
Royal Borough of Kensington and Chelsea**Local Plan Partial Review****Council's Response to Inspector's Initial Questions****19 June 2017**

Scope of Review

Q1: I note the explanation given in section 2 of your covering submission letter and the list of topics in the LDS (Sub 14) regarding the matters to be covered in the Partial Review. However, a number of representations suggest the Review should be addressing other changes in response to new and updated government policy and other publications. For example non-rail transport infrastructure requirements under Policy CT1, sports and open space needs under Policies CK1 and CR5, local green spaces and waterways under Policy CR5, and heritage at risk under Policy CL4. Please explain how the Council has determined what should fall within the scope of the Partial Review and why the above and other excluded policy issues should be reserved for a future full review of the Local Plan.

The Council has discretion regarding the scope of the review

- 1.1 The Council has discretion with regard to which parts of a Local Plan it reviews, the review is not required to be a full comprehensive review and this is encouraged by national Government policy and guidance:
- NPPF paragraph 153 states that a Local Plan "can be reviewed in whole or in part to respond flexibly to changing circumstances".
 - NPPG on Local Plans paragraph 008 states "Policies will age at different rates depending on local circumstances" and "Reviews should be proportionate to the issues in hand...".
 - In addition to a number of statements from the Government encouraging Local Plans to be produced by "early 2017" (e.g. Written Ministerial Statement: Local Plans, 21 July 2015 and Budget 2016, 16 March 2016) there have been further statements making it clear that the priority is to have "Local Plans for new homes" in place for early 2017 (10 Downing Street Press Release, 12

October 2015)¹, as opposed to comprehensive Local Plan reviews.

(emphasis added)

The scope of the review is limited by the LDS and SEA/SA requirements

- 1.2 The conception of the Local Plan Partial Review originates from the former Local Development Scheme (April 2014) which included separate partial reviews on the topics of:
 - Housing;
 - Enterprise;
 - Basements (✓ adopted January 2015);
 - Conservation and Design (✓ adopted December 2015); and
 - NPPF alignment (✓ also known as Miscellaneous Matters, adopted December 2014).
- 1.3 The May 2016 LDS subsequently confirmed that the Housing and Enterprise reviews would be merged together and renamed the Local Plan Partial Review. The other now-established topics for review were also included. The May 2017 LDS (SUB14) further confirms this.
- 1.4 Section 19(1) of the Planning and Compulsory Purchase Act 2004 requires Local Plans to be "prepared in accordance with the LDS". Any later significant additions to the scope of the review could put at risk the review's conformity with this legal requirement.
- 1.5 The NPPG on SEA/SA paragraph 013 sets out a flowchart for the SA process alongside the Local Plan process. SA Stage A sits alongside the Local Plan stage for "Evidence gathering and engagement" which equates to the Local Plan Partial Review Issues and Options consultation (December 2015, SUB4). This stage introduces the baseline information, issues and the framework for the SA. Any later significant additions to the scope of the review could put at risk the review's SA process.
- 1.6 The scope of the review was therefore largely set by the topics / issues in the Issues and Options consultation stage (December 2015).

¹ www.gov.uk/government/news/prime-minister-councils-must-deliver-local-plans-for-new-homes-by-2017

The Council specifically consulted on the scope of the review

- 1.7 The Issues and Options consultation specifically asked the question: "Are there any topics or policies in the Local Plan, other than those identified in Figure 1.2 or Appendix A, which should be reviewed as part of the Local Plan Partial Review? If so, please explain and provide reasoning?". A schedule of the responses received to that question and the Council's response was published alongside the Regulation 18 Draft Policies consultation and is publicly available². This schedule sets out reasons for why the Council has rejected requests for additional matters to be added to the scope.
- 1.8 The Council considers that representations seeking issues to be added to the scope of the review at Regulation 19 Publication Policies (SUB5) stage are not timely. The opportunity was provided at pre-Regulation 18 Issues and Options stage. These requests do not raise soundness issues.

Additions to the scope of the review already made

- 1.9 The only additions to the scope between the Issues and Options consultation and the Regulation 18 Draft Policies were for Archaeology and Air Quality. The proposed changes to these additional topic areas were included because relatively minor changes could be introduced into the review without causing the above risks to the review – they are not significant additions.
- 1.10 Archaeology (as part of Policy CL4 Heritage Assets) was added into the scope because Historic England (a statutory consultee, SA consultee and Duty to Cooperate prescribed body) responded to the Issues and Options consultation question on the scope of the review and alerted the Council that it was reviewing its Archaeological Priority Areas (APAs). This required largely factual updates to the Local Plan with reference to Historic England's updated APA boundaries and updated guidance, which would have been used by Historic England anyway (albeit not as part of the Development Plan). The Council considers that this addition does not cause the above risks to the review.
- 1.11 Policy CE5 Air Quality was added to the scope primarily to reference the Council's corporate Air Quality and Climate Change Action Plan (AQCCAP) 2016-2021 and the wealth of

² https://planningconsult.rbkc.gov.uk/gf2.ti/f/752066/23037093.1/PDF/-/IO_Consultation_Introduction_to_the_Partial_Review_Schedule.pdf

related evidence and factual updates which could be made in the reasoned justification. Changes to the actual policy are minimal relating primarily to the AQCCAP and the national removal of the Code for Sustainable Homes (as per the review to Policy CE1 Climate Change). The other policy changes are for clarification, to correct errors and to strengthen the existing policy. The Council considers that no further changes to Policy CE5 are necessary to meet the tests of soundness. The Council considers that this addition does not cause the above risks to the review.

Conclusion on the scope of the review

1.12 In summary, the issues set out in the Submission Cover Letter (SUB1) confirm the scope of the review. The scope should be seen as issue-based rather than policy or chapter based. Some issues only affect parts of a policy or chapter and the remaining parts are not part of the scope of the review.

Policy CT1 Improving Alternatives to Car Use

1.13 Policy CT1 was reviewed and adopted in December 2014 as part of the Miscellaneous Matters review.

1.14 Policy CT2 is only being updated to reflect changes to the names and status of projects i.e.:

- Crossrail 1 will become the Elizabeth Line when it opens;
- The Chelsea Hackney Line is now Crossrail 2, stations at Sloane Square and Imperial Wharf are no longer being proposed by TfL and the Chelsea station would be located between 250 King's Road and 151 Sydney Street;
- The St Quintin and Woodlands Neighbourhood Plan proposes a different location for any future station on the West London Line (Westway Circus) from the one originally supported in the Local Plan and the Council now supports this location;
- The Council has a second Local Implementation Plan; and
- The Central London Sub-Regional Transport Plan has been updated.

Policy CK1 Social and Community Uses

1.15 Social, community and other facilities such as for sports and leisure are already considered as part of the Local Plan Partial Review within the 'Infrastructure and Planning Contributions'

part of the review in Chapter 29 Policies and Actions, Chapter 37 Infrastructure and the Local Infrastructure Delivery Plan Update (IDP, SUB30).

- 1.16 The Council considers that Policy CK1 has "been effective in maintaining the stock of D1 and D2 uses across the Borough" (Monitoring Report 2016, SUB13) and does not consider it part of the scope of the review.

Policy CR5 Parks, Gardens, Open Spaces and Waterways

- 1.17 Policy CR5 was reviewed and adopted in December 2014 as part of the Conservation and Design review of the Core Strategy. The Inspector³ considered the entire policy and concluded that, subject to one modification, Policy CR5 is effective. The modification was to include reference to communal gardens in part c of the policy.
- 1.18 There have been no significant national policy changes in respect of Parks, Gardens, Open Spaces and Waterways since this review.
- 1.19 Since the previous review the Council's Community Infrastructure Levy (CIL) Charging Schedule and Regulation 123 (R123) List has taken effect (6 April 2015). This alters what the Council can negotiate in terms of Section 106 agreements (S106s). There have also been changes to the wider legislative, policy and guidance context relating to planning contributions which need to be reflected in the Local Plan Partial Review. This is set out in Section 1 and Section 2.2 of the Policy Formulation Report for Infrastructure and Planning Contributions (SUB29). Paragraphs 2.2.3 to 2.2.5 specifically explain the relationship between S106 and CIL and how they can operate together.
- 1.20 Planning contributions is a cross-cutting policy issue which affects a number of policy topics, including CR5.
- 1.21 Existing Local Plan Policy CR5 requires a "S106 contribution... towards improving existing publicly accessible open space" where open space cannot be provided on site as part of a major development. However, the more recent R123 List includes open space as an item intended to be funded by CIL and so can no longer be funded by S106s, except where the R123 list 'exceptions' apply (for example, on-site provision as

³ www.rbkc.gov.uk/pdf/Report%20Cons%20%20Design-%20Amended%20Final%2018-11-14.pdf

part of strategic sites). The existing Local Plan policy has been updated to reflect that the Council now operates CIL alongside S106. Therefore, the scope of the Local Plan Partial Review does not cover other aspects of Policy CR5 which were considered as part of a previous review to the Core Strategy and relates only to seeking planning contributions (CIL and S106).

Policy CL4 Heritage Assets – Listed Buildings, Scheduled Ancient Monuments and Archaeology

1.22 Policy CL4 was reviewed and adopted in December 2014 as part of the Conservation and Design review and there is therefore no need to expand the scope of the review beyond the issue of archaeology.

Timing of the Partial Review

Q2: I note that a new draft of the London Plan is to be published in late 2017, to include amongst other things an updated housing requirement and distribution for London based on the most recent population and household forecasts and a revised apportionment of waste streams. In the light of this, please explain the reasoning for publishing a Partial Review of the Kensington and Chelsea Plan now.

The Council has discretion regarding when a review takes place

2.1 The Council has discretion regarding when it can undertake a review of the Local Plan. Section 26(1) of the Planning and Compulsory Purchase Act 2004 states that the Council "may at any time prepare a revision of a [Local Plan]" (emphasis added).

Relationship with the London Plan

2.2 The timetable for the London Plan is understood to involve consultation in Autumn 2017, examination in Summer 2018 and publication (adoption) in Autumn 2019⁴. The Council does not consider it acceptable to delay the Local Plan Partial Review until the wording of the final London Plan is known in Autumn 2019.

2.3 In any case, when published (adopted), the new London Plan will automatically become part of the statutory Development

⁴ www.london.gov.uk/london-plan-full-review/overview-full-review-london-plan

Plan for the Borough anyway so its provisions would still apply to the Borough as appropriate.

- 2.4 The Council, as a matter of course, contributes to the development of the London Plan through responses to public consultations (for example to the Mayor's 'A City for All Londoners'⁵ consultation which was a pre-cursor to the London Plan), ongoing submission of monitoring data through the London Development Database (LDD) and ongoing liaison with GLA and other London Borough officers on various topics (e.g. the London SHLAA, SHMA, Office Policy Review, Town Centre Health Checks, waste apportionment methodology etc). The relationship between the London Plan and Local Plans in London is an ongoing, iterative and symbiotic relationship.
- 2.5 The direction of travel for the new London Plan is already known in some topic areas. For example, the affordable housing target of 35% (to 50% with public subsidy) in the Mayor's Draft Affordable Housing and Viability SPG (SUB55) has already been incorporated in the Local Plan Partial Review (see Policy CH2 and its respective Policy Formulation Report, SUB44).

Government policy on getting Local Plans in place

- 2.6 On 21 July 2015 the then Minister of State for Housing and Planning issued a Written Ministerial Statement on Local Plans⁶ which stated "In cases where no Local Plan has been produced by early 2017... we will intervene to arrange for the Plan to be written..." and "Local Plans... should meet local needs by being produced in good time..." (emphasis added).
- 2.7 On 12 October 2015 the Government published a statement⁷ confirming its desire to have Local Plans in place "by 2017" (emphasis added).
- 2.8 The Budget 2016 (March 2016)⁸ re-stated the Government's commitment to "ensuring the delivery of Local Plans by 2017" (Paragraph 1.120) (emphasis added).

