



The Planning Inspectorate

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# **Report to the Royal Borough of Kensington and Chelsea**

by **Mike Hayden BSc (Hons) DipTP MRTPI**

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

Date: 31 July 2019

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Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

## **Report on the Examination of the Royal Borough of Kensington and Chelsea Local Plan Partial Review**

The Plan was submitted for examination on 5 May 2017

The examination hearings were held between 27 February and 16 March 2018

File Ref: PINS/K5600/429/8

## Abbreviations used in this report

AA	Appropriate Assessment
APA	Archaeological Priority Area
BREEAM	Building Research Establishment Environmental Assessment Method
CLP	The RBKC Consolidated Local Plan (2015)
DCLG	Department for Communities and Local Government (now MHCLG)
DtC	Duty to Co-operate
FRA	Flood Risk Assessment
GLA	Greater London Authority
GPDO	The Town and Country Planning (General Permitted Development) (England) Order
GTANA	Gypsy and Traveller Accommodation Needs Assessment
HLS	Housing Land Supply
HMA	Housing Market Area
HRA	Habitats Regulations Assessment
HSC	Hazardous Substances Consent
IDP	Local Infrastructure Delivery Plan
IIA	Integrated Impact Assessment
KCOA	Kensal Canalside Opportunities Area
LBHF	London Borough of Hammersmith and Fulham
LDS	Local Development Scheme
MHCLG	Ministry of Housing Communities and Local Government
MM	Main Modification
NPPF	National Planning Policy Framework
OAN	Objectively Assessed Need
OPDC	Old Oak and Park Royal Development Corporation
PPG	Planning Practice Guidance
PPTS	Planning Policy for Traveller Sites
RBKC	Royal Borough of Kensington and Chelsea
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SFRA	Strategic Flood Risk Assessment
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SPD	Supplementary Planning Document
SPG	Supplementary Planning Guidance
WMS	Written Ministerial Statement
WPA	Waste Planning Authority
WRWA	Western Riverside Waste Authority

## Non-Technical Summary

This report concludes that the Royal Borough of Kensington and Chelsea Local Plan Partial Review (the Plan) provides an appropriate basis for the planning of the borough, provided that a number of main modifications (MMs) are made to it. The Royal Borough of Kensington and Chelsea (RBKC) has specifically requested me to recommend any MMs necessary to ensure the Plan is sound and enable it to be adopted.

The MMs concern matters that were discussed at the examination hearings. Following the hearings, the Council prepared a schedule of the proposed main modifications and carried out sustainability appraisal of them. The MMs were subject to public consultation over an eight-week period. In some cases I have amended their detailed wording and/or added consequential modifications where necessary. I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- Alterations to ensure the removal of estate regeneration schemes from the Plan at the Silchester, Barlby-Treverton and Warwick Road Estates and to outline a process of co-design with the community for future estate renewal schemes;
- Changes to the Place visions to ensure their effectiveness in the delivery of the Plan's overall vision and spatial strategy;
- Modifications to update the position in respect of 5 year housing land supply;
- Amendments to the policy for affordable housing to ensure consistency with national policy and the London Plan;
- Alterations to the policy and supporting text on gypsy and traveller accommodation to address the shortfall in pitches;
- Changes to the policies for town centres to ensure consistency with national policy for retail impact tests and with permitted development rights in the GPDO;
- Revisions to the policy and supporting text for business uses to ensure it is justified and effective in the protection of offices and warehousing.
- Amendments to the policies and supporting text for climate change and flooding to ensure they are effective and consistent with national policy in respect of sewer flooding and sustainable design;
- Alterations to the supporting text to the policy on waste to ensure the Plan is justified and effective in providing for capacity for the management of waste arisings in the borough;
- A commitment to an early review and update of the Plan to take account of the emerging new London Plan with particular regard to the borough's housing target and waste apportionment and a new approach to estate renewal.

## Introduction

1. This report contains my assessment of the Royal Borough of Kensington and Chelsea Local Plan Partial Review (the Plan) under the terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (paragraph 182) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The revised National Planning Policy Framework (NPPF) was published in July 2018 and further revised in February 2019. It includes a transitional arrangement in paragraph 214 whereby, for the purpose of examining this Plan, the policies in the 2012 NPPF will apply. Likewise where the Planning Practice Guidance (PPG) has been updated to reflect the revised NPPF, the previous versions of the PPG apply for the purposes of this examination under the transitional arrangement. Therefore, unless stated otherwise, references in this report are to the 2012 NPPF and the versions of the PPG which were extant prior to the publication of the NPPF in July 2018.
3. The starting point for the examination is the assumption that the local planning authority submitted what it considered to be a sound plan. The Royal Borough of Kensington and Chelsea Local Plan Partial Review Publication Policies (the Plan), submitted in May 2017, is the basis for my examination. It is the same document as was published for consultation in February 2017.
4. Shortly after the submission of the Plan, the fire at Grenfell Tower in North Kensington occurred in June 2017. The submitted Plan contained proposals for the regeneration of several estates in the borough, including one at Silchester Estates close to the tower. In response to the fire, the Council decided to suspend current estate regeneration projects in the borough and propose changes to the Plan. Accordingly, the examination was paused between August and November 2017 to allow the Council to prepare changes to be considered as part of the examination. These were discussed at the hearings in February 2018, including with representatives of the Grenfell and Silchester residents. Amongst other matters my report considers the proposed future approach to estate regeneration and its implications for the planning of the borough. This report has been delayed due to the Secretary of State's request that the Council ensure they have liaised adequately with key stakeholders, given the sensitivity of this matter following the tragic events at Grenfell.

## Main Modifications

5. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any main modifications (MMs) necessary to rectify matters that make the Plan unsound or not legally compliant and thus incapable of being adopted. My report explains why the recommended MMs, all of which relate to matters that were discussed at the examination hearings, are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2**, **MM3** etc, and are set out in full in the Appendix.

6. Following the examination hearings, the Council prepared a schedule of proposed MMs and carried out sustainability appraisal of them in the form of an Integrated Impact Assessment. The MMs schedule was subject to public consultation for eight weeks between 23 July and 17 September 2018. I have taken account of the consultation responses in coming to my conclusions in this report and I have made some amendments to the detailed wording of the MMs. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal that have been undertaken. Where necessary I have highlighted these amendments in the report.

### **Policies Map**

7. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the Local Plan Partial Review Publication Policies (February 2017) Proposals Map (SUB27) and the List of Changes and Inset Maps (SUB28).
8. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, a number of the published MMs to the Plan's policies require corresponding changes to be made to the policies map. These proposed changes to the policies map were published as part of the consultation on the MMs. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in SUB27 and SUB28 and the further changes published as part of the MMs.

