

CED011

Local Plan Partial Review – Examination Matters, Issues and Questions Hearing Statement

Matter 1: Legal Compliance and Duty to Co-operate
Issue 1b: Other Legal Requirements

February 2018



THE ROYAL BOROUGH OF
KENSINGTON
AND CHELSEA

Matter 1 - Legal Compliance and Duty to Co-operate

Issue 1b: Other Legal Requirements

1. **In preparing the RBKCLPPR, has consultation been undertaken in accordance with the Council's adopted Statement of Community Involvement (SCI) (SUB12) and the consultation requirements in the Regulations¹?**
- 1.1 Consultation has been carried out in conformity with the RBKC's Statement of Community Involvement (SCI) "Involving People in Planning" (IPIP) (SUB12). The Council's current SCI was adopted in December 2013 and is up to date in-line with current regulations. Consultation throughout the drafting of the Borough's Local Plan Partial Review (LPPR) has allowed for the effective engagement of all interest parties in accordance with the Council's commitments as set out within this document.
- 1.2 Section 3 of the Council's SCI (IPIP), sets out how the Council will consult at the various stages of the plan making process. The Council has followed these principles and commitments. The Council has engaged with relevant bodies and the public at the prescribed stages and has done so in line with the SCI. The Council's SCI commitments have been exceeded, particularly in relation to the length of some formal consultation periods. This information is presented in the core documents Legal Compliance Checklists (SUB10 and SUB10.1) with further explanation added here as necessary.
- 1.3 The Council's Submission Consultation Statement (SUB7) prepared in accordance with Regulation 22 (1)(c) of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) sets out details of the engagement process undertaken at Regulation 18 and 19. This includes consultation with the "general", "specific" and "prescribed" bodies as well as the local stakeholders on the Council's "Planning Policy Consultations Database". As such it is a live database which is constantly evolving and updated. There were 1,260 consultees in total. Details of who was consulted are set out in the core document (SUB7). The Council keeps a record of the consultees who have been notified at each stage of consultation.
- 1.4 The statutory requirements referred to in footnote 2 have been met and summaries of consultation have been prepared for each stage of the policy progression. The Council has also held a number of Discussion Groups throughout the Borough to help engage with hard to reach groups.

¹S19(3) of the Planning and Compulsory Purchase Act 2004 (as amended) and Regulations 18 and 19 of Town and Country Planning (Local Planning) (England) Regulations 2012.

1.5 Issues and Options: Pre-Regulation 18. All policies, including Call for Sites (15 December 2015 to 9 February 2016)

- A mail out to all stakeholders on the consultation database
- Dedicated consultations webpage
- Opportunity to make written on-line comments or by email or post
- A 'Planning Direct' email bulletin to a list of 1,100 people registered to receive this
- Documents were made available in all local libraries
- A series of Discussion Groups with all the relevant parties across the Borough

1.6 Regulation 18, Draft Policies (28 October 2016 – 11 December 2016)

- A mail out to all stakeholders on the consultation database
- Dedicated consultations webpage
- Opportunity to make written on-line comments or by email or post
- A 'Planning Direct' email bulletin to a list of 1,100 people registered to receive this
- Documents were made available in all local libraries
- Council Press Release advertising the consultation and use of social media – Twitter
- A series of Discussion Groups with all the relevant parties across the Borough

1.7 In addition to the SCI requirements, the consultation was considered at the following Scrutiny Committees:

- 16 November 2016 – Housing and Property Scrutiny Committee
- 29 November 2016 – Public Realm Scrutiny Committee (special meeting)

1.8 Regulation 19, Publication Policies (2 February 2017 – 16 March 2017)

- A mail out to all stakeholders on the Planning Policy Consultation Database. This consultation sought views on the "soundness" of publication policies only.
- Documents were made available on the Council's website, in Council offices and all libraries in the Borough.

1.9 Further Proposed Modifications, Call for Further Participants (11 October 2017– 17 November 2017)

1.10 In addition, alongside the Further Proposed Modifications following the Grenfell Tower tragedy, the Council made a "Call for further

Participants.” This sought the views of those who wanted to become involved with the Local Plan process following the tragedy. This was undertaken by a mailout to all stakeholders on the Planning Policy Consultation Database as before.

2 Do the scope, content and timescale for the preparation of the RBKCLPPR accord with the latest Local Development Scheme (SUB14)? In light of the Council’s Response to Question 1 of the Inspector’s Initial Questions (CED001) are there any obvious omissions from the submitted plan, in terms of policies or aspects of policies which should have been reviewed?

Local Development Scheme

2.1 The latest LDS was published by the Council in May 2017 (SUB14). This includes the headline of the issues which form the LPPR. These are reproduced in figure 2.1 below. These topics are an accurate reflection of the topics before the Inspector.

- Vision and strategic objectives
- Places
- Site allocations
- Infrastructure and planning contributions
- Shops and centres
- Business uses
- Hotels
- Arts and cultural uses
- Rail infrastructure
- Housing (including housing target, affordable housing, housing standards)
- Gypsy and Traveller accommodation
- Flooding and drainage
- Waste
- Air quality
- Impact assessments
- Proposals Map

Figure 1 of Q2: issues considered with LPPR as per the LDS (May 2017)

2.2 The timescale is correct up to the date of submission, 5 May 2017. The inspector will be aware that the delay of the hearings, the further proposed modifications and the call for further participants were all necessary given the exceptional circumstances in the Borough following the tragic fire at Grenfell Tower. These amendments/ further stages of consultation have pushed back the hearing element of the examination from September 2017 as originally intended to February/ March 2018. This will have a knock on effect on the date of the ultimate adoption. The requirement in S19 (1) of the PCPA 2004 (as amended) is that local development documents “*must*

be prepared in accordance with the local development scheme.” (emphasis added). The Council has ‘prepared’ the LPPR in accordance with the LDS. The Council is not able to influence the timetable post submission.