⁵ www.london.gov.uk/get-involved/have-your-say/all-consultations/city-all-londoners

⁶ www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Lords/2015-07-21/HLWS163/

⁷ www.gov.uk/government/news/prime-minister-councils-must-deliver-local-plans-for-new-homes-by-2017

⁸ www.gov.uk/government/publications/budget-2016-documents

- 2.9 The Local Plans Expert Group (LPEG) report⁹ published on the same day as the Budget 2016 included recommendations about Local Plans being submitted by the end of March 2017 / March 2018.
- 2.10 The Housing White Paper¹⁰ published in February 2017 did not mention the 2017 deadline but continued to stress the importance of having up-to-date Local Plans in place, particularly with regard to housing supply.
- 2.11 Delaying the Local Plan Partial Review until further detail on the London Plan is published would not be in accordance with the above Government policy approach to getting Local Plans in place in a timely manner.

Conformity with the LDS

- 2.12 Section 19(1) of the Planning and Compulsory Purchase Act 2004 requires Local Plans to be "prepared in accordance with the LDS".
- 2.13 Delaying the Local Plan Partial Review until further detail on the London Plan is published would not be in accordance with the LDS (SUB14) and this legislative requirement.
- 2.14 The Council's original May 2016 LDS¹¹ was published before the London Plan timescales were known and details that the Local Plan Partial Review process was well advanced with the Issues and Options consultation having taken place in December 2015.

The Council's aspiration to deliver

- 2.15 The Council is keen to get the Local Plan Partial Review adopted as soon as possible to deliver the full range of policies contained within it, including, an Elizabeth Line station at Kensal Canalside and the associated development there, and all of its other policies such as those on housing, affordable housing and employment.

⁹ www.gov.uk/government/publications/local-plans-expert-group-report-to-the-secretary-of-state

¹⁰ www.gov.uk/government/collections/housing-white-paper

¹¹ www.rbkc.gov.uk/planning-and-building-control/planning-policy/local-development-scheme

The policy context is ever-changing

2.16 The national and London-wide policy context is constantly changing and there is rarely a stable policy context in which to undertake a review.

Plan Period

Q3: Paragraph 1.1.1 of the Partial Review confirms that the Plan period remains unchanged covering the period up to 2028. However, there appears to be some inconsistency in the periods over which development is being planned for. The housing target relates to the London Plan housing requirement for the period 2015-2025, but has been rolled forward with a housing trajectory and land supply to 2031 beyond the end of the Plan period. Office floorspace is being provided for the period to 2028 but retail floorspace only for the period to 2023. I would be grateful for the Council's justification and explanation for how these differential target dates contribute to an effective long term plan for the Royal Borough.

Housing

3.1 The Council has demonstrated housing land supply over a period of 15 years in-line with the NPPF. To demonstrate housing targets will be met, the NPPF (paragraph 47) requires Local Plans to:

- “identify and update annually a supply of specific deliverable¹² sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;

¹² To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.

- identify a supply of specific, developable¹³ sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15;" (emphasis added).

3.2 The NPPG on Housing and Economic Land Availability Assessment (paragraph 27) provides further guidance on housing land supply for years 11 to 15 and states that "As set out in the NPPF, local planning authorities should identify a supply of specific, developable sites or broad locations for growth, where possible, for years 11-15. Local Plans can pass the test of soundness where local planning authorities have not been able to identify sites or broad locations for growth in years 11-15".

3.3 Therefore, whilst not an essential national policy requirement it is considered appropriate to provide housing land supply for years 11 to 15 particularly given the Council's Local Plan period is until 2028. This is beyond the ten-year housing target set out in the London Plan for 2015-2025. The London Plan Policy 3.3D Increasing Housing Supply states that "Boroughs should seek to achieve and exceed the relevant minimum borough annual average housing target in Table 3.1, if a target beyond 2025 is required, boroughs should roll forward and seek to exceed that in Table 3.1 until it is replaced by a revised London Plan target" (emphasis added). This is noted in paragraph 2.3.18 of the Policy Formulation Report for CH1 Increasing Housing Supply (SUB43).

3.4 Therefore, for housing supply a 15 year period is considered to be appropriate and consistent with national policy and guidance and the approach is in conformity with the London Plan.

3.5 It is also worth noting, as per the response to Q2, that work on producing a new London Plan has already commenced. Revised housing targets will be set for all London Boroughs which will extend beyond the 10 year period set out in the current London Plan. When published (adopted), the new London Plan will automatically become part of the statutory Development Plan for the Borough so its provisions would apply to the Borough as appropriate.

¹³ To be considered developable, sites should be in a suitable location for housing development and there should be a reasonable prospect that the site is available and could be viably developed at the point envisaged.

Office

- 3.6 The floorspace projections for office need have been included to 2028, the end of the plan period. These are based upon the London Office Floorspace Projections by Peter Brett Associates published by the Greater London Authority in July 2014¹⁴ and used to inform the existing London Plan. The majority of these projections run for the period 2011-36. The Council has used these projections on a pro-rata basis to tie in with the end of the plan period.
- 3.7 The Council recognises that need must be kept under review. As above, the new London Plan, underpinned by the latest London-wide evidence base, will automatically become part of the statutory Development Plan for the Borough.

Retail

- 3.8 Whilst the Council recognises that retail forecasting has a valuable role allowing a Council to plan for the future and to ensure it can fully benefit from the opportunities offered by 'un-captured' expenditure, it also recognises that there are uncertainties inherent within it. The longer range the forecast, the greater the uncertainty.
- 3.9 The Retail and Leisure Needs Study (RLNS, SUB33) is explicit in this regard, stating, in paragraph 6.4 that "Long term forecasts beyond 2023 may be more susceptible to change, due to unforeseen circumstances". To this end all forecasts are provided to 2023 as well as to 2028. The approach is consistent with that advised within the original 2008 RLNS¹⁵ which stated that, "long term projections... should be treated with caution" (paragraph 22.43). In this context "long term" was considered to be anything more than seven years hence.
- 3.10 This caution was timely given the dramatic reduction in the estimates in comparison floorspace retail need predicted between the 2008 and 2016 versions of the RLNS.

¹⁴ www.london.gov.uk/what-we-do/planning/london-plan/london-office-policy-reviews

¹⁵

www.rbkc.gov.uk/pdf/18%20K%26C%20RETAIL%20LEISURE%20STUDY%202008%20-%20MAIN%20REPORT.pdf

The review is a partial review with topics amended on a partial basis but the overall plan period remains unchanged

3.11 NPPF paragraph 157 expresses a preference for Local Plans to be drawn up over "preferably a 15-year time horizon" but does not make this a requirement. In any case, the plan period of the existing Local Plan (SUB3) (formerly the Core Strategy) runs from 2010 to 2028 (18 years). The Local Plan Partial Review is very much a *partial review*, amending parts of the existing Local Plan but not all of it.

3.12 Amending the plan period would mean amending the whole plan. For the reasons given in response to Q1, the review is only a partial review and not all topics are within the scope of the review. For this reason, it would not be appropriate to amend the plan period.

The overall Local Plan and plan period will be likely to need reviewing before the end of the plan period

3.13 Whilst the plan period runs to 2028 which is 10 years from the anticipated date of adoption in late 2017 / early 2018, Government policy suggests that plans should be reviewed every 5 years. Paragraph 008 of the NPPG on Local Plans states that "Most Local Plans are likely to require updating in whole or in part at least every 5 years".

3.14 Paragraphs 1.8 and A.12 of the Government's Housing White Paper¹⁶ state "We will set out in regulations a requirement for these documents to be reviewed at least once every five years".

3.15 Section 12 of the Neighbourhood Planning Act 2017 inserts new subsections into the Planning and Compulsory Purchase Act 2004 which allow the Secretary of State to make regulations requiring Councils to review Local Plans at prescribed times. This would require Councils to "consider whether to revise the document following each review" and "if they decide not to do so, they must publish their reasons for considering that no revisions are necessary".

3.16 It is therefore likely that the Council will need to review the entire Local Plan and plan period before the plan period ends in 2028 and, quite possibly, sooner. This would be considered by the Council following adoption of the Local Plan Partial

¹⁶ www.gov.uk/government/collections/housing-white-paper

Review through the appropriate due process and consultation, including updating the LDS.

Conclusion

- 3.17 The Local Plan Partial Review plan period and differential targets represent a sensible, proportionate and pragmatic approach to a partial review whilst meeting government requirements and providing an effective long term plan.

Place and Vision Policies

Q4: I note the explanation for and justification of the revisions to the Place and Vision policies (in Sub 43) with an overarching Policy CP2 which applies the visions, principles and priorities in each of the place chapters to new development. However it appears that the Visions (CV5-15) are still referred to as policies in the boxes inviting responses to the consultation on the publication Plan. For clarification, please advise whether the Visions are to be regarded as policies for the purposes of the development plan?

- 4.1 The respective Policy Formulation Report for Places and Site Allocations is submission document SUB18 and not SUB43 which relates to Policy CH1 Increasing Housing Supply.
- 4.2 The visions are not to be regarded as policies for the purposes of the Development Plan.
- 4.3 Proposed paragraph 4.3.3 of the Local Plan Partial Review states "The place chapters set out the Council's direction of travel in relation to each location. They do not contain place specific policies but they provide a framework to guide the future development management decisions relating to the place. This guidance has weight in relation to the application of policies in the plan and place policy CP2 below is an umbrella policy for all of the place chapters" (emphasis added).

Housing Need and Requirement

Q5: The Plan sets a housing target of 733 dwellings per annum (dpa). I recognise this is in line with the requirement in the adopted London Plan and compares to an OAN of 575dpa in the Council's SHMA. However, both of these documents rely on the 2012-based household projections. Since the adoption of the London Plan and the publication of the SHMA, the DCLG has

published 2014-based household projections in July 2016. Please would the Council provide a comparison between the 2014 and 2012-based figures for the Royal Borough and advise what, if any, implications there may be for the assessment of OAN in Kensington and Chelsea?

5.1 The SHMA (SUB49) uses the GLA 2014-round projections (for both population and households) as set out in paragraph 6.16 of the document. The GLA's latest projections were released in February 2017 and are the 'Interim 2015-based population projections' available on the London Datastore¹⁷. The Interim 2015-based population projections have four variants at local authority level as set out below:

- Central Trend-based projection (using a 10-year migration scenario);
- Short-term Trend-based projection (using a 5-year migration scenario);
- Long-term Trend-based projection (using a 14-year migration scenario); and
- Housing-linked projection incorporating data from the 2013 SHLAA (consistent with the central trend model).

5.2 The London Datastore¹⁸ recognises that "variants can differ in the methodologies and assumptions used. The number of projection variants has increased significantly in the course of the most recent rounds. The production of these has been driven by the desire to meet the needs of a wide range of users. While multiple variants are useful for some users, the team is mindful that this proliferation can cause confusion among others as to which variant to use for their purposes". Most importantly the London Datastore provides clarity that the Central Trend-based projection is the one which informs the London Plan.

5.3 The below table demonstrates what an updated Table 6.10 of the SHMA (SUB49) would look like, using three variants from the GLA Interim 2015-based population projections to allow sensitivity testing of the OAN. The table also includes the DCLG 2014 projections¹⁹.

