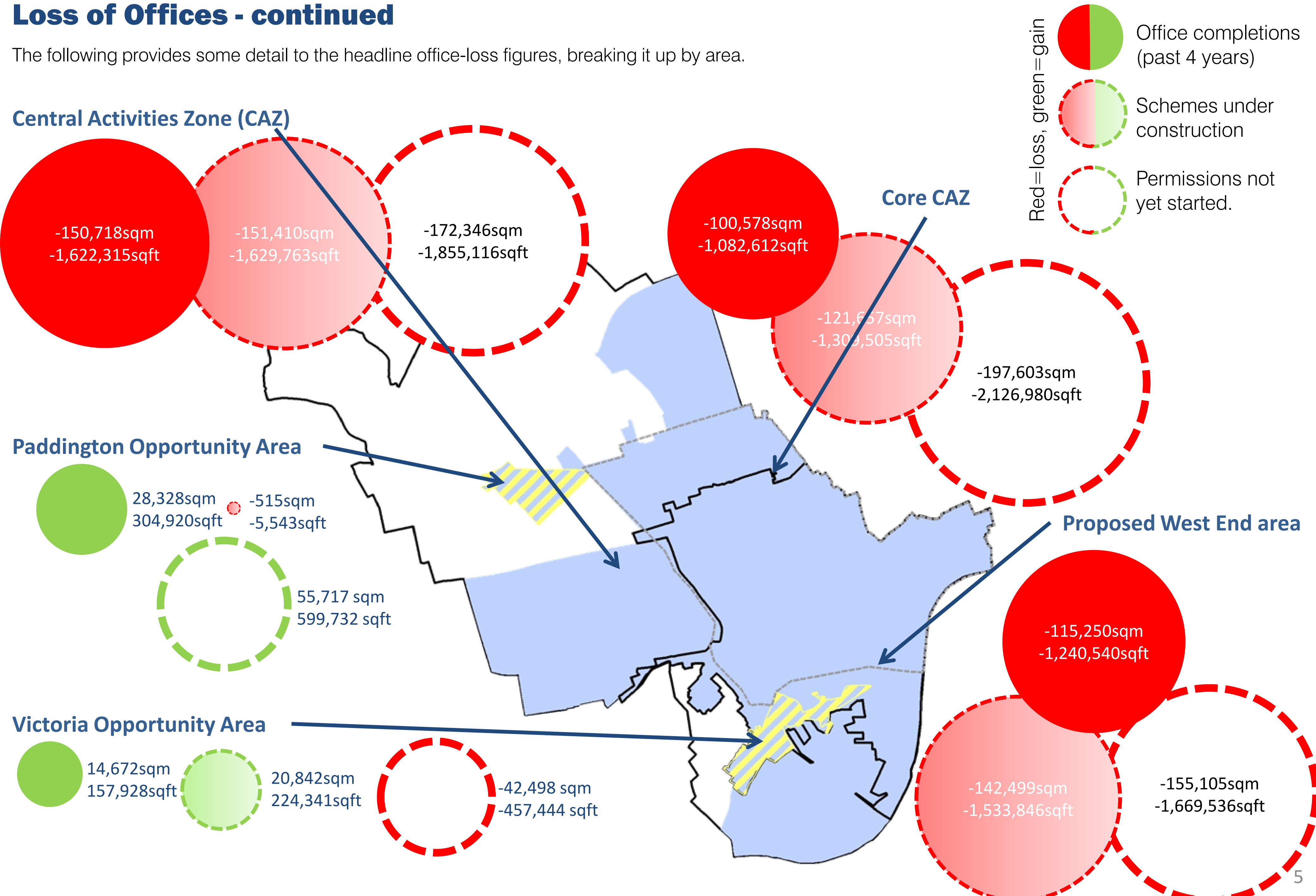


Almost three quarters of the new floorspace from office losses over the past 4 years has been residential. A further 11% was hotels, with retail, restaurants and other uses making up the remaining 15%.

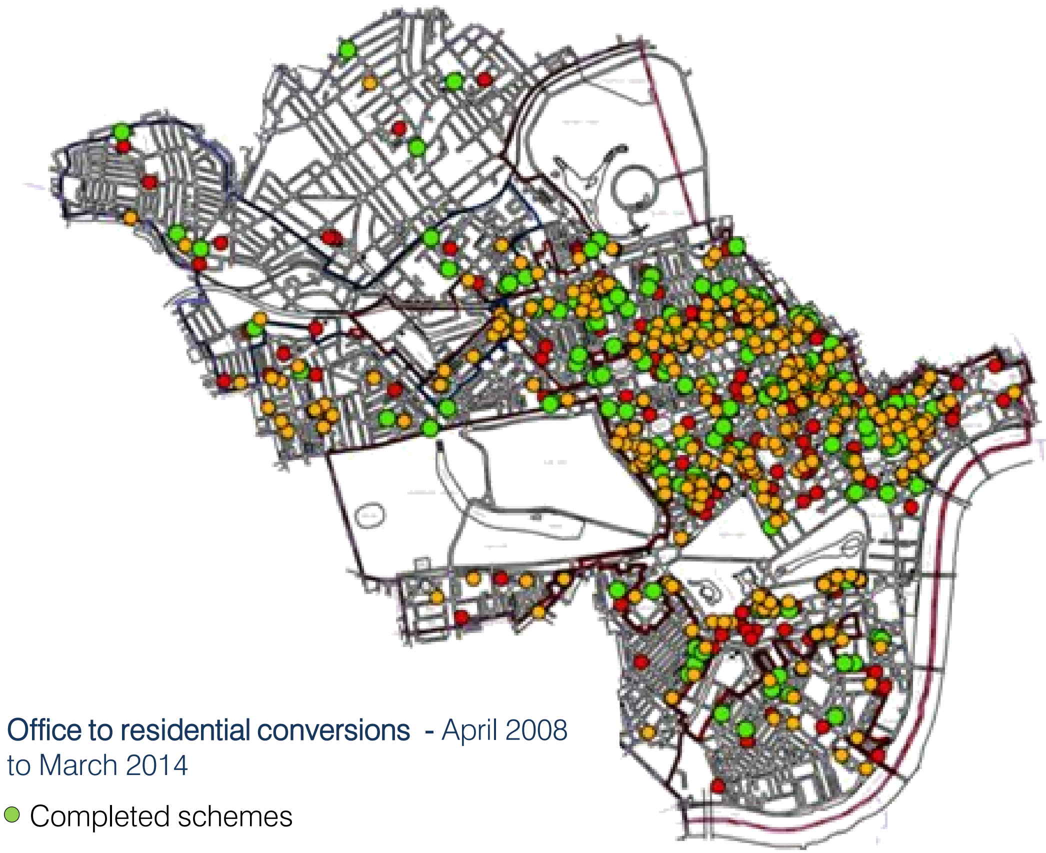


Loss of Offices - continued

The following provides some detail to the headline office-loss figures, breaking it up by area.



Office to Residential Conversions



Office to residential conversions - April 2008 to March 2014

- Completed schemes
- Office to residential schemes in the pipeline
- Schemes granted permission.

