



The Planning Inspectorate

Report to the Council of the Royal Borough of Kensington and Chelsea

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an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 18 November 2014

PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)
SECTION 20

**REPORT ON THE EXAMINATION INTO THE PARTIAL REVIEW OF THE CORE
STRATEGY FOR THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA WITH A
FOCUS ON NORTH KENSINGTON (ADOPTED 2010):**

CONSERVATION AND DESIGN POLICY REVIEW

Document submitted for Examination on 28 April 2014

Examination Hearing held on 9 and 10 September 2014

File Ref: PINS/K5600/429/7

Abbreviations Used in this Report

AA	Appropriate Assessment
LDS	Local Development Scheme
MM	Main Modification
NPPF	The National Planning Policy Framework
PPG	Planning Practice Guidance
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SCS	Sustainable Community Strategy
SPD	Supplementary Planning Document
UDP	Unitary Development Plan

Non-Technical Summary

This report concludes that the Partial Review of the Core Strategy provides an appropriate basis for considering proposals relating to conservation and design over the remaining years of the plan providing that seven modifications are made to the Review. The Council has specifically requested that I recommend any modifications necessary to enable them to adopt the Review.

All of my recommended main modifications are based on proposals by the Council, although I have made some detailed wording changes in the interests of clarity and to take account of representations from other parties on these issues.

The modifications can be summarised as follows:

- include a list of saved Unitary Development Plan and Core Strategy policies that the Review intends to supersede, along with appropriate explanatory text, to ensure compliance with legal requirements;
- amend the wording of part (c) of policy CL1 to ensure the approach to the density of housing development is clear and effective;
- delete the whole of part (c) of policy CL2 ("eyesores") to ensure that the policy relating to design quality is effective;
- re-draft part (d) of policy CL4 to ensure that the approach to protecting and enhancing listed buildings is clear and effective;
- amend part (b) of policy CL5 to ensure that the approach to assessing daylight and sunlight is clear and effective;
- add a reference to "gardens" in part (e) of policy CL5 to ensure that the approach to assessing the enjoyment of buildings and spaces is clear and effective; and
- add a reference to "communal gardens" in policy CR5 to ensure that the policy is clear and effective.

Introduction

1. This report contains my assessment of the Partial Review of the Core Strategy that relates to conservation and design policies (hereafter referred to as "the Review") in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended) ("the 2004 Act"). It considers whether the Review is sound and whether it is compliant with the legal requirements. Paragraph 182 of the National Planning Policy Framework ("NPPF") makes clear that to be sound, a local plan¹ should be positively prepared; justified; effective and consistent with national policy.
2. The starting point for the examination is the assumption that the Council has submitted what it considers to be a sound Review document. The basis for my examination is the Conservation and Design Policy Review (dated February 2014) that was submitted in April 2014 ("CD01"). This is the same document that was published for consultation in February 2014.
3. My report deals with the main modifications that are needed to make the Review sound and legally compliant and they are identified in bold in this report [MM]. In accordance with section 20(7C) of the 2004 Act the Council requested that I should make any modifications needed to rectify matters that make the Plan unsound or not legally compliant and thus incapable of being adopted. These main modifications are set out in the Appendix.
4. The main modifications have been subject to public consultation and I have taken the responses into account in writing this report. The Council advised at the Hearing that it considered further sustainability appraisal (SA) to not be necessary, and no one dissented from that view. Given the nature of the recommended main modifications I agree that they are unlikely to have significant effects on the environment, or that they in any way undermine the SA process that informed the Review.
5. A document entitled "Recommended Changes" (dated April 2014) was submitted with the Review, and its content, along with other changes suggested by the Council during the Examination, are considered below as appropriate. In addition to the main modifications that I am recommending, the Council is able to make minor changes to the Review, for example to ensure factual information is up-to-date and accurate. Such minor changes are a matter for the Council, and they are not, therefore, dealt with further in this report.

Assessment of Legal Compliance

6. The duty to cooperate imposed by Section 33A of the 2004 Act is confined to the preparation of development plan documents insofar as they relate to "strategic matters". None of the matters dealt with by this Review are strategic matters as defined in the Act and, having regard to this and all of the evidence before me, I have no reason to conclude that the Council has failed to have

¹ "Local Plan" is the term used in the NPPF to apply to development plan documents as defined in The Town and Country Planning (Local Planning) (England) Regulations 2012 (regulations 5 and 6). However, for the sake of clarity, I have used the term "Partial Review" or "Review" throughout this report.

regard to the legal duty to cooperate. This was not questioned in representations or at the Hearing.

7. My examination of the compliance of the Review with the legal requirements is summarised in the table below. I conclude that the Review meets them all with one exception: this is the requirement that where a policy is intended to supersede a policy in the adopted development plan, this must be stated and the superseded policy be identified². The Review (CD01) does not explicitly set out the saved Unitary Development Plan ("UDP") and Core Strategy (2010) policies it is intending to supersede, although this could be ascertained from documents published as part of the review process. Prior to the Hearing, the Council prepared lists of policies that would be superseded, and provided that these are included the Review would be legally compliant [MM1].