5.4 Following the Central Trend-based projection is considered to be the most appropriate as this is the projection used for the

¹⁷ <https://data.london.gov.uk/dataset/interim-2015-based-household-projections>

¹⁸ <https://data.london.gov.uk/demography/population-projections/>

¹⁹ www.gov.uk/government/statistical-data-sets/live-tables-on-household-projections

London Plan. This results in an OAN for the Borough of 547 dwellings per annum which is less than the 575 dwellings per annum set out in the SHMA. The highest figure is produced by the GLA's long-term scenario of 746 dwellings per annum which is slightly above the minimum housing target of 733 dwelling per annum being planned for. The DCLG-2014 projections indicate a very low OAN of 371 dwellings per annum which is almost half of the minimum housing target. Clearly both the highest and the lowest figures need to be treated with caution and as stated above the Council considers the Central Trend-based projection as the most reliable and justified approach.

| | GLA long-term migration scenario 2015 interim | | GLA short-term migration scenario 2015 interim | | GLA central scenario 2015 interim | | DCLG 2014-based | | Average | |
|--|---|------------|--|------------|-----------------------------------|------------|-----------------|------------|---------------|------------|
| | 2015-35 | Per annum | 2015-35 | Per annum | 2015-35 | Per annum | 2015-35 | Per annum | 2015-35 | Per annum |
| Homeless | 224 | 11 | 224 | 11 | 224 | 11 | 224 | 11 | 224 | 11 |
| Concealed | 562 | 28 | 562 | 28 | 562 | 28 | 562 | 28 | 562 | 28 |
| Net new households | 13,131 | 657 | 9,970 | 499 | 9,444 | 472 | 6,170 | 309 | 9,679 | 484 |
| Allowance for vacancies (2.6%) | 341 | 17 | 259 | 13 | 246 | 12 | 160 | 8 | 252 | 13 |
| Allowance for second homes (5%) | 657 | 33 | 499 | 25 | 472 | 24 | 309 | 15 | 484 | 24 |
| Total | 14,915 | 746 | 11,514 | 576 | 10,948 | 547 | 7,425 | 371 | 11,200 | 560 |

Updated SHMA Table 6.10

- 5.5 In any case, to be in conformity with the London Plan, the proposed Policy CH1 seeks to not only meet but exceed the London Plan target.
- 5.6 It is also worth noting that the recent Inspector's Report into Camden's Local Plan (May 2017)²⁰ also considered the issue of population projections. It states at paragraph 31 that "the on-going review of the London Plan and SHLAA will provide an opportunity to re-assess the latest projections and the distribution of growth between boroughs and potentially adjoining areas, linked to capacity...".
- 5.7 In light of the above updated table and the approach taken in Camden's examination the Council does not consider that the latest population projections impact on the borough's housing target and its ability to meet the OAN and the tests of soundness.

²⁰ <http://camden.gov.uk/ccm/navigation/environment/planning-and-built-environment/planning-policy/local-development-framework/>

Q6: The SHMA confirms that affordable housing need in the Royal Borough is around 1,170dpa, more than twice the OAN and significantly greater than the proposed housing target. In the context of this shortfall, has the Council considered whether a further uplift in the housing target may be necessary to deliver additional affordable housing in the borough? What are the Council's reasons for not pursuing this option?

- 6.1 The housing target for the Borough is set at a strategic level by the London Plan. The need for housing outstrips the supply at the London level by about 6,600 dwellings per annum.
- 6.2 The issue was considered at the examination of the Further Alterations of the London Plan (FALP) in great detail. The FALP Inspector accepted in his report that as housing capacity and OAN is undertaken at the strategic level there should be no need for individual Boroughs to duplicate this process. He states in paragraph 22 of his report that: "I acknowledge that the NPPF requires each local planning authority to identify its own objectively assessed housing need. However, in my view, it is the role of the spatial development strategy to determine the overall level of need for London and to guide the distribution of new housing to meet that need" (emphasis added).
- 6.3 He further states at paragraph 33 that "I say above why I do not consider that London Boroughs should be required to carry out their own assessments of overall need. I consider the SHLAA in more detail below but, for the reasons given, I find that it provides a reasonably accurate picture with regard to capacity. It is not easy to see, therefore, where London Boroughs would find additional sources of supply. Capacity could be increased but I have significant concerns regarding whether higher densities can or should always be sought or achieved" (emphasis added).
- 6.4 With this broad London wide context, the particular character of the Borough as set out in the response to Q7 below places even greater constraints on available sites for housing. Nevertheless, in conformity with the London Plan, the proposed Policy CH1 seeks to not only meet but exceed the London Plan target. Also paragraph 35.3.21 of the Local Plan Partial Review states:

"In order to set a planning policy target that achieves the maximum reasonable amount of affordable housing, the Council must take account of need but also

deliverability. Firstly, the Council's housing target of 733 dwellings per annum is supply based which is limited. Furthermore, even if the Borough's entire housing requirement for the next fifteen years were to be delivered as affordable homes, the cumulative affordable need figure for the same period could still not be met. The second issue that must be taken into account is the economic viability of delivering affordable housing. Paragraph 173 of the NPPF requires that developments should not be subject to such a scale of obligations and policy burdens that their ability to be viably developed is threatened" (emphasis added)

- 6.5 The same issue was considered in the recent Camden Local Plan examination. Paragraph 55 of the Inspector's report states with reference to the affordable housing target that the "strategic target has been informed by analysis of capacity linked to viability work. As an inner London Borough there are capacity constraints. The Local Plan does not make provision to meet the full needs for affordable housing, but it would not be realistic for it to do so".
- 6.6 Therefore, the Council has considered the delivery of affordable housing in detail in setting the target as required by national policy. Setting a higher target would have been unrealistic and whilst it would be aspirational it would not be an effective or justified policy.

Affordable Housing

Q7: I note the justification in the evidence for reducing the threshold for affordable housing to 650 square metres (sqm) in Policy CH2. This is below the threshold of 1,000sqm at which affordable housing obligations may be sought as set out in the Written Ministerial Statement (WMS) of November 2014 and the PPG. Please provide evidence of any precedent in case law or otherwise which suggests a departure from the WMS and PPG could be contemplated in setting development plan policy.

Court of Appeal judgement

- 7.1 The WMS was subject to legal challenges and the appeal by the SoS to the initial High Court Judgement provides useful insight on the operation of this policy. The Court of Appeal Judgement²¹ indicates that even though the WMS does not explicitly indicate flexibility in terms of local policy making, it

²¹ www.bailii.org/ew/cases/EWCA/Civ/2016/441.html

does not over ride other statutory requirements including S38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990.

- 7.2 Crucially, paragraph 26(iv) of the Judgement refers to a statement by Mr Drabble acting on behalf of the Secretary of State and states "Likewise if in future an LPA submits for examination local plan policies with thresholds below those in the national policy, the Inspector will consider whether the LPA's evidence base and local circumstances justify the LPA's proposed thresholds. If he concludes that they do and the local plan policy is adopted, then more weight will be given to it than to the new national policy in subsequent decisions on planning applications".
- 7.3 Paragraph 30 of the Judgement states "In our judgment, then, the policy stated in the WMS is not to be faulted on the ground that it does not use language which indicates that it is not to be applied in a blanket fashion...". This essentially means that the Government policy approach has the flexibility not to be applied in a blanket fashion.
- 7.4 It should also be noted that paragraph 36 states "We would certainly accept that the statutory planning context to some extent constrains the Secretary of State. It prohibits him from making policy which, as we have put it in dealing with the principal issue in the case, would countermand or frustrate the effective operation of s.38(6) or s.70(2). It would also prevent him from introducing into planning policy matters which were not proper planning considerations at all. Subject to that, his policy choices are for him. He may decide to cover a small, or a larger, part of the territory potentially in question. He may address few or many issues. The planning legislation establishes a framework for the making of planning decisions; it does not lay down merits criteria for planning policy, or establish what the policy-maker should or should not regard as relevant to the exercise of policy-making".

Camden precedent

- 7.5 The recently published Inspector's Report into Camden's Local Plan (May 2017)²² directly addresses the issue of setting development plan policy below the affordable housing threshold of 11 or more units established by the WMS.

²² <http://camden.gov.uk/ccm/navigation/environment/planning-and-built-environment/planning-policy/local-development-framework/>

- 7.6 The report sets out that there is scope to consider whether local circumstances may justify lower affordable housing thresholds as an exception to national guidance.
- 7.7 The report recognises that the likely delivery of affordable housing in the Borough across the plan period will fall significantly short of needs identified in the Borough's SHMA. This is due to the particular constraints of a densely developed inner London Borough where options to allocate additional land are extremely limited and there is a reliance on a large number of small sites to deliver housing growth.
- 7.8 Given this context, the report considers "it is vital to maximise opportunities for the delivery of affordable housing on sites that do become available" (paragraph 61). This includes consideration of the capacity of small sites to contribute to the delivery of affordable housing.
- 7.9 It should be noted, however, the report is also clear that significant weight should be given to the WMS as national policy and that its premise of not placing a disproportionate burden on small scale developers must also be addressed.

Justification

- 7.10 As inner London Boroughs, there are necessarily similarities in the issues affecting both Camden and Kensington and Chelsea.
- 7.11 The Royal Borough of Kensington and Chelsea is the smallest London Borough. It is extremely densely built up with the household density in the Borough at 6,478 households per sq km compared to an average of 155 households per sq km in England and Wales. It has the second highest population density (13,086 residents per sq km) (Table QS102EW Census 2011) in England and Wales. It also has a unique historic environment with nearly three quarters of the Borough within designated conservation areas and 4,000 listed buildings. As a result, the Borough has only a limited capacity to deliver housing.
- 7.12 In setting the threshold for affordable housing at 650 sq m Gross Internal Area (GIA) the Council considered the approach to be justified as the most appropriate policy approach taking into account the findings of the Affordable Housing Viability Study (SUB51, 53, 54) which determined that schemes of four houses or five flats were able to support

a level of affordable housing. This is set out in paragraph 2.3.22 of the Policy Formulation Report for Policy CH2 Affordable Housing (SUB44). Policy CH2 also establishes a flexible approach allowing financial viability to be assessed on a case by case basis where the affordable housing policy target of 35% cannot be met for reasons of viability.

- 7.13 It should also be noted that the proposed threshold of 650 sq m GIA does not differ significantly from the existing Local Plan threshold of 800 sq m GEA which has been largely effective since its adoption.

The proposed approach meets the legal requirement and test of soundness regarding national policy

- 7.14 S19(2) of the Planning and Compulsory Purchase Act 2004 states that in preparing a Local Plan, the Council "must have regard to... national policies and advice contained in guidance issued by the Secretary of State..." (emphasis added). The Council has clearly had regard to the respective national policies and advice on this matter as set out in paragraphs 2.2.26-27 and 2.3.22 of the Policy Formulation Report for CH2 Affordable Housing (SUB44) and fully meets this legal requirement.
- 7.15 The test of soundness relating to being "Consistent with national policy" in paragraph 182 of the NPPF is concerned with being "in accordance with the policies in the Framework" with no explicit reference to WMSs and the NPPG. In any case, the Council considers the approach is in accordance with the NPPF and the objectives of the WMS which is concerned with the "disproportionate burden of developer contributions on small scale developers" - the Council's evidence suggests that the requirement is proportionate and viable.
- 7.16 The proposed policy approach also meets the other tests of soundness with regard to "Positively prepared" in that it helps the Council meet as much of its affordable housing need as possible (the high level of need noted by the Inspector in Q6) and "Justified" in that it is based on evidence.

Q8: Paragraph 35.3.43 of the Partial Review states that vacant building credit (VBC) does not apply to development in the borough because all sites are brownfield. I note the evidence provided to justify this and recognise that the courts allow decision makers on planning applications to determine the weight to be attached to VBC. However, the

PPG does not permit scope for the blanket removal of VBC through development plan policy. As with question 7, please provide evidence of any precedent which may support a departure from the PPG in setting development plan policy regarding VBC.

