

## **KENSINGTON AND CHelsea LOCAL PLAN PARTIAL REVIEW EXAMINATION IN PUBLIC**

### **STATEMENT FROM THE ST QUINTIN AND WOODLANDS NEIGHBOURHOOD FORUM**

The St Quintin and Woodlands Neighbourhood forum covers an area in North Kensington, adjacent to the boundary with Hammersmith & Fulham. The neighbourhood plan prepared by the Forum was successful at referendum in February 2016.

A judicial review claim, challenging the Council's decision to advance the Draft Plan to its referendum, was heard in the High Court in 2017. The judgment of Mr Justice Dove of 12<sup>th</sup> January 2018 dismissed this claim, on all grounds (*Legard v RBKC* Case No.: CO/399/2016).

The neighbourhood plan is due to be 'made' shortly as part of the Development Plan for the Borough. Policies in the neighbourhood plan are set out at relevant places in the submission version of the LPPR.

#### **MATTERS, ISSUES AND QUESTIONS (MIQs)**

##### ***Issue 3b: Fostering Vitality (Policies CP1 and CF1-CF8)***

**Q7. Is the restriction on residential uses within Employment Zones in paragraph k of Policy CF5 justified by the evidence? Should the proposed modification to paragraph 31.3.53 (MINOR/051) to clarify the approach to residential uses in Employment Zones be considered as a 'main modification'?**

Whether or not it is technically considered to be 'minor', the proposed modification to para 31.3.53 is an improvement in that it seeks to make clear that a significant amount of residential space might be acceptable in an Employment Zone, as part of a mixed use development.

However, the word significant does not actually appear in the modification, but only in the explanatory note attached to it. This may well cause confusion in the future.

Our earlier comments on this paragraph also still apply, namely that its insistence that the design and character of any new buildings must be business led does not accord with the encouragement of mixed use development in Paragraph 17 of the NPPF.

Moreover, we do not see why buildings need to appear as commercial in their *character and design* in order to attract successful employment uses? The trend in London towards co-working space is going in the opposite direction (see e.g. the firm Second Home which has recently taken space in the Borough).

Nor does the modification do anything to address another of our earlier points, that the policy on residential use in Employment Zones in the draft local plan does not

take account of the differing viability of the Borough's three zones in their current format, even though the NPPF calls on all planning authorities to have due regard to market signals.

Finally there is the issue of whether the Council's determination to restrict residential development in the Employment Zones will make it even less likely that it can meet its current housing target – an achievement that has eluded RBKC for many years. This also arises in the context of RBKC's consultation on its proposed borough-wide Article 4 direction, withdrawing the permitted development right to convert from office to residential use. A copy of the StQW Forum's response to that consultation, covering some of these points, is set out below.

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Chair, StQW Neighbourhood Forum  
February 2018

**Response from the St Quintin and Woodlands Neighbourhood Forum to RBKC's proposal for a borough wide Article 4 Direction removing the permitted development right to convert B1 offices to C3 residential accommodation (October 2017).**

The St Quintin and Woodlands (STQW) Neighbourhood Forum and Neighbourhood Plan covers an area of North Kensington bounded by Latimer Road to the West, Dalgarno Gardens to the north, St Marks Road and St Helens Gardens to the east and the Westway to the south. The Neighbourhood Plan was supported by 92 per cent in the referendum held on 26 February 2016 .

For the reasons given below the STQW Forum objects to the council's proposal for a borough wide Article 4 Direction withdrawing the national permitted development right for change of use from B1 offices to C3 residential.

**1. The Key Decision report laying out the case for such a direction fails to give proper weight to the STQW Neighbourhood Plan.**

By its nature, a borough wide exemption from national policy such as the council is seeking would include the area of the Neighbourhood Plan. Yet in section 4 of the key decision report covering "the planning policies/guidance of particular relevance" to the issue, no mention at all is made of the Plan. It is mentioned, and then only in passing, in section 6 of the key decision report, which deals with previous consultations on the issue of office conversion. This states:

- A number of these representations relate to those with a particular interest in the Latimer Road area and the St Quintin and Woodlands Neighbourhood Plan. This Neighbourhood Plan has been approved at referendum, but still awaits being formally made as it is subject to a legal challenge.*

While it is the case that the Plan is currently subject to a legal challenge, this nevertheless greatly underestimates the weight that should properly be given to it in

any matter that involves the area it covers. The position on this is correctly explained elsewhere on the RBKC planning portal, in the section covering the STQW plan, as below:

*Following the successful referendum a key decision to 'make' the plan so that it becomes part of the Council's Local Development Plan has been delayed. This is because the Council's decision to accept the recommendations of the Examiner's report and to send the plan to referendum is the subject of a judicial review. The Forum's website can be found at [www.stqw.org](http://www.stqw.org). **Nevertheless, the Neighbourhood Plan is part of the Royal Borough's Development Plan and its policies will be used by decision makers to guide development in the Neighbourhood Area following the enactment of the Neighbourhood Planning Act 2017.** (emphasis added)*

In this case the Neighbourhood Forum was not consulted, and the Neighbourhood Plan has not been taken into consideration

## **2. The proposed Article 4 Direction runs counter to the policies and aims of the STQW Neighbourhood Plan**

The principal commercial area covered by the STQW Neighbourhood Forum and Neighbourhood Plan is Latimer Road. The condition and vitality of this street has long been a source of concern to the STQW Neighbourhood Forum, and local people generally. As part of the Latimer Road/Freston Road employment zone the range of uses permitted by RBKC in the street was tightly restricted before the Neighbourhood Plan took effect, particularly with regard to new residential accommodation.

The Neighbourhood Forum concluded when it was working on the Neighbourhood Plan that these restrictive policies, dating back to the 1990's, had left Latimer Road in need of regeneration and an injection of new life, and that as part of this mixed uses – including residential - should be encouraged in the street.

*As sections 8.1.1 and 8.1.2 of the Plan put it Latimer Road has become a street where potential remains unfulfilled, buildings are outdated, occupied at levels beneath average capacity for office premises in the Borough and little investment is being made....a change in planning policy is needed for Latimer Road. This part of the neighbourhood is not currently contributing to sustainable development.*

Looking to the future, the Neighbourhood Plan specifically addressed what should happen were the Government to withdraw RBKC's borough wide exemption from the permitted development right for change of use from office to residential. The Plan's conclusion, given in Action L11 of the section on Latimer Road, was that an Article 4 Direction should be sought to maintain ground floor B1 space in Latimer Road, while allowing the flexibility to convert space to residential on the upper floors. Now that the whole borough exemption has indeed been withdrawn, the STQW Neighbourhood Forum feels strongly that, rather than simply applying for the previous exemption to be reinstated via an Article 4 Direction, RBKC should adopt a more tailored approach to the areas such a direction might cover, which would allow Action L11 to be implemented.

**3. RBKC's own report in to the likely impact of permitted development of offices to residential in the Borough, does not consider that a direction preventing it would be justified in the Latimer Rd/Freston Rd Employment Zone.**

The differential between office and residential values in the Borough is at the heart of RBKC's case for an Article 4 Direction. If offices can freely convert in such an expensive borough, runs the argument, there soon will not be many left. In fact it has not turned out that way in other parts of London, which also have a high differential between office and residential values and where the permitted development right has operated for some four years without business space disappearing from their streets.

Nevertheless, in the view of the key decision report: *This uplift in value will form the basis for whether or not conversion is likely. The Council's consultants conclude that an uplift of more than 40% is likely to be sufficient to prove a compelling financial case for conversion. A 30% uplift in value may be all that is required.*

To establish how great a risk the permitted development right supposedly poses to the borough, the council commissioned a report from the consultancy TBR on how big an uplift to values change of use would produce across ten "submarkets" covering the borough.

In nine out of the ten, TBR concluded the uplift in value would range from 45% in Knightsbridge to 90% in Earls Court. But in the Latimer Road/Freston Rd Employment Zone the report found that the uplift in value would be just 16%, leading it to conclude that:

*On this basis all submarkets, **with the exception of the Latimer Rd/Freston Rd Employment Zone** (emphasis added) are fit for inclusion within an application for an Article 4 direction to prohibit residential conversion when the temporary exemption from this policy, which currently covers the Royal Borough of Kensington and Chelsea in its entirety, expires in May 2019.*

If both the Neighbourhood Plan and RBKC's own report says that the part of the Latimer Rd/Freston Rd Employment Zone covered by the STQW Plan should not be included in a wide ranging Article 4 Direction, surely the Council should take note.

**4. The Borough's record on housing delivery does not justify the blanket approach to permitted development for office to residential being proposed by RBKC.**

Ever since the introduction of permitted development for offices to residential use, the Government has been clear that where planning authorities wished to restrict the new right they should not seek to do so disproportionately. The Chief Planning Officer's letter on the subject of 24 Jan 2013 made plain that exemptions must be limited to a justifiable geographical area.