Legal Requirements	
Local Development Scheme (LDS)	The Review is identified in the versions of the LDS dated November 2012 and April 2014. Although the Review's subject matter is compliant with the LDS, some delays in the timetable for its preparation and adoption have occurred. However, I am satisfied that there is no significant conflict with the LDS or that any third party interests have been prejudiced.
Statement of Community Involvement (SCI) and relevant regulations	The SCI, "Involving People in Planning", was adopted in December 2013. This replaced an earlier version of the SCI adopted in December 2007. Consultation on the Review, which started in 2012, has been compliant with both the current and earlier version of the SCI. Consultation on the post-submission proposed main modifications took place between 19 September and 31 October 2014.
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Appropriate Assessment (AA)	A Habitats Regulations AA Screening Report (MISC14) and the Council's response to the Inspector's Preparatory Questions (RBKC/ED/1) set out why AA is not necessary. I agree with that analysis.
National Policy	The Review complies with national policy except where indicated and main modifications are recommended.
The London Plan	The Greater London Authority has confirmed (25 March 2014) that the Review is in general conformity with the London Plan, and I am satisfied that is the case.
Sustainable Community Strategy (SCS)	Satisfactory regard has been paid to the SCS, "The Future of Our Community".
2004 Act (as amended) and 2012 Regulations ("the Regulations").	The Review complies with the Act and the Regulations other than regulation 8(5). This would be rectified by a main modification [MM1].

² Town and Country Planning (Local Planning) (England) Regulations 2012 regulation 8(5).

Assessment of Soundness

Background and Main Issues

8. The LDS sets out a number of Partial Reviews to the Core Strategy that was adopted in 2010. This particular Review relates to the policies on conservation and design in chapters 33 and 34 of the Core Strategy.
9. The process by which the Council conducted the Review, including the various rounds of consultation and sustainability appraisal, has not been seriously called into question, and there is no substantive evidence before me to suggest that the Review has been anything other than positively prepared.
10. Therefore, taking account of all the representations, written evidence and the discussions that took place at the examination Hearing I have identified a number of main issues upon which soundness depends. These are whether:
 - the Review is consistent with national policy with regard to the form and content of local plans and the presumption in favour of sustainable development;
 - policies CL1 and CL2 relating to context, character and design are effective and justified;
 - policies CL3 and CL4 relating to heritage assets are effective and consistent with national policy;
 - policies CL6, CL8 and CL9 relating to alterations, additions and extensions to existing buildings are effective and justified;
 - policies CL11 and CL12 relating to views and building heights are effective and justified;
 - policy CL5 relating to living conditions is effective;
 - policy CR4 relating to streetscape is consistent with national policy; and
 - policy CR5 relating to parks, gardens, open space and waterways is effective.

Whether the Review is consistent with national policy with regard to the form and content of local plans and the presumption in favour of sustainable development

11. The UDP was adopted in 2002. Numerous UDP policies, including many relating to conservation and design, were "saved" in 2007 in accordance with the 2004 Act. The Core Strategy was adopted in 2010; this included policies in chapters 33 and 34 on conservation and design, but many saved UDP policies were also retained at that time. Conservation Area Proposals Statements set out further planning guidance for much of the Borough, around three quarters of which has conservation area status.

12. The purpose of the Review is to consolidate all of the Council's conservation and design policies in the Core Strategy, and also ensure that they are up-to-date and consistent with the NPPF relating both to the form and content of local plans and to the particular topics under review. The majority of current policies in chapters 33 and 34 of the Core Strategy would be superseded, along with numerous saved UDP policies; this is clarified by a main modification [MM1]. As well as changes to the policies in chapters 33 and 34, significant changes would be made to the reasoned justification.
13. The NPPF is clear that development plans can be partially reviewed³, and the consolidation and updating of the conservation and design policies seems to me to be an entirely appropriate and pragmatic approach to take, particularly in a borough with such a high quality, historic built environment. The Review ensures that a consistent approach is taken in terms of the nature and structure of the policies, all of which relate back to the Vision and Strategic Objectives of the Core Strategy. The policies start with a clearly defined objective followed by a series of criteria or requirements setting out how this will be achieved. Such an approach creates a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency⁴. Bringing all the conservation and design policies together in one place should assist those with an interest in such matters, be they local residents, interest groups, developers or decision makers.
14. The policy approach is based on the Council's considerable experience of applying various iterations of conservation and design policies over several decades, as well as research into the built environment and urban design⁵. This provides a good basis for the updates to chapters 33 and 34.
15. It is undoubtedly true that the Review contains a significantly reduced number of policies, and less detail, compared to that which currently exists. This change in approach lies behind many of the concerns expressed by representors. However, the NPPF advises that plans should be succinct and only include policies that provide a clear indication of how a decision maker should react to a development proposal⁶. National Planning Practice Guidance ("PPG") elaborates upon this, stating that plans should be focussed, concise and as accessible as possible; concentrate on the critical issues that face an area; and avoid repetition, for example by using generic policies to set out principles that may be common to different types of development⁷. It is clear to me, therefore, that the reduction in detail, and the move towards more generic planning policies, rather than including policies for all forms of development, is consistent with the approach encouraged by current national policy and guidance. As the Council's representative said a number of times at the Hearing, the Core Strategy needs to be read as a whole.
16. The range of topics covered, and the way in which the policies and reasoned justification are expressed, reflect the particular characteristics of the Borough, and the development pressures and opportunities that exist. Furthermore, the