Court of Appeal judgement

8.1 The same principles arising out of the Court of Appeal Judgement²³ referred to in the response to Q7 are equally relevant to Q8. The conclusion of the Judgement essentially means that the Government policy approach has the flexibility not to be applied in a blanket fashion.

Richmond upon Thames precedent

8.2 The London Borough of Richmond upon Thames which submitted its Local Plan Review to the Secretary of State on 17 May 2017²⁴ is proposing the same approach in the supporting text to its affordable housing policy (LP36), stating in paragraph 9.3.2 of its submitted document, "..In London the majority of development is brownfield and does not need to be incentivised, as in many cases the building will only have been made vacant for the sole purpose of redevelopment, therefore the Vacant Building Credit will not apply".

Justification

8.3 As the Inspector has noted, the Council has included a statement in the supporting text to Policy CH2 setting out the Council's view that the vacant building credit does not apply in the Borough. However, Policy CH2 does not include any reference to the vacant building credit.

8.4 The Policy Formulation Report for CH2 Affordable Housing (SUB44) sets out the Council's formulation of the approach to the vacant building credit in paragraphs 2.2.28-29, 2.2.49-52 and 2.3.33-34.

8.5 Paragraph 2.2.9 of the Policy Formulation Report highlights paragraph 23 of the NPPG which states that the vacant building credit "is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings". However, both the Council's own

²³ www.bailii.org/ew/cases/EWCA/Civ/2016/441.html

²⁴ www.richmond.gov.uk/local_plan_review

viability evidence (SUB53), and the Mayor of London's Draft Affordable Housing and Viability Supplementary Planning Guidance (SUB55), highlight that brownfield land already delivers the majority of London's housing, and that vacant building credit does not make such schemes more viable. Such sites are already coming forward within the Borough without the assistance of vacant building credit, as the affordable housing policy is sufficiently flexible to allow for the level of affordable housing to be adjusted where necessary due to viability. The Council considers that such an approach is consistent with the principle purpose of the vacant building credit which is to bring forward development on brownfield land.

- 8.6 Through his Draft Affordable Housing and Viability SPG (SUB55), the Mayor of London also states his view that in most circumstances it will not be appropriate to apply the vacant building credit in London. In doing so, he encourages the consideration of the current need for affordable housing in London; the rate of past delivery against targets; the requirement of the NPPF to seek to meet objectively assessed need; the fact that brownfield sites come forward for development without such an incentive; and the requirement in the NPPF to provide competitive returns to a willing land owner and willing development which already addresses the issue of the impact of affordable housing requirements on viability. In addition to these considerations the Mayor also sets criteria for Boroughs to consider should the credit be applied.
- 8.7 To date, the Council has not applied the vacant building credit to any applications and the approach is proving effective. Given the overwhelming need for affordable housing in the Borough, it is considered that the Council's approach is positively prepared and justified. It is also considered to be in conformity with national policy as brownfield land does not need an additional incentive to come forward in this Borough. The approach is in-line with the principles in the national policy of meeting objectively assessed needs and ensuring that development is viable.

The proposed approach meets the legal requirement and test of soundness regarding national policy

- 8.8 As in the response to Q7, the Council has met the legal requirement and test of soundness regarding national policy. With regard to the vacant building credit, this is set out in

paragraphs 2.2.28-29, 2.2.49-52 and 2.3.33-34 of the Policy Formulation Report for CH2 Affordable Housing (SUB44).

- 8.9 In any case, the Council considers the approach is in accordance with the NPPF and the objectives of the WMS which primarily aims "to boost development on brownfield land" - the Council's overall policy approach is to provide all new development on brownfield land.
- 8.10 The proposed policy approach also meets the other tests of soundness with regard to "Positively prepared" in that it helps the Council meet as much of its affordable housing need as possible (the high level of need noted by the Inspector in Q6), "Justified" in that it is based on evidence and "Effective" in that the Council generally does not apply the vacant building credit already.

Gypsy and Traveller Accommodation

Q9: I note the joint evidence on the need for and supply of gypsy and traveller accommodation within the boroughs of Kensington and Chelsea and Hammersmith and Fulham. The evidence appears to focus on the current and future needs arising from the occupants of the existing site at Stable Way. However, it is not clear what account has been taken of needs arising from elsewhere within the borough, including travellers on unauthorised sites or living in bricks and mortar who may need a pitch, or beyond the borough boundaries from migration or travelling showpeople. Please advise what account has been taken of those needs and how the Duty to Co-operate on wider needs has been fulfilled beyond the two boroughs?

Unauthorised sites

- 9.1 Paragraphs 3.25-3.26 of the GTANA (SUB57) set out how the Councils have taken into account unauthorised sites in the assessment of need. The GTANA concludes there is only one recorded incident, dealt with by the Special Parks Police in LBHF in 2013. As this was a single incident and no further incidents have occurred since, it was considered that this did not signify a trend or pattern of unauthorised encampments.
- 9.2 The Council is also aware of an area of land known as 'The Triangle' adjacent to Stable Way that has a history of being used by a Traveller for a variety of potentially unauthorised uses from commercial to residential however the full range of uses is unconfirmed. There are, however, no planning

enforcement records associated with this. The freehold of the land is held by Transport for London and leased to the Council, then further leased to the Westway Development Trust. The Triangle is subject to a tier of leases which does not include the Traveller. As explained at Paragraph 3.58 and 3.59 of the GTANA, The Triangle features in the supply and demand model and can be seen in Figures 3.17 (row 9) and 3.18 of the GTANA. It also features in both the PPTS compliant and non PPTS compliant figures as shown in Figure 3.19 of GTANA.

Bricks and mortar

- 9.3 In respect of identifying future needs from Travellers living in bricks and mortar the GTANA utilised a wide range of data sources to inform the overall assessment which includes the Stable Way waiting list and Council housing register. The Council is aware that there is a wider Gypsy and Traveller community residing in both Boroughs outside of Stable Way. Across both Boroughs, as reported in the 2011 Census, there are 336 (217 in LBHF and 119 in RBKC) individuals who identify as Gypsy or Irish Traveller, Figure 3.11 of the GTANA shows the distribution across both authorities.
- 9.4 It is acknowledged that establishing contact with Gypsy and Traveller community groups living in bricks and mortar is difficult. The Councils carefully considered ways to reach the wider Traveller community without infringing upon data protection and/or individual anonymity within the community. An independent party who was known to the Traveller community undertook the survey on behalf of the Councils. The survey included a question asking if the respondent was aware of any Travellers who lived in bricks and mortar and if so, whether contact details could be provided. The independent party reported back explaining that the known Traveller community were reluctant to provide contact details of Travellers they know who live in bricks and mortar without prior permission. Therefore copies of the survey form and contact details of the Council were provided to pass on. The Council received two responses from Travellers in bricks and mortar accommodation which feature in the supply and demand model, Figure 3.17 row 11.
- 9.5 The Council also sought details from the housing register to find out whether there were any Travellers wanting to move back onto a pitch. The two registers that the Councils used were the Council housing register (RBKC) and the Stable Way

waiting list (KCTMO). The Council housing register identified that there were households moving from the existing site into bricks and mortar whilst the Stable Way waiting list indicated the number of households seeking a pitch. The Stable Way waiting list did not contain households in bricks and mortar wanting to move back onto a pitch in the area.

- 9.6 It was considered whether it would be possible to make contact directly with Travellers living in Council accommodation, however, this was not considered appropriate in terms of personal data protection, privacy and proportionality.
- 9.7 To ensure a broad reach and level of engagement with the Traveller community, the Councils made use of all relevant contacts and means possible. Consultation events were undertaken on site in addition to the surveys. These were prior to the survey being undertaken to explain why the work was being done and to explain the approach, following the completion of the initial survey to communicate the results and as part of the Regulation 18 Draft Policies consultation to communicate the final GTANA and the Draft Policy CH6. The events were advertised on site and by the Stable Way Site Manager and were open to all to attend. The Councils were aware of Travellers living in bricks and mortar who attended.

Migration

- 9.8 Section 3 of the GTANA explains how its methodology meets the requirements of the PPTS, as well as considering the older GTANA Guidance and the Draft Guidance on Caravans and Houseboats. Neither the PPTS nor the Draft Guidance mention migration. The GTANA Guidance only mentions migration once, firstly with regard to partnership working (paragraph 41, which the Council is undertaking with LBHF) and secondly with regard to the timing of surveys (paragraph 82).
- 9.9 Nevertheless, the Councils sought to identify migration through the use of Census information. However, there is a lack of data on Traveller movements. Council enforcement records and housing registers (as explained above) were also considered to establish whether there are any migration trends. Neither indicated migration trends into the area.
- 9.10 The Council reviewed the Stable Way waiting list to determine whether there was a demand for pitches in the Borough from Travellers who live outside of the Borough. The Councils'

respective Housing departments were involved to understand where households had moved from and to. This did not indicate any migration trends.

- 9.11 The Councils' approach to the GTANA and the surveys was discussed at an early and iterative stages with the London Gypsy and Traveller Unit. No issues were raised in respect of bricks and mortar or migration.

Travelling Showpeople

- 9.12 Figure 3.9 of the GTANA makes clear that the DCLG Caravan Count reports that there are no Travelling Showpeople pitches in the Boroughs.
- 9.13 Neither Councils are aware of any Travelling Showpeople in their respective areas. There is no Census data or planning/enforcement cases to indicate a Travelling Showpeople presence in either Borough. There is no known existing population of Travelling Showpeople in the area.

Duty to cooperate

- 9.14 Section 2.6 of the Policy Formulation Report for Policy CH6 Gypsy and Traveller Accommodation (SUB48) summarises the actions the Council has taken with regard to the duty to cooperate, particularly in Figure 2.2, which will not be repeated here.
- 9.15 Further to the approach to the Council from the London Borough of Hillingdon (identified in Figure 2.2 of the Policy Formulation Report), no other Council has approached the Council in respect of Gypsy and Traveller needs.
- 9.16 The Council is aware that OPDC has produced a GTANA (ORS consultants) but this Council was not engaged by OPDC or ORS in this work. Nevertheless, the Council has consistently responded to OPDC consultations, including on its Regulation 18 Draft Local Plan as set out in Figure 2.2, making it aware of the joint work that RBKC and LBHF have undertaken in respect of Gypsy and Traveller accommodation needs.
- 9.17 In addition to the actions set out in the Policy Formulation Report, the Councils have also proactively communicated joint needs assessment work at the Association of London Borough Planning Officers meetings and at the London Gypsy and Traveller Forum which is organised by the London Gypsy and

Traveller Unit, both of which are attended by other London Borough planning officers.

- 9.18 The Council has also responded to the London Assembly Housing Committee Investigation into Gypsy and Traveller Site Provision in London (2014/2015)²⁵ which subsequently recommended a London wide GTANA. The Council's response supported a London wide assessment of need.
- 9.19 The London Gypsy and Traveller Forum (LGTF), which seeks to improve the lives of Gypsies and Travellers in London, particularly in relation to their accommodation needs though the promotion of good practice and advice to the GLA, the London Mayor and other London authorities, also responded to the Investigation. The LGTF acknowledges in its submission to the Investigation that "Apart from the GTANA being conducted jointly between Kensington and Chelsea and Hammersmith and Fulham, we are not aware of any other examples in London where neighbouring Boroughs have worked together effectively on this issue" (emphasis added). Similarly, the Traveller Movement's response states "We are only aware of two London boroughs (Kensington and Chelsea and Hammersmith and Fulham) who are working in a cooperative manner for the purposes of carrying out a needs assessment in their areas" (emphasis added). This demonstrates how the Councils have been particularly proactive and collaborative in accordance with the duty to cooperate on this matter.
- 9.20 In response to the London Assembly's recommendations from the Investigation, the Mayor at that time did not accept undertaking a London-wide GTANA. However, the Council is aware that the GLA is now considering Gypsy and Traveller needs across London as part of the London Plan review and will continue to actively engage with the GLA on this.
- 9.21 The Council responded to a GLA questionnaire regarding the London Plan review on Gypsy and Traveller sites in March 2017.
- 9.22 The Council has been part of the GLA London SHMA 2017 working group meetings and understands from the latest meeting in May 2017 that Gypsy and Traveller issues will be considered as part of the London SHMA.