- 2.3 The amendments to the timings for the LPPR are as set out within the [Authorities Monitoring Report \(2017\)](#).

Scope of review

- 2.4 As set out in our response to the Inspector’s initial questions, the Council is satisfied that the scope, and nature, of the review is appropriate. In summary, the Council has discretion with regard to which parts of the Local Plan it chooses to review. The review is neither required, nor intended, to be a full and comprehensive review. Taking such an approach is encouraged by 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)², as opposed to comprehensive Local Plan reviews.

- 2.5 The scope of the review was largely set by the topics/ issues in the Issues and Options consultation stage of the LPPR, where stakeholders were asked whether they considered the scope of the review to be appropriate. It was these issues which were the focus of the SEA/SA process.

3 Is the RBKCLPPR, including the Further Proposed Modifications published in October 2017 (CED004), in general conformity with the London Plan³?

- 3.1 The Council received a letter from the Mayor of London dated 3 November 2017 confirming general conformity of the LPPR including the Further Proposed Modifications (CED004) with the London Plan. Amongst other things, the letter clearly states that *“The Mayor is sympathetic to this decision, and considers that, subject to an early review, the proposed modifications (and resulting Local Plan) would be in conformity with the London Plan.”* Further details of the implications of CED004 on the Borough’s housing supply including conformity with the London Plan are

² www.gov.uk/government/news/prime-minister-councils-must-deliver-local-plans-for-new-homes-by-2017

³ S24 of the Planning and Compulsory Purchase Act 2004 (as amended)

provided in response to Issue 3a, Question 2.

3.2 Prior to the letter dated 3 November 2017, the Mayor of London had also provided another letter of conformity to the Council at the time of Publication consultation (Regulation 19). This letter is dated 16 March 2017 and explicitly states that *“the current draft of the Local Plan is in conformity with the London Plan”*. The Mayor’s letter provides more detailed comments on a number of key issues. It is included on the Examination web page (SUB9).

4 Has the formulation of the RBKCLPPR been based on a sound process of sustainability appraisal (SA) carried out in accordance with the requirements of the Act⁴? In particular

a. Have the likely environmental, social and economic effects of the RBKCLPPR been adequately and accurately assessed in the Integrated Impact Assessment (IIA) (SUB67-73)?

4.1 The Council procured the services of consultants Arcadis to undertake the assessment of the environmental, social and economic effects of the LPPR and to produce a report that is fully compliant with the requirements of the Directive 2001/42/EC (“the SEA Directive”) and the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR 2004). The assessment was undertaken by experienced Principal Environmental Consultants and reviewed by a Arcadis’s Technical SA Director with input from the planning policy team at Kensington and Chelsea.

4.2 Schedule 2 of the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR 2004) sets out the information for Environmental Reports. Section 6 provides details of what effects should be assessed including short, medium and long-term effects, positive and negative effects, secondary, cumulative and synergistic effects on issues such as; biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage, landscape and the interrelation issues between these factors.

4.3 The IIA Framework first consulted upon at the Scoping stage (15 December 2015 – 9 February 2016) built upon the SA/SEA Framework developed during the SA Appraisal for the Core Strategy in 2010, which itself was designed to cover all issues outlined in Schedule 2 Section 6. The IIA Framework was refined following comments from the statutory consultees at the Scoping Stage and amended to provides a robust comprehensive framework for assessing the issues required.

4.4 The IIA Report provides a top level assessment of the compatibility of the RBKCLPPR objectives against the IIA Objectives and the Health Impact Assessment and Equality Impact Assessment sub-topics (see Section 5). It provides an assessment of the preferred policy options and reasonable

⁴ S19(5) of the Planning and Compulsory Purchase Act 2004 (as amended)

alternatives with summaries available in the body of the main report (section 8 and 9) and a full of assessments located in Appendix G (SUB72). The assessment of the preferred policy approach of the RBKCLPPR are presented by IIA Objectives in Section 9 of the Report. This assessment includes short, medium and long term effects and assesses the impacts across geographic areas of the Borough and on effects outside of the Borough.

4.5 Cumulative effects arise from two or more impacts occurring simultaneously, whereby an impact that may not have a significant effect on its own may combine with another to produce a cumulative effect that is significant. There are two main types of cumulative effect: Intra-plan effects which could result from policies or proposals in the Plan working in combination to change the severity of an effect; and Inter-plan effects, where effects of other strategies, plans or programmes acting in combination with RBKC's Local Plan. The cumulative impacts of the proposed policies within the LPPRRBKC are considered in relation to each IIA Objective. Many of the proposed policies within the plan (intra-plan effects) positively mitigate against the *potential* negative impacts of other proposed policy options. A summary of the cumulative effects of the RBKCLPPR as a whole is provided in Section 10.

4.6 A full description of the methodology used to assess the environmental, social and economic effects of the RBKCLPPR is outlined in section 3.5 of the core document IIA Report - Submission Version, May 2017 (SUB 72).

b. Does the IIA test the plan, its allocations and policies against all reasonable alternatives?

4.7 Yes, the Council's approach has been to provide a full audit of all reasonable alternatives considered (as required by Schedule 2, Section 8 of EAPPR 2004) in a tabular form within the respective policy formulation reports for each topic area. Details are given for those 'unreasonable' alternatives considered but not assessed. A comprehensive table of the reasonable alternatives considered is reproduced in Appendix F of the core document IIA Report - Submission Version, May 2017 (SUB 72). Reasonable alternatives were assessed alongside the preferred policy approach within the Integrated Impact Assessment. A full schedule of these assessments is provided at Appendix G of the IIA Submission Report.