³ NPPF paragraph 153.

⁴ NPPF paragraph 17, first bullet point.

⁵ Urban Design Strategy – Draft Supplementary Planning Document and Background Reports (Urban Initiatives 2006).

⁶ NPPF paragraph 17, first bullet point, and paragraph 154.

⁷ PPG ID-12-009-20140306.

coverage is broadly in line with the guidance about design, healthy communities, the historic environment, and the content of local plans set out in the NPPF⁸.

17. The policies are generally expressed in positive terms, for example by setting out actions that need to be taken, and describing the types of development that are being sought or the particular qualities of the local environment that should be preserved or enhanced. There are some negative and restrictive statements, but these are largely aimed at safeguarding high quality places, buildings and characteristics of the Borough that already exist, and do not alter the overall positive tone of the Review. As the Review is concerned with conservation and design, it is understandable that it focuses primarily on environmental objectives. However, there is nothing to lead me to conclude that revised chapters 33 and 34 are expressed in ways that would prevent objectively assessed development needs being met or economic and social benefits associated with policies in other parts of the Core Strategy being achieved. I am, therefore, satisfied that the Review will contribute positively to attaining sustainable development⁹.
18. It is invariably the case that different people have different views about how best to express and justify planning policies, and there is always the potential to improve a document such as this. Many of the residents' associations, and other representors, are clearly well informed, have strong views, and have attempted to engage with the Review to ensure that it properly reflects their interests and is clear and unambiguous for all users. However, it is the Council that has primary responsibility, in partnership with the local community and all interested parties, to prepare the local plan for its area. It is not my role to seek to "improve" the Council's document or to address all of the representations made about it, but rather to ensure that the Review meets the tests of soundness and is legally compliant. As mentioned above, the Council is able to make minor changes to the Review, in addition to the main modifications that I am recommending, and several have been proposed following the Examination Hearing. These are not a matter for me to consider as they are not necessary to achieve soundness, but it may be the case that they go at least some way towards achieving further improvements sought by representors.
19. I therefore conclude that the Review is consistent with national policy and guidance relating to the form and content of local plans and appropriately reflects the presumption in favour of sustainable development. That said, there are a number of issues that I need to consider in greater detail in relation to some of the revised policies; these I turn to now.

Whether policies CL1 and CL2 relating to context, character and design are effective and justified

20. Policies CL1 and CL2 together require development to respect the existing context, character and appearance of the area, achieve the highest architectural and urban design quality, and take opportunities to improve the quality of buildings and the area. Criteria are set out against which proposals

⁸ NPPF sections 7, 8, and 12, and paragraphs 150-177.

⁹ NPPF paragraphs 14, 15 and 151

for all forms of development will be judged. The objectives of these policies, and the means of achieving them are therefore clear. The reasoned justification succinctly explains the rationale for the approach, which reflects the high quality historic built environment of the Borough, the character and appearance of which are highly valued locally, nationally, and internationally.

21. Policy 3.4 of the London Plan requires development to optimise housing output within density ranges set out for different types of location across the city, taking into account local context, character, and design principles. The London Plan is part of the statutory development plan for the Borough, and there is no need to repeat the policy in the Core Strategy. The reasoned justification to policy CL1 appropriately refers to the London Plan density matrix, and part (c) clearly requires density to be optimised. However, the use of the word "but" before the requirement for development to also be "sensitive to context" leads to ambiguity, potentially causing some readers to interpret this aim as being of secondary importance. This would not be appropriate, and is not the intention as is clear from the reasoned justification¹⁰. The deletion of "but" ensures part (c), which has to be read in the context of the policy as a whole and indeed of other relevant policies, is effective and consistent with the objectives of the London Plan [MM2]. This should ensure that the design, layout and density of all development respects the high quality historic built environment of the Borough and the particular context of the site.
22. Part (g) of policy CL1 addresses a limited number of specific issues in connection with the development of backland sites: ensuring appropriate access, and scale and massing. It is not intended to be a comprehensive policy on such forms of development, or in itself prevent "garden grabbing"; rather it addresses particular aspects of design and layout that often need to be carefully considered to ensure that backland development, where appropriate in principle, integrates into its surroundings. Various other parts of policy CL1, and other policies, are also likely to be relevant depending on the nature of any particular proposal.
23. Mews streets are a distinctive, historic form of development found in many parts of the Borough and in neighbouring Westminster, but seldom elsewhere in London or other parts of the country. As such, it is entirely understandable that they are recognised explicitly in policy CL1 and in the reasoned justification. I appreciate that some would wish to afford a higher level of protection to mews, and for the policy to set out more detailed criteria. However, as the age, nature and quality of mews streets and buildings vary across the Borough it would be inappropriate to adopt a rigid or more detailed approach. Part (h) of policy CL1 acknowledges, appropriately, that mews buildings may be subject to proposals for alterations and extensions, but requires characteristics to be preserved and enhanced. This is a reasonable starting point, and will provide an effective approach when applied alongside other relevant policies.
24. Policy CL1 applies to all types of development, including the change of use of buildings. It is not necessary, therefore, for the various criteria, including (i) relating to artists' studios, to refer to change of use. Part (b) of policy CL3 deals specifically with the change of use of buildings in conservation areas; this