### **Consultation**

9. In preparing a local plan or, as in this case, a partial review of a local plan, paragraph 155 of the NPPF expects local planning authorities (LPAs) to undertake early and meaningful engagement on the plan and its strategic priorities with neighbourhoods, local organisations and businesses. The Town and Country Planning (Local Planning) (England) Regulations 2012 (the Regulations) and the Planning and Compulsory Purchase Act 2004 set out the legal requirements for such consultation. In summary, these require the LPA to consult with specific organisations, local residents and businesses about the content of the proposed plan<sup>1</sup>; to do so in accordance with the Council's Statement of Community Involvement (SCI)<sup>2</sup>; to take account of any representations from those parties in preparing the plan<sup>3</sup>; to explain how these representations have been taken into account and provide a summary of the issues which have been raised in a consultation statement<sup>4</sup>, which must be submitted with the plan; and finally to invite representations from the same interested parties on the final publication plan before submitting it to the Secretary of State for independent examination<sup>5</sup>.

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<sup>1</sup> Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012

<sup>2</sup> Section 19(3) of the Planning and Compulsory Purchase Act 2004

<sup>3</sup> Regulation 18(3) of the Town and Country Planning (Local Planning) (England) Regulations 2012

<sup>4</sup> Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012

<sup>5</sup> Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012

10. The Council submitted a Consultation Statement with the Plan<sup>6</sup> in accordance with Regulation 22. This explains that three phases of consultation on the Plan took place – at an early stage on issues and options (December 2015 to February 2016), on the proposed draft policies<sup>7</sup> (October to December 2016) and on the final publication plan<sup>8</sup> (February to March 2017). Representations were invited by a number of different means through the Council's consultation database, its website and regular email bulletin, as well as through discussion groups and social media. These are consistent with the consultation methods set out on the SCI<sup>9</sup>. Schedules summarising the representations made on the draft and publication plans were submitted with the Plan<sup>10</sup>. The schedules contained in section 3 of the Consultation Statement include a response from the Council explaining how it had taken into account the representations made on the draft plan. And section 4 of the Consultation Statement explains how in response to those representations the Council amended the Plan's policies prior to the final publication stage. Modifications to the Plan were also proposed by the Council in response to representations made to the publication plan<sup>11</sup>.
11. Questions were raised in representations on the Plan, in particular by the Grenfell Action Group, the Silchester Estates Residents Group and the Warwick Road Estate Leaseholders' Association, as to whether the views of local residents affected by estate regeneration proposals in the Plan were properly considered by the Council. This matter was discussed in some detail at the examination hearings, with specific reference to the evidence in the Consultation Statement and the requirements of the Regulations.
12. The key legal compliance test for my examination of the Plan with respect to consultation is whether it was prepared in accordance with the minimum legal requirements summarised above. In preparing the Plan the Council consulted with and heard from individual local residents and residents groups from the affected estates, and from community organisations representing residents from across the borough, in line with the methods set out in the SCI. Sections 3 and 4 of the Consultation Statement clearly show that the Council took into account the representations made in drawing up the Plan, as required by the Regulations<sup>12</sup>. Whilst I understand that changes to the Plan made by the Council at the publication stage did not go as far as some local residents sought, this does not amount to a failure to satisfy the legal requirements for consultation. Therefore, I conclude that consultation on the Plan complied with the statutory requirements.
13. Notwithstanding the above, the Council subsequently proposed changes to its approach to estate regeneration in the borough in response to the Grenfell Tower fire. This has necessitated consequent modifications to the Plan, which I deal with elsewhere in the report.

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<sup>6</sup> Submission document SUB7

<sup>7</sup> In accordance with Regulation 18

<sup>8</sup> In accordance with Regulation 19

<sup>9</sup> SUB12

<sup>10</sup> Section 3 in Consultation Statement (SUB7) and Regulation 19/20 Consultation Schedules (SUB8)

<sup>11</sup> SUB6

<sup>12</sup> Regulations 18 and 22

## Assessment of Duty to Co-operate

14. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation. The Council submitted a series of Policy Formulation Reports<sup>13</sup> which detail the actions it took to co-operate with the Greater London Authority (GLA), surrounding local authorities and prescribed bodies to plan for relevant strategic matters with cross-boundary impacts from the start of the plan preparation process. Those matters include the overall vision of the plan and for specific places, strategic sites and infrastructure, housing land supply, gypsy and traveller accommodation, flooding, drainage and waste.
15. With regard to the duty to co-operate on waste planning, the Council works in partnership with the adjoining waste planning authorities in Hammersmith and Fulham, Lambeth and Wandsworth, as part of the Western Riverside Waste Authority (WRWA) in managing its waste. There is an acknowledged and ongoing shortfall in capacity in Kensington and Chelsea to accommodate its apportionment of waste arisings from household and industrial and commercial waste identified in the London Plan. Accordingly, the Council has been working jointly with the WRWA authorities on technical evidence to support the pooling of apportionments within the WRWA and engaging with the Old Oak and Park Royal Development Corporation (OPDC) and waste planning authorities further afield, such as in the South East London Waste Planning Group, on the sharing of surplus waste management capacity.
16. Formal agreement had not been reached on a shared capacity arrangement to meet the borough's London Plan apportionments by the time of submission of the Plan nor indeed by the time of the hearings. However, ultimately the duty is to co-operate rather than reach agreement. It is clear from the joint evidence base and the records of meetings and correspondence with the GLA, the OPDC, other waste planning authorities across London and beyond and the London Waste Planning Forum that the Council worked proactively and collaboratively on an ongoing basis since as early as 2014 and at the time of the hearings was close to reaching agreement on a shared solution to its waste capacity shortfall. I deal with the soundness of the Plan in respect of waste planning to address that shortfall below.
17. Overall, I am satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and, therefore, that the duty to co-operate has been met.

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<sup>13</sup> SUB15, SUB18 and 18.1, SUB29, SUB31, SUB43-46, SUB48, SUB61 and SUB62

## Assessment of Soundness

### Background to and Scope of the Review

18. The Plan covers the whole of the Royal Borough of Kensington and Chelsea. It has been prepared pursuant to the Mayor of London's London Plan (2016)<sup>14</sup> which establishes the strategic planning framework for the borough, and with which the Plan must be in general conformity.
19. It is a partial review of the existing local plan base for the borough, which includes the Consolidated Local Plan (2015) (the CLP) and the extant saved policies from the Unitary Development Plan (2002) (the UDP). Paragraph 153 of the NPPF allows for plans to be reviewed in whole or in part. The purpose of the Plan is to review, in the light of changing circumstances and Council aspirations, those policies in the CLP which have not been reviewed since the CLP was first adopted in 2010, and to supersede the remaining UDP policies.
20. The Plan updates large parts of the existing CLP, including its vision and place strategies, and policies for housing, the economy and the borough's environmental limits. Where policies have not been included within the review, the Council has explained<sup>15</sup> that these have either been reviewed recently, such as for conservation and design, or remain effective in their current form, for example the policy for social and community facilities. The Council consulted on the scope of the review at the issues and options stage and adjusted the scope to include policies for archaeology and air quality at the draft plan stage. Overall, I am satisfied that there were no obvious omissions from the scope of the Plan at submission.