²⁵ www.london.gov.uk/about-us/london-assembly/london-assembly-publications/letter-mayor-gypsy-and-traveller-sites

- 9.23 This London wide work may provide further detail on Traveller needs, movements and site opportunities in and around London to help ensure that Councils can continue to meet the duty to cooperate. The Council will continue to actively engage in London wide strategic planning for Gypsy and Traveller accommodation as part of the duty to cooperate to address needs.
- 9.24 Finally, the Council has agreed a Statement of Common Ground²⁶ for LBHF's current Local Plan examination which includes the issue of Gypsy and Traveller accommodation.

Q10: I also note the requirement for 9 pitches across the two boroughs and the assessment of sites, but the Partial Review does not appear to identify a 5-year supply of deliverable sites or a supply of developable sites for years 6-15 of the plan period to meet this need as expected under the PPTS. How does the Council intend to address this matter?

- 10.1 The Joint GTANA identifies a joint need for 9 pitches across both local authority areas. Provision for the joint requirement will need to be addressed jointly by both Councils.
- 10.2 The Council has taken a proactive and leading role on seeking to make provision by preparing and agreeing a Site Appraisal Study Joint Methodology (SUB58) with LBHF. This sets out a consistent approach to identifying and appraising sites.
- 10.3 The Council has followed through this methodology in its own Site Appraisal Study (SUB59) which identifies potential opportunities for the provision of additional pitches in the Borough, however, the contribution towards meeting needs is limited. Currently opportunity for the provision of two additional pitches has been identified.
- 10.4 The Council's planning department is actively working with the housing department to ensure that the opportunities for the additional pitches identified for The Triangle site are delivered. Delivery will be monitored on an annual basis in the Council's Monitoring Report.
- 10.5 Policy CH6 includes criteria to assess applications which may come forward. These will be applied alongside other Local Plan policies and criteria in the Planning Policy for Traveller sites.

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www.lbhf.gov.uk/sites/default/files/section_attachments/ex13_statement_of_common_ground_-_rbkc.pdf

- 10.6 LBHF has not yet undertaken a Gypsy and Traveller Site Appraisal Study for its area. However, through the Council's formal representations to LBHF's emerging Local Plan and in particular through the Statement of Common Ground²⁷ between the two Councils, this Council has sought to do everything it can using the duty to cooperate to help ensure that LBHF will complete its Site Appraisal Study and contribute to meeting the identified need. This commitment was also confirmed to the LBHF Local Plan examination Inspector at the hearing. LBHF is preparing a further note for its Inspector on how it intends to address needs to help meet the joint requirement in its Borough.
- 10.7 As mentioned in the response to Q9, this Council will continue to actively engage in London wide strategic planning for Gypsy and Traveller accommodation as part of the duty to cooperate to address needs.

Fostering Vitality

Q11: The Partial Review and the supporting studies identify a need for a further 9,700 sqm of retail floorspace and 6,000 sqm of A3-A5 floorspace up to 2023, and an undersupply of 84,600sqm of B1(a) floorspace. To provide for this it appears to rely on vacant retail floorspace of 11,300sqm and allocations for around 2,000sqm of retail and 20,000sqm of office floorspace. Paragraph 23 of the NPPF expects local plans to allocate sites to meet the scale of retail, leisure and office development needed. It appears the Partial Review would not achieve this. Please explain how the Plan addresses this shortfall.

- 11.1 The Council recognises that there are two elements to this: the provision of A class retail uses and that of B1(a) office uses. There is some overlap, as both can be considered 'town centre uses', but the Council has considered the two separately within the Local Plan Partial Review.

A class uses

- 11.2 Whilst the plan runs to 2028 the Council is seeking to address the need to 2023. This reflects the nature of long term A class forecasting (as set out in response to Q3), and the explicit

²⁷

www.lbhf.gov.uk/sites/default/files/section_attachments/ex13_statement_of_common_ground_-_rbkc.pdf

recognition within the Council's Retail and Leisure Needs Study (RLNS, SUB33) that "long term forecasts beyond 2023 may be more susceptible to change, due to unforeseen circumstances". This is self-evident with the dramatic reduction in predicted retail need between the initial 2008 RLNS²⁸ and the 2016 update. Despite the use of well-established models the consultants in 2008 were unable to accurately predict a lower growth in comparison goods expenditure, the full impact of the nearby Westfield shopping centre on the patterns of spend within the Borough as well as much higher levels of special forms of trading.

11.3 The 2016 RLNS considers the need for additional A class floorspace to 2023. This is not substantial being just 700 sq m of additional comparison floorspace, and 9,000 sq m of convenience floorspace, or a total of 9,700 sq of A1 retail floorspace. On top of this, the RLNS estimates a projected need for 6,000 sq m of A3 to A5 floorspace to 2023, or a total need of 15,700 sq m to 2023.

11.4 Accommodating need can be a challenge in an inner London, high value Borough such as Kensington and Chelsea, where there is a need to balance the provision of additional commercial uses alongside the need to meet housing targets. However, the Council can demonstrate how it intends to meet the need for A1 shops as well as the need for future food and beverage uses. These needs will be accommodated through the filling of vacant town centre units and through the building out of commercial elements of some of the larger sites and allocations, and through recent completions.

Vacancies

11.5 The RLNS looks in some detail at the ability of the existing vacant sites to accommodate some of the identified need. This estimates that a reduction of vacancy rates to 5% (the target vacancy rate envisaged by the original study) could accommodate 11,300 sq m of commercial space, or some 72%.

Allocations

11.6 The Council is satisfied that the remaining 4,400 sq m will be accommodated through the development of existing sites. Of

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www.rbkc.gov.uk/pdf/18%20K%26C%20RETAIL%20LEISURE%20STUDY%202008%20-%20MAIN%20REPORT.pdf

particular significance are three site allocations which identify the provision of additional A class floorspace:

| Site allocation | Description |
|---|--|
| CA1: Kensal Canalside Opportunity Area | A minimum of 2,000 sq m of new non-residential floorspace, including social and community and local shopping facilities, in addition to the supermarket |
| CA3: Wornington Green | Approximately 2,000 sq m of A1 to A5 uses |
| CA11: Harrington Road | Active street frontage to Harrington Road. The site area is 2,100 sq m. One could expect 5% of this, or 1,050 sq m to have an active A class use. |
| Total | 5,050 sq m |

Completions in 2016

11.7 The Monitoring Report 2016 (SUB13) considers the completion of A class uses over the previous year (as of July 2016). This data post-dates that used in the RLNS 2016 (SUB33). The Monitoring Report 2016 shows 6,613 sq m additional A1 floorspace. There was no significant change in A3 and A4 floorspace.

Conclusion

11.8 The filling of vacancies and allocations alone, would suggest that the Council could accommodate 16,350 sq m of A class floorspace, a small surplus. Any under delivery in the filling of vacancies would suggest that the need for additional A class floorspace is not as great as predicted.

B1(a) Office floorspace

11.9 The Council acknowledges that meeting the undersupply of 84,600sqm of B1(a) office floorspace is likely to prove challenging.

11.10 For clarity, this figure takes account of B class floorspace already in the pipeline, and that includes site allocations. It also includes those other sites identified within the National Land Use Database where future business development is considered likely.

11.11 This undersupply is a reflection of both the scarcity of available land within the Borough, the constraints on it, and the differential in value between office and residential uses. It is difficult for the need for office floorspace and homes to be met in a Borough where the scale of development is significantly constrained by the existing built form.

11.12 The Local Plan Partial Review does, however, take a number of approaches which will help address this shortfall, as follows.

Protection of existing office uses

11.13 Only by protecting existing business uses can the Council begin to address its need. This is essential given the differential in value between residential and office uses which would otherwise see the wholesale erosion of the business sector in the Borough. This erosion would be driven by this differential in value and not by any inherent weakness in the office market. The Council's evidence to inform an Article 4 direction (SUB39) estimates that a differential in value of just 40% is likely to prove a compelling financial case for conversion. A 30% uplift in value may be all that is needed. The percentage uplift estimated across the Borough is estimated between 45% and 90%.

11.14 This protection has two elements. Policy CF5 is explicit in the need to "protect offices and office floorspace throughout the borough". There are a small number of exceptions, when for example the office is within a town centre and the change of use to a shop or to a social and community use. These exceptions are fewer in number than those in the existing Local Plan. So, for example, large offices within a less accessible area are now proposed to be protected in the Local Plan Partial Review.

11.15 The second element is not the subject of the Local Plan. It is, however, integral to the implementation of the policy. In 2013 the Council achieved a Borough wide exemption to the B1(a) to C3 GPDO liberalisation²⁹. This exemption allows the Council to continue to use the policies within its Development Plan when assessing any application for such changes of use. This exemption will last until May 2019 when new changes to Class O of Part 3 of the GPDO come into being. The Council has until this date to confirm an Article 4 direction if it wishes to

²⁹ www.rbkc.gov.uk/planning-and-building-control/planning-policy/change-use-office-residential

maintain the control. The Council is currently going through the Key Decision process to 'make' the Article 4 direction so that it can be confirmed before May 2019, subject to consultation.

Flexibility for new uses

11.16 The Council recognises that a prescriptive approach to the type of office accommodation that should be built in a given location may discourage office floorspace coming forward. As such Policy CF5 takes a more laissez-faire approach, allowing offices up to 1,000 sq m across the Borough, supporting offices of any scale in town centres, other accessible areas and with the Employment Zones, and elsewhere where meeting the requirement of the sequential test. This is a departure from the existing Local Plan approach where larger offices were generally not supported outside of town centres. This widens the availability of 'broad locations' suitable for office development.

Allowing residential uses to enable an uplift in business uses within the Employment Zones

11.17 The existing Local Plan is explicit in its ambition to resist the creation of any residential use within any of the Borough's three Employment Zones. The Local Plan Partial Review takes a different approach, with CF5(k) allowing residential uses where "the use can be shown to be necessary to support a significant uplift in both the quantity and the quality of the business use on the site".

11.18 This approach reflects the emerging practice in the development market in the Borough. There has been a number of examples within the Employment Zones where the uplift in value associated with the creation of residential uses has seen the creation of a significant amount of additional office floorspace on the site. This follows a number of years of relevant stagnation for employment uses within the Employment Zones.

11.19 The permissions granted in 2015/16 are likely to be a reflection of the general buoyancy of the Borough's office market, a market with a vacancy level of just 1.2% in the first quarter of 2017. However, the permissions would also appear to be a result of the more flexible approach that is already being taken when determining applications. The 2015/16 permissions resulted in a net increase of 22,678 sq m of B1(a)

office floorspace across the Borough as set out in paragraph 6.68 of the Monitoring Report 2016 (SUB13). This included four applications within Employment Zones. These four permissions included a net increase of 19,500 sq m of business floorspace. Whilst not completions, so there is still some uncertainty whether the permissions will be implemented, there is no reason to believe that these will not come forward.