¹⁰ CD01 paragraph 34.3.7.

was included in the Core Strategy following a partial review in 2013. The Inspector found that policy sound, provided that it was restricted to conservation areas rather than across the whole Borough, and I have seen no evidence to suggest that such a recently adopted approach ought to be altered.

25. Policy CL2 parts (a) and (b) set out a series of criteria that provide a comprehensive approach to achieve high quality design and ensure that development is functional, robust and attractive. Part (c), which is carried forward from the 2010 version of the Core Strategy, is aimed at facilitating the redevelopment of "eyesores" by offering "flexibility in relation to policies which make redevelopment with buildings more suited to their context demonstrably unviable".
26. Other parts of the Core Strategy define what is meant by an "eyesore", and advise that, at present, there are two such buildings identified in the Borough. The redevelopment of such buildings may be consistent with strategic objective CO5, and indeed the aims of various other policies, and I agree that this may well be of considerable benefit to the Borough. However, planning applications have to be determined in accordance with the development plan unless material considerations indicate otherwise. The benefits that may arise from the redevelopment of an "eyesore", and the viability of a scheme, may well be material considerations in any particular case. I do not, therefore, see the need for "flexibility" to be built into policy CL2, and it is not my role to consider the merits of any particular development proposal or the future of Newcombe House in Notting Hill Gate. On the contrary, such a clause may well undermine the clear messages set out in the opening sentence of the policy and the criteria in parts (a) and (b). Furthermore, I do not consider part (c) to be effective in its own right as it is unclear which other policies it is referring to, or what "offering flexibility" actually means. Consequently, I agree with the Council that it is necessary to delete part (c) in order to ensure that policy CL2 is effective [MM3].
27. I am aware that the approach set out in part (c) was considered sound prior to the Core Strategy being adopted in 2010. However, I have considered this issue in the context of the evidence before me, current national policy, and the somewhat different context set by the more streamlined approach taken to conservation and design policies compared to that previously set out in the UDP saved policies and the 2010 version of the Core Strategy.
28. I am satisfied that the deletion of part (c) would not result in any inconsistency between policy CL2 and other Core Strategy policies, including policy CP16 relating to Notting Hill Gate. Furthermore, for the reasons give above, there is no reason why the deletion of part (c) would hinder the implementation of the Core Strategy strategic objectives, including those set out in Chapter 16. Whether any minor consequential changes are needed to the reasoned justification to policy CL2 and in Chapter 16 is a matter for the Council and not something that I need to address in this report.
29. I conclude on this issue that, subject to a change to part (c) of policy CL1 [MM2], and the deletion of part (c) of policy CL2 [MM3], policies CL1 and CL2 are effective and justified.

Whether policies CL3 and CL4 relating to heritage assets are effective and consistent with national policy