The map to the right shows office to residential conversions. In some parts of the CAZ such as Mayfair, residential use has historically been an important element which is as much a core characteristic of Westminster's CAZ as the hustle and bustle of the commercial areas.

Small incremental B1-C3 conversions have taken place over time but larger offices are now being targeted for conversion more frequently.

Almost 70% of the offices that have been converted to residential had a floorspace of less than 500sqm, and were therefore classified as small offices. Of these, over 80% were originally built as residential.

It is noted that the council is required to give the Department of Communities and Local Government (DCLG) and the Greater London Authority (GLA) a set amount from business rates. If the amount of commercial floorspace drops, the council still has to pay the same amount. This will be off-set to some extent by increases in council tax arising from the new housing, but will incur cost to the council. Whilst not strictly a planning issue, the reduction in public finance to deliver front-line services could be considered to be a relevant local financial consideration*.

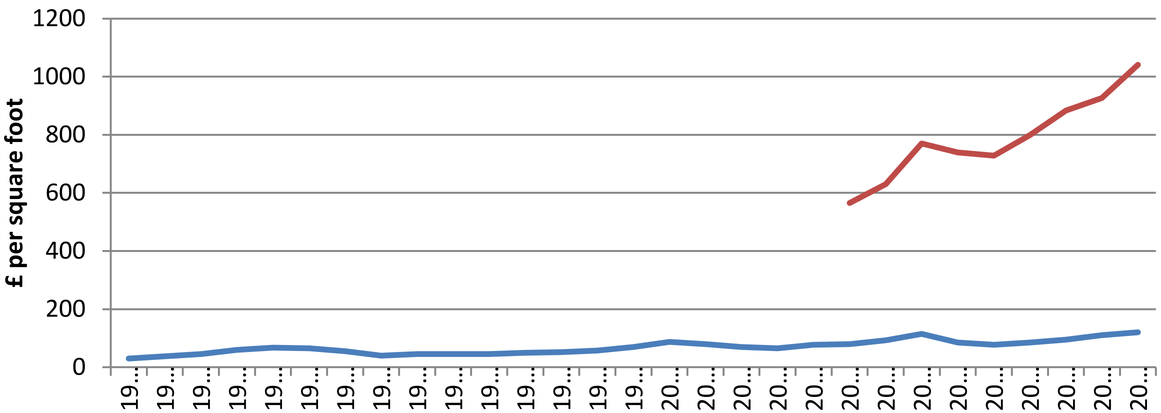
* under Section 70 of the Town & Country Planning Act 1990 as amended by Section 143 of the Localism Act 2011

Drivers for office to residential conversions

Average office rents have performed well and recovered to pre-recession levels. However, the drivers for office to residential conversion relate to relative values not an over-supply of office floorspace or poor office returns values (see below). The higher returns on residential investment has now operated for over a decade with the exception of the very peak pre-recession in 2007 (see right). This has also spanned one and a half economic cycles. Nevertheless, relative values may change in the future.

Importantly there are also other drivers for office floorspace. Significant landowners such as the Great Estates* have a strong preference for commercial development or rental accommodation as they can retain long-term ownership or freehold reversion. Owner/occupiers have a right to purchase the freehold of their home which fragments ownership and makes it difficult to refurbish or redevelop buildings in the future.

The current policy approach works against delivery of the large office floorspace increases. The mixed use policy requires commercial floorspace to be coupled with residential floorspace, that means that **all gains in offices relative to residential come about because the mixed use policy is applied flexibly**. For this reason over time offices will continue to lose their share of floorspace in the CAZ.

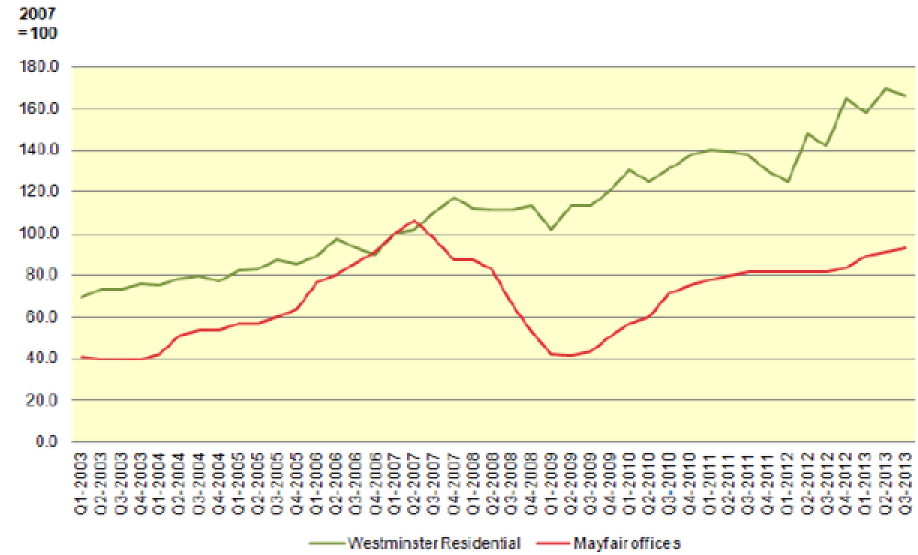


Average prime office (blue) 1985-2013 and average residential sales (red) 2005-2013

(Source: Local Economic Assessment, 2011: data updated to 2013 and Hometrack)

Westminster residential and office values compared, 2003-13

(Source: Prime Residential Investment in Westminster, 2014)



The development industry* cite a number of disadvantages that are specific to mixed use buildings. Providing residential within an office block can fragment ownership where the units are for sale. They require different management structures for the commercial and residential elements, even if the residential units are retained for rent. There are increased costs associated with the need for separate entrances, cores and servicing. In some cases there can be sub-optimal and sometimes contrived design, particularly to meet the required proportions of each floorspace. It can also reduce the flexibility of uses within a building (for example, if an office occupier wants to grow). Overall there are concerns that mixed use within buildings creates inefficiencies in the buildings themselves, increasing service charges and creating opportunity costs.

* Crown, Howard de Walden, Portman, Grosvenor, CapCo (Covent Garden), Shaftsbury and Soho Estates are in CAZ

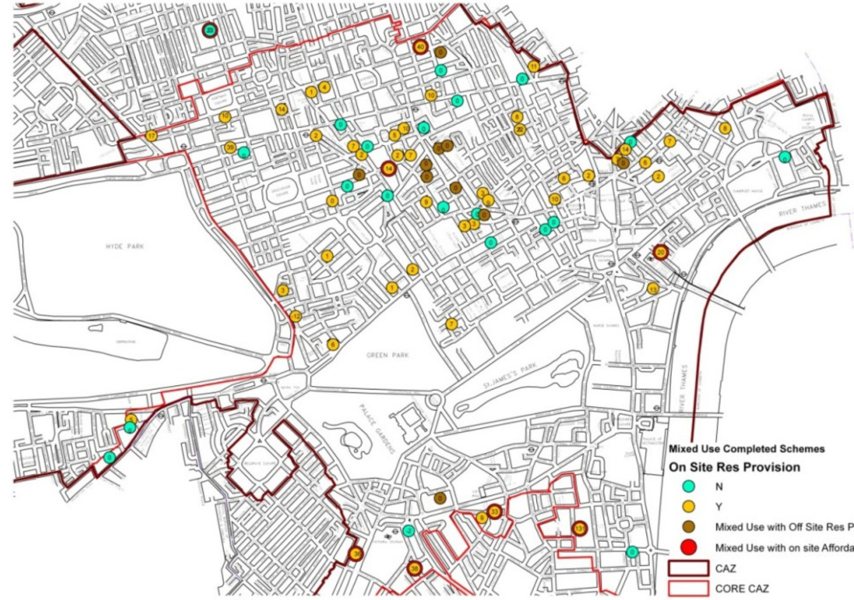
Affordable housing delivery

Affordable housing delivery from the mixed use policy

Between 2002 and 2013, 271 affordable units have been permitted and £18 million paid into the Affordable Housing Fund from permitted mixed use schemes. This is a very significant source of affordable housing, and about 16% of the Affordable Housing Fund has come directly from mixed use developments.