### Main Issues

21. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings I have identified 7 main issues upon which the soundness of the Plan depends. Under these headings my report deals with the main matters of soundness rather than responding to every point raised by representors.

### **Issue 1 – Are the vision and spatial strategy for Kensington and Chelsea as updated in the Plan positively prepared, justified and effective, consistent with national policy and in general conformity with the London Plan?**

#### *Vision*

22. The overall vision for Kensington and Chelsea to the end of the Plan period in 2028 is set out in Policy CV1, supported by seven strategic objectives (CO1-CO7). The vision was first included in the Core Strategy adopted in 2010. The updated version in the submitted Plan retains the three strands of stimulating regeneration, enhancing destinations and supporting residential quality, which seek to address the competing priorities and pressures in the borough.
23. Kensington and Chelsea has an important role as the home of a number of national and international visitor destinations and as a key part of London's

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<sup>14</sup> The London Plan – The Spatial Development Strategy for Greater London Consolidated with Alterations since 2011, published in March 2016

<sup>15</sup> See SUB1 and CED001

retail, cultural and business economy. At the same time there is a need to uphold the quality of life for people who wish and need to live in the borough, by increasing the supply of housing, particularly affordable housing in what is the most expensive property market in England; by improving the borough's air quality, healthcare, education and transport infrastructure; by preserving and enhancing its parks, open space and heritage; safeguarding against flood risk; reducing waste arisings; and maintaining the vitality and viability of its local centres, shops, services and community facilities. There is also a need for investment in new infrastructure and development in parts of borough, including identified areas of change at Kensal Canalside in North Kensington, Earl's Court in West Kensington and Lots Road/World's End on the Chelsea Riverside.

24. The vision as updated in the Partial Review seeks to address these needs, encapsulating the diverse character of Kensington and Chelsea and the balance between its local, national and international roles. Whilst it does not express the aspirations for the Borough in a way that all parts of the community agree with, the vision does address the key planning issues in the area in a way that is consistent with national policy and in conformity with the London Plan. It supports new development to build on the strategic advantages of the borough and the key opportunity areas in line with the London Plan. And the vision is aspirational but realistic in addressing the needs and issues identified in the spatial portrait, consistent with paragraph 154 of the NPPF. The strategic objectives provide an appropriate framework for the Plan's policies, which reflects local priorities and is consistent with national policy.
25. However, there are two areas in which the vision needs to be modified so that it is positively prepared, justified and effective. The first relates to estate regeneration, which I have addressed separately below. The second concerns health inequalities, where **MM3** is necessary to ensure the vision recognises this issue, through the aspiration for a better distribution of GP surgeries within the borough to improve access to healthcare.

#### *Estate Regeneration*

26. In common with many other parts of London, Kensington and Chelsea has a number of local authority-owned housing estates dating from the 1960s, which have been subject to a programme of estate renewal. This has involved renewing the existing social housing stock, cross subsidised by the construction of new market housing, for example as has taken place in the Wornington Green estate. The planning policy elements of this approach are set out in Policy CH4 in the adopted CLP, which includes a guarantee that all existing tenants will have the opportunity to be re-housed within the same neighbourhood. The Plan, as submitted, sought to change this to a policy of estate regeneration, Policy CH5, which, amongst other things, removed the guarantee to re-home tenants within the same area, because the Council did not consider this to be a planning issue. As submitted the Plan also allocated three estates at Silchester, Barlby-Treverton and Warwick Road for estate regeneration schemes to deliver an additional 1,400 homes through refurbishment, infill or redevelopment. Estate regeneration forms part of the first strand of the vision in Policy CV1 for regeneration in the areas of change.

27. However, in response to the Grenfell Tower fire in June 2017, the Council decided to end estate regeneration schemes at the Silchester, Barlby-Treverton and the Warwick Road Estates and has pledged that any future regeneration projects for these estates would be co-designed in conjunction with local residents. The Council's decision in this respect extends to matters much wider than land use planning and this Partial Review. But, as a result the submitted Plan is not consistent with the Council's changed approach to estate regeneration in the borough and therefore is not justified or effective.
28. Consequently, a range of MMs are necessary to ensure the Plan is sound in respect of planning for the estates in the borough. Changes are necessary to delete the three allocations for estate regeneration schemes at the Silchester, Barlby-Treverton and the Warwick Road Estates, together with their supporting text (**MM5, MM6, MM12, MM23, MM25, MM33, MM39, MM40, MM44, and MM118**). The three sites formed part of the Plan's housing land supply. Whether or not they can provide additional homes in the future will be subject to the outcome of a co-design process, which is as yet unknown. I deal with the consequences of this for the Plan's housing land supply under Issue 3 below. The deletion of Policy CH5 and its supporting text (**MM104-111**) is also necessary given the Council's decision. This means the Plan reverting to the existing Estate Renewal policy, CH4, which will ensure that the Plan remains effective in guiding any planning applications for the estates, should these come forward before co-designed solutions have been realised.
29. Changes are necessary to the first strand of the vision in CV1 for 'stimulating regeneration' to ensure it is justified in the light of the decision to end estate regeneration in the areas of change (**MM2**). The withdrawal and future review of the place strategy for the Latimer area (**MM38**) is also justified, given that it forms the context and setting for the Silchester Estate and Grenfell Tower. A number of other consequential modifications are necessary to ensure the Plan throughout reflects the shift away from the previous strategy of estate regeneration. These include **MM4, MM10** and **MM14-22** to the supporting text for the vision and spatial strategy; **MM24** and **MM26-28** to the vision and place strategy for Kensal, where the Barlby-Treverton estate is located; **MM80-81, MM99** and **MM115-117** to the chapter on the diversity of housing; and **MM134-MM142** to the infrastructure proposals for the estate regeneration sites. The Policies Map will also need to be updated to remove the allocations for the estate regeneration sites.
30. I have given very careful consideration to the requests made by the representatives of the Grenfell and Silchester residents, both in writing and at the hearings, that the Plan should be withdrawn in its entirety and re-written to signal a new approach to the development of the borough following the Grenfell Tower fire. However, whilst the withdrawal of the Latimer place vision and the estate regeneration schemes from the Plan are necessary for soundness, the withdrawal of the Plan as a whole is not necessary or justified for a number of reasons. This is a partial review of the CLP and the extant saved policies of the UDP. Those plans are not before me for examination. Therefore, to withdraw the Plan in its entirety at this stage would leave the existing CLP and UDP in place, but the borough would be without an up to date local plan, notably in respect of policies for strategic site allocations, housing, business uses and town centres. Given the competing pressures for development in Kensington and Chelsea, there is a need for the Plan to support the delivery of new homes and guide strategic development at places

such as Kensal Canalside, Earl's Court and Lots Road. There is also a need for revised policies to maintain the vitality and viability of the borough's town centres, secure affordable housing, ensure a balance between residential, commercial and cultural uses in the borough, manage waste and mitigate the environmental impacts of future development. All this would be significantly delayed if the Plan were to be withdrawn.