4.8 At each stage of consultation (Issues and Options, Draft Policy, Publication Policy), the Council has sought the views of residents, businesses, landowners, statutory consultees, duty to cooperate bodies and other stakeholders on the reasonable alternatives identified and have asked respondents to provide any additional alternative options that should be considered by the Council and assessed as part of the IIA process. This was done for each policy area and also with a specific question relating to the IIA and whether or not any additional alternatives should be tested.

4.9 To improve transparency in terms of the consideration of alternatives, as

well as the impact of the RBKCLPPR on social, environmental, economic affects more generally, the Council provided a full draft environmental report – Integrated Impact Assessment (Stage B) Report (SUB69) at Draft Policy (Regulation 18) stage. Although not a statutory requirement, this allows respondents to comment at an earlier stage on the assessments within the IIA and the Council’s treatment of reasonable alternatives. Alternatives that were suggested by respondents within topic areas were added and updated in the Policy Formulation Reports for the next stage of consultation and if considered ‘reasonable’ were assessed as part of the update to the IIA Publication Report (SUB70).

4.10 In relation to site allocations, the Royal Borough of Kensington and Chelsea is an inner city borough with very limited large development sites. The Council undertook a ‘call for sites’ alongside the Issues and Options consultation to identify possible additional site allocations. A full schedule of sites arising from the call for sites is available in the Places and Site Allocation Policy Formulation Report, October 2017 (see pp.26-30, SUB18.1). All reasonable options were assessed and the results of these assessments is available at Appendix D of the IIA Report - Submission Version, May 2017 (SUB72). The criteria for the site assessments is available at Appendix C of the same report.

c. Is it clear how the IIA has influenced the RBKCLPPR and how mitigation measures have been dealt with?

4.11 The conclusions of the Local Plan Partial Review’s preferred approach were broadly very positive in terms of the environmental, social and economic criteria as tested through the IIA Framework. This is especially true once the mitigating impact of other policies within the RBKCLPPR have been taken into account. This is of course a positive outcome and suggests that the Council’s policy approach is also beneficial in terms of sustainability criteria. Appendix A of the IIA Report - Submission Version, May 2017 (pp. 100-103, SUB 72,) outlines the policy recommendations arising from the IIA Report and the Council’s response to those.

4.12 The assessment of the potential site allocations sets out comprehensive mitigation options in relation to the negative impacts outlined in the assessments. Some of these mitigation measures have already been undertaken given the fact that many sites have planning permission. Many mitigating measures outlined involve further assessment work to help mitigate potential negative effects identified. The Local Plan policies provide a broad high level planning policy framework. The mitigation measures identified are suited to more detailed actions, which can only be afforded at the planning application stage or through further planning guidance such as an SPD.

4.13 The Council has taken action to undertaken some of the mitigation measures raised via the IIA process. For example, the assessment for Kensal Canalside (CA1) identifies a potential negative impact on heritage and townscape given the close proximity of designated heritage assets.

The proposed mitigation measure was to undertake a cultural heritage assessment, which considers the historic setting of nearby features. The Council has since instructed Alan Baxters to undertake a heritage assessment of the proposed impact on the adjacent Grade 1 listed Kensal Cemetery. This report will form part of the evidence base for and help shape the forthcoming Kensal Canalside OA SPD.

d. Have the Proposed Modifications (SUB6) and the Further Proposed Modifications (CED004) been subject to SA?

- 4.14 The Council published Proposed Modifications (SUB6) following the Publication consultation and 'Further Proposed Modifications' (CED004) following the tragic fire at Grenfell Tower. The documents SUB6 and CED004 clearly present in a tabular form whether a modification is a 'main' or 'minor modification. In this way the Council has determined which 'main' modifications have the potential for significant environmental impacts requiring further IIA screening or assessment (Reg 9, EAPPS).

IIA Assessment of Proposed Modifications (SUB 6)

- 4.15 The Council formally submitted the LPPR to the Secretary of State on 5 May 2017 and all Proposed Modifications (SUB6) at submission had been formally reviewed, assessed (where necessary) and documented in the IIA Report - Submission Version, May 2017 (Appendix I, SUB 72).
- 4.16 All modifications (including both main and minor) as set out in the Proposed Modifications document (SUB6) following the Publication consultation (Regulation 19) were reviewed by Arcadis and the implications on the assessment of policy options have been considered. The results are outlined in Appendix I of IIA Report - Submission Version, May 2017 (SUB 72). In the vast majority of 'main modifications', the assessments were reviewed by Arcadis and the changes did not result in an amendment to the overall assessment scoring or overall conclusions as to the social, economic or environmental impacts of the proposed policy options.
- 4.17 In the case of a modification to Policy CA1(t), Kensal Canalside Opportunity Area, the final assessment resulted in the negative impact on biodiversity being reduced. The Proposed Modifications (SUB6), therefore had a very minor albeit positive impact upon the overall IIA Assessments of the policy options.

IIA Assessment of Further Proposed Modification (CED0004)

- 4.18 The IIA Report - Submission Version, May 2017 SUB 72) has assessed the significant economic, social and environmental impacts resulting from the policy options proposed in the Further Proposed Modifications (CED0004). This is because the Council's approach to estate regeneration allocations was to provide a proposed housing figure 'up to' rather than a minimum to reflect the fact that the Council's overall approach to the sites had yet to be

determined definitely.

4.19 Following the tragic fire at Grenfell Tower on 14 June 2017 and in response to petitions from the local community in North Kensington, the Council decided to terminate estate regeneration projects in the Borough and proposed 'Further Proposed Modifications' to the RBKCLPPR.

