

# Royal Borough of Kensington & Chelsea Local Plan Partial Review

Inspector – Mike Hayden BSc (Hons) DipTP MRTPI

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## EXAMINATION GUIDANCE NOTES

### Purpose of the Guidance Note

1. This note provides guidance to participants on the procedural and administrative arrangements for the examination of the Royal Borough of Kensington & Chelsea Local Plan Partial Review (the Plan).

### The Inspector's role in the examination

2. I have been appointed by the Secretary of State for Communities and Local Government to examine the soundness of the Plan and whether it meets the requirements of the Planning and Compulsory Purchase Act and associated regulations. The Plan to be examined is the *Publication Policies Regulation 19 Consultation* version of the Royal Borough of Kensington & Chelsea Local Plan Partial Review, dated February 2017.
3. The *National Planning Policy Framework* (DCLG, March 2012) <http://planningguidance.planningportal.gov.uk/blog/policy/> sets out the criteria for determining soundness; namely that the plan is positively prepared, justified, effective and consistent with national policy.
4. There are three possible outcomes to the examination:
  - the submitted plan is sound
  - the submitted plan is not sound but could be made sound by changes (known as *main modifications*), if necessary following additional work
  - the submitted plan is not sound and could not be made sound by changes
5. Following the close of the hearings I will prepare a report to the Council with my conclusions. I will deal with broad issues, rather than specifically with each individual representation.

### Hearing Sessions

6. Hearing sessions (which are part of the examination) have been arranged for **27 and 28 February and 1, 2, 12, 15 and 16 March 2018** to discuss the main matters, issues and questions for the examination based on my initial reading of the Plan, the evidence base and the representations.
7. The hearing sessions will be held at: **Small Hall, Kensington Town Hall, Horton Street, London, W8 7NX.**
8. Two documents are available with this note:  
***Matters, Issues and Questions (MIQs)*** for the examination. These will form the basis of the discussion at the Hearing sessions.
9. ***Draft Examination Hearings Programme*** – this sets out the issues to be discussed at each hearing session. It is a draft version and may be subject to change. A second version will be published on the Examination webpage at <https://planningconsult.rbkc.gov.uk/consult.ti/LPPRexam> in February 2018, incorporating a list of people who will be participating the hearings.

## **Programme Officer**

10. The Programme Officer (the PO) for the Examination is Andrea Copsey. Andrea is working under my direction and is independent of the Council. She can be contacted as follows:

Address: Longcroft Cottage, Bentley Road, Clacton-on-Sea, Essex CO16 9BX

Email: [copseyandrea@gmail.com](mailto:copseyandrea@gmail.com)

Telephone: 07842 643988

11. The main tasks of the PO are to act as a channel of communication between all parties and myself, to liaise with the parties to ensure the smooth running of the examination, to ensure that all documents received are recorded and distributed, and to run the Examination Library.
12. Copies of examination documents can be found in the Examination Library on the Examination webpage at <https://planningconsult.rbkc.gov.uk/consult.ti/LPPRexam> Any participant who does not have access to the internet should contact the PO so that alternative arrangements can be put in hand.
13. Any procedural questions or other matters that you wish to raise with me prior to the hearing sessions should be made through the PO.

## **Changes to the Plan**

14. The starting point of the examination is that the Council have submitted a plan which they consider to be sound and ready for examination. At this stage there are only two means by which changes can be made to the submitted plan:
  - (1) *main modifications* recommended by the Inspector
  - (2) *additional modifications* made by the Council on adoption.
15. However, I can only recommend *main modifications* if they are necessary to resolve problems that would otherwise make the submitted Plan unsound or not legally compliant.<sup>1</sup> *Main modifications* are changes which, either alone or in combination with others, would materially alter the plan or its policies. Any potential *main modifications* must be subject to consultation and in some cases further sustainability appraisal might also be needed.
16. *Additional modifications* are those changes which do not materially affect the policies in the Plan.<sup>2</sup> They are made by the Council on adoption and are also sometimes referred to as 'minor modifications'.<sup>3</sup> The Council is accountable for any such changes and they do not fall within the scope of the examination.<sup>4</sup>

## **Modifications proposed by the Council**

17. The Council has submitted two sets of Proposed Modifications to the Plan. The first, the Submission Proposed Modifications (SUB6), was submitted with the Plan in May 2017 and includes both *main* and *minor modifications* which the Council proposes should be incorporated within the Plan. These were submitted in response to emerging requirements in the government Housing White Paper 'Fixing our broken housing market' published in February 2017 and to deal with

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<sup>1</sup> Under section 20(7B) & (7C) of the planning and Compulsory Purchase Act 2004

<sup>2</sup> S23(3)(b) of the PCPA 2004 "... if the additional modifications (taken together) do not materially affect the policies ..."

<sup>3</sup> 3.4 of *Procedural Practice in the Examination of Local Plans (June 2016)*

<sup>4</sup> 3.4 & 5.27 of *Procedural Practice in the Examination of Local Plans*

other updates and corrections to the Plan. The second, the Further Proposed Modifications (CED004) was submitted in October 2017, proposing changes to estate regeneration proposals in the Plan, following the Grenfell Tower fire.

