

ROYAL BOROUGH OF KENSINGTON & CHELSEA LOCAL PLAN PARTIAL REVIEW

RESPONSE BY KENSINGTON SOCIETY TO INSPECTOR'S MATTERS, ISSUES AND QUESTIONS ON ISSUES 3a DIVERSITY OF HOUSING

Housing Target (Policies CP1 and CH1)

Q1 Has the RBKC LPPR been positively prepared and is it justified, effective, consistent with national policy and in general conformity with the London Plan in relation to its aim in Policies CP1 and CH1 to meet and exceed the London Plan target for new homes in the borough of a minimum of 733 net additional dwellings a year?

Yes

The RBKC Local Plan is required to be in general conformity with the London Plan, which we understand it is.

The current Draft London Plan, based on the 2017 GLA SHLAA and SHMA, is proposing, despite a major uplift from 42,389 net additional dwellings per year to 64,935 in the Draft London Plan, RBKC's target has been reduced to 488 per year – a reduction of 245 units pa, which will still be challenging.

Housing Supply (Policy CP1)

Q2 In the light of the suspension of estate regeneration schemes put forward in the Further Proposed Modifications (CED004), is there an adequate supply of housing to meet the housing requirement identified in Policies CP1 and CH1 over the Plan period? If not, is this consistent with national policy and the London Plan and what steps are proposed to ensure the borough can effectively meet the London Plan target over the Plan period?

Following the Grenfell Tower fire, the Council's estate regeneration schemes have been put on hold. These will need to be reviewed with full participation with local residents. This should lead to an early review of the Local Plan. The Society supports this approach

Q3. Does the RBKC LPPR, as amended by the Further Proposed Modifications, demonstrate a robust 5-year supply of deliverable housing sites allowing for a suitable buffer to address past under delivery?

The Grenfell Tower fire and the need for a full consultation with residents means that this hiatus will put pressure on the trajectory. We support the Council's request for some breathing space in which to bring forward an early review. In the meantime we strongly support the policies to reduce the losses from deconversions and amalgamations

Q4. What evidence is there to demonstrate that the sites listed in the housing trajectory in chapter 40 of the RBKC LPPR and in Appendix 1 to core

document SUB43.1 are capable of delivering the required number of units between 2017/18 and 2021/22?

The overall numbers will be affected by the withdrawal of the estate regeneration projects and the timing of other projects may be deferred by phasing. Nevertheless, the proposed revised London Plan target of 488 net additional units a year will reduce the risk. A revised trajectory will be needed as part of an early review of the plan.

Amalgamations and Very Large Units (Policy CH1)

Q5 Is the policy on amalgamations and restricting very large units set out in criteria b, c and d of Policy CH1 justified in Kensington and Chelsea? Is it in conformity with the London Plan and consistent with national policy?

From 2000 to 2008 the Council was granting consents for “deconversion” of houses that had been converted into privately-rented flats and where owners sought to take advantage of the rising property values and the uplift from changing these buildings into single dwellings or even to a small number of larger flats where there may previously have been ten or more small flats.

Following research, the Council recognised that cumulatively these losses were quite substantial, but in the 2010 plan only sought to refuse those where the net loss from “deconversion” would be 5 or more flats. This decision was based on the view held at the time, based on a High Court decision on a scheme in Richmond, that a loss of that scale was classified as “development”, whereas RBKC maintained that schemes with losses of 4 or less were not even regarded as “development”. Fortunately, most developers wanting to undertake such developments sought Certificates of Lawful Development, which meant that the scale of the losses became evident, which would count against the Council’s housing target.

The Council decided to require planning applications for such developments and determined that many of these schemes should be refused, based on their loss of housing which was contrary to both the Local Plan and the London Plan.

There is another dimension to “deconversions” that needs to be highlighted. They were part of a gentrification process which resulted in smaller, more affordable, rented housing being lost and replaced by very large, 4 or 5-storey terraced houses. The losses in units between 2000 and 2010 resulted in a major reduction in the number of small, private-rented units and a significant social change.