31. However, I do understand the concerns that the Plan was prepared in a period before the Grenfell Tower fire and that it should now reflect a change in approach, particularly to the estates. To this end, alongside the changes discussed above, **MM1**, **MM13** and **MM103** insert new text into the Plan, including in the first scene setting chapter, to ensure the Plan is clear from the beginning about the Council's commitment to a new co-designed approach to the borough's estates and a shift away from 'estate regeneration'. They also include a commitment to an early review of the Plan, to be completed within 3 years of its adoption, which will afford the opportunity for the Council to review the Plan as a whole, if necessary, in the light of its approach to the estates. These MMs are all necessary to make the Plan sound.

### *Spatial Strategy*

32. Within the context of the vision, the Plan's spatial strategy is set out in Policies CP1 and CP2. Policy CP1 defines the quanta of development for housing, commercial uses and infrastructure for which the Plan seeks to make provision. It is in general conformity with the London Plan in seeking to meet and exceed its target for housing in Kensington and Chelsea of 733 dwellings per annum (dpa). In addition, I conclude below under issue 3 that this figure is positively prepared in meeting objectively assessed housing needs of the borough for the plan period. **MM7** and **MM9** are necessary to ensure that the plan provides for the most up to date objectively assessed needs for office floorspace up to 2028 in line with the 2017 London Office Policy Review. The policy is also positively prepared in seeking to provide for the retail floorspace required in the borough over the plan period and the infrastructure required to support development as defined in the Infrastructure delivery Plan (IDP). **MM10** is necessary to ensure Policy CP1 is justified and consistent with the Council's decision to end three estate regeneration projects and the resultant impact this has on the housing supply from allocated sites.
33. Policy CP2 sets out an umbrella policy to guide development management decisions in the different locations of the borough in line with the visions, principles and priorities identified within the eleven Places chapters in the Plan. The Places chapters have been substantially restructured and simplified from those contained in the CLP to focus on the 'areas of change' and 'places with national or international reputation'. I consider the soundness of the individual place visions below. However, Policy CP2 is clear and effective on the role that the place visions, principles and priorities will play in providing guidance for the development management process.
34. **MM11** is necessary to ensure that the Plan is consistent with national policy in paragraph 184 of the Framework in clearly explaining for the purposes of neighbourhood planning that the place visions and their principles and priorities are non-strategic policy guidance. **MM17** is also necessary to ensure Policy CP2, its supporting text and the places chapters are consistent with the London Plan in respect of optimising housing densities.

35. Overall, I conclude that, subject to the MMs discussed above, the vision and spatial strategy set out in the Plan are positively prepared, justified and effective, consistent with national policy and in general conformity with the London Plan.

**Issue 2 – Are the individual place visions and site allocation policies proposed in the Plan positively prepared to meet the development needs and infrastructure requirements of Kensington and Chelsea, are they justified as the most appropriate strategies and will they be effective in delivering sustainable development in line with national policy and the London Plan?**

*Kensal*

36. The Kensal area lies in North Kensington, adjacent to the Old Oak and Park Royal regeneration area. It comprises a mix of employment and residential areas, cut through by the Great Western Main Line and the Grand Union Canal, and contains important heritage assets in the Kensal Green Cemetery. The area is dominated by the Kensal Canalside Opportunity Area (KCOA), the last large brownfield site in the borough containing the former Kensal Gasworks and the North Pole railway depot. The KCOA is identified as a major location for new housing and employment in the London Plan and is allocated as such in the Plan (Policy CA1). Kensal also contains the Barlby-Treverton estate, which is allocated for additional housing via estate regeneration in the submitted plan (Policy CA2). The area has relatively poor public transport accessibility compared to the rest of the borough, particularly north-south due to the severing effect of the railway line. Underground stations at Ladbroke Grove and Kensal Green are on the edges of the area.
37. The place vision for Kensal (CV5) in the submitted Plan is positively prepared in setting out an ambitious future for transformation, growth and improved infrastructure in the area, centred on the KCOA site and in line with the London Plan. It recognises the need to improve connections north-south across the railway line and to the east into the Old Oak and Park Royal regeneration area. It also seeks to preserve the special character of the Kensal Green Cemetery and to support new business workspace in the Kensal Employment Zone. Further flexibility in the vision to expressly permit residential uses within the Employment Zone is not justified, since Policy CF5 already provides for this where it would support an uplift of business floorspace within the Zone. However, as explained in more detail above, changes are necessary to remove references to new housing and estate regeneration at Barlby-Treverton and delete the allocation in Policy CA2, to ensure the plan is justified following the decision to end estate regeneration there (**MM24-29**).
38. Policy CA1 allocates the KCOA for 3,500 dwellings, 10,000 sqm of offices and 2,000 sqm of retail, social and community space. Whilst this accords with London Plan, it represents a significant increase in the capacity of the site over and above quantum in the CLP. Delivery at this scale relies on substantial enabling works and infrastructure, including the removal of the Hazardous Substances Consent (HSC) and clean-up of the former gas works, relocation of the existing food store, a new Crossrail station on the Elizabeth Line and new road links. Policy CA1 and its supporting text provide for this. However, whilst the removal of the HSC is underway, confirmation of the new railway station is still not certain given its stage in Network Rail's GRIP process for

new rail investments. Accordingly, the GLA advises that there is a need to plan for delivery of the site without a new station if it is not ultimately agreed, effectively to provide for a plan B.

39. Technical work has been undertaken<sup>16</sup>, which demonstrates that the site could still be delivered in transport terms without the new station, relying on enhanced bus services and the existing underground stations outside of the site. Chapter 39 of the Plan identifies this as a potential Plan B, but notes that the size of roads required would reduce the number of residential units below the minimum set out in the policy. The background studies also show that, without the Crossrail station, the scheme would fail to create the wider regeneration benefits that would flow from the optimum uplift in land values that the station hub would bring. In particular, the viability of the Plan B scheme would support a significantly lower proportion of affordable housing.
40. However, the KCOA site is not scheduled to come forward in the first 5 years of the plan period and therefore time has been allowed for key decisions on the site infrastructure to be reached. Based on the evidence submitted there is a reasonable prospect that the site is developable from year 6 onwards for the quanta of development proposed. But modifications are required, to allow for an alternative delivery strategy to be brought forward if the railway station is not feasible. I note the preference of the Council and the landowners for this to be brought forward through a Supplementary Planning Document (SPD) for the site and the suggested alterations to the proposed MMs to allow for this. However, given the strategic importance of the site to the borough's housing land supply and the London Plan housing target, any revised capacity and infrastructure under a Plan B should be confirmed through a review of the Local Plan. The Council's commitment to an early review of the Plan, within 3 years, should enable the trajectory, quanta of development and infrastructure for the KCOA site to be revisited if the new station is not agreed, and still be delivered from year 6 onwards. Accordingly, **MM26**, **MM29** and **MM31** as consulted on are necessary to ensure the Plan is justified, effective and consistent with the London Plan in delivering the strategic objectives for the KCOA site. The status of Kensal Green Cemetery as a Tier II Archaeological Priority Area also needs to be added as a site constraint to the supporting text, to ensure it is consistent with national policy in seeking to conserve the historic environment (**MM32**).