30. The NPPF advises that heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance, and that local plans should set out a positive approach for the conservation and enjoyment of the historic environment¹¹.
31. Policy CL3 applies to historic spaces and conservation areas, which make up around three-quarters of the Borough. The stated objective of the policy is to preserve and take opportunities to enhance the cherished and familiar local scene. This seems to me to be an appropriately positive aspiration. Part (a) requires all development to preserve or enhance the character or appearance of conservation areas and to protect the special architectural or historic interest of the area and their settings. This is in line with the statutory duty¹² and the NPPF. Part (b) relates to the change of use of buildings in conservation areas and, as I have already mentioned, this was found to be sound by my colleague in 2013.
32. Part (c) of policy CL3 seeks to resist substantial demolition in conservation areas unless certain tests are met. This is a pragmatic policy, reflecting the ability that the Council has to control certain acts of demolition. The tests involve weighing harm against public benefits, and take account of the significance of the heritage asset affected along with the contribution that the building makes to the character and appearance of the area. These tests are consistent with the approach to decision making set out in paragraphs 131 to 134 of the NPPF.
33. The final part of policy CL3 requires applications to be made for full planning permission in conservation areas; this is understandable as the effect of a proposal on the character and appearance of an area can only be properly understood with the benefit of full details. There will no doubt be a number of "tools" that will assist in the implementation of the policy, such as conservation area appraisals and guidance on the information and drawings needed to support planning applications, but there is no need for these to be spelt out in the development plan. Indeed, such references can be counter productive if included in a long term plan, as they can seldom be comprehensive and can quickly become out-of-date.
34. Policy CL4 aims to protect the heritage significance of listed buildings, scheduled ancient monuments, and sites of archaeological interest. The various criteria generally set out positive requirements of developers, including the preservation of historic and other architectural features of interest. The Council explained at the hearing that part (d) is intended to secure the removal of features that detract from a listed building or ancient monument and the reinstatement of features of architectural or historic significance as part of a development scheme. However, as drafted, the meaning of part (d) is not clear, and a redrafting is required in order to make this part of the policy effective [MM4].

¹¹ NPPF paragraph 126.

¹² Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

35. Part (f) of policy CL4 clearly encourages works to listed buildings to be carried out in an appropriate way by specialists, which is a pragmatic and reasonable approach. The Council has suggested an addition to this criterion, but I do not consider this to be necessary to make the policy effective as the purpose of the criterion is self-evident and the addition would do little more than repeat the overall objective of policy CL4 set out in the opening sentence.
36. It is not necessary for the Core Strategy to repeat or summarise section 12 of the NPPF, but rather to ensure that policies are consistent with the approach that it sets out and reflect the distinctive nature of the Borough and the particular opportunities and threats associated with development that exist. I am satisfied that policies CL3 and CL4, subject to one modification [MM4], do this.

Whether policies CL6, CL8 and CL9 relating to alterations, additions and extensions to existing buildings are effective and justified

37. Policies CL6, CL8 and CL9 collectively provide a framework to assess proposals for small scale alterations, modifications, additions, and extensions to all types of buildings in the Borough alongside other policies where they are also relevant, such as policy CL11 aimed at protecting and enhancing views, vistas, gaps and the skyline, and policies CL3 and CL4 relating to heritage assets. There is great pressure for this form of development in the Borough due to it being densely developed and the high property values, and the cumulative effect of such changes could over time cause considerable harm to the character and appearance of the area if not appropriately managed.
38. The general structure of these policies follows that used elsewhere which I have already found to be effective. They are generic in nature, and it seems to me that the terminology used is appropriate and capable of covering all types of change that could occur to buildings. Thus there is no need for certain types of development, such as side extensions, roof terraces, or conservatories, to be dealt with more explicitly or to be the subject of separate policies. The level of detail is commensurate with the importance of the issues that they address in this particular Borough, but they are not overly prescriptive or inflexible such that they will stifle innovation or prevent the appropriate adaptation and modernisation of historic buildings.
39. Furthermore, whilst the most frequent application of the policies is likely to be in the determination of planning applications, there is nothing in the way that they are framed that would make them ineffective in terms of the consideration of enforcement action or positive initiatives aimed at improving the quality of an area. As I have already stated, it is not necessary for the policies to refer to the use of conservation area appraisals or other tools that will be used to assist their implementation.
40. Each of the three policies is preceded by a number of paragraphs of text which, along with earlier paragraphs about the context and character of the Borough¹³, set out a brief but clear reasoned justification for all parts of the policies.

¹³ CD01 paragraphs 34.3.1 to 34.3.7.

41. I conclude on this issue that policies CL6, CL8 and CL9 are effective and justified.

Whether policies CL11 and CL12 relating to views and building heights are effective and justified