Developers then turned their attention to “amalgamations” – the merger of two or more flats, usually in purpose-built blocks of flats or lateral conversions across two houses or even the merger of two terraced houses. By 2014 the Council recognised that this was another major “leak” that would, cumulatively, result in significant losses that would count against their housing target. In August 2014 the Council decided to start treating these amalgamations in the same way as those through “deconversion”.

Some planning inspectors had difficulty in agreeing that there was the “harm” in the loss of one unit. However, the scale of losses that could have happened between August 2014 to date, resulting from some 300 applications for “amalgamations”, which, if they had proceeded, would have involved losses at a rate of about 100 units per year – a major “leak” to be set against the hard-won gains of additional units.

The Society had been pressing for the change in policy since 2008, having pressed for:

- research on the impact of “deconversions” in 2008, and when the 2010 Local Plan did change the policy, it failed to tackle this properly;
- a change in legal interpretation of what constituted “development” to bring losses of 4 units or less subject to control; and
- the extension of this approach to all “amalgamations” which involve a loss of units.

The Society, therefore, strongly supports the Council’s policy CH1 (b) and (c) on amalgamations – which incorporates “deconversions” and “amalgamations” – as the Borough has a difficult enough task achieving its London Plan housing target.

The Draft London Plan (2017) has already recognised amalgamations as an emerging issue (see 4.2.11 of London Plan).

The emphasis of national policy is on increasing housing output, seeking “quick wins” to boost housing supply by changing permitted development rights. Thus, whilst it may be silent on these types of conversions, all the pressure is to secure more housing.

Policy CH1 (d) Restriction on very large units

Is it in conformity with the London Plan and consistent with national policy?

The 2010 Local Plan (paragraph 35.3.10) suggested a 20:80 split between small and large units. Although not ‘policy’ this approach was taken up enthusiastically by developers and property investors. At the Examination, the Society objected strongly to this 20:80 split and suggested that a 50:50 split between small and large would be better.

Many of the large sites subsequently developed has led to “buy-to-leave” properties including some very large houses and flats. However, the feature of these properties is that “size” is now not necessarily measured in the number of bedrooms but the amount of floorspace, resulting in flats in excess of 350sqm, rising to 450sqm, to 600sqm and a few even 750sqm.

Conformity with the London Plan

The policy to optimise the use of the sites has been a requirement of the London Plan since 2011 (London Plan, 2011 Policy 3.4), was repeated in the 2016 consolidated London Plan and is a key feature of the current Draft London Plan.

Developers in this Borough have been working to the ‘policy’ that encouraged large units, rather than the London Plan policy of “optimizing” the housing output”. The opportunity cost of producing fewer units and many of them being left empty for

much if not all of the year, means that instead of delivering housing to meet “objectively-assessed need” – homes for people who need to live in London – these sites are “wasted”.

The Draft London Plan (2017) proposes minimum space standards for new dwellings in Table 3.1, which repeats Table 3.3 in 2016 Plan. However, the new para 3.4.2 it supports/reaffirms the proposed CH1 (d) which seeks to “optimise the number of units delivered in new developments” under the heading of “restrict very large units.”

The Council’s latest SHMA suggests that the housing mix should change to 52:48. The latest London SHMA (2017) suggests a 55:45 split for London. However, after 10 years of operation of the 20:80 split, the new split should probably be 65:35 to make up for the heavy emphasis on large units over the last decade compared with the need for smaller units. This change in the size mix would help deliver more housing units of the right type.

Conformity with national policy

The Government’s policy as set out in the NPPF and the Housing White Paper is to boost significantly the supply of housing, and to plan positively to meet in full the objectively-assessed need in the housing market area. (see text of NPPF para 47).

The Council’s proposed policy to manage positively the size mix of developments to:

- optimise the use of housing sites;
- prevent the loss of housing through amalgamations;
- plan for a mix of housing; and
- identify the size and type of housing that is required, reflecting local demand

is completely aligned with national planning policy. See also answer to MIQ 8 below

The Society strongly endorses the direction of change, and strongly supports the Council’s commitment to “optimising” the number of housing units in accord with the London Plan. This will be even more important with the draft London Plan, where Policy D6: Optimising housing density is perhaps the most important message in the plan.

To do this the Council needs:

- to seek a better size mix with much fewer very large units,
- to have a clear headline message to developers and to residents that developments will be assessed against the London Plan policy of optimising the potential of its sites.