### *Golborne*

41. Golborne is a mainly residential community in North Kensington, located between the KCOA to the north-west and Portobello Road to the south-east. Local services and employment are situated in Golborne Road neighbourhood centre and the Kensal Employment Zone to the north-west and there is important green and blue infrastructure at Meanwhile Gardens and the Grand Union canal to the north-east. It is identified as an Area of Change in the Plan with two major housing allocations at Wornington Green, a post war housing estate, and land adjacent to the Trellick Tower, a grade II\* listed building, delivering around 340 additional dwellings in the plan period.
42. The vision for Golborne (CV6) is both ambitious for the area and sensitive to the needs of the community in accommodating new development. In combination

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<sup>16</sup> SUB19-22

with the site allocation policies for Wornington Green and land adjacent to Trellick Tower (Policies CA3 and CA4), it seeks to provide high quality new housing, public open space and better community facilities, improve links to the canal, Portobello Road and the KCOA, support enhancements to Meanwhile Gardens and the public realm, and respect the setting of Trellick Tower.

43. However, reducing health inequalities is not reflected in the vision for Golborne, despite this being recognised as a particular need in the area. Accordingly, to ensure the plan is justified, **MM34** is necessary to make explicit reference to improving health outcomes as part of the principles supporting the vision for Golborne. And to achieve this **MM37** is necessary to ensure new health facilities are provided for in Golborne as part of the development of the land adjacent to Trellick Tower.
44. The Wornington Green estate regeneration scheme already has planning permission and is under construction delivering new affordable and market housing. It has not therefore been withdrawn as an estate regeneration scheme. However, **MM35** is necessary to ensure site allocation Policy CA3 accurately reflects the net increase in housing units to be provided from Wornington Green site within the plan period.
45. I have considered the specific request for Meanwhile Gardens to be identified as a Local Green Space in relation to Policy CR5 below.

#### *Latimer*

46. The Latimer area is located in the north west of the borough, adjacent to the borough boundary with the London Borough of Hammersmith and Fulham (LBHF). It contains a number of large post war housing estates, including the Lancaster West estate where the Grenfell Tower is located and the adjacent Silchester Estates. There are also important business and employment activities in the area in the Latimer Road/Freston Road Employment Zone and adjacent to the west in the White City Opportunity Area which lies within the LBHF. Key transport corridors run through and around Latimer including the Westway, the Hammersmith and City line and the West London line, affording strategic cross-London access, but creating physical barriers to access within the area and to adjoining opportunities.
47. The Plan as submitted recognises that there are significant challenges in Latimer to improve the quality of housing, community facilities and open space, air quality and links to the adjoining White City area. However, the key site allocation in the Latimer area, for the regeneration of the Silchester estate to provide up to 1,400 new homes, is to be deleted from the Plan, following the Council's decision to end estate regeneration there in response to the Grenfell Tower fire. Accordingly, the Council has also proposed the withdrawal of the whole of the Latimer place vision, to enable it to be reviewed in the light of any new proposals for the Silchester estate.
48. I have concluded above that the deletion of the Silchester Estates site allocation is necessary for soundness. It is not ideal that the Latimer area as a whole should be left without a vision and place specific principles and priorities to steer development management decisions, which the Plan provides for other parts of Kensington and Chelsea. However, the Council has committed to bringing forward an early review of the Plan, within 3 years, which would, amongst other things, ensure the Latimer area is not left without a clear

spatial vision for any longer than is necessary. It would also ensure that the Plan does not pre-judge the outcome of the co-design process for the Silchester Estates and that it would respect the ongoing inquiry into the Grenfell Tower fire and the potential outcomes for the local community. Furthermore, there are sufficient other policies in the development plan, which includes the London Plan, against which any applications that might be submitted for development in the Latimer area can be determined in the interim.

49. For these reasons, the withdrawal and future review of the place strategy for the Latimer area and the replacement supporting text in **MM38**, whilst a significant change to the Plan as submitted, is justified as a necessary and proportionate consequential modification. I also conclude that the commitment to an early review of the Plan within 3 years is important as part of this MM. A consequential amendment is necessary to remove reference to the site allocation in Latimer from Policy CE1 on Climate Change (**MM120**).

#### *Earl's Court*

50. Earl's Court is identified as an Area for Change in the Plan. The site of the former Exhibition Centre forms part of the Earl's Court and West Kensington Opportunity Area, which straddles the borough boundary with the LBHF. The vision, CV8, seeks to create a new mixed use, urban village and cultural quarter, with the former exhibition centre site forming the gateway to a new residential area to the west in Hammersmith and Fulham. The site, which was first identified in the Core Strategy in 2010, already has outline planning permission and construction is underway. Policy CA6 allocates the site for a minimum of 900 new dwellings and 10,000 sqm of office floor space to be delivered within the plan period, together with retail, hotel, education, cultural, leisure and community space, new public open space (the Lost River Park), transport infrastructure, improved access to stations on the West London line and the underground, and on-site waste management and renewable energy facilities.
51. The proposal is consistent with the London Plan and with national policy in securing the optimum use of a brownfield site and delivering sustainable development. Whilst the quantum of residential accommodation on site has been increased from 500 in the CLP to 900 units in the Partial Review, this is in line with the planning permission. **MM41** will ensure that development is consistent with the design, space and density standards in the London Plan, by requiring delivery in line with the Earl's Court Opportunity Framework.
52. Policy CA7 allocates a series of four further sites for residential development along Warwick Road to the north-west of the Earl's Court site. All were originally allocated in the Core Strategy in 2010, three have been completed or are under construction and the remaining site has planning permission. In total they are expected to deliver 1,240 dwellings within the plan period as an extension to the Earl's Court urban village, including new open space, education and community facilities. **MM43** is necessary to update the dwelling figures in line with the relevant planning permissions to ensure the housing land supply in the Plan is justified. I have corrected the number of units for the former Homebase site to 375 dwellings to accord with the modified housing trajectory (MM148).