42. The London Plan identifies strategic views that make a significant contribution to the image and character of the city at a strategic level and sets out policies to ensure that development does not harm, and wherever possible makes a positive contribution to, these views and their landmark elements¹⁴. Local plans are expected to protect the strategic views, and it is suggested that Boroughs may wish to designate and manage local views.
43. Policy CL11 aims to protect and enhance views, vistas, gaps and the skyline that contribute to the character and quality of the area, and sets out criteria to ensure that development achieves this. Thus the general approach is consistent with that of the London Plan. The strategic view from King Henry VIII's Mound in Richmond Park to St Paul's Cathedral across the Royal Borough is referred to in the reasoned justification (albeit in reverse, something that the Council may wish to correct by way of a minor additional modification).
44. Local views are not listed in the Review, but rather set out in a Supplementary Planning Document (SPD) that is referred to in the reasoned justification¹⁵. There is nothing in such an approach that conflicts with the London Plan, the 2004 Act, Regulations, or national policy or guidance, and it seems to me it provides a reasonable amount of specificity and certainty, whilst allowing flexibility in terms of updating the list of local views as appropriate. It is improbable that any list of local views would ever be comprehensive, and therefore an effective policy approach is to set out clear objectives and criteria against which proposals that could affect views in the Borough can be assessed.
45. Policy CL11 adopts such an approach. Development that materially interrupts, disrupts, or detracts from a strategic or local view would, to my mind, cause harm to, or fail to protect or enhance, that view which is the clearly stated aim of the policy. Accordingly, I do not consider part (a) to be unreasonable or unduly restrictive.
46. Policy CL12 seeks to ensure that new buildings respect the setting of valued townscapes and landscapes through appropriate building heights. The context, as is clear from the reasoned justification and associated SPD, is that much of the Borough is characterised by buildings of relatively modest and consistent height, with a limited number of pockets of tall buildings. Policy CL11 does not prohibit the development of tall buildings, but sets a framework to ensure that the character and quality of the townscape is preserved through an effective presumption that the prevailing building height ought to be adhered to. This is a reasonable approach given the nature of the Borough, as is the requirement in part (b) that any new buildings significantly taller than the surrounding townscape ought to have a wholly positive impact on the character and quality of the area. To allow tall buildings in other circumstances could fundamentally harm the well-preserved historic nature of much of the Borough.

¹⁴ London Plan policies 7.11 and 7.12, and Table 7.1.

¹⁵ Building Height in the Royal Borough – A Supplementary Planning Document (2010).

47. I conclude on this issue that policies CL11 and CL12 are effective and justified.

Whether policy CL5 relating to living conditions is effective

48. Paragraphs 34.3.34 and 34.3.35 of the Review explain that the dense historic pattern of development in the Borough has a significant bearing on matters such as privacy, light, noise and disturbance that affect the living conditions of residents. It is acknowledged that standards that may be attainable in many suburban and rural areas are unlikely to be achievable in new developments in the Borough, and are not typical of much of the existing built form. Rather than being unduly negative or defeatist, this seems to me to be an honest assessment of the context in which planning decisions have to be made. Notwithstanding this, in line with one of the core planning principles of the NPPF¹⁶, policy CL5 seeks to ensure good living conditions for occupants of new, existing and neighbouring buildings. In so doing, part (b) requires all proposals to take into account the prevailing characteristics of the area, and the reasoned justification advises that mathematical calculations are unlikely to be an appropriate means of assessment. Inevitably, therefore, judgement will need to be exercised by decision-makers; this does not, however, mean that decisions need be arbitrary or inconsistent, provided that the policy provides a clear framework.
49. Policy CL5 applies to all forms of development where relevant, from minor alterations to existing buildings to major new development projects. Its applicability is therefore unambiguous, a virtue that would, to my mind, be undermined if it were to refer to specific forms of development, even those that are frequently controversial in terms of their effect on living conditions such as roof terraces.
50. The objective of the policy is clear, and criteria (b) to (e) cover a range of issues that are most likely to affect living conditions. The terminology used is clear, and capable of consistent interpretation. Whilst I accept that "privacy" is a subjective concept, this does not mean that it is incapable of being considered in planning decisions, and I do not agree that reference to "overlooking" would make the policy any more effective.
51. Paragraph 34.3.36 explains that, in assessing sunlight and daylight standards, regard will be had to the most recent Building Research Establishment guidance. As this is regarded as good practice, this seems to me to be a valid reference point. However, given the context that I have described above, to be effective, the policy ought to explicitly tackle the issue of how development proposals would be assessed in situations where standards of daylight and sunlight are already substandard. Current Core Strategy policy CL5 (2010) states that in such situations there should be no material worsening of conditions, and I consider it necessary to make this clear in the Review by way of a main modification to part (b) of policy CL5 [MM5].
52. Part (e) aims to safeguard the reasonable enjoyment of buildings and "spaces", a phrase that is less than clear. It was clarified at the Hearing that it is intended to refer to gardens and other private residential outdoor areas, and a

¹⁶ NPPF paragraph 17, 4th bullet point.

main modification is required to make this clear and thereby ensure the policy is effective [MM6].

53. I conclude on this issue that, subject to two main modifications [MM5 and MM6], policy CL5 is effective.

Whether policy CR4 relating to streetscape is consistent with national policy

54. Policy CR4 is concerned with the visual, functional, and inclusive quality of the Borough's streets, something that can have a strong influence on the nature of the public realm. In the most part, the criteria are clear and largely uncontroversial, and whilst some representors are seeking some relatively minor alterations and additions, including about street boundaries, I do not consider any of these to be essential to make the policy sound, not least because most of the detailed issues are covered by other policies including CL3 and CL6.
55. Reflecting the Advertisement Regulations¹⁷, the NPPF advises that advertisements should be the subject of control only in the interests of amenity and public safety, taking account of cumulative impacts. This is reflected in part (e) of policy CR4 which applies to all forms of advertisement, including hoardings and signs of whatever size and form. Part (f) deals specifically with advertisements on free-standing structures in the street, such as telephone kiosks, and is intended to address a particular issue that has affected the quality of parts of the Borough for many years. It seems clear to me that this policy is concerned with the effect of the advertisement on visual amenity, recognising that displays that over-dominate the structure on which they are placed can detract from the character and appearance of an area. The application of the policy would not require a decision-maker to assess the need for an advertisement, and therefore I do not see that it in anyway conflicts with the NPPF or legislative requirements.
56. I conclude on this issue that policy CR4 is consistent with national policy.