In his Written Ministerial Statement of 6 February 2014, referring to the permitted development of offices to housing, the then Planning Minister, Nick Boles, reminded local authorities that *Ministers are minded to cancel Article 4 directions which seek*

*to re-impose unjustified or blanket regulation, given the clearly stated public policy goal of liberalising the planning rules and helping provide more homes.*

In March this year the Government signalled that in future the extent of an Article 4 Directions to remove office to residential permitted development rights will be judged against a local authority's housing delivery performance. In the letter to Lord True, cited in the RBKC consultation, the minister explained that:

*"In future, those areas that are meeting their housing requirement will be afforded greater flexibility in respect of the area to be covered by an Article 4 direction removing the permitted development right to change from office to residential use. Where a local planning authority achieves 100% of its housing delivery requirement; and can demonstrate that it can continue to do so after removal of the right... the Secretary of State will look more generously at the area across which the direction would apply and not seek to limit a direction applying to that area... The flexibility in respect of the area covered by Article 4 directions will apply to those authorities that are meeting 100% of their housing requirement as measured by the housing delivery test.*

The policy therefore is clear: the Government will be looking at housing delivery, in the present as well as the future. As the RBKC key decision report acknowledges in para 4.34:

*Whilst the Housing Delivery Test is not yet in effect, and its detailed workings have not yet been consulted on, it is clear that the Government intends to consider Article 4 directions in light of housing delivery.*

So how is the Borough doing on housing delivery? The latest figures for the recent and current performance are given in Appendix R of the council's 2016 Annual Monitoring Report. They show that since the start of this decade the number of new homes completed has only risen above 50 per cent of the Borough's London Plan target in one year 2014/2015.

Between 2010/11 and the current year 2017/18 against a cumulative target of 5492 completions, only 2728 will have been delivered – again just under 50 per cent of the target. This comes nowhere near the Government's benchmark of 100per cent. How about the future? RBKC claims in the key decision report to have a sufficient housing land supply to fulfill its London Plan targets. But it admits the margin is very marginal indeed, 4,416 deliverable sites up to 2021 as against a requirement for 4,398. And the figure does not apparently take account of amalgamations.

According to a Planning Inspector who very recently decided an appeal at Queen's Gate Place

*The Council state the housing supply of 4406 units does not account for the loss of units resulting from amalgamations. As stated above the Council suggest this would be around 50 a year. When this is accounted for, and based strictly on the figures before me, the five year supply becomes 4156 homes, which is somewhat below the*

*five year target. **The Council accept they are most likely to be unable to meet their target.**(emphasis added) <sup>[17]</sup><sub>SEP</sub>*

*Appeal Decision 25 September 2017 on 12 & 13F Queens Gate Place, London SW7 5NX*

Further forward into the 2020's the RBKC projections were heavily dependent on new units coming forward on estate regeneration schemes, but these are now suspended following the tragedy at Grenfell Tower. Very recently, the Council has published a set of modifications to the local plan, taking the consequences of this into account. Para 40.1.8 of this document states:

*The housing trajectory currently shows a total development pipeline of 10,651 net additional units for the 15 year period 2017/18 to 2031/32. The total target over the same period is 10,995 units. Therefore the total capacity is 344 units below the borough target over the same period.*

RBKC has pledged an early review of the Local Plan. But it may also be that when the Government's new Housing Delivery Test is introduced, the Borough's target will be further increased. All of which makes it difficult to see how RBKC can be said to meet the Government's criteria for allowing an all-encompassing Article 4 Direction, of the sort it is seeking.

### **Conclusion**

A lot of work, time and thought went into making the STQW Neighbourhood Plan, and as part of that process a lot of consideration was given to the future of Latimer Road and specifically to what should happen if the Government removed RBKC's whole borough exemption from the permitted development right for change of use from office to residential.

The Plan's conclusion was action L11 in the section on Latimer Road, which calls for an Article 4 Direction to maintain ground floor B1 space in Latimer Road, while allowing the flexibility to convert offices to residential on the upper floors. This was integral to the Plan's ambition to see the street develop as a mixed use area.

The importance and weight that should be attached to Neighbourhood Plans has been repeatedly emphasised by the Government. Ministers have also stressed that Article 4 directions curbing permitted development should not be applied disproportionately. In this instance not only does the Neighbourhood Plan specifically not support the inclusion of Latimer Rd in an Article 4 direction of the sort the council is now seeking, nor does RBKC's own research commissioned from TBR.

The STQW Neighbourhood Forum therefore urges RBKC not to try to include Latimer Road in the blanket Article 4 direction it is seeking, but instead to propose a separate Article 4 direction for the street covering only ground floor B1 space in accordance with action L11 of the Plan. If that is considered impractical for any reason – and it is hard to see what that might be - then the Council should simply remove Latimer Road from the proposed Article 4 direction, as its own research advises.