11.20 It should be noted that these permissions have already been included in the development pipeline. However, they are useful in that they could be seen to point to a possible future direction of travel associated with the Council's more flexible approach to help meet the identified need in the Borough.

The NPPG and availability of land for employment uses

11.21 The NPPG on Housing and Economic Land Availability Assessment offers Councils useful guidance on identifying land for such uses. The purpose of this guidance is to identify "a future supply of land which is suitable, available and achievable for housing and economic development uses over the plan period" (paragraph 001).

11.22 The NPPG also offers guidance on what factors should be considered for when and whether sites/broad locations are likely to be developed. It states that, "assessing the suitability, availability and achievability of sites including whether the site is economically viable will provide the information on which the judgement can be made in the plan-making context as to whether a site can be considered deliverable over the plan period" (paragraph 018).

11.23 Also explicit in the NPPG is the need for a site to be identified as suitable for economic development only when "there is a reasonable prospect that a particular type of development will be developed on the site at a particular point of time". The paragraph goes on to state that "This is essentially a judgement about the economic viability of a site, and the capacity of the developer to complete and let or sell the development over a certain period" (Paragraph 021).

11.24 The Council's Employment Land Need and Availability (ELNA) Background Paper (SUB40) has carried out this exercise and has only identified those sites for economic development when there is a realistic prospect of the use of the site for that use. This includes having undertaken a call for sites as part of

the Issues and Options consultation (SUB4), consideration of the National Land Use Database of Previously Developed Land as well as the development pipeline. The Council is satisfied that there are no other sites that would meet the NPPG criteria, over and above those identified within the ELNA, coming forward at this time.

11.25 The shortage of future employment land also reflects the nature of the Borough, where there is a finite supply of land. Development is constrained by townscape; there is no greenfield land to be released; and the vast majority of brownfield land suitable for development has been identified as being appropriate for housing in the SHLAA, which informs the Council's housing target.

11.26 In terms of broad locations, as set out above, the Local Plan Partial Review's wider flexibility for new (employment) uses helps widen the range of broad locations that are available for such uses, as per the NPPG.

Duty to cooperate

11.27 The NPPG recognises that there may be circumstances where a Council cannot identify sufficient sites. In such circumstances and "If there is clear evidence that the needs cannot be met locally, it will be necessary to consider how needs might be met in adjoining areas in accordance with the duty to cooperate" (paragraph 026).

11.28 Section 3.6 of the Policy Formulation Report for Fostering Vitality (SUB31) sets out the actions the Council has taken with regard to the duty. Of particular note is the reference to the GLA's Letter of General Conformity with the London Plan (SUB9) which supports the Council's approach to business development.

Government priorities

11.29 There is, and has been for some time, a clear Government imperative to increase the supply of housing. Indeed, there is a clear inference, that where a choice is to be made, delivery of homes could well take preference over the protection (and therefore the delivery of) business floorspace. This is shown by the following:

- The 2013 reforms to the GPDO with regard to changes of use from offices to residential are all clear in that the very

function of this liberalisation is to assist in the delivery of additional homes at the expense of office floorspace.

- The Written Ministerial Statement on Change of Use: New Homes of 6 February 2014³⁰ makes clear that the Government seeks to restrict the spatial extent of Article 4 directions sought by Councils to resist loss of offices to residential. The WMS is explicit in confirming that there is a “clearly stated public policy goal of liberalising the planning rules and helping provide more homes”.
- Government statements on ensuring Local Plans are in place in a timely manner have included explicit reference to “Local Plans for new homes” (10 Downing Street Press Release, 12 October 2015, emphasis added)³¹, without reference to other types of land use as a priority.
- The Housing White Paper (February 2017)³² states that Councils “have a responsibility to do all they can to meet their housing requirements” (paragraph 1.22), that “We must make as much use as possible of previously-development (‘brownfield’) land for homes” (paragraph 1.24) and “Going further, the presumption should be that brownfield land is suitable for housing unless there are clear and specific reasons to the contrary... To make this clear, we will amend the NPPF to indicate that great weight should be attached to the value of using suitable brownfield land within settlements for homes” (paragraph 1.25).

The Housing White Paper also forewarns the introduction of a Housing Delivery Test. Come 2020, if a Council fails to deliver (measured as completions) what is considered to be an adequate amount of housing (or less than 45% of the housing target) the presumption in favour of sustainable development would apply automatically.

- The letter from Lord Bourne, the Parliamentary Under Secretary of State of DCLG to Lord True, in March 2017, during the passage of the Neighbourhood Planning Bill, concerned with the permitted development right for the change of use from office to residential states that “in future, those areas that are meeting their housing

³⁰ www.gov.uk/government/speeches/change-of-use-new-homes

³¹ www.gov.uk/government/news/prime-minister-councils-must-deliver-local-plans-for-new-homes-by-2017

³² www.gov.uk/government/collections/housing-white-paper

requirement will be afforded greater flexibility in respect of the area to be covered by an Article 4 direction removing the permitted development rights to change from office to residential.” It goes on to state that “the Secretary of State will look more generously at the area across which the direction would apply” where “a local planning authority... achieves 100% of its housing delivery requirement; and can demonstrate that it can continue to do so after removal of the right”. Lord Bourne is explicit in his recognition that the delivery of housing is of primary importance.

11.30 Whilst the Council’s Local Plan Partial Review puts forward a more locally-justified and nuanced approach to the overall national approach, it does reflect the imperative to deliver its housing targets. Whilst every effort has been made to deliver the need for new office accommodation, the Council cannot lose sight of the priority to deliver housing targets. As such tough choices must be made in the Local Plan Partial Review as to the nature of the need that can be met within the Borough, a Borough which has a finite amount of development potential.

Q12: What is the evidence to justify the local threshold of 400sqm for retail impact assessments in the Royal Borough set out in paragraph 31.3.8 of the Partial Review?

12.1 Paragraph 2.4.4 of the Policy Formulation Report for Fostering Vitality (SUB31) sets out the options and alternatives that the Council has considered in setting the threshold of 400sq m.

12.2 Central to the NPPF is the need to ensure the vitality of town centres. One of the principal tools in achieving this ambition is through ensuring the ‘town centre first’ approach to new town centre uses. The starting point for new retail development is that it should be located within an existing centre. Only when it is shown that this cannot be achieved will an ‘edge of centre’ location be appropriate and only when this cannot be achieved will an ‘out of centre’ location be considered. This approach is considered most likely to allow the range of the Borough’s centres to thrive and as such the town centre first approach is central to Policy CF1.

12.3 The NPPF does, however, recognise that there may be circumstances where new town centre uses will be acceptable where not in an existing centre, and when not in accordance with an up-to-date plan. However, to ensure that such an

approach will not harm the vitality of existing centres, paragraph 26 of the NPPF requires the use of an impact assessment. It supports the use of what it terms “a proportionate, locally set floorspace threshold (if there is no locally set threshold the default threshold is 2,500 sq m)”.

12.4 Paragraph 016 of the NPPG on Ensuring the Vitality of Town Centres sets out the factors for the Council to consider when setting this “locally appropriate threshold”. These factors include:

- scale of proposals relative to town centres;
- the existing viability and vitality of town centres;
- cumulative effects of recent developments;
- whether local town centres are vulnerable;
- likely effects of development on any town centre strategy; and
- impact on any other planned investment.

12.5 These factors are interrelated, with, for example, the vulnerability of a local town centre being a product of existing viability, the cumulative effect of recent developments and the scale of a proposal relative to its size.

12.6 The Council intends to maintain the existing Local Plan’s 400 sq m threshold (gross external) for an impact assessment. This equates to the size of a unit which is of the scale likely to equate to a ‘large shop’ in terms of the restrictions for Sunday trading. This threshold is explained in paragraph 31.3.8 of the Local Plan Partial Review:

“The Council recognises that smaller scale parades of shops or isolated shops also have a role in serving the needs of residents across the borough. Out of centre units with a gross floor area of less than 400sq.m are likely to have a convenience function as are of a scale which often equate to a ‘local’ format small supermarket. These are of a size which is usually to be considered a ‘small shop’ with regard to the restrictions for Sunday Trading (280sq.m (net)). Such units are unlikely to have a detrimental impact on the health of adjoining centres. Given the nature of the borough’s retail sector and the tightly knit network of centres across it, the Council is concerned that proposals that include a net increase of more than 400 sq m (gross external) retail floorspace may have the potential to cause harm. A retail impact assessment will

allow the Council to assess each such proposal on its merits. The nature of the assessment should be proportionate to the scale of the development proposed.”

The scale of proposals relative to town centres

12.7 The Council recognises that the default 2,500 sq m threshold may be appropriate in areas of the country which may have a small number of medium or large centres. Even in the Borough, new retail development with a floor area of say 1,500 sq m is unlikely to have a detrimental impact on the ongoing viability of a large centre of the size of the King’s Road, for example.

12.8 However, the 400 sq m threshold is intended to allow the Council to consider possible impact upon the network of smaller neighbourhood centres across the Borough. As well as the ten larger or ‘higher order town centres’ within the Borough which form part of the London Plan’s hierarchy of centres, the Borough contains 36 neighbourhood centres.

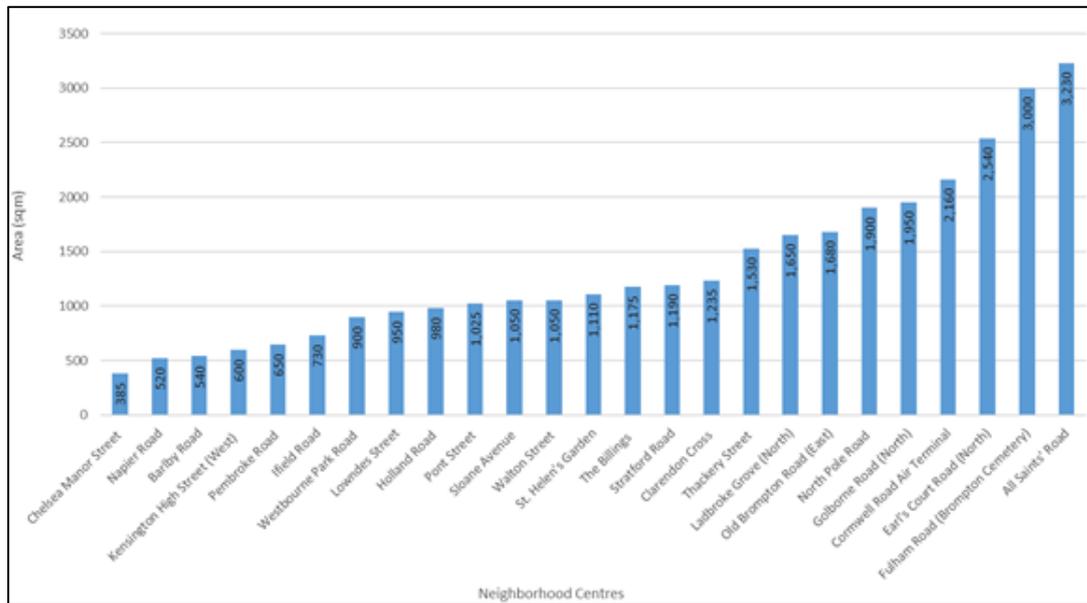
12.9 The Council notes that all of these neighbourhood centres are important in meeting the day-to-day needs of the Borough’s residents and in the creation of walkable neighbourhoods. “Keeping Life Local” is a well-established strategic objective (CO1) for the existing Local Plan (SUB3) and is the title for Chapter 30 which contains other policies for local shopping, other facilities and walkable neighbourhoods. Chapter 30 is not part of the scope of the Partial Review.