4.20 Essentially, the Further Proposed Modifications propose to:

- **Delete Site Allocation CA2 Barlby-Treverton;**
- **Delete Site Allocation CA5 Silchester Estates and Chapter 7 Latimer;**
- **Delete Site Allocation CA8 Warwick Road Estate;**
- **Revert emerging new Policy CH5 Estate Regeneration** back to the existing adopted Local Plan Policy CH4/5 Estate Renewal;
- **Make consequential amendments arising from the above;** and
- **Commit the Council to an early review of the Local Plan**, at least in part, to consider issues related to North Kensington, the Latimer 'Place', estate regeneration and housing supply, to be adopted within five years of the Local Plan Partial Review's adoption. This would be expected to commence some time in 2018 and be undertaken in accordance with the Council's commitment that any future estate regeneration projects would be co-designed with the community and put to a binding vote.

Assessment of Estate Regeneration Options

4.21 Chapter 6 of the IIA Report - Submission Version, May 2017 (pp.37-45, Cp6, SUB72) provides an assessment of the significant economic, social and environmental impacts of four possible policy options relating to Estate Regeneration. At the point of the assessment no final decision had been taken by the Council on the corporate approach to estate regeneration and therefore in the absence of the preferred approach an IIA assessment was undertaken on the likely significant economic, social and environmental effects of all policy options as they related to the proposed estate regeneration sites (Allocations CA2, CA5, CA8)

4.22 The four policy options assessed were: business as usual, refurbish existing, infill on available land and comprehensive redevelopment. The Council's approach to estate regeneration allocations was to provide a proposed housing figure 'up to' rather than a minimum to reflect the fact that the Council's overall approach to the sites had yet to be determined definitively.

4.23 Following the Grenfell Tower tragedy, the Council's Leader called for a termination of estate regeneration program as stated in para 4.18 above. Therefore, deleting the three estate regeneration site allocations (CA2, CA5, CA8) is the same as assessing a 'business as usual' approach. The likely impacts of this approach has been assessed by IIA Report - Submission Version, May 2017 and is outlined in Table 12 (SUB 72).

Reversion to Existing Estate Renewal Policy CH4

- 4.24 Further Proposed Modifications also include a reversion to the existing Estate Renewal Policy (Consolidated Local Plan, Policy CH4, SUB3). The IIA Report (SUB72) assessed the significant social, economic and environmental effects of the preferred approach at Publication Stage and updated following Proposed Modifications (SUB6) and assessed the existing Estate renewal policy as one of the reasonable alternatives. The assessments are available at Appendix G of the IIA Report - Submission Version, May 2017 (SUB 72). The assessment produced a more favourable result in relation to the existing policy.

Deletion of the Latimer Chapter

- 4.25 The Latimer Place chapter includes CV7: A Vision for Latimer in 2028 and the site allocation CA5 Silchester Estates. The deletion of site allocation CA5 i.e. a 'business as usual scenario' has been assessed in IIA Report - Submission Version, May 2017 (Section 6.2, SUB72) as explained in para 4.20-4.22 above. Should the Inspector be minded to seek a further IIA Assessment of the deletion of the Latimer place chapter, the Council believes that this assessment can be undertaken along with and assessment (if one is required) of any other Main Modifications arising from the Examination hearings.

Post Hearing Consultation on Main Modification and proposed IIA Assessment (where necessary)

- 4.26 If the Inspector were to deem additional assessments were required, the Council considers that the MM within the 'further proposed modifications' could be assessed along with any other main modifications arising from the hearings. Taking this approach, all post-submission main modifications can be reviewed and IIA assessed (where necessary) at the same time and consulted upon in the period after the formal hearing and prior to the Inspector's final report.

e. Have the requirements for Strategic Environmental Assessment been met?

- 4.27 Yes, Appendix A IIA Report - Submission Version, May 2017 (SUB72) provides a compliance checklist with the requirements of the SEA Directive and explains how the IIA Report meets these stipulations.

5 Is the RBKCLPPR legally compliant with respect to the Habitats Regulations and any requirement for appropriate assessment? How have the findings of the Habitats Regulations Assessment Screening Report (SUB65) influenced the RBKCLPPR?

- 5.1 Regulation 102 (1) of the Conservation of Habitats and Species Regulations 2010 (as amended) sets out the requirement for undertaking an appropriate assessment of implications for European sites and

European offshore marine sites. It states that - “102. (1). *Where a land use plan— (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and (b) is not directly connected with or necessary to the management of the site, the plan-making authority for that plan must, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site’s conservation objectives.*” Regulation 102 above reflects the European Council Directive 92/43/EEC on the Conservation of natural habitats and of wild flora and fauna (the ‘Habitats Directive’).

- 5.2 The European Commission has produced guidance on Assessment of Plans and Projects significantly affecting Natura 2000 sites, November 2001.⁵
- 5.3 *The Council undertook the first stage of the HRA process HRA Screening Report, December 2015 (SUB65). This involves a Habitats Screening Assessment of the potential impact on two sites Richmond Park (SAC) and Wimbledon Common (SAC). The conclusion of the Screening Report, December 2015 (SUB65) was that none of the policies within the LPPR are likely to have significant impacts on the relevant Natura 2000 sites.*
- 5.4 *Natural England reviewed the findings of the screening report and confirmed that “Natural England does not consider the policies being reviewed are likely to have a significant effect on the Natura 2000 sites identified above. Therefore, we confirm that the Council does not need to undertake Stage 2 of the HRA process” (see page 2, SUB66).*
- 5.5 The Council can therefore demonstrate that it has met the legal requirements of the Habitats Regulations.

6 Does the RBKCLPPR, taken as a whole, include policies designed to ensure that the development and use of land in the Royal Borough of Kensington and Chelsea contributes to the mitigation of, and adaptation to, climate change in accordance with Regulations⁶?