Although on-site housing is provided alongside commercial development across the Core CAZ (*top right*), the delivery of affordable units on-site in mixed use schemes is a rare occurrence and when it does take place, it is likely to be on the fringes of the Core CAZ.

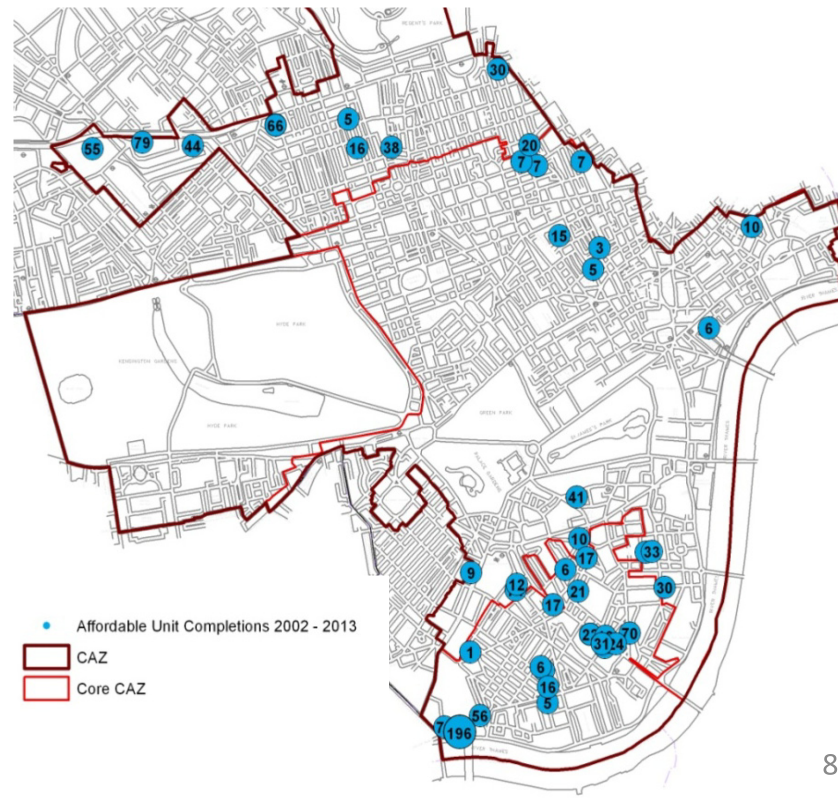
In fact most affordable units permitted in the CAZ (nearly 70%) were in the Wider CAZ locations (*bottom right*) .



Affordable housing delivery from office to residential conversions

There were 50 office to residential conversions of over 1,000sqm since 2008. Of these, only two provided on-site affordable housing, one in Core CAZ and one in Pimlico. 32 provided a payment in lieu.

Care therefore needs to be taken when assessing the relative values of office and residential floorspace. There is a considerable difference between average residential values of the whole market (including second hand stock), average values of new housing, and the values of new housing on schemes that include on-site affordable housing. While it is true to say that residential values exceed those of offices, this is usually based on viability assessments that show that the values needed to support the office to residential conversion cannot be achieved with on-site affordable housing.



Objectively Assessed Need for Offices

The graph to the right shows consistently high demand for offices in Westminster over the last eight years and a growing demand for office floorspace of under 300sqm (this does not necessarily mean a single office building of that size, although it will do in some cases).

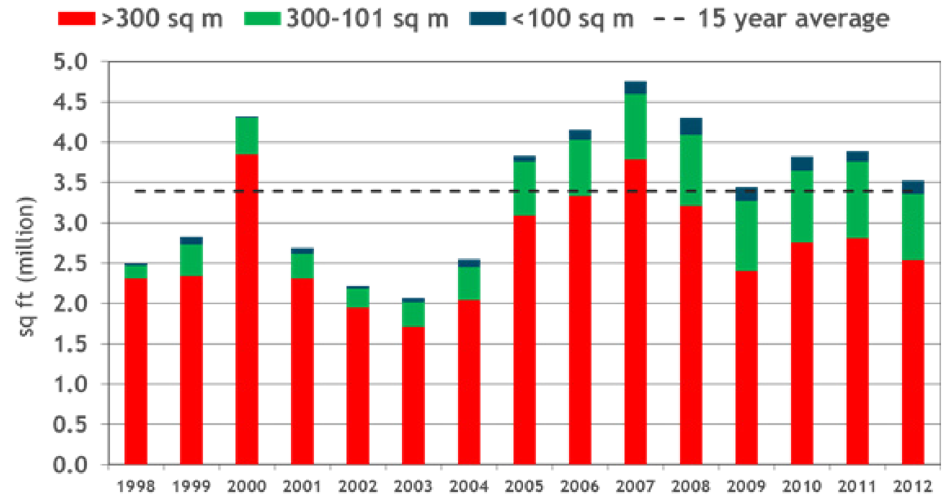
This suggests that the office losses seen to date are related to the higher values achievable for alternative uses, rather than a drop in demand for offices.

The GLA employment projections for Westminster are **77,000 new jobs** between 2016 and 2036. Based on London-wide sector projections and to enable Westminster's office-based employment to increase from 46% to 49% in line with the London Office Policy Review, about **75%** of these jobs will be based in offices with the remainder in shops, restaurants, bars, leisure, medical and educational institutions. This would require about **1.35 million sqm of office floorspace** over this 20 year period.

More ambitious targets based on maintaining Westminster's share of employment, or tracking London's working age population growth would require 1.8 million sqm or 1.9 million sqm of new office floorspace respectively.

The May 2014 'West End in the Market' which looks at West End businesses office requirements suggests a current demand in the West End for approximately 180,000 sqm of office floorspace.

With the market requiring this amount of floorspace and the latest figures showing an alarming loss of office floorspace in Westminster the ability of the city to meet its strategic employment growth needs is at serious risk.



Westminster 's Office Take-up 1998-2012

(Source: Colliers International)

At a strategic level, Westminster has the most employees in the UK, with about 693,000 employees, well ahead of the next largest number of employees in the City of London with 392,000 and Camden with 328,000*. Westminster generates by some estimates £55.7bn Gross Added Value, 18% of London's GVA and 4% of the UK's GVA.