12.10 The importance of neighbourhood centres is also confirmed by the Mayor of London’s Town Centres SPG (July 2014)³³ (paragraph 1.1.17) which shares the Council’s view that such centres are “key shopping areas”. As such any development which would harm the function of these smaller neighbourhood centres would be regrettable.

12.11 The Borough’s neighbourhood centres themselves vary in scale. Golborne Road contains more than 100 units, with others such as Gloucester Road (North) and Holland Park Avenue some 60 units. However, the majority of the Borough’s neighbourhood units are small in scale. Twenty-three of the centres have a total floor area close to, or less than 2,500 sq m. Fifteen have a floor area of less than 1,500

³³ www.london.gov.uk/what-we-do/planning/implementing-london-plan/supplementary-planning-guidance/town-centres

sq m. The floorspace of the Borough's twenty-five smallest neighbourhood centres are shown below:



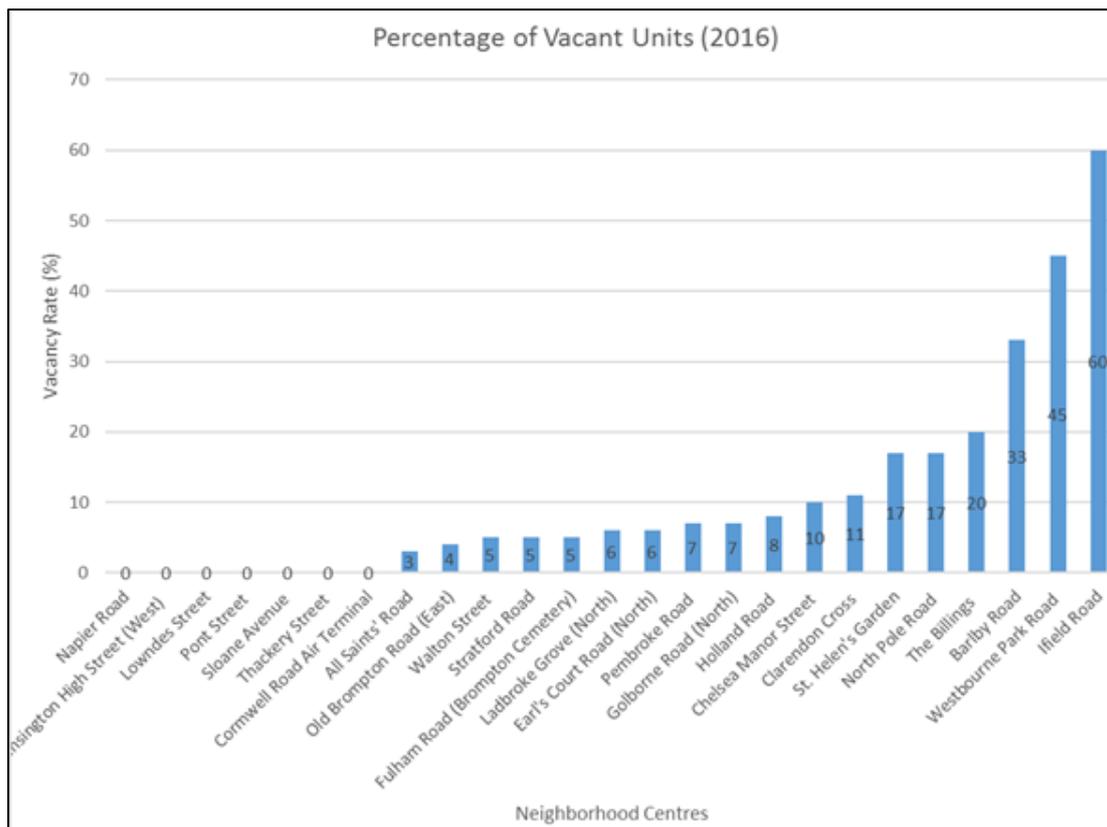
12.12 The Council is concerned that the creation of unrestricted retail development with a floor area of 2,500 sq m, the default NPPF threshold, could have a detrimental impact on these centres. In many cases, such a development would be a number of times that of an existing centre, and could have a seriously detrimental impact on a centre.

12.13 The 400 sq m threshold would ensure that any potential impact could be properly assessed so that the vitality and the viability of the neighbourhood centres is not harmed. Paragraph 31.3.8 of the Local Plan Partial Review is explicit in that "The nature of the assessment should be proportionate to the scale of the development proposed."

The existing viability and vitality of town centres / whether local town centres are vulnerable

12.14 The health of the Borough's larger town centres is the subject of the Mayor of London's Town Centre Health Checks (TCHCs). The last TCHC Analysis Report was published in 2013³⁴, with the next expected later this year. However, vacancy rates, a good indicator of the health of a centre, are monitored for all the Borough's centres on an annual basis. These are presented below.

³⁴ <https://data.london.gov.uk/dataset/2013-london-town-centre-health-check-analysis-report>



12.15 Whilst the overall vacancy rate in the summer of 2016 was 7.2%, a little below the London average of 9.2%³⁵, the Council is concerned that the vacancy rate has increased from 6% in 2014. Perhaps of greater concern is the high vacancy rates in some of the centres, with eight centres having vacancy rates of 10% or more. These are not concentrated within any particular part of the Borough, within the Chelsea Manor Street, St Helen’s Gardens, North Pole Road, The Billings, Barlby Road, Westbourne Park Road and Ifield Road Neighbourhood Centres.

12.16 The Council’s update to the RLNS (April 2016, SUB33) is useful as it demonstrates the degree of uncertainty that is inherent in the predictions of future retail need. In 2008 the original RLNS predicted a need for 145,000 sq m of comparison need to 2028. The 2016 update dramatically reduces this estimate, to just 700 sq m to 2023, or 21,000 sq m by 2028. Whilst the Council will always be cautious about the reliability of long term retail forecasts (and hence being concerned with predictions to 2023 only) such a reduction is telling. It demonstrates that Kensington and Chelsea is not immune from the changing nature of the retail market. The reduction in retail need is a reflection of a number of factors,

³⁵ Local Data Company (April 2016)

factors including the greater than expected drop in local expenditure, the impact of the expansion of the Westfield centre at Shepherds Bush, and the greater than expected growth of special forms of trading.

12.17 Taking the precautionary principle would always be advisory, but particularly in the current climate of the rapidly changing nature of retailing. The further (consented) expansion of the nearby Westfield shopping centre, a further economic dip or an increase in special forms of trading could all have a future impact upon retail need, and hence upon the vitality of the Borough's centres.

12.18 As noted in the supporting text to CF1, a small retail unit outside of a town centre is more likely to serve a convenience than a comparison retail function. As such the 400 sq m threshold would support the provision of convenience retailing, the type likely to serve a local need. The RLNS recognises that there is a modest need for convenience floorspace, or 9,000 sq m to 2023. As such it is reasonable to conclude that a small unit which is likely to primarily serve a convenience function is unlikely to have a detrimental impact on the vitality of adjoining centres. The provision of a larger amount of floorspace, with a significant element of comparison floorspace, is likely to have a detrimental impact, and it should be possible to assess this.

Cumulative effects of recent developments

12.19 The RLNS takes account of a number of large scale retail commitments implemented since 2008, as well as a number of proposals in the pipeline. These include the expansion of Westfield and Brent Cross as well as the new high street at Earl's Court and the development of Battersea Power Station. None of these sites lie within the Borough. These recent developments are one of the reasons why additional retail need within the Borough has been reduced so dramatically.

12.20 Net A1 completions within the Borough since the introduction of the 400 sq m threshold in 2010, have been modest, as set out in the below table (from Table 6.3 of the Monitoring Report 2016, SUB13). In this period, there has only been a net increase of completed floorspace of 3,258 sq m. This demonstrates the lack of vigour within the retail sector, with limited A1 floorspace coming forward.

| | 2009/10 | 2010/11 | 2011/12 | 2012/13 | 2013/14 | 2014/15 | 2015/16 |
|-------------------|---------|---------|---------|---------|---------|---------|---------|
| Net change | 2,870 | -1,123 | 1,000 | -2,442 | -2,891 | -769 | 6,613 |

Retail (Class A1) completions 2008/09 to 2015/16 (sq m)

12.21 The lack of floorspace being completed is not a reflection of the Council refusing such applications, but rather the market delivering what is appropriate.

Q13: Paragraph 31.3.65 provides an exemption from the retail impact assessment for ancillary retail and café uses within arts and cultural institutions. Should this be included within Policy CF7?

13.1 The intention of paragraph 31.3.65 is to recognise the role that cafes and A1 retailing can have in supporting the ongoing viability of the Borough's arts and cultural uses. The paragraph, however, is only intended to offer further guidance when the newly created A class use is of a scale considered to be ancillary to the principal use. As an ancillary use it would not in itself require planning permission.

13.2 Any A1 floorspace with an area of more than 400 sq m, and which is not ancillary to the main use, would require planning permission and would be subject to the requirement of CF1.

13.3 As such reference within CF7 is not considered to be helpful and is not required to meet the tests of soundness.

Q14: The preferred option for new hotels in paragraph 4.4.3 of the Policy Formulation Report on Fostering Vitality (Sub 31) is to support the creation of new hotels and bed spaces 'across the borough'. However, the scope for hotels to be developed 'across the borough' does not appear to be reflected in the revisions to Policy CF8, which limits the location of new hotels to higher order town centres. Please explain this apparent inconsistency.

14.1 The Policy Formulation Report on Fostering Vitality (SUB31) and the approach taken in the Local Plan Partial Review are consistent.

14.2 The preferred option within the Policy Formulation Report supports locating hotels within highly accessible locations but states under paragraph 4.4.3 that "The Council should support the creation of new hotels and hotel bedspaces, across the Borough, where they can be shown to support the function of that area". It goes on to recognise that a hotel may be

appropriate outside of a centre, and that such a proposal should be treated on its own merits. It does, however, warn against a policy which refers to assessment 'on its own merits' as such an approach could be counterproductive and may weaken the emphasis on locating hotels within highly accessible locations.

14.3 This is consistent with the approach set out within the Local Plan Partial Review. Paragraph 31.3.69 explains that the Council's preferred locations for new hotels are not just sites within town centres, but also sites which "lie close to major tourist attractions; or when they lie in areas which enjoy excellent links to Central London". The supporting text also recognises that the expansion of existing hotels may well be appropriate outside these areas where they do "not harm the character of residential areas". As such whilst the starting point for a new hotel will be a larger town centre they may be appropriate in other locations.

14.4 Policy CF8(b) articulates this approach. It directs new hotels to larger town centres and to sites immediately adjoining these centres and to the Earl's Court Exhibition Centre site. This reflects:

- that hotels are a town centre use which ordinarily should be located within a town centre; and
- that a hotel will be appropriate within the Earl's Court site. This is both a site with excellent links to central London, and a site where a hotel will support its function. This is reflected in the site allocation for the site, CA6.