- 6.1 Yes, the LPPR taken as a whole includes a range of policies designed to ensure that the development and use of land in the Royal Borough of Kensington and Chelsea contributes to the mitigation of, and adaptation to, climate change.
- 6.2 The LPPR includes a specific Policy supporting CE1: Climate Change (SUB5) (Publication Policies, February 2017, paragraph 36.3.1) which refers to the Climate Change Act 2008 and how it requires a reduction in CO₂ emissions of at least 34 per cent by 2020 and at least 80 per cent by

⁵http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf

⁶ Section 19(1A) of the Planning and Compulsory Purchase Act 2004 (as amended)

2050, against a 1990 baseline. The supporting paragraphs 36.3.2 to 36.3.17 set out the significance of the climate change challenge and provide further details of the measures in the planning policy to address this within the plan period.

- 6.3 Subsection 19 (1A) of the Planning and Compulsory Purchase Act 2004 (preparation of local development documents) states that *“Development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change.”*
- 6.4 Paragraph 001 of the National Planning Practice Guidance on Climate Change advises how to identify suitable mitigation and adaptation measures in the planning process to address the impacts of climate change. It explains that addressing climate change is one of the core land use planning principles of the National Planning Policy Framework (NPPF) which should be reflected in Local Plans to be found sound. Local authorities should **adopt proactive strategies** to mitigate and adapt to climate change in line with the provisions and objectives of the Climate Change Act 2008, and co-operate to deliver strategic priorities which include climate change. **There is a statutory duty on local planning authorities to include policies in their Local Plan designed to tackle climate change and its impacts.** (emphasis added)
- 6.5 The NPPF emphasises that responding to climate change is central to the economic, social and environmental dimensions of sustainable development. Paragraphs 93 to 103 of the NPPF detail the actions which should be taken by local planning authorities to tackle climate change.
- 6.6 Table 1 below is structured in accordance with each of the requirements of the NPPF (paragraphs 93 to 103) regarding climate change and lists the relevant policies that address these in the LPPR. It should be noted that the London Plan is also part of the statutory development plan and therefore its relevant policies have also been referenced alongside any other applicable plans and strategies.
- 6.7 The Council has submitted Legal Compliance and soundness checklists (SUB10, SUB10.1, SUB11, SUB11.1) in which it confirms that it is having regard to the need to include policies mitigating and adapting to climate change. Those documents are:
- Document SUB10, The Royal Borough of Kensington and Chelsea Local Plan Partial Review Legal Compliance Checklist May 2017 (page 19, activity 9)
 - Document SUB10.1, The Royal Borough of Kensington and Chelsea Local Plan Partial Review Legal Compliance Checklist May 2017 (page 19, activity 9)
 - Document SUB11, Soundness Self-Assessment Checklist May 2017 (pages 32 and 33, soundness test Delivering sustainable development, Key requirement 10)

- Document SUB11.1, Soundness Self-Assessment Checklist October 2017 (pages 33 and 34, soundness test Delivering sustainable development, Key requirement 10).

6.8 In these documents the Council explains that the LPPR includes Policy CE1 (Climate Change) which sets out the measures by which climate change will be mitigated. It includes adherence to the relevant carbon standards, to energy sources and to combined cooling heat and power. Policy CE2, considers flooding and the need to address and reduce flood risk and its impacts. The table below shows how, apart from these two more obvious mitigation and adaptation policies, the Local Plan includes an array of policies which will provide mitigation and adaptation. There are also other strategies and action plans which, along with the London Plan (as part of the statutory development plan) provide adequate mitigation and adaptation measures. Together, this will help to meet the climate change challenge to which the Council is fully committed.

Table 1 of Q6: Compliance with Section 19(1A) of the PCPA 2004 (as amended)

NPPF requirements (paragraph numbers)	Relevant LPPR policies	Other applicable plans / strategies
<p>1 Proactive Strategies (paragraph 94)</p>	<p>Vision for environment CE1 Climate Change CE2 Flooding CE5 Air Quality</p>	<ul style="list-style-type: none"> • Air Quality and Climate Change Action Plan⁷ • Royal Borough of Kensington and Chelsea LIP⁸
<p>2 Low carbon future (paragraph 95)</p> <p>a) Location of new development</p>	<p>a) C1 Infrastructure Delivery and Planning Contributions, CF5 Business Uses, CF6 Creative and Cultural Businesses, CF7 Arts and Cultural Uses, Policy CF8 Hotels, CT2 New and enhanced rail infrastructure, CR4g Streetscape, CR5h Parks, Gardens, Open Spaces and Waterways, CR7b, c, Servicing CE1a, b Climate Change, CE3 Waste, CE5 Air Quality</p>	<ul style="list-style-type: none"> • Air Quality and Climate Change Action Plan (specifically actions 11-20, 22, 25, 26, 28, 29, 49-52, and 81) • Kensal Gasworks SPD (Issues and Options)¹⁰ • Earl's Court and West Kensington Opportunity Area Joint SPD¹¹ • Warwick Road Planning Brief SPD¹² • Wornington Green Planning Brief SPD¹³ • St Quintin and Woodlands Neighbourhood Plan¹⁴ • Building Regulations Part L¹⁵ (conservation of fuel and power) • The London Plan Policy 5.2 Minimising Carbon Dioxide Emissions • The London Plan Policies 5.1- 5.3¹⁶ • The Mayor's Transport Strategy¹⁷

⁷ www.rbkc.gov.uk/environment/air-quality/air-quality-and-climate-change-action-plan-2016-2021