Q6. Is the threshold of 170 square metres (sqm) justified as the maximum limit for large units where a single dwelling is lost? What evidence is available to support this figure? Would a higher threshold be justified?

We disagree with this threshold. Our concern about “deconversion” and “amalgamation” has been about the loss of small, more affordable units. The proposal for a limit to the size of the resulting new dwelling of 170sqm would allow,

for example two 85sqm flats to amalgamate. According to the current London Plan's minimum housing standards, 85sqm would represent a 3-bedroom flat, so the creation of a 170sqm single unit would be double the London Plan space standard. That is a too generous limit, which would allow the loss of "smaller" units in favour of larger ones. A lower limit would target small units and a higher limit would be a nonsense.

Affordable Housing (Policy CH2)

Q7. Is the approach to affordable housing set out in Policy CH2 justified, consistent with national policy and in general conformity with the London Plan? In particular:

a. Is the 35% target justified by viability evidence and consistent with the London Mayor's strategic target of 50% across London?

The Society previously supported the 2010 policy (CH2(i)) (i.e. the current policy) which is to *"require developments to provide affordable housing at 50% by floor area on residential floorspace in excess of 800 square metres gross external area"*.

The proposed 35% target seems conservative given the high land values and property prices, but it is viable. It could be more ambitious. This policy could be overtaken by the proposed policies H5 and H6 in the Mayor's draft London Plan.

The Mayor through the Draft London Plan (2017) Policy H5: Delivering affordable housing proposes a strategic target of 50% of all new homes to be delivered across London to be affordable. The Mayor still maintains the ambition of achieving 50% in the long term.

b. Is a threshold of 650 sqm or more justified in relation to national policy, the Written Ministerial Statement and the London Plan?

The proposed threshold of 650 sqm or more is justified in relation the very high property values and the high densities – the values for both house prices and densities in Kensington and Chelsea are the highest in the country.

The original basis for the threshold for affordable housing provision in national policy was based on whether developments with a lower threshold would prove too onerous. The earlier national threshold was 15 units or more and was linked to a site-size threshold. London Boroughs were the first to adopt thresholds of 10 or more units on smaller sites due to higher densities. Since then the national threshold has been reduced to 10 or more units or 1,000 sqm gross floorspace.

The draft London Plan (Policy H6) proposes a threshold which would apply to developments of more than ten units or which have a combined floorspace greater than 1,000 sqm – this would seem to imply an average size of 100 sqm per unit.

In terms of viability, sites in Kensington and Chelsea can support a lower threshold.

c. Is the tenure split of 50% social rent and 50% intermediate housing justified by the evidence base and is it in general conformity with the London Plan targets?

The Draft London Plan (2017) Policy H7: Affordable housing tenure and paragraphs 4.7.1 and Table 4.3: 2017 SHMA findings, propose:

- a minimum of 30% low-cost rental (Social Rent/London Affordable Rent),
- a minimum of 30% intermediate products which meet the definition of affordable housing, including London Living Rent and London Shared Ownership; and
- 40% to be determined by the relevant borough based on identified need, provided they are consistent with the definition of affordable housing.

These minima will be reviewed in 2021 and, if necessary, updated through Supplementary Planning Guidance.

d. Is the use of Existing Use Value plus as the threshold land value in viability appraisals justified by the evidence and consistent with national policy? Where is this term defined?

See GLA, Homes for Londoners: Affordable Housing and Viability: Supplementary Planning Guidance, August 2017

e. Is the exemption of the borough from Vacant Building Credit justified by the evidence and consistent with national policy?

The draft London Plan (2017) Policy H9: Vacant Building Credit says:
“The Vacant Building Credit is unlikely to bring forward additional development in London, therefore in most circumstances, its application will not be appropriate in London.”

In Kensington and Chelsea sites containing vacant buildings that would not otherwise come forward for development are rare. This power is otiose in RBKC.

f. Are the proposed ‘main modifications’ to Policy CH2 and its reasoned justification in respect of starter homes and the definition of affordable housing justified in the light of emerging changes to national policy announced following the Housing White Paper?