### *Lots Road/World's End*

53. Lots Road/World's End is located in the south of Kensington and Chelsea, adjacent to the South Fulham Riverside Opportunity Area, Chelsea Harbour and Imperial Wharf railway station within the LBHF, in an area undergoing significant change. It is characterised by a mixture of uses, comprising commercial activities in the Lots Road Employment Zone, residential areas including the World's End estate to the north and the former Lots Road Power Station and Cremorne Wharf, which are strategic sites on the Thames riverside. There are key development opportunities for new housing and commercial uses allocated at Lots Road Power Station (Policy CA9) and a site at Lots Road within the Employment Zone (Policy CA10).
54. The vision, CV9, and the two site allocation policies are positively prepared in providing for improvements to bus, rail and river access and for community facilities to support the increase in the quantum of housing and commercial space proposed. Policy CA10 also requires development to respect the adjacent Lots Road Conservation Area. However, **MM48** is necessary to ensure Policy CA10 is consistent with the sequential test by limiting the amount of new retail floorspace, given the site is outside of a town centre. **MM49** is also required to ensure Policy CA10 is effective in supporting the cross boundary provision of a cycle and pedestrian link across the West London line in accordance with the London Plan. And **MM50** is necessary to ensure the development of the Lots Road site takes account of the Chelsea Riverside Tier II Archaeological Priority Area and as such is consistent with national policy.
55. Cremorne Wharf is currently in use as a tunnelling site for the Thames Tideway Tunnel project. In the long term the GLA expects it to be safeguarded for waste and river freight in line with Policy 7.26 of the London Plan. **MM45** and **MM46** are necessary to ensure this is recognised in the vision for Lots Road/World's End to be in conformity with the London Plan. In respect of the potential use of Cremorne Wharf for the Counters Creek storm relief sewer project, no further changes to the vision and supporting text are necessary, given that the delivery of the project is still under review by the Council.

### *Notting Hill Gate and Portobello Road*

56. The Plan proposes separate visions for Notting Hill Gate (CV11) and Portobello Road (CV10). This is justified as the most appropriate strategy, given the distinctive retail function of Portobello Road as a Specialist District Centre and a Strategic Market within the London Plan, and the separate role of Notting Hill Gate as a major office location and a centre for arts and culture. However, both visions continue to recognise the importance of Notting Hill Gate as a gateway to Portobello Road.
57. For Notting Hill Gate, its character is formed by the comprehensive redevelopment of the centre in the 1950's. It is also highly accessible by public transport. The vision and the supporting principles and priorities recognise the need and opportunities for redevelopment and improvements to the centre, to support its gateway function and optimise its potential for new commercial and residential floorspace. Further detailed guidance for each of the potential redevelopment sites is contained in a separate SPD for Notting Hill Gate, adopted in 2015 following consultation. **MM51** and **MM52** will

ensure that the vision and the SPD are consistent in respect of refurbishment and redevelopment options, including for Newcombe House. I have amended the text for the additional bullet point in MM52 to reflect this.

58. Although the Plan no longer includes separate policies for each place in the borough, Policy CP2 ensures that the vision, principles and priorities for Notting Hill Gate will effectively guide new development there. Subject to the above MMs, I am satisfied that the place vision for Notting Hill Gate is positively prepared in supporting redevelopment and refurbishment, both of which are consistent with achieving sustainable development in this context. And as such it defines the most appropriate strategy for the centre.

#### *Kensington High Street*

59. Kensington High Street has a key role in the borough and in London as a shopping, cultural and leisure destination, being book ended by Kensington Palace and Gardens and Holland Park and the Design Museum, and housing a number of other cultural attractions. It is important as an office location within London, particularly for the music and media industries. The High Street also functions as a centre for the local community, providing the town hall, library and a range of other community services.
60. The vision for Kensington High Street in CV12 recognises the tensions between these competing roles, including the need to maintain the retail focus of the centre and forge a distinctive identity for the High Street. Together with the principles and priorities, the vision provides effective guidance to ensure new development reinforces these roles and meets the needs of the centre. It is supported by other policies of the Plan, including Policy CF3, which controls the mix of retail and other uses permitted in primary and secondary frontages within the High Street. **MM53** and **MM54** are necessary to ensure the vision is positively prepared in supporting local businesses and justified in terms of the scale of development expected to support improvements and step free access to High Street Kensington underground station.

#### *Knightsbridge*

61. Knightsbridge serves as both a national and international shopping destination and as a residential quarter and service centre for the local community. The vision in CV13 and the principles and priorities are positively prepared and effective in providing guidance for development to support these competing roles. With regard to the need for a long term viable use for the former fire station building, the protection of existing social and community uses is important in Knightsbridge to support the local community. Policy CK1 of the CLP provides a clear policy basis for considering proposals for enabling development of such sites, where the community use can be re-provided.

#### *South Kensington*

62. South Kensington also maintains two distinct identities, as a strategic cultural destination housing some of the country's principal museums, including the Natural History, Science and Victoria and Albert museums, and as a residential neighbourhood. The vision in CV14 and its principles and priorities are positively prepared in seeking to strike a balance between the needs of both residents and visitors, and between the development of museum facilities and ensuring day-to-day shopping and service needs are met. However, a key issue has been the decline in Class A1 retail units in the South Kensington

District Centre and the increase in Class A3/A4 food and drink uses to serve the needs of visitors. **MM55** is necessary to ensure the vision explicitly recognises this problem in order to support the effectiveness of Policy CF3 in restricting any further loss of retail outlets. **MM58** is also required to ensure that Plan is fully effective in balancing the needs of the cultural institutions with those of local residents.

63. Policy CA11 allocates a site at Harrington Road for residential led development comprising a minimum of 50 residential units and commercial floorspace at ground floor level to provide active frontages. The mix is appropriate for the location on a prominent corner site and the active frontages will support the vitality of South Kensington district centre. I note the suggestion made in representations of including B1/B2 office or workshop units within the allocation to encourage small businesses to relocate from less suitable locations. The policy would not prevent this being considered as part of the mix, if appropriate, in any planning applications which come forward. But it is not a requirement necessary to make the plan sound, given the range of sites and employment zones elsewhere in the borough to accommodate B1 and B2 uses. Therefore a MM is not justified in this case.
64. The CLP formerly contained a separate place chapter and policy for Brompton Cross as a district centre to the south-east of South Kensington. In simplifying the spatial strategy for the borough, the Plan now incorporates Brompton Cross as part of the place vision for South Kensington, which is appropriate given the synergies between its galleries and retail offer and the museums at South Kensington. However, the revised vision for South Kensington lacks any clear guidance for the planning of Brompton Cross. Accordingly, **MM56** and **MM57** are necessary to ensure that the Plan is effective in supporting the function and quality of Brompton Cross as a specialist interior design and fashion retail centre and the enhancement of its physical links with South Kensington and other surrounding destinations.