Westminster's office stock accommodates over 17,500 rateable businesses with a rateable value of over £2.6 billion. This makes up 62% of Westminster's rateable businesses. These range from large floorplate, modern premises housing headquarters, to small developments with one or two people, and flexible, member and serviced office spaces.

Westminster's office stock is of national and international importance and critical to London's competitiveness globally. The importance of ***growing*** Westminster's office base, rather than shrinking or stabilising it, cannot be understated.

* Provisional 2013 BRES figures

"Local authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century....Planning policies should recognise and seek to address potential barriers to investment, including a poor environment or any lack of infrastructure, services or housing"

National Planning Policy Framework, paragraphs 20 & 21

Small Offices

Nearly 85% of Westminster's VAT registered enterprises have fewer than 10 employees, compared to nearly 90% for London as a whole, showing that small businesses make up the vast majority of Westminster's enterprises, although this is not a characteristic unique to Westminster. It is also noted that this includes non-office based businesses such as shops and restaurants.

Small offices represent less than a quarter of all offices in Westminster, but they have an important function in a sustainable economy by providing accommodation for small businesses, and can add to the character and function of an area. They are also important in ensuring a diversity of business floorspace across Westminster, supporting a diverse economy and encouraging entrepreneurs and start ups.

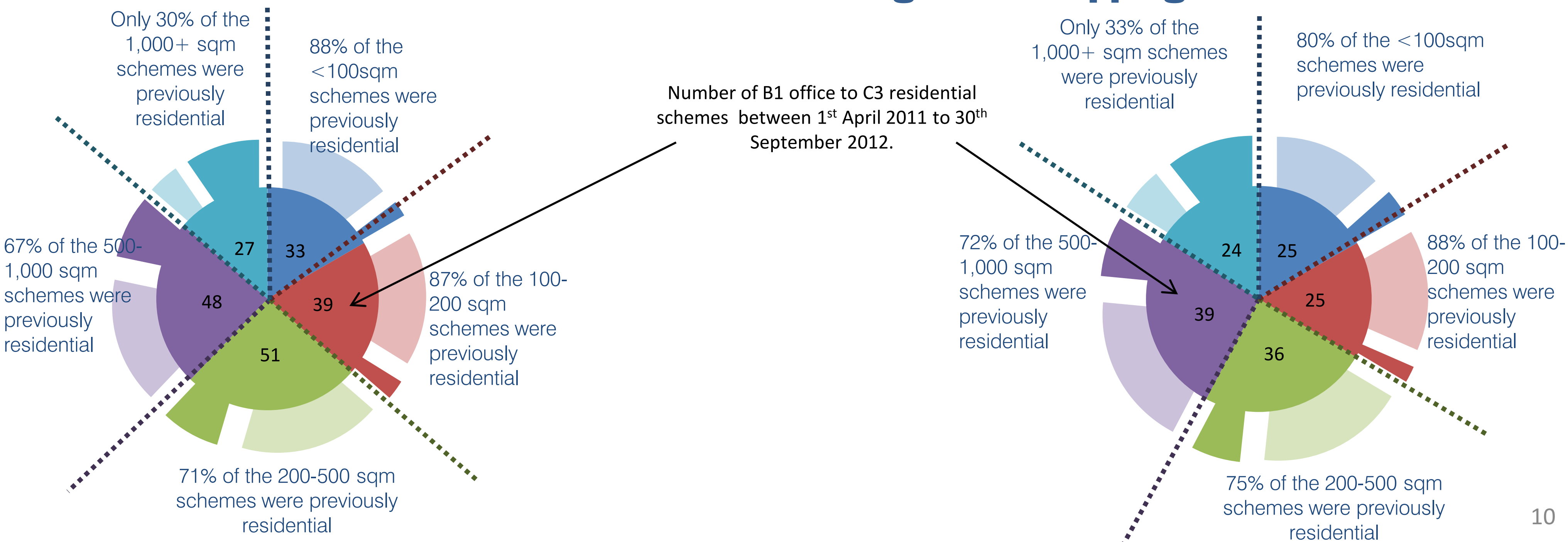
However, not all small businesses occupy small offices. For example, only a quarter of small office-based businesses in Westminster occupy small offices. The other 75% occupy part of a much larger office building.

Many small offices were originally built as housing, and they often lend themselves to residential use more than modern office provision. As can be seen from the figures below, for small offices in particular, a very high proportion of the small offices lost to residential were previously in residential use. Only about **20% of small offices** did not start life as residential.

The Draft Further Alterations to the London Plan support protecting small scale offices (<500sqm) within the CAZ where justified by local and strategic office demand and supply assessments.

For Westminster...

For Core CAZ, the Named Streets, and designated shopping centres in CAZ...



Objectively Assessed Need for Housing

- Westminster's population is expected to grow annually by 2,060 people, with projected growth of nearly 17,000 households by 2035.
- The current housing target is **770 housing units** each year. This includes market housing, intermediate housing, social housing, non-self contained housing and empty homes bought back into use.
- The Further Alterations to the London Plan propose that the target is increased to **1,068 housing units** per year. This is an extremely ambitious target, particularly as recent delivery has been at the expense of significant losses of offices (both realised and in the pipeline).
- Based on current and projected future need it is estimated that there will be an annual need of 260 intermediate homes over the next five years.
- Assuming the council is able to clear the current backlog of social housing need over 10 years, there is an estimated annual need of 1,180 social units over the next five years.
- Based on ability to afford, future demand estimates show a need over the next five years for 500 market homes - but because Westminster's housing market reaches far beyond the borough boundary (including international markets), the reality is demand for market housing in Westminster is effectively insatiable.
- There is competition between students and the conventional market for access to the private rented sector.
- There are over 600 wheelchair-using households with unmet housing needs, forecast to grow to over 700 by 2031.

The housing targets, whatever they may eventually be, do not exist in isolation. There are issues around meeting housing targets at the expense of other objectives, as set out on page 8 in relation the Westminster's internationally important office stock. A general shift towards more residential development in commercial areas would also reduce vibrancy (cited as a real concern in places like Savile Row where office occupiers are preferred in the upper floors). If the balance between residential and commercial character shifts too much, this is likely to alter perceptions and expectations. Residential amenity is relative: people who live in Soho don't expect the same amenity as someone in a suburban area - which is part of the attraction. However, once a critical mass of housing is reached expectations will change. Furthermore, once housing is built it will never change to another use. These buildings are therefore 'lost' to the market.

Limitations of legislation

On 30 May 2013, new regulations (Office to Residential Change of Use Permitted Development Rights 2013) came into force to allow a change of use from office to residential accommodation without planning permission. The exemption granted to Westminster means that this only applies outside Westminster's CAZ; and only until 30 May 2016.

The council will be seeking to retain the exemption if the rights are extended beyond May 2016, and is likely to seek to extend the exemption into the North Westminster Economic Development Area. However, the government recently consulted on extending the permitted development rights indefinitely and removing the existing local exemptions, replacing it with a concept of:

> *"the impact of the significant loss of the most strategically important office accommodation within the local area".*

The council objects to this proposal in the strongest terms and considers that it will damage the UK economy through unmitigated office losses from Central London and Canary Wharf. If it proceeded as proposed the incremental loss of Westminster's office stock would be impossible to control through planning policy.