Whether policy CR5 relating to parks, gardens, open space and waterways is effective

57. The London Plan includes a series of policies relating to the "Blue Ribbon Network", or interconnected bodies of water including the River Thames, tributary rivers, canals, lakes, and reservoirs. The Grand Union Canal runs along the northern edge of the Borough, whereas the Thames forms the southern boundary. Parts (h), (i), and (j) of policy CR5 seek to protect, enhance and make the most of these waterways, an objective that is consistent with the London Plan.
58. The Environment Agency suggests that policy CR5 should include additional criteria referring to development being set back from the water's edge in the interests of ecology, sustainable drainage, and flood management in line with the objectives of the Thames River Basin Management Plan and Thames Estuary 2010 Plan. However, these matters are dealt with in policies CE2 and

¹⁷ Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

CE4, which are not subject to this partial review, and it is not necessary to repeat them in policy CR5.

59. Parts (i) and (j) deal with the issue of permanently moored vessels on the River Thames and Grand Union Canal respectively, adopting a somewhat different approach to each of these waterways to reflect their particular characteristics and locations. When applied with other policies, where relevant, these criteria should provide an effective approach to manage proposals for permanently moored vessels in line with the London Plan which advises that the siting of such structures needs to ensure that navigation, hydrology and biodiversity of the waterways are not compromised. The alterations suggested by the Port of London Authority are not required to make the policy sound.
60. Garden squares, and other forms of communal garden, are an attractive and distinctive feature of the Borough, and part (c) of policy CR5 refers to resisting development that has an adverse effect on the former. To be clear and effective, the policy should also refer to "communal gardens" [MM7]. The other criteria in this policy I find to be relevant and clearly expressed, meaning that they should provide an effective framework for considering the future of all types of parks, gardens, open spaces and waterways in the Borough.
61. I conclude on this issue that, subject to one main modification [MM7], policy CR5 is effective.

Other Matters

62. In addition to the main issues that I have considered above, the Review includes several other policies that differ from those in the 2010 version of the Core Strategy and the saved UPD policies. I have taken account of all of the representations about these, but none raise issues of soundness and I do not therefore need to address them further in my report.

Overall Conclusion and Recommendation

63. The Review has a number of deficiencies in relation to soundness, and one in relation to legal compliance, for the reasons set out above. These mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the Act. These deficiencies have been explored in the main issues set out above.
64. The Council has requested that I recommend main modifications to make the Review sound and/or legally compliant and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix the Review satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the NPPF.

William Fieldhouse

Inspector

This report is accompanied by an Appendix containing the Main Modifications.

Appendix

Main Modifications

The modifications below are expressed either in the conventional form of ~~strikethrough~~ for deletions, and underlining for additions of text, or by specifying the modification in words in *italics*.

The page numbers and paragraph numbering below refer to the submission Review document (CD01), and do not take account of the deletion or addition of text.

Ref	Page	Policy	Main Modification
MM1	N/A	N/A	<i>Insert Tables 1 and 2 (below) setting out existing UDP and Core Strategy policies that will be superseded and the policies in the Review that will replace them.</i>
MM2	7	CL1(c)	c. require the density of development to be optimised, but sensitive to context;
MM3	10	CL2(c)	e. facilitate the redevelopment of 'eyesores' by offering flexibility in relation to policies which make redevelopment with buildings more suited to their context demonstrably unviable.
MM4	13	CL4(d)	d. require the reinstatement or removal of internal and external architectural features of listed buildings or scheduled ancient monuments, commensurate with the scale of the development <u>di) take opportunities to reinstate internal and external features of special architectural or historic significance, commensurate with the extent of proposed development;</u> <u>dii) take opportunities to remove internal and external features that harm the architectural or historic significance of the asset, commensurate with the extent of proposed development;</u>
MM5	14	CL5(b)	b. ensure that good standards of daylight and sunlight are achieved in new development and in existing properties affected by new development <u>and where they are already substandard, that there should be no material worsening of the conditions;</u>
MM6	14	CL5(e)	e. require that the reasonable enjoyment of the use of buildings, <u>gardens and other spaces</u> is not harmed due to increases in traffic, servicing, parking, noise, disturbance, odours or vibration or local microclimatic effects.