⁸ www.rbkc.gov.uk/pdf/LIP%20Environment%20ReportFINAL.pdf

¹⁰ www.rbkc.gov.uk/sites/default/files/atoms/files/Issues%20and%20Options%20Paper%20for%20Kensal%20Gasworks.pdf

¹¹ www.rbkc.gov.uk/wamdocs/ECWKOJ_Area_Joint_SPD_March_2012_track_changes.pdf

¹² www.rbkc.gov.uk/planning-and-building-control/planning-policy/supplementary-planning/warwick-road-spd

¹³ www.rbkc.gov.uk/planning-and-building-control/planning-policy/supplementary-planning/wornington-green/wornington

¹⁴ www.rbkc.gov.uk/sites/default/files/atoms/files/St%20Quintin%20and%20Woodlands%20-%20Referendum%20Version.pdf

¹⁵ www.gov.uk/government/publications/conservation-of-fuel-and-power-approved-document-l

¹⁶ www.london.gov.uk/what-we-do/planning/london-plan/current-london-plan

¹⁷ www.tfl.gov.uk/corporate/about-tfl/how-we-work/planning-for-the-future/the-mayor-s-transport-strategy-2010 .London Plan Policy 5.1 Climate change

NPPF requirements (paragraph numbers)	Relevant LPPR policies	Other applicable plans / strategies
b) Energy efficiency improvements to existing buildings	b) CL2a, av Design Quality ⁹ , CE1ci Climate Change	<ul style="list-style-type: none"> • Mayor’s Sustainable Design and Construction SPG¹⁸ • Mayor’s Housing SPG 2016¹⁹
c) Building’s sustainability requirements	c) CE1c Climate Change	
<p>3 Increase the use and supply of renewable and low carbon energy (paragraph 97)</p> <p>a) promote energy from renewable and low carbon sources</p> <p>b) maximise renewable and low carbon energy development</p> <p>c) identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure</p>	<p>a) CE1cii, ciii Climate Change</p> <p>b) CE1cii, ciii Climate Change, CE5c Air Quality</p> <p>c) CA1, Kensal Canalside Opportunity Area, CA3 Wornington Green, CA6 Earl’s Court Exhibition Centre, Policy CE1d, e Climate Change</p>	<ul style="list-style-type: none"> • Air Quality and Climate Change Action Plan (specifically actions 31, 46, 47, and 54). • London Plan Policies 5.4A-5.8²⁰

mitigation. Policy 5.2 Minimising carbon dioxide emissions. Policy 5.3 Sustainable design and construction. Policy 5.4 Retrofitting. Policy 5.4A Electricity and gas supply.

⁹ Policy CL2 is not currently being reviewed.

¹⁸ www.london.gov.uk/what-we-do/planning/implementing-london-plan/supplementary-planning-guidance/sustainable-design-and

¹⁹ www.london.gov.uk/what-we-do/planning/implementing-london-plan/supplementary-planning-guidance/housing-supplementary

²⁰ London Plan Policy 5.4A Electricity and gas supply. Policy 5.5 Decentralised energy networks. Policy 5.6 Decentralised energy in development proposals. Policy 5.7 Renewable energy. Policy 5.8 Innovative energy technologies

NPPF requirements (paragraph numbers)	Relevant LPPR policies	Other applicable plans / strategies
<p>d) support community-led initiatives for renewable and low carbon energy</p> <p>e) opportunities decentralised, renewable/low carbon energy</p>	<p>d) CE1f Climate Change</p> <p>e) Kensal Canalside Opportunity Area, CA3 Wornington Green, CA6 Earl's Court Exhibition Centre, Policy CE1d, e Climate Change</p>	
<p>4 Take account of climate change over the longer term (paragraph 99)</p>	<p>CT1²¹ Improving alternatives to car use, CE1 Climate Change, CE2 Flooding , CE3 Waste</p>	<ul style="list-style-type: none"> • Air Quality and Climate Change Action Plan (specifically actions 74-83) • Mayor's Sustainable Design and Construction SPG • The London Plan Policies 5.9-5.15²² • Building Regulations Part G²³ (sanitation, hot water safety and water efficiency)
<p>5. Avoiding inappropriate development in areas at risk of flooding (paragraph 100)</p> <p>a) applying the Sequential Test</p> <p>b) applying the Exception Test</p>	<p>CE2 Flooding</p> <p>a) CE2c Flooding</p> <p>b) CE2b Flooding</p>	<ul style="list-style-type: none"> • Air Quality and Climate Change Action Plan (specifically actions 58-65, and 69) • St Quintin and Woodlands Neighbourhood Plan • Sequential Test (SUB26 and SUB 26.1) • Mayor's Sustainable Design and Construction SPG • The London Plan Policy 5.12

²¹ Policy CT1 is not currently under review but it will form part of the Local Plan.

²² London Plan Policy 5.9 Overheating and cooling. Policy 5.10 Urban greening. Policy 5.11 Green roofs and development site environs. Policy 5.12 Flood risk management. Policy 5.13 Sustainable drainage. Policy 5.14 Water quality and wastewater infrastructure. Policy 5.15 Water use and supplies

²³ www.gov.uk/government/publications/sanitation-hot-water-safety-and-water-efficiency-approved-document-g

NPPF requirements (paragraph numbers)	Relevant LPPR policies	Other applicable plans / strategies
<p>c) safeguarding land for current and future flood management</p> <p>d) to reduce the causes and impacts of flooding</p> <p>e) opportunities to relocation of development</p>	<p>c) CE2f Flooding</p> <p>d) CL7i, n Basements²⁴, Policy CE2d, e, i Flooding</p> <p>e) CE2c Flooding</p>	<ul style="list-style-type: none"> • RBKC Local Flood Risk Management Strategy (and action plan)²⁵