14.5 Policy CF8 does not preclude new hotels elsewhere, as any applicant would read the supporting text alongside it. However, for clarity, the Council invites the Inspector to consider a minor proposed modification, in addition to the submitted Proposed Modifications (SUB6), to Policy CF8 which would better reflect the supporting text and support the expansion of existing out of centre hotels, where the character of the residential area is not harmed, as set out below:

| Reference | Policy/Para | Modification | Reason |
|-----------|-------------|--|--|
| MINOR/148 | CF8 Hotels | <p>b. require new hotels to be located: within, or immediately adjoining, the borough's higher order town centres, and in particular Knightsbridge, South Kensington, Kensington High Street, King's Road (East), Brompton Cross and Notting Hill Gate; and within the Earl's Court Exhibition Centre <u>Strategic Site Allocation; close to major tourist attractions; in areas which enjoy excellent links to Central London; or within other areas where the new hotel would support the function of the area;</u></p> <p>c. encourage the upgrading <u>and expansion</u> of existing hotels where:</p> <p>i. this will assist in maintaining the vitality of the centre;</p> <p>ii. this will not result in the loss of any residential accommodation;</p> <p>iii. there will be no material harm to amenity <u>or to the residential character of an area.</u></p> | To better reflected the reasoned justification |

Waste

Q15: I note there is an emerging Memorandum of Understanding (MoU) between the authorities in the Western Riverside Waste Authority, which appears critical to the pooled approach to managing the shortfall in meeting the Royal Borough's waste apportionment figure. Please advise on the progress of this MoU and when a signed copy will be made available for the examination.

15.1 The Council has taken a proactive and leading approach to developing a joint evidence base and keeping the Western Riverside Waste Authority (WRWA) Waste Planning Authorities (WPAs) working together to plan for waste effectively.

15.2 Paragraph 2.3.45 of the Policy Formulation Report for Waste (SUB62) states that the WPAs have "agreed at this stage to

continue working towards agreeing an MoU. Email confirmations of commitment to ongoing joint working have been received from Lambeth, Wandsworth, Hammersmith and Fulham and OPDC (see appendix 2)". The emails in appendix 2 of the Policy Formulation Report also set out the anticipated timescales at the time.

- 15.3 The Council has prepared the MoU which has been circulated to all the WRWA WPAs and revised several times to accommodate each WPA's views.
- 15.4 Paragraphs 016 and 017 of the NPPG on the Duty to Cooperate suggests that formal agreements between Councils should be "signed by [their] elected members, demonstrating their long term commitment to a jointly agreed strategy on cross boundary matters". Therefore, the Council has been pursuing sign-off by the respective Cabinet Member, Board or decision-maker for each WPA.
- 15.5 The Council's Cabinet Member for Planning Policy and Transport has informally agreed the MoU and is minded to sign it once all parties have agreed the wording. This informal agreement was received through a Planning Policy Board meeting on Wednesday 14 June 2017, an advisory group for the Cabinet Member. The wording of the draft MoU is still being considered by the other WPAs and may require legal input.
- 15.6 The London Borough of Lambeth officers have briefed the respective lead Cabinet Member in May 2017 and received support in principle for entering into an MoU with the other Western Riverside WPAs. It has been indicated that a formal decision could in principle be reached by September 2017 in advance of the RBKC examination hearings.
- 15.7 The London Borough of Wandsworth officers aim to brief its members and seek Cabinet Member agreement in July 2017.
- 15.8 The London Borough of Hammersmith and Fulham officers plan on seeking a formal decision in July 2017. The Councils have agreed a Statement of Common Ground³⁶ for LBHF's current Local Plan examination which includes the issue of waste. This sets out the following additional wording to be included in the LBHF Local Plan: "The Council is committed to working with the WPAs within the WRWA area, including OPDC, and will work

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www.lbhf.gov.uk/sites/default/files/section_attachments/ex13_statement_of_common_ground_-_rbkc.pdf

with them to help ensure that, where appropriate, as much apportioned waste as possible is managed within the WRWA area". The Royal Borough of Kensington and Chelsea has proactively used the duty to cooperate to secure joint working commitments in documents which are outside of its direct control, such as the LBHF Draft Local Plan, to make sure it is doing everything it can to secure a sound strategy.

15.9 The Old Oak and Park Royal Development Corporation officers have been unable to provide an update on timescales.

15.10 The Council is actively working towards progressing the MoU and anticipates that it will be agreed and submitted before the examination hearings are expected to take place in September 2017.

Q16: Please outline the Duty to Co-operate discussions and exchanges which have taken place with the main recipients of the Royal Borough's exported waste, including the London Borough of Bexley in relation to the resource recovery facility at Belvedere.

Ongoing engagement for the duty to cooperate

16.1 Section 2.6 of the Policy Formulation Report for Waste (SUB62) sets out the actions the Council has taken with regard to the duty to cooperate and the range of respective prescribed bodies.

16.2 The Council has undertaken a wide range of engagement in respect of waste. This includes engagement jointly with the WRWA WPAs, through the Local Plan Partial Review consultation stages and through the London Waste Planning Forum.

16.3 Engagement with the recipients of waste regarding waste movements from the WRWA area, including from the Borough, is ongoing and will be undertaken collectively with the other WRWA WPAs as part of the duty to cooperate. Related to this, the draft MoU (referred to in Q15) that is currently being agreed includes continued joint engagement arrangements with recipients of waste from the area.

16.4 The main recipients of the Borough's waste have been identified by using commonly applied thresholds for waste movements, these are set out at paragraph 1.2.8 of the Waste Technical Paper (SUB64).

Joint Waste Apportionments Waste Engagement Statement

- 16.5 Paragraphs 2.3.53 to 2.3.57 of the Policy Formulation Report for Waste explains the engagement activity undertaken in April 2015 between the WRWA WPAs (excluding OPDC which had only just been established at the time) and other London WPAs. This was a letter requesting, under the duty to cooperate, consideration regarding any spare waste capacity they might be able to share with the WRWA WPAs. The letter also set out the evidence base at that time from the WRWA WPAs in terms of waste apportionment and shortfall figures. Responses were received from all London Boroughs including the London Borough of Bexley. The joint Waste Apportionments Engagement Statement (December 2015)³⁷ is referenced under paragraph 2.3.57 of the Policy Formulation Report for waste (SUB62) and summarises the letter sent out, the evidence base at the time and the responses received by all London Boroughs.
- 16.6 In addition to the waste engagement letter the Council arranged a meeting with the South East London Waste Planning Group (SELWPG) and WRWA WPAs to discuss waste matters in further detail. The London Borough of Bexley is a member of SELWPG. As a direct result of the discussion and responses received to the waste engagement letter the WRWA WPAs commissioned and undertook the joint Waste Technical Paper (SUB64).

Regulation 18 Draft Policies consultation

- 16.7 As part of the Regulation 18 Draft Policies consultation, the Council wrote to WPAs who were identified in the working draft version of the Waste Technical Paper as importing to and exporting waste from the WRWA area. An example letter is available on page 15 of the Submission Consultation Statement (SUB7) which highlights the joint work undertaken and that further joint waste engagement would follow. The letter was also sent to WPAs that attend the London Waste Planning Forum.
- 16.8 A response was received from Thurrock Council to the Regulation 18 Draft Policies consultation setting out a number of points, which have been addressed in the Regulation 19 Publication Policies version (SUB5). Thurrock Council requested to be further consulted and engaged on waste matters and was

³⁷ https://planningconsult.rbkc.gov.uk/gf2.ti/f/650050/18208421.1/PDF/-/1512WRWA_WPAs_Waste_Apportionments_Engagement_Statement.pdf

subsequently consulted at the Regulation 19 Publication Policies stage and in a further joint WRWA WPA waste engagement letter on waste movements in May 2017.

Regulation 19 Publication Policies consultation

16.9 As part of the Regulation 19 Publication Policies consultation, WPAs were consulted and notified of the Waste Technical Paper. This correspondence detailed that further engagement would be undertaken together with the other WRWA WPAs as part of ongoing joint work. Responses received to the Regulation 19 Publication Policies consultation are set out in pages 145 to 153 of the Publication Policies Consultation Schedules (SUB8) alongside the Council's response. The Council received responses from Hampshire County Council, Oxfordshire County Council, Wokingham Borough Council and the North London Waste Plan. Thurrock Council did not respond to the Regulation 19 Publication Policies consultation.

16.10 Hampshire County Council does not receive waste from the Borough but does receive waste from the WRWA area. The response did not raise duty to cooperate matters with the Council. The response stated: "The reports from the WDI [Waste Data Interrogator] do not breach any of the SEWPAG agreed thresholds that would trigger the need for Duty to Cooperate and this is probably because Kensington and Chelsea is not a neighbouring authority to any of the Hampshire authorities previously mentioned...".

16.11 Oxfordshire County Council does not receive waste from the Borough or the WRWA and did not raise duty to cooperate matters with the Council. The response stated: "Oxfordshire County Council has no comments on the Publication Policies in respect of waste planning matters".

16.12 Wokingham Borough Council is identified in the Waste Technical Paper as receiving 24 tonnes of Hazardous waste in 2015 from the Borough. In addition, it also indicates that 56.8 tonnes of Household Industrial Commercial (HIC) waste was exported to it in 2015. The response stated:

"The Royal Borough of Kensington and Chelsea export hazardous waste and Household Industrial Commercial (HIC) waste to the Star Works Waste Management Plant in Wokingham Borough. In 2014 this amounted to approximately 32 tonnes of physical treatment hazardous waste. In 2015 the amount was 24 tonnes. The Royal

Borough of Kensington and Chelsea also exported 79.2 tonnes of HIC waste to the Star Works Waste Management Plant in 2014 and 56.8 tonnes in 2015... Informs the Royal Borough of Kensington and Chelsea that the landfill waste facility at Star Works in Wokingham Borough which currently takes some of Kensington and Chelsea's Household, Industrial and Commercial waste will stop operating before the end of their plan period."

16.13 Both the hazardous waste movements identified in the Waste Technical Paper and the HIC waste movement identified in Wokingham's response are below the thresholds used to identify significant movements of waste in the Waste Technical Paper and are a very small proportion (0.61%) of the total hazardous waste exported from the WRWA area. The waste movements are also below the thresholds applied by Wokingham as part of the South East Waste Planning Group. In total this WPA received 534 tonnes of waste from the WRWA area in 2015, primarily arising in Hammersmith and Fulham, therefore it has been further engaged through the joint WRWA WPA waste engagement on waste movements (see below).

16.14 North London Waste Plan responded with several detailed points to which the Council's responses are set out in the Publication Policies Consultation Schedules (SUB8). The NLWP includes the London Borough of Barnet. Barnet received 6,237 tonnes of construction and demolition waste from the Borough. The NLWP and its member Boroughs have been engaged through further joint WRWA WPA waste engagement on waste movements (see below).

16.15 The Council and all other London WPAs are members of the London Waste Planning Forum (LWPF). In February 2017 during the Publication Policies consultation period, the Council, on behalf of the WRWA WPAs, presented the Waste Technical Paper findings to the LWPF (see appendix 3 to the Policy Formulation Report) to LWPF members. In addition to London WPAs, there were representatives at the meeting from other prescribed bodies such as the GLA and the Environment Agency as well as other bodies including the Western Riverside Waste Authority itself (the waste disposal authority).

16.16 The GLA's Letter of General Conformity with the London Plan (SUB9) has confirmed that the Local Plan Partial Review is in general conformity with the London Plan.

Further waste movements consultation

16.17 The Council, as part of the WRWA grouping, has also recently undertaken a joint engagement exercise on waste movements with all recipients of waste from the WRWA WPA area. The letter sets out the thresholds applied to identify significant movements of waste. The consultation closed on 31 May 2017 and responses are still in the process of being reviewed jointly by the WRWA WPAs. An update on the responses received will be provided alongside the Council's response to the Inspector's forthcoming main questions.

16.18 As part of this engagement, the WRWA WPAs wrote a tailored letter to the London Borough of Bexley. The WRWA WPAs are currently in the process of arranging a meeting with the South East London Waste Planning Group (including Bexley) to continue dialogue on waste planning matters, this is expected to take place in July 2017. The London Borough of Bexley is also a part of the London Waste Planning Forum where the Council and other WRWA WPAs have provided continual updates on their joint work on waste as part of the duty to cooperate.