Ref	Page	Policy	Main Modification
MM7	27	CR5(c)	c. resist development that has an adverse effect on garden squares <u>and communal gardens</u> , including proposals for basements;

Table 1

Core Strategy Policies (2010), now Superseded		Core Strategy Policy (2014)	
CR4	Streetscape	CR4	Streetscape
CR5	Parks, Gardens, Open Spaces and Waterways	CR5	Parks, Gardens, Open Spaces and Waterways
CL1	Context and Character (2010)	CL1	Context and Character
CL2	Architectural Design Extensions and Modifications High Buildings Shopfronts	CL2 CL9 CL8 CL12 CL10	Design Quality Existing Buildings and Modifications Existing Buildings/Additional Storeys Building Heights Shopfronts
CL3	Heritage Assets – Conservation Areas and Historic Spaces	CL3	Heritage Assets – Conservation Areas and Historic Spaces
CL4	Heritage Assets – Listed Buildings, Scheduled Ancient Monuments and Archaeology	CL4	Heritage Assets – Listed Buildings, Scheduled Ancient Monuments and Archaeology
CL5	Amenity	CL5	Living Conditions
CL6	Small-Scale Alterations and Additions	CL6	Small-Scale Alterations and Additions

Table 2

Formerly "saved" UDP Policy, now superseded		Core Strategy Policy (2014)	
CD1	Protect and enhance views and vistas along the riverside	CL1(d) CL11	Context and Character Views See the Building Height SPD
CD2	Object to developments that affect views of the Chelsea riverside	CL1(d) CL11	Context and Character Views See the Building Height SPD
CD4	Resist permanently moored vessels on the river	CR5(i)	Parks, Gardens, Open Spaces and Waterways
CD5	Protect and enhance residential moorings at Battersea Reach	CR5(j)(i)	Parks, Gardens, Open Spaces and Waterways
CD8	Protect important views and vistas around the Royal Hospital	CL11	Views See the Building Height SP

CD9	Protect the open spaces around the Royal Hospital from development	CR5 (g)	Parks, Gardens, Open Spaces and Waterways
CD10	Protect views around the South Kensington Museums Area	CL11	Views See South Kensington in the Spatial Strategy (para 12.3.5) See the Building Height SPD
CD11	Preserve and enhance character of South Kensington Museums Area	CL11	Views See South Kensington in the Spatial Strategy (para 12.3.5) See the Building Height SPD
CD13	Restrict building height around Kensington Gardens and Hyde Park	CL11	Views See the Building Height SPD
CD14	Ensure new buildings do not impose themselves on Kensington Palace	CL11	Views See the Building Height SPD
CD15	Resist proposals encroaching or affecting the setting of Holland Park	CL11	Views See the Commonwealth Institute SPD See the Building Height SPD
CD16	Promote public access to Kensal Green and Brompton Cemeteries	CR5	Parks, Gardens, Open Spaces and Waterways See Kensal and Earl's Court in the Spatial Strategy
CD17	Protect the long-distance view from King Henry's Mound to St. Paul's	CL11	Views See the Building Height SPD
CD26	Encourage improvement of land/buildings which are in poor condition	CL1	Context and Character Note the use of S215 Notices
CD31	Resist development of backland sites	CL1(g)	Context and Character
CD44	Resist additional storeys and roof level alterations	CL8(b)	Existing Buildings – Roof Alterations/Additional Storeys
CD45	Permit additional storeys and roof level alterations	CL8 (a)	Existing Buildings – Roof Alterations/Additional Storeys
CD46	Resist the introduction of roof level terraces	CL8 CL5	Existing Buildings – Roof Alterations/Additional Storeys Living Conditions
CD47	To resist proposals for extensions	CL9 CL5	Existing Buildings - Extensions and modifications Living Conditions
CD48	To resist proposals for conservatories	CL9	Existing Buildings - Extensions and modifications
CD49	To resist side extensions to buildings	CL9	Existing Buildings - Extensions and modifications

CD55	Ensure character of mews properties is preserved and enhanced	CL1(h) CL3 (b)	Context and Character Character and Use
CD56	Resist loss of and inappropriate alterations/extensions to artists' studios	CL1, CF7(a)	Context and Character Arts and Cultural uses
CD63	Consider the effect of proposals on views in CAPS	CL11	Views
CD72	Require suitable shop signage on combined shopping units	CL10 (c)	Shopfronts See the Shopfront Design Guide SPD
CD73	Resist open shop fronts	CL10 (c)	Shopfronts See the Shopfront Design Guide SPD
CD74	Resist shop fronts resulting in removal of separate access to residential	CL10 (b)(v)	Shopfronts See the Shopfront Design Guide SPD
CD77	Permit awnings and blinds that are in character with the building	CL10a CL6	Shopfronts Small-scale Alterations and Additions
CD78	Permit flagpoles unless their siting would harm the areas character	CL6	Small-scale Alterations and Additions
CD89	Retain religious buildings of architectural or townscape merit	CL1 CL4	Context and Character Heritage Assets – Listed Buildings, Scheduled Ancient Monuments and Archaeology