²⁴ Policy CL7 is not currently being reviewed

²⁵ www.rbkc.gov.uk/planning-and-building-control/planning-policy/flooding/local-flood-risk-management-strategy

- 6.9 Climate change is a key consideration in the Integrated Impact Assessment (IIA) report (which includes the Sustainability Appraisal and Strategic Environmental Assessment). The IIA Report - Submission Version, May 2017 (SUB72) includes climate change as part of the IIA framework (paragraph 3.5.2, table 3, page 18). The IIA (SUB72) (section 9.5, page 67) gives the following Policy Recommendations for climate change: *“Policy CE1 should remove reference to the Code for Sustainable Homes, in accordance with the March 2015 Ministerial Statement. The policy can make reference to the management of legacy cases, but in accordance with the energy policy, planning applications can no longer be judged against the Code. CE1 should therefore consider the Government’s statement that “from then [late 2016], the energy performance requirements in Building Regulations will be set at a level equivalent to the (outgoing) Code for Sustainable Homes Level 4. Until the amendment is commenced, we would expect local planning authorities to take this statement of the government’s intention into account in applying existing policies and not set conditions with requirements above a Code level 4 equivalent.”* This recommendation has been taken forward in the publication policies.
- 6.10 It is worth noting that the IIA has undergone several rounds of consultation as part of the LPPR consultations.
- 6.11 For the reasons detailed above the Council is confident that the LPPR, taken as a whole, includes policies designed to ensure that the development and use of land in the Royal Borough of Kensington and Chelsea contributes to the mitigation of, and adaptation to, climate change in accordance with Regulations. The Council considers that no further changes are necessary to make the Plan sound or legally compliant.
- 7 Has the preparation of the RBKCLPPR complied with Part 2 of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Plan) (England) Regulations 2012 in all other respects?**
- 7.1 Compliance of the LPPR with all legal requirements have been set out within the Legal Compliance Checklist (SUB10 and SUB10.1). The checklists are based on 2012 Regulations and 2004 Act and is used with the Soundness Self-Assessment Checklists (SUB11 and SUB11.1). The legal compliance checklists summarise the statutory duties placed on local planning authorities in the preparation and making of development plans.
- 7.2 Part 2: Local Development of the Planning and Compulsory Purchase Act (PCPA) 2004 (as amended) consists of sections relating to survey, register, development schemes, documents, joint committees, miscellaneous and general. Essentially Section 19 of the PCPA 2004 (as amended) sets out the provisions for “Preparation of local development document”. The table below sets out each requirement under Section 19 and signposts other submitted core documents where this information has been provided and a short summary of how the requirement has been met.

Table 1 of Q7: Section 19 of the Planning and Compulsory Purchase Act 2004 (as amended)

PCPA 2004 (as amended) Section 19	Detailed information available	Summary
S19 (1) Preparation in accordance with local development scheme.	<ul style="list-style-type: none"> • See response to Issue 1b. Q2 • Noted in (SUB10 and SUB10.1) Stage 1 Activity 1 and Stage 5 Activity 1. 	The production of the policies within the Local Plan have been documented in the Council's adopted Local Development Scheme (SUB14).
S19 (1A) Policies contributing to the mitigation of, and adaptation to, climate change.	<ul style="list-style-type: none"> • See response to Issue 1b. Q6 • Noted in (SUB10 and SUB10.1) Stage 3 Activity 9. 	<p>The Local Plan Partial Review includes Policy CE1 (Climate Change). This policy sets out the measures by which climate change will be mitigated. It includes adherence to the relevant carbon standards, to energy sources and to combined cooling heat and power. Policy CE2, considers flooding and the need to address and reduce flood risk and its impacts.</p> <p>A number of other policies work together to mitigate the impacts of climate change.</p>
S19 (2) –(a) regard to national policies and guidance; (c) regarding the spatial development strategy as the authority is a London Borough;	<ul style="list-style-type: none"> • Policy Formulation Reports; <ul style="list-style-type: none"> ○ SUB18 ○ SUB18.1 ○ SUB29 ○ SUB31 ○ SUB41 ○ SUB43.1 ○ SUB44 ○ SUB45 ○ SUB46 	<p>The policies within the Local Plan have been prepared with due regard to national policies and guidance and are consistent with national policy and in general conformity with the London Plan.</p> <p>Letters of general conformity with the London Plan have been received from the GLA (SUB9 and CED007). These confirm that the LPPR is in general conformity with</p>

PCPA 2004 (as amended) Section 19	Detailed information available	Summary
	<ul style="list-style-type: none"> ○ SUB47 ○ SUB47.1 ○ SUB48 ○ SUB60 ○ SUB61 ○ SUB62 ● (c) See response to Issue 1b. Q 3 ● S19(2) noted in (SUB10 and SUB10.1) Stage 3 Activity 7, Activity 8 and Stage 5 Activity 2, 6. 	the London Plan.
S19(3) Statement of Community Involvement.	<ul style="list-style-type: none"> ● See response to Issue 1b. Q1 ● Noted in (SUB10 and SUB10.1) Stage 1 Activity 2, Stage 2 Activity 6, Stage 3 Activity 14, Stage 5 Activity 3. 	The Council's Statement of Community Involvement, "Involving People in Planning" (SUB12) sets out how the Council engages with the local community. This document is up-to date as has been prepared having regard to the current regulations. The details of how the community has been consulted are set out in the consultation schedules/summaries which have been prepared for each stage of the policy progression, and within the Submission consultation statement and Publication Policies Consultation Schedule (SUB7 and SUB8). These are all available on the examination web page.
S19(5) Sustainability Appraisal.	<ul style="list-style-type: none"> ● See response to Issue 1b. Q4. ● Noted in (SUB10 and SUB10.1) Stage 1 Activity 7, Stage 2 Activity 5, Stage 3 	The Council has published an Integrated Impact Assessment (IIA) report to consider the impact of the policies upon a wide

PCPA 2004 (as amended) Section 19	Detailed information available	Summary
	Activity 10, Stage 4 Activity 1, Stage 5 Activity 5.	range of issues (SUB67-SUB73). Central to the IIA is a full sustainability appraisal. Each iteration of the IIA report includes a section considering baseline information. The IIA Report scoping document (SUB65), sets the scope for the baseline data being collected, data which is used to assess the policies at each subsequent stage (Scoping IIA (Stage A) (August 2016), the IIA (Stage C) Report (Feb 2017) and the final IIA (Stage C) Report (May 2017). These are available on the examination web page.