#### *Sloane Square/Kings Road*

65. The King's Road supports one of London's most vibrant shopping centres, and houses a number of nationally important cultural attractions, such as the Saatchi Gallery and the Chelsea Hospital, as well as leading centres for the treatment of heart and lung disease at the Royal Brompton and Royal Marsden hospitals. The vision in CV15 and its principles and priorities are positively prepared in supporting these key functions, whilst seeking to protect the amenity and quality of the surrounding residential area.
66. Policy CA12 allocates the Chelsea Farmers' Market site adjacent to the Royal Brompton for residential and retail development, which is the most appropriate strategy for the site in this context and will enhance the vitality and viability of the King's Road. It is also a proposed location for a new railway station for the safeguarded Crossrail 2 route running beneath the King's Road, which if delivered will significantly improve the public transport accessibility of the King's Road and further support the viability of its retail function. However, a site for the station is also being considered at Imperial Wharf in the adjacent LBHF. Whilst I recognise the desire for the vision in CV15 to be aspirational for the borough, **MM60** is necessary to ensure the Plan does not pre-judge the outcome of the station location decision and is both deliverable and effective in the provision of cross boundary strategic infrastructure.

**Issue 3 – Is the Plan positively prepared, justified and effective, consistent with national policy and in general conformity with the London Plan in respect of its policies and proposals for the provision of housing in Kensington and Chelsea?**

*Housing Requirement*

67. The London Plan (March 2016) sets a housing requirement for Kensington and Chelsea of a minimum of 733 dwellings per annum (dpa) from 2015-2025 to be rolled forward until a revised London Plan target is produced. I note the Council's evidence that this exceeds the objectively assessed need (OAN) for the borough based on the 2015 SHMA<sup>17</sup> and the February 2018 partial update<sup>18</sup>. And I note the counter arguments that the Council's OAN estimates do not include an adequate adjustment to reflect market signals in respect of affordability in Kensington and Chelsea. However, housing targets for the London Boroughs are set by the London Plan and are based on capacity rather than need. At the time the current London Plan housing target was set in 2016, the estimated capacity of Kensington and Chelsea to accommodate additional housing was 733 dpa. Because there is an overall shortfall of some 7,000 dwellings from 2015-2025 between the London-wide capacity for additional housing and its OAN, the London Plan expects the Boroughs to identify additional capacity to close the gap. Policies CP1 and CH1 in the submitted Plan seek to meet and exceed the London Plan target of 733 dpa. As such the Plan is in conformity with the London Plan in respect of its annual housing requirement.
68. The NPPF requires Local Plans to identify a supply of deliverable housing sites sufficient to meet 5 years' worth of the housing requirement with an additional buffer of 5% to ensure choice and competition in the market for land, or 20% where there has been a record of persistent under delivery. The submitted Plan acknowledged a record of under delivery on housing completions in the borough going back to 2010. On this basis it added a 20% buffer to the annual target resulting in a 5 year housing requirement of 4,398 dwellings from 2017-2022 or 880 dpa. Against this the Council evidences a 5 year housing supply of 4,410 dwellings, producing a slim surplus of 12 units.
69. However, the calculation of the 5 year housing requirement in the submitted Plan does not include the backlog of under delivery against the housing requirement since the beginning of the plan period in 2015. Whilst the London Plan housing target for the period 2015-2025 takes account of under delivery before 2015, the expectation is that borough local plans should meet and exceed their annual targets from 2015. There is a shortfall of 935 dwellings against the borough's housing target for the first two years of the plan period 2015-2017. When this is added into the 5 year housing requirement and recovered over the first 5 years of the plan period, the Council is unable to demonstrate a 5 year supply. This was accepted by the Council at the examination hearings.
70. In response, following the hearings, the Council submitted a supplementary position statement<sup>19</sup>, setting out further evidence on the calculation of the 5

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<sup>17</sup> SUB49

<sup>18</sup> Appendix 1 to EX024

<sup>19</sup> EX024

year housing requirement for the borough. The Council argues that due to the nature of the housing land supply and the capacity constraints in the borough, the approach to calculating the 5 year housing requirement in the submitted Plan should be modified in two respects. Firstly, to spread the undersupply of housing from 2015-2017 over the remainder of the plan period (the Liverpool approach) rather than over the first 5 years (the Sedgefield approach); and secondly, to adopt a 5% buffer rather than a 20% buffer. This would result in a 5 year housing requirement of 4,258 dwellings or an annual requirement of 851 dwellings for the period 2017-2022 based on the monitoring data available at the time of the examination hearings. Given the importance of this issue to future planning decisions in the borough, the supplementary statement was subject to consultation prior to the publication of the MMs and as part of the supporting evidence to the MMs. Interested parties had the opportunity to comment on its implications and I have taken those representations into account in reaching a conclusion on this issue.

71. In considering the evidence for and against the Council's proposed approach to modify the Plan to ensure a 5 year supply of deliverable housing land can be demonstrated, the following points are significant. Firstly, the purpose of the PPG and the NPPF in expecting undersupply to be dealt with in the first 5 years of the plan period and requiring a 20% buffer over and above the housing requirement, is to encourage previous shortfalls to be recovered quickly and provide a realistic prospect of achieving the planned supply by bringing sites forward from later in the plan period. However, in the case of Kensington and Chelsea, that is not possible due to the nature of the borough's housing supply from year 6 of the plan onwards. The allocated supply in years 6-12 of the trajectory essentially relies on 2 strategic sites, Kensal Canalside and Earl's Court. The Kensal site requires significant infrastructure works before it can start to deliver housing and, although Earl's Court is underway, the significant site preparation works held up the earlier delivery of housing. The remainder of the supply will largely come from the annual windfall allowances for small sites and vacant units coming back into use. There is no evidence to suggest that any of the supply projected for years 6-12 of the plan period could be brought forward and delivered in the first 5 years of the plan period.
72. Secondly, the borough's ability to deliver significant additional housing from other sources such as redevelopment at higher densities is constrained by the historic environment of the borough with around three quarters of its area covered by conservation areas. The last remaining significant brownfield sites are allocated in the submitted Plan. There was little evidence before the examination of other suitable 'omission' sites which could be included in the plan to boost the supply of housing in the first 5 years of the plan period.
73. Thirdly, the Plan's housing policies, which I consider in more detail below, do not unduly constrain the delivery of new homes. On the contrary Policy CH1 seeks to restrict the loss of housing units through amalgamations or de-conversions and optimise the delivery of units through applying the London Plan density policy. The changes to Policy CH2 proposed in the submitted Plan would reduce the minimum requirement for affordable housing to 35% and there is no evidence to suggest that reducing the qualifying threshold for affordable housing to 650 sqm of floorspace or the exemption from vacant building credit would undermine the viability of small sites. Policy CH3 promotes an increase in the proportion of smaller units in the mix of housing schemes, supporting increased densities and in turn helping to boost supply.