The council recognises the special value that some industries bring to an area, such as technology, media and telecom industries (TMT industries) or knowledge industries. Many of these occupy offices. However, typically office floorspace cannot be protected for a single type of industry or occupier. All we can do is ensure that a range of accommodation continues to be provided.

Westminster's older saved policies are contained in the Unitary Development Plan. The policy on small offices was not saved because it was not effective. It sought to stop small offices from being amalgamated into larger offices but as this type of development does not involve a change of use (the offices remain in the B1 Use Class whether they are large or small), it wouldn't need planning permission anyway.

The role for policy

> *"One of London's enduring characteristics over hundreds of years has been its ability to change and adapt to new circumstances. This helps to explain its role on the global financial stage; its role in the creative and technology sectors, and its continuing attraction to overseas investors. What is happening in Mayfair today is perhaps another symptom of this adaptability."*
>
> *From offices to oligarchs: a new role for Mayfair.* (2011) Ramidus Consulting Ltd

The current mixed use policy means that office development can only keep pace with and never outstrip housing development. Historically this has benefited Westminster's central commercial area by delivering a mix of uses at a fine grain, including housing.

The emerging trend of significant office to residential conversions has unbalanced the mix of uses in parts of the CAZ previously maintained through the mixed use policy. This new and significant source of housing delivery has reduced the overall percentage of office floorspace across CAZ.

As a general rule it is the council's intention to only intervene where the market would not otherwise deliver the right development and this should be the starting point for changing any policy approach.

It is also noted that there are two separate types of development operating here to reduce office floorspace and increase residential: the mixed use policy and office to residential conversions. Any policy approach could control one or other of these development types, or a combination of both.

The following pages set out a range of different options which we are seeking comments on. Alternative options are also welcome for consideration. It is important to note that none of the options address all issues, a combination of approaches may be required. At the heart of the debate will be where the balance lies between the business and commercial functions of the CAZ and the need to deliver housing, particularly in light of its potential significant increase under the Further Alterations to the London Plan.

Any policy approach should meet the following criteria:

1. Deliver employment growth
2. Retain the right mix and balance of uses at the right grain across existing commercial areas of central Westminster
3. Preserve and enhance existing mixed use characteristics that contribute to local areas and neighbourhoods
4. Fair and equitable
5. Apply equally well across a range of market conditions
6. Implemented for minimal cost to council
7. Can be monitored
8. Does not create unintended distortions in the market
9. Is 'sound' - justified, effective and positively prepared (see paragraph 182 of the National Planning Policy Framework)
10. Is consistent with national policy and in general conformity with the London Plan
11. Deliver the ambitions of the West End Partnership*

* The West End Partnership is made up of members from the major public service organisations in the area, alongside business, landowner and resident members. It was formed to maximise the West End's influence and move towards an increasingly prosperous and dynamic West End in the future.

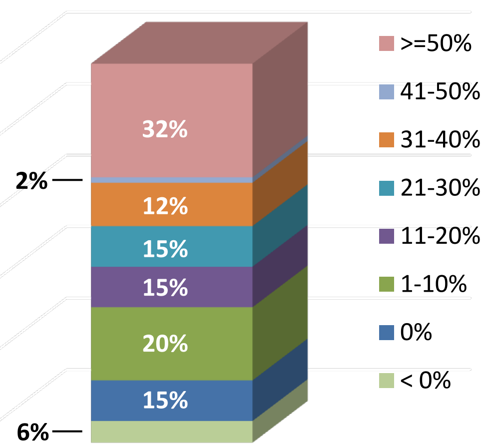
Change to Mixed Use Policy

Mixed Use Policy: Change the current threshold based on floorspace (200sqm for offices and 400sqm for other commercial uses) to one based on allowing a percentage uplift. For example, allow a building to be extended/rebuilt up to, say 30% of the original size without requiring any residential floorspace. Where the development exceeds the new threshold, only the floorspace above the threshold would be used in calculating the required residential floorspace.

This option would help incentivise office development by allowing it to come forward without the requirements of the mixed use policy and its associated costs (see page 6). This would help to off-set the losses of offices from office to residential conversions. It would also help to off-set office losses from redevelopment of office floorspace, and potentially reduce such losses in the first instance as developers may redevelop a site for offices rather than residential and other uses.

About 43% of schemes in CAZ increase their floorspace, but by less than 30%. About a third of schemes increase their floorspace by more than 50%. A paper has been provided by the development industry suggesting that at development below 30% viability was difficult: above 50% development was viable; and between the two there is some variance depending on the site, property cycle etc. However, further information is required from the development industry to inform the role the current mixed use policy plays in that and therefore help inform what an appropriate '% uplift' threshold might be if this option is taken forward.

The proportion of schemes delivering different development uplift (or loss)



Although this is likely to incentivise office development, there is no direct link to the loss of offices, either through changes of use or redevelopment. Therefore, it will not necessarily address office losses.

Whilst it would bring forward commercial development and help over time to rebalance the commercial/residential mix in Westminster's CAZ, it would not deliver a fine grain of mixed use.

There would be a reduction in overall housing delivery. Calculations estimate that an increase in the threshold by 30% for some schemes could result in the loss of around 70 new homes per year. There would also be a significant loss of affordable housing, including the payments in lieu that are provided where the residential cannot be provided on- or off- site.

Affordable housing is more closely related to the provision of commercial floorspace because a range of housing options for people who work in Westminster is needed to support West End businesses, including those who work anti-social hours or shifts, and contributes to the pool of available labour. This is recognised in the current UDP policy which only seeks the payment in lieu for the affordable element of the mixed use policy.

An alternative policy scenario could allow a choice between a 30% uplift, or a 50% uplift with a payment in lieu of the affordable housing that would otherwise be required for the whole scheme. Developers could choose on a site-by-site basis which option they wished to pursue.

This option would be unlikely to provide significant numbers of affordable homes within the CAZ, and it may tend to be delivered in areas that already have higher levels of affordable housing because more homes can be delivered in these areas for the money. However, it would still bring forward more affordable housing than otherwise.

Change to Mixed Use Policy - continued

POLICY S1 MIXED USE IN THE CENTRAL ACTIVITIES ZONE

The council will encourage development which promotes Westminster's World City functions, manages its heritage and environment and supports its living, working and visiting populations.

Within the CAZ, a mix of uses consistent with supporting its vitality, function and character will be promoted.