7.3 The Council considers that the preparation of Publication Policies (SUB5), Proposed Modifications (SUB6) and Further Proposed Modifications (CED004) have been in accordance with the Town and Country Planning (Local Plan) (England) Regulations 2012 (as amended). In the table below, a summary is provided regarding the different regulation stages which have been complied with under the 2012 Regulations. The Publication Policies were approved for submission by a full meeting of the Council's elected members on 26 April 2017.

Table 2 of Q7: Summary table of compliance under the 2012 Regulations

TCPA 2012 Section	Detailed information available	Summary
Pre-Regulation 18 (Issues and Options consultation)	<ul style="list-style-type: none"> • See response to Issue 1b. Q1 • Consultation Statement (SUB7) 	<p>The Issues and Options consultation was a ‘Pre-Regulation 18’ consultation. Although this was a ‘Pre-Regulation 18’ consultation, and thus not strictly required to follow Regulation 18, the Council fulfilled the general requirements of Regulation 18.</p>
Regulation 18 (Draft Policies consultation) Part 1 and 3	<ul style="list-style-type: none"> • See response to Issue 1b. Q1 • Consultation Statement (SUB7) Noted in (SUB10 and SUB10.1) Stage 1 Activity 2, Stage 2 Activity 1) 	<p>(1) The specific and general consultation bodies were invited to make comments on the emerging Local Plan at all stages of its formulation. (3) The policies and supporting text have been amended having had regard to the representations received at each stage of the evolution of the Local Plan. In addition, the respective Policy Formulation Reports, at each stage of the Local Plan evolution, sets out how policies have evolved. These are available online on the Council’s website.</p>
Regulation 19 (Publication Policies consultation)	<ul style="list-style-type: none"> • Consultation Statement (SUB7) Noted in (SUB10 and SUB10.1) Stage 2 Activity 6, Stage 5 Activity 8. • Statement of Representation Procedure is referred to in the Legal Compliance Checklist (SUB10 and SUB10.1) Stage 4 Activity 3. 	<p>(a)The Council published a “Statement of Representations Procedure” on 2 February 2017 which set out where, and within what period representations must be made. These details were also made clear on the relevant pages of the Council’s website and through a letter/email sent to all stakeholders on the Council’s consultation database. (b) A letter/email was sent to all of the specific and general consultation bodies inviting them to make representations on the Regulation 18 draft policies and Regulation 19 publication policies. This</p>

TCPA 2012 Section	Detailed information available	Summary
		correspondence included a link to the electronic copies of the publication Local Plan, the associated IIA and to all the other supporting documents.
Regulation 20 (Representation relating to a local plan)	<ul style="list-style-type: none"> • Consultation Statement (SUB7) 	<p>The Consultation Statement (SUB7) summaries the consultation undertaken for the Draft Policies (Regulation 18) stage and also includes summaries of the comments on the Publication Policies (Regulation 19).</p> <p>Consultation Statement (SUB8) sets out all of the consultation comments on the Publication Policies (Regulation 19) consultation and the Council's response.</p>
Regulation 21 (Conformity with the London Plan)		Letters of general conformity with the London Plan have been received from the GLA (SUB9 and CED007). These confirm that the publication policies are in general conformity with the London Plan.
Regulation 22 (Submission of documents and information)	<ul style="list-style-type: none"> • Noted in (SUB10 and SUB10.1) Stage 5 Activity 11 and Stage 5 Activity 12. 	<p>1(a) A Sustainability appraisal has been carried out within the wider Integrated Impact Assessment. This was an iterative process, with a report submitted alongside each policy draft (SUB65-SUB73).</p> <p>1(c) The Consultation Statement (SUB7) has been produced in accordance with 1(c).</p> <p>1(d) – Publication Policies – Consultation Schedule (SUB8) has been produced to comply with 1(d)</p> <p>1(e) Copies of the representations received in accordance with Regulation 20 were submitted.</p> <p>22(3) All the relevant supporting documents were</p>

TCPA 2012 Section	Detailed information available	Summary
		made 'available' as prescribed.
Regulation 35 (Availability of documents)	<ul style="list-style-type: none"> Noted in (SUB10 and SUB10.1) Stage 4 Activity 2, Activity 4, Stage 5 Activity 18, Activity 21. 	<p>The Council made the submission documents available on the Council's website, in all local libraries and its principal office – Kensington Town Hall as prescribed in the regulations. This included a "Statement of Representations Procedure" which set out where, and within what period representations must be made.</p> <p>All documents have been submitted by post and electronically. A Document Index on the Council's examination web page sets out all the submission documents.</p> <p>Publication and notification of the hearing (CED008) in accordance with Regulation 24 at least 6 weeks before its opening was undertaken and copies of the correspondence were submitted to the respective bodies.</p>

7.4 The Council considers that Table 1 and Table 2 above adequately set out that the preparation of the LPPR has complied with Part 2 of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Plan) (England) Regulations 2012 in all other respects.