18. I will be discussing these Proposed Modifications at the hearings. In particular, the afternoon session on the first day of the hearings, on 27 February 2017, under Issue 2b on the programme, will provide the opportunity for discussion of the Proposed Further Modifications to the Plan in respect of **Estate Regeneration** schemes. The Council issued a 'Call for Further Participants' in respect of these Proposed Further Modifications, to which a number of parties responded in October/November 2017. If you still wish to participate in this session to discuss the questions I have raised under Issue 2b, please follow the guidance below to confirm your participation and on the submission of any further written hearing statement you may wish to make on this matter.
19. The Council has formally requested in its Submission Cover Letter (SUB1) that I include recommendations in my report about any *main modifications* that I consider are necessary for legal compliance or soundness. It is possible that further changes may be proposed during the hearing sessions.

### **Participation in the Hearing sessions**

20. The hearings will take the form of a roundtable discussion which I will lead. They will not involve the formal presentation of cases by participants or cross-examination. Discussion at the hearing sessions will be based on the **MIQs** accompanying this note.
21. Only those who have previously made representations relevant to the matters being discussed and are seeking a change to the Plan and who have registered a request to appear, or registered a request following the 'Call for Further Participants', will have a right to participate in the hearing sessions.<sup>5</sup> However, the sessions are open for anyone to observe.
22. Anyone with a right to participate on this basis should contact the PO to **confirm your request to participate by Tuesday 6 February 2018**. Please indicate which hearing session(s) you wish to participate in, based on your previous representations and the **MIQs**.
23. Please note that written representations and oral representations will carry the same weight, and I will have equal regard to views put at a hearing or in writing. Attendance at a hearing session will only be useful and helpful to me if you wish to participate in the discussion.
24. Where several people or organisations wish to speak on the same issue, representors may wish to consider appointing a single spokesperson or persons. Please discuss this with the PO.
25. The draft **Examination Hearings programme** is available on the Examination webpage. An updated version will be published on the Examination webpage in February 2018 and will include a list of participants for each issue. It will be for individual participants to check the progress of the hearings, either on the webpage or with the PO, and to ensure that they are present at the right time.

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<sup>5</sup> S20(6) of the PCPA 2004

26. The hearing sessions will normally run between 10:00 and 13:00 and 14:00 and 17:00 each day. A short break will usually be taken mid-morning and mid-afternoon. Please let the PO know as soon as possible if you have any specific needs in relation to attendance and participation at the hearing sessions.

### **Hearing statements**

27. The Council should produce a hearing statement for each of the issues and questions set out in the **MIQs**.
28. Those who made representations may also submit hearing statements on the MIQs. However, preparing a statement is not a requirement and representors may wish to rely on previous submissions. If responding to the MIQs, you may wish to be aware of my Initial Questions to the Council (IE001) and the Council's response (CED001).
29. Hearing statements from those who made representations should be **a maximum of 3000 words for each Issue**. Within this limit, they should be kept as short as possible. Appendices should only be included where directly relevant and necessary and should also be as succinct as possible. In addition, statements should:
- include page and paragraph numbers
  - only answer the specific questions which are of relevance to your representations;
  - clearly identify the number(s) of the question(s) being answered;
  - when referring to documents in the Examination library give the document reference and paragraph number;
  - state whether any of the Council's *Proposed Modifications* (SUB6) and *Further Modifications* (CED004) would resolve the concerns and make the Plan sound or legally compliant;
  - indicate whether any other changes are needed to make the Plan sound or legally compliant (providing detailed suggested wording for the change and if appropriate, any changes sought to the Policies Map).
30. The Council should produce statements which are focussed and succinct. However, because they have to answer every question there may be some occasions where it is necessary to go over the 3000 word limit.
31. Where several people or organisations wish to speak on the same issue, representors should consider producing a single joint paper. Please contact the PO to discuss.
32. In preparing statements you should be aware of the Council's updated list of evidence documents in the Examination Library on the Examination webpage.
33. Three paper copies and an electronic version of each hearing statement should be submitted to the PO by **12.00 noon on Friday 9 February 2018**. Unless there are exceptional circumstances it is likely that late submissions will not be accepted.
34. Hearing statements will be posted on the Examination webpage, so that they are available to all participants and anyone else who wishes to read them. Because they will be available in this way, they will not be circulated directly to participants. However, anyone who is unable to access them online may request copies from the PO.

35. Aside from these hearing statements no other written evidence will be accepted, unless I specifically request it. The hearing sessions should not be used to introduce new evidence or arguments.

### **The Examination Library**

36. The Council has prepared an online Examination Library which can be found on the Examination webpage at <https://planningconsult.rbkc.gov.uk/consult.ti/LPPRexam>
37. This contains the submission documents, the Council's evidence and documents which have been produced during the Examination. If you have difficulties accessing the Library please contact the PO. It is not necessary to attach extracts of these documents to hearing statements as they are already Examination documents.

### **Site visits and close of the examination**

38. Insofar as I consider it necessary to my assessment of the soundness of the plan, I will visit sites and locations referred to in the representations before, during, or after the hearings. I will do these on an unaccompanied basis unless I find that I need to go onto private land. Arrangements for any accompanied visits which I consider to be necessary will be made during the hearing sessions.
39. The examination will remain open until my report has been submitted to the Council. However, I will not accept any further representations or evidence after the hearing sessions have ended unless I specifically request it. Late or unsolicited material may be returned.

### **Further information**

40. Further information about the preparation and examination of Local Plans can be found in the *National Planning Practice Guidance* <http://planningguidance.planningportal.gov.uk/> and in the Planning Inspectorate's *Procedural Practice in the Examination of Local Plans – June 2016 (4<sup>th</sup> Edition v.1)* [http://www.planningportal.gov.uk/uploads/pins/dpd\\_procedure\\_guide.pdf](http://www.planningportal.gov.uk/uploads/pins/dpd_procedure_guide.pdf)

*M Hayden*

INSPECTOR