A) Where proposals increase the amount of floorspace by more than 50% of the original building, net increases in commercial floorspace will be accompanied by an equivalent amount of residential floorspace, except where the net increase in commercial floorspace is less than 200sqm in the case of B Use Classes, or less than 400sqm in the case of A Use Classes or private D Use Classes. The residential floorspace will be provided in accordance with the following cascade. Applicants are required to demonstrate to the council's satisfaction that it is not appropriate or practicable to provide the floorspace (in whole or in part) at each step of the policy cascade before they can move to the next.

i. The required floorspace will be provided on-site or in the immediate vicinity of the site.

ii. The required floorspace will be provided off-site (including through a draw down of Mixed Use Credits Policy CM49.3) on a site in the vicinity of the development site, or in the case of an Opportunity Area, within that Opportunity Area.

iii. The required floorspace will be provided off-site (including through a draw down of Mixed Use Credits Policy CM49.3) elsewhere within the Core CAZ or the Named Streets. This part of the cascade does not apply to sites in Opportunity Areas. The housing provided must be greater and of a higher quality than would be possible under i. or ii. above.

iv. Payment of an appropriate Payment in Lieu to the Affordable Housing Fund in accordance with Appendix 1.1

In demonstrating that a particular step is not practicable, site specific considerations will need to be taken into account. In demonstrating a particular step is not appropriate, considerations may include where a significantly better outcome can be achieved, in keeping with the council's mixed use objectives, by not providing the residential floorspace on site.

Adopted Core Strategy Policy CS19. Applied to the whole of CAZ but the vast majority of commercial schemes are in Core CAZ.

This new text replaces the adopted strategic policy S1 requirement:

> ***"Where proposals increase the amount of commercial floorspace by 200 sqm or more, or in the case of A1 retail or private educational, health and leisure facilities (D1 or D2), by 400 sqm or more, the provision of an equivalent amount of residential floorspace. will be required. on-site, where the council considers this to be appropriate and practical. This will not apply to changes of use between commercial uses, except where the change of use is to B1 office use."***

The proposed policy introduces a percentage uplift-based threshold to only require mixed use where the gains in floorspace are significant. However, the floorspace thresholds of 200sqm/400sqm are retained to ensure this requirement does not apply where the original building and actual floorspace gain are very small, even though they may exceed the % threshold.

The immediate vicinity has been added to the current cascade because in practice this contributes as much to mixed use objectives.

The policy sets out a cascade, similar to that for affordable housing, to provide flexibility where site or other constraints do not allow on-site provision. This is similar to the cascade in the adopted Unitary Development Plan, but excludes other alternative uses that contribute to mixed use. This is because those uses e.g. retail etc, now generate a residential requirement of their own. This is discussed in more detail under the Key Question on the following page.

Change to Mixed Use Policy - continued

Policy S1 Mixed Use in the Central Activities Zone - CONTINUED

B) Where proposals increase the amount of floorspace by between 30% and 50% of the original building, except where the commercial floorspace is less than 200sqm in the case of B Use Classes, or less than 400sqm in the case of A Use Classes or private D Use Classes:

i. all commercial floorspace will be accompanied by an equivalent amount of residential floorspace, either on-site, elsewhere in the CAZ or by mixed use credit (Policy CM49.3); or

ii. all commercial floorspace will be accompanied by an affordable housing payment in lieu equivalent to the amount of commercial floorspace, calculated in accordance with Appendix 1.1;

It is at the applicant's discretion whether they wish to apply i. or ii. above.

Additional flexibility is offered for schemes with a mid-range uplift, allowing developers to choose the most appropriate approach on a site-by-site basis. In some instances they may prefer to provide residential. In other cases they may prefer to make an enhanced affordable housing offer in order to have a wholly commercial development. This will incentivise commercial floorspace.

Again, the floorspace thresholds of 200sqm/400sqm are retained to ensure this requirement does not apply where the original building and actual floorspace gain are very small.

KEY QUESTION

1. *The development industry has given examples which they consider have given rise to unintended consequences caused by the requirement for residential from floorspace other than offices.*

   In one case quoted, 3 wholly office buildings were being rebuilt with two additional floors and use of the ground floor and basement as retail/restaurant. The requirement for residential from the retail/restaurant element exceeded the gain in office floorspace and would have resulted in the net loss of 10% of the office floorspace had it been required on site. A payment in lieu for the affordable housing fund was agreed in this case.

   In looking at this case, the crucial requirement from the Unitary Development Plan was that on-site had to be demonstrated to be inappropriate or impractical before alternatives such as off-site or alternative uses could be provided. It is noted that the policy proposed above includes assessment of 'appropriateness' as including "where a significantly better outcome can be achieved, in keeping with the council's mixed use objectives, by not providing the residential floorspace on site". This would seem to address the concern as retail is clearly one of those desired uses.

   The requirement for residential from other commercial uses was introduced to bring parity to different commercial uses. However, should the requirement be removed or is the flexibility provided in the new proposed policy above sufficient to allow good planning decisions?

Flexibility in the Mixed Use Policy

Land Use Swaps and Packages

Land use swaps and packages are where required floorspace is provided on alternative sites (or in the case of packages, over a number of different sites) rather than all contained on the application site. It can be used to reprovide protected floorspace in an alternative location, or meet policy requirements such as those of the mixed use policy.

Land use swaps are integral to managing mixed use within Westminster. They allow larger land holders to rationalise across their estate, recognising that mixed use outcomes can often be met across more than one site. It ensures protected floorspace is retained, but allows it to be provided on the most suitable site or in the most suitable building, which is particularly relevant for heritage considerations. It also enables single-use buildings, providing the appropriate amount of different uses is provided overall.

The existing UDP policy allows land use swaps between sites. The proposed policy goes further: treating sites involved in land use swaps as though they are the same site for the purposes of considering development proposals. However, care needs to be taken to manage this to ensure that mixed use objectives such as the fine grain mixed use is still achieved.

Mixed Use Credits

Mixed use credits are where required floorspace is bought in advance and used to off-set requirements generated at a later date.

The purpose of the Mixed Use Credit scheme is to enable mixed use delivery at a fine grain, creating a self-managing process which enables gains in one land use to be off-set against requirements generated by another land use under Policy S1.   It is for the developer to identify potential 'partner' sites and seek their registration as a credit.

To make this work effectively, many of the restrictions previously considered have been rejected, such as limiting trading of credits. However, in increasing flexibility, the City Council still needs to ensure that the trading of credits will not result in undue inflation of credit values in the seven years in which they can be used. This would compromise delivery of necessary infrastructure or the quality of development, or deliverability of an appropriate amount of affordable housing.

KEY QUESTION

1. *Should the policy require that residential mixed use credit developments fully comply with the on-site provision of affordable housing, or should it be subject to the flexibility afforded in the affordable housing policy S16 (see the affordable housing booklet)?*

Land Use Swaps and Packages

NEW POLICY CM49.2 LAND USE SWAPS AND PACKAGES

Planning permission for the swapping of uses between sites and for land use packages (swaps between more than 2 sites) which are located in the Core Central Activities Zone or in the Named Streets will be appropriate where:

1. **the sites are in the vicinity of each other;**
2. **the mixed use character of the immediate area is secured at a fine grain;**
3. **there is no net loss of floorspace which is protected by other policies in the plan;**
4. **the uses are appropriate within each area and there is no loss of amenity resulting from the introduction or intensification of a use into an area;**
5. **any residential accommodation is of a higher quality than could have been achieved without the land use swap or package;**
6. **the applications for all sites are submitted at the same time and all elements of the scheme are completed within a time frame agreed by the City Council.**

This policy does not prejudice the application of any other policies in the plan, and requirements for floorspace to be provided must be met in full.