Starter Homes are no longer a “requirement” but in Kensington and Chelsea they were always a non-starter, because of a lack of suitable sites and the high land costs. The draft revisions to the NPPF are not due out until Easter. Things could turn out differently.

Housing Size Mix and Standards (Policy CH3)

Q8. Is the approach to housing size mix and housing standards contained in Policy CH3 justified by the evidence and is it consistent with national policy and in general conformity with the London Plan? In particular, is a more targeted approach, with an emphasis on delivering a greater proportion of smaller housing units justified by the evidence?

The Council's latest SHMA suggests, in para 35.3.47, that the housing mix should change to 50:50, although its associated table suggest a 52:48 split. As suggested above, the new split for RBKC should probably be 65:35 to make up for the heavy emphasis on large units over the last decade compared with the need for smaller units. This change in the size mix would help deliver more housing units of the right type.

Specific Housing Needs (Policy CH4)

Q9. Is Policy CH4 seeking support for a range of specialist housing needs, including older people, houses in multiple occupation, student housing, self-build, hostels and supported housing justified by the evidence and consistent with national policy and the London Plan?

The Society strongly welcomes the inclusion of additional types of housing in the plan.

NPPF (2012) para 50, first bullet, includes arrange of types likely to be elaborated on in the proposed changes to the NPPF.

The current London Plan (2016) Policy 3.8: Housing Choice specifically requires the Boroughs *to ensure that new developments offer a range of housing choices..*

The Draft London Plan (2017) goes further, with specific polices for several of these categories, including:

- the private rented sector (H13: Build to rent);
- accessible housing (part of H14: Supported and specialised housing);
- older people (H15: Specialist older persons' housing)
- student housing (H17: Purpose-built student accommodation)
- gypsies and travelers (H16: Gypsy and Traveller accommodation)

Local Plan Partial Review proposals:

The Society welcomes the additional policies for additional groups of people.

We do, however, have some concerns about making a clear distinction between different types of provision of "older people's housing", which are very different in both Use Class terms and in terms of the Council's classification of "social and community uses" in Chapter 30 of the Local Plan: Keeping Life Local, where "care homes" homes are defined as a use with lower land values which needs protection, and are protected from change of use by Policy CK1.

Before the 2010 Local Plan the Borough lost several care homes to high-value housing – indeed this was one of the main triggers for the articulation of that policy. The few remaining care homes now benefit from this protection. However, there are now proposals for “extra care housing”, which are very different. They have very little in common with care homes and are certainly not covered by policy CK1. These proposals have all the characteristics of luxury housing blocks. .

The Society is concerned that the text on Extra Care Housing (paras 35.3.62 and 35.3.63) creates uncertainty and is not up-to-date in its classification of this type of housing as C2 (care homes) rather than C3 (housing).

Para 35.3.62 rightly makes the distinction between nursing and care homes which fall into the C2 use class, and, “two other main types of housing [our emphasis] for older people: extra care housing and retirement housing.” It then differentiates between the latter two types as being “the level of on-site care and communal facilities with extra care providing higher levels which can cater for a wider range of needs” It then says “In either case, it is important to note that the provision of extra care housing will contribute to meeting the Council’s annual housing supply target.”

This suggests that extra care housing is treated as housing, and, if it is, it would be subject to affordable housing requirements (para 35.3.6). It is suggested that the Council would judge extra care housing developments on a case-by-case basis using available guidance (referring to the Mayor’s Housing SPG).

However, the Draft London Plan (2017) proposes a specific policy (Policy H15: Specialist older persons’ housing), which deals in more detail with the different types of accommodation for older person (see H15C)

This proposed policy will overtake the Mayor’s Housing SPG (May 2016) as it makes a clear distinction between sheltered and extra care housing, which are treated as housing, and therefore subject to affordable housing contributions, and residential nursing care accommodation – which would include end-of-life/hospice care, and dementia care home accommodation. This definition has been supported by planning appeal decisions.

The Society, therefore considers that a stronger distinction is required in the LPPR supporting text (paras 35.3.62 and 35.3.63). and proposes that para 35.3.63 should be deleted, or failing that, substantially changed to reflect the most recent interpretation in support of Policy H15 C of the draft London Plan.