If agreed, the sites subject to the land use swap or package will be treated as though the development is on a single site, including for consideration of viability.

Applications must be accompanied by a full schedule of the existing and proposed floorspace including the following:

1. **the floorspace of each use (Gross Internal Area) proposed for each site, and for all of the sites taken as a whole;**
2. **in the case of residential floorspace, the breakdown of floorspace provided in accordance with 1. (immediately above) by the tenure, unit floorspace, and the number of bedrooms of each unit , and the total floorspace for all of the sites taken as a whole;**
3. **details of any draw downs of Mixed Use Credits or Affordable Housing Credits; and**
4. **calculations of any floorspace shortfalls being met from Payment in Lieu.**

Commercial uses are generally appropriate in these areas. Other areas were excluded because provision is made elsewhere, as follows: NWEDA – Policy S12; Paddington Opportunity Area –subject to overall master-planning of mix; designated shopping centres – retail policies.

The fine grain assessment ensures that individual streets are not dominated by one particular use and that mixed use is maintained at a very local level.

The land use swap or package must deliver floorspace in locations and to a standard that is an improvement on what could have been delivered otherwise – this policy should not deliver a worse outcome than treating sites individually.

The policy aims to reinforce the mix of uses in the area but should not undermine the policy S1 and the provision of residential or commercial use on site in the first instance. Equally, other policy requirements such as affordable housing must be met.

Historically, while land use swaps and packages have been permitted, they have been recorded and treated as separate but linked sites. This has created issues for data management for example, as floorspace losses are recorded, but in fact the floorspace is being provided on another site. Essentially, if sites are in close proximity to each other, the actual location of the floorspace is less important.

Land use swaps, and particularly packages, can become very complex. The resources needed for the City Council to consider these proposals must be minimised. This includes the provision of all of the information for officers to determine whether the proposals are policy compliant.

If this policy is taken forward into the local plan, a template will be developed to ensure consistent and useable information accompanies these applications.

Credits

NEW POLICY CM49.3 CREDITS

A) Registering Credits

In addition to Policy S1 in the case of mixed use credits and S16 in the case of affordable housing credits, credits must:

1. **be agreed as a credit at application stage and registered as a credit at the time of permission being granted, or follow the procedure for late application;**
2. **establish a nominal floorspace value for the affordable housing credit in agreement with the council, with each credit equating to 1 sqm;**
3. **fund the development and maintenance of a credit monitoring database which will be the definitive list of credit sites;**
4. **not be;**
   - i. **subject to an extant planning permission for that use;**
   - ii. **be listed in Appendix 1 Proposals Sites with that use as a Preferred Use; or**
   - iii. **in the case of residential mixed use credits, be included on the Housing Land Supply list published in the most recent Annual Monitoring report;**
5. **comply with the following policies;**

Residential Mixed Use Credits	**S14 Optimising Housing Delivery; Policy S16 Affordable Housing excluding Payments in Lieu; CM16.1 Meeting the Range of Affordable Housing Needs; and CM14.1 Housing Quality**
Commercial Mixed Use Credits	**S18 Commercial Development; S19 Inclusive Local Economy and Employment; and where relevant S21 Retail**
Affordable Housing Credits	**S14 Optimising Housing Delivery; CM16.1 Meeting the Range of Affordable Housing Needs; and CM14.1 Housing Quality**

6. **in the case of affordable housing credits, not exceed a maximum of 50 affordable housing units registered as credits on each development site, and be provided with Westminster.**

In considering if a proposal should be agreed as a credit scheme, the council will take into account the scheme's location, scale and quality and in the case of residential floorspace, the type, tenure, mix and number of units to be provided and the type, tenure and mix of uses/housing in the local area.

Credits should contribute to mixed and balanced communities within Westminster, and should not create large concentrations of mono-tenure development.

It is important that the value is set at the outset to ensure the same value is used when it is drawn down (increased by inflation) rather than escalating values. A nominal value is a fixed value per unit which reflects the cost of the actual delivery (land and construction) of the development.

The cost of administering the credits should be borne by those who use it.

The credit must provide additionality.

The purpose of credits is to optimise the floorspace delivered. For this reason credit development must be policy compliant to ensure it is of the type and quality necessary to off-set requirements of the future host schemes. There may also be instances where a credit proposal would not represent a good development solution and in these cases the council would not accept the proposal for registration.

This is particularly important in relation to housing type and mix, particularly in relation to affordable housing. Credits aren't linked to any particular unit or floorspace so the overall mix must be appropriate so that each credit/square meter drawn down makes an appropriate contribution to meeting Westminster's housing needs.

Payments in lieu are not appropriate because they do not deliver the land for affordable housing and do not contribute to a local mix of tenure and occupier. If a credit scheme cannot deliver the actual affordable housing units required by policy, it is not appropriate for registration as a credit.

Credits - continued

NEW POLICY CM49.3: CREDITS CONTINUED

B) Drawing Down Credits

1. **In addition to Policy S1 in the case of mixed use credits and S16 in the case of affordable housing credits, when drawing down credits;**
2. **They must be drawn down within 7 years of registration;**
3. **The floorspace registered by the credits must be completed, and the completion certificate provided to the council;**
4. **The nominal value referred to in A) 2. above must be used in any viability assessment for the host scheme;**
5. **Credits may be pooled from more than one credit scheme, or used in combination with on-site, off-site or payment in lieu provision;**
6. **The credits must be available for draw down, as follows;**
   - **i. Credits are allocated to a host scheme at the time the planning application is submitted for that scheme. After this, they not available for any other host scheme until they are released.**
   - **ii. To release credits the council must be notified in writing that:**
     - **a) the host scheme planning application has been refused and the time for an appeal has expired, or an appeal lost;**
     - **b) the host scheme planning application has been withdrawn;**
     - **c) the host scheme has been superseded by an alternative host scheme and the credits are transferred to the latter scheme;**
     - **c) the host scheme has been superseded by an alternative scheme that does not use the credits; or**
     - **d) the host scheme planning permission has expired.**
   - **iii. Credits can only be drawn down once, and the credit has been drawn down when the council is notified in writing that the host scheme is completed.**

Credits registration will include the following information:
- the credit site, including an appropriate OS based map with the site outlined in red,
- the planning application reference(s),
- the area of net additional credit floorspace (rounded down to the nearest whole sqm),
- the type of credit and, in the case of residential, the proportion of affordable housing,
- the nominal value of each credit (£/sqm) as agreed with the council.

Draw downs must be time limited to ensure that the system is manageable, the nominal values remain relevant and there is a regular turn-over of credits. Seven years allows for construction and subsequent availability for draw down.

The City Council must be satisfied that the floorspace exists and is available for occupation before it can be used as a credit against another site.

By allowing the trading of credits to maximise flexibility available to developers, establishing the nominal value is essential. Each credit will have a **nominal value** per square metre attached to it at the time of registration which will rise in value over time in line with the Retail Price Index. The credit is not specifically linked to any particular piece of floorspace; it is an abstract value. When trading credits, the price of a credit is a matter for negotiation between traders: however, the only value that can be used for site-specific viability assessment host schemes is the nominal value.

The credit scheme must not be used to avoid making an appropriate contribution towards affordable housing. However, where the credit scheme doesn't include sufficient affordable housing, for example in a smaller scheme where the proportion of floorspace required is less, additional floorspace must be provided. This could be provided on-site, off-site, land-use swaps/packages, through the transfer of a market unit on the credit scheme to an affordable tenure agreed by the City Council, or through an affordable housing credit. Payments in lieu are not generally appropriate because they do not deliver the land for affordable housing and do not contribute to a local mix of tenure and occupier. However, where a small shortfall is outstanding, flexibility should be applied.

Clarity is required to ensure the proper management and use of the credit system.

Mixed Use Policy – Alternative Additional Requirement

The previous section sets out proposed policies intended to incentivise new office development.

The following section looks at alternatives to manage office *losses*. The first alternative is a change to the mixed use policy and would be added to the policy set out on page 15 above. The second alternative provides a policy for refusal of office losses. These alternatives have been drafted as either/or options, although they could both be carried through into the City Plan with some redrafting

POLICY S1 MIXED USE IN THE CENTRAL ACTIVITIES ZONE - CONTINUED

C) Where proposals increase the amount of floorspace by more than 30% of the original building, changes of use from office to residential and replacement of office floorspace with residential floorspace will be accompanied by an equivalent amount of commercial floorspace and/or social and community floorspace, except where:

i. the net increase in residential floorspace is less than 400sqm; or

ii. in the case of changes of use from office to residential, the building was originally built as residential.

The floorspace can be provided on-site, off-site, through the draw down of a mixed use credit (Policy CM49.3) or by an appropriate payment in lieu to the Civic Enterprise Fund in accordance with Appendix 1.1.

This alternative provides a mechanism for securing commercial floorspace where offices are being lost in favour of housing, either through redevelopment or change of use.

It is considered inappropriate for restrictions to be placed on the reconversion of former housing which has been used as an office back into housing. Many of these buildings do not provide high quality office accommodation because they were built for residential use.

In order to give flexibility to developers whilst still ensuring delivery of non-residential floorspace, the way in which this floorspace can come forward is maximised. It is for the developer to decide which is the most convenient means of providing the floorspace in each case.

The Civic Enterprise Fund is used to deliver projects to support economic development , worklessness and regeneration. Priorities are enterprise spaces and incubators, business support, support for clusters and sectors and young enterprise.

Office Policy – Alternative Additional Requirement

Policy S20 Offices and other B Use Business Floorspace

New office development will be directed to the Paddington, Victoria and Tottenham Court Road Opportunity Areas, the Core Central Activities Zone, the Named Streets, and the North Westminster Economic Development Area.

Inside the Core Central Activities Zone, Opportunity Areas and the Named Streets:

A) Changes of use from office to residential will be appropriate where the building:

i) was originally built as residential; and

ii) is substantially retained.

B) Any other changes of use from office to residential or replacement of office floorspace with residential floorspace must provide a mix of type, size and tenure of housing that the council considers contributes to meeting Westminster's housing needs to the extent that this outweighs the contribution made by the office floorspace, particularly to meeting business and employment needs.

Where either A) or B) above are not met, or can not be met due to site constraints and/or viability, the floorspace will be retained as B1 office.

Where appropriate, the council will request a range of business floorspace including workshops and studios.

Currently office to residential development with fails to meet policy requirements is 'justified' on the basis that it would not be possible to meet policy physically, or because it would make the scheme unviable. It is important to be clear that where such circumstances exist, the site is not appropriate for office loss either through change of use or redevelopment.

It is not acceptable to lose Westminster's nationally and internationally important office cluster for housing that fails to meet need: in such cases it is preferred to retain the office floorspace.

There are additional proposed changes to this policy set out in the Westminster's Economy booklet.

Adopted Core Strategy Policy S20

This alternative directly addresses applications which would result in the loss of office floorspace.

It is considered inappropriate for restrictions to be placed on the reconversion of former housing which has been used as an office back into housing. Many of these buildings do not provide high quality office accommodation because they were built for residential use.

Westminster accommodates the most significant office cluster in the UK. This has been eroded by recent office losses, impacting on the availability, choice and supply of office floorspace to the detriment of businesses wanting a Westminster location.

This office floorspace has been lost to housing that often has failed to make an appropriate contribution to meeting housing need. This includes poor or absent affordable housing provision, and the provision of luxury homes which are not affordable to the vast majority of people.

In determining these applications, the council will also look at recent historic delivery of housing and offices. For example, where there have been significant losses of offices and there is a significant office loss pipeline it will be more difficult for proposed housing to outweigh the contribution office floorspace makes as this floorspace will be more scarce and therefore more needed. Other factors such small office provision, the contribution to mixed use and the character of the office in relation to the local area (e.g. Soho) would also be relevant considerations.

Similarly, where it would be detrimental to an area to *not* redevelop a poor quality building this would also be a consideration as to whether to allow the loss of office floorspace.

The wording of this alternative provides the council with the greatest flexibility in determining these applications to allow consideration of the very individual site-by-site circumstances and the detail of the individual proposal to be considered. However, pre-application discussions would be strongly recommended.

Have Your Say

This booklet is part of the informal consultation for developing the statutory policies in Westminster's local plan. It builds on previous consultation on the City Management Plan. Further information can be found at https://www.westminster.gov.uk/westminsters-city-plan-city-management-policies-revision.

This booklet only includes policy options. However, Westminster's local plan will include the policy wording and supporting text including:

- Introductory text, setting out the background to the topic.
- Policy application: guidance as to how the policy will be applied, including details of how things will be measured or calculated etc.
- Reasoned justification: this is an explanation required by law to accompany a policy, setting out why a policy is applied.
- Glossary definitions: the statutory definitions used for terms that are included in the policies.

If you wish to discuss the issues raised in this booklet, please telephone 020 7641 2503.

To comment on anything in this booklet, please email planningpolicy@westminster.gov.uk or write to us at:

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11th Floor
Westminster City Hall
64 Victoria Street
London SW1E 6QP

Your comments will form part of the statutory record of consultation and will be made available on our website and to the public. Your contact details will not be made available, but we will use them to stay in touch with you about future policy development. If you do not want us to stay in touch, please let us know in your response.

Reading List

Affordable Capital? Housing in London (2012) Institute for Public Policy Research

The London Review Autumn 2012 (2012) Knight Frank

Super-Prime London Report (2012) Knight Frank

Prime Central London Sales Index (2012) Knight Frank

From offices to oligarchs: A new role for Mayfair? (2011) Ramidus Consulting Ltd

London Offices Crane Survey Winter 2012 (2012) Drivers Jonas Deloitte

London Development Report (2012) Knight Frank

The Importance of the Historic Environment to the Office Market in Westminster (2007) Drivers Jonas

Westminster Office Study –Impact of the Recession (2009) Drivers Jonas

A Study of Small Offices in Westminster (2008) DTZ

Building London, Building Britain: The economic impact of Central London construction (2013) London First

Rising West End rents threaten creative economy (2013) Financial Times

West End in the Market (2014) Deloitte Real Estate