74. Fourthly, I recognise that policies in the Plan seek to protect offices, industrial and warehouse space, retail units, hotels, arts, cultural and community uses from change of use to housing. However, Kensington and Chelsea makes an important contribution to the London office market, and as a national and international cultural, tourist and shopping destination. Maintaining the vitality and viability of the borough's high streets and town centres by protecting shopping and service uses is also important in meeting the needs of local residential communities. Further it is important to protect the limited supply of lower value industrial, warehousing and community space in the borough. For all these reasons, it would undermine the Plan's overall spatial strategy and be inconsistent with the London Plan to encourage the loss of commercial, cultural and community uses to increase the supply of housing in the borough.
75. Finally, the London Plan housing targets are based on capacity. When the current London Plan was examined the estimated capacity of Kensington and Chelsea at 733 dpa was significantly more than the evidence now suggests. The removal of the three estate regeneration sites from the Plan has reduced estimated capacity in the borough by some 1,430 dwellings and strategic sites have not come forward as quickly. The latest London SHLAA 2017 now estimates the capacity of the borough to be 488 dpa. This is acknowledged in the revised housing target for Kensington and Chelsea in the draft new London Plan, albeit this is currently going through examination.
76. Therefore, whilst the borough has a persistent record of under delivery against its housing targets based on completions from 2010-2017, given the constraints on the borough's housing supply and without a supply of sites to bring forward from later in the plan period, the application of a 20% buffer would do little to improve the prospects of meeting the borough's housing requirement more quickly. Rather it would potentially undermine the policies for the protection of commercial, cultural and community uses which are critical to supporting the borough's local communities and the balance of uses in Kensington and Chelsea.
77. I have considered the application of the Housing Delivery Test (HDT) in paragraph 73 of the revised NPPF, which would become a material consideration in the calculation of the 5 year housing requirement in the borough following the adoption of the Plan. The results of the HDT for 2018 were published in February 2019. These show that for the 3 year period 2015-2018, housing delivery in Kensington and Chelsea was 137% of the housing requirement for this period. As a result on adoption the revised NPPF would expect no more than a 5% buffer to be applied in the borough.
78. For all of the reasons set out above, I conclude that a 5% buffer is justified in the particular circumstances of Kensington and Chelsea in calculating the 5 year housing requirement for the purposes of the Local Plan Partial Review. For the same reasons dealing with the backlog in the first 5 years of the plan period after adoption would not be deliverable. Furthermore, spreading the backlog over the plan period, using the Liverpool approach, would better reflect the trajectory for the delivery of sites in the Plan's housing supply.
79. This approach to calculating the 5 year housing requirement for Kensington and Chelsea strikes an appropriate balance between stimulating the delivery of housing, preserving the borough's historic environment, encouraging economic growth and maintaining the vitality and viability of town and district centres.

The Council has committed to an early review of the Local Plan, to be adopted within 3 years of the adoption of this Plan, which should allow it to review the housing requirement for the borough in the light of a new London Plan housing target. Accordingly, the changes contained in **MM82-84** and **MM143-MM149** would ensure a soundly based 5 year housing requirement in the Plan based on the Liverpool approach and a 5% buffer, which would be positively prepared to meet objectively assessed needs, justified as the most appropriate strategy for the borough, consistent with national policy and in general conformity with the London Plan. I have made minor changes to the wording of MM83 to ensure the application of this approach is consistent with both the previous NPPF and the revised NPPF in respect of the HDT.

80. The Plan also needs to be clear about the period over which the backlog should be recovered using the Liverpool approach. The plan period runs from 2015-2028, which is shorter than the 15 year time horizon preferred in the NPPF, but consistent with the start point for the London Plan housing target and the end point of the CLP of which this is a partial review. The submitted Plan sought to roll forward the housing target to identify a 15 year supply. However, given the change to the calculation of the housing requirement to reflect the Liverpool approach, the Plan should not seek to recover the backlog over a longer timescale than the remainder of the plan period. Accordingly, **MM82, MM84, MM143** and **MM148** include changes to ensure the Plan is effective and consistent with national policy in aligning the housing requirement and trajectory with the plan period.

#### *Housing Land Supply*

81. The publication plan identified a total housing supply for the borough of 11,694 dwellings up to 2031. However, with the deletion of the three estate regeneration sites from the submitted Plan, adjustments to the capacities for the site allocations on Warwick Road (Policy CA7) and alignment of the housing trajectory with the plan period, the revised overall housing supply for the remainder of the plan period from 2017-2028 is estimated to be 8,979 dwellings. This compares to a housing requirement of 9,731 dwellings for the same period, representing an overall shortfall of 752 dwellings.
82. The NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites to meet 5 years' worth of housing against the requirement. The Council's revised trajectory evidence<sup>20</sup> identifies a supply of 4,410 dwellings in the first 5 years of the plan period from 2017-2022 against the 5 year requirement (including a 5% buffer) of 4,258 dwellings; a surplus of 152 dwellings. The deliverability of sites within the trajectory was discussed in some detail at the examination hearings. The majority of the first 5 years supply of 4,410 dwellings is made up of sites with planning permission, including allocated sites at Wornington Green, Earl's Court and Warwick Road. Whilst I note the concerns expressed in representations about a handful of sites, footnote 11 to the NPPF is clear that sites with planning permission should be considered deliverable. I have no particular reason to doubt that any of the sites with planning permission should not be considered deliverable. The site at Newcombe House, despite being the subject of a previous dismissed appeal, is now moving forward. I note that the Mayor of London has taken over the determination of the most

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<sup>20</sup> In SUB43.1, CED015 and EX024

recent planning application and the Council confirmed that planning permission has been granted subject to a S106 agreement. Although the permitted scheme may only deliver a net increase of 26 dwellings, a deduction of 20 dwellings would not materially undermine the first 5 years of supply.

83. Four sites included in the trajectory for the first 5 years, which together provide for 180 dwellings, do not yet have planning permission, but I have no reason to believe that they will not come forward by 2022. The NPPF expects that there should be a realistic prospect that housing will be delivered within 5 years and that the development is viable. Representations expressed concerns that the site allocation on land adjacent to Trellick Tower is constrained as it is within the curtilage of a listed building. But a development on this site has the potential to enhance the setting of the tower. The site is also in the ownership of the Council, who confirmed at the hearings that a developer is being sought and an outline application is expected in 2018, allowing a further 3-4 years for a grant of consent, conditions to be discharged and the construction of 80 units, which is realistic. Finally the allowances for small sites (152 dpa) and vacant homes brought back into use (46 dpa) are based on reliable SHLAA evidence of consistent historic delivery from these sources which informed the London Plan. Therefore, subject to the changes set out in **MM84-85** and **MM143-149**, I conclude that the Plan is consistent with national policy in identifying a supply of deliverable housing sites to meet the housing requirement for the first 5 years of the Plan period from 2017-2022.
84. For years 6-10, the NPPF requires the plan to identify a supply of developable sites or broad locations for growth, and where possible for years 11-15. The trajectory evidence<sup>21</sup> identifies a supply of 3,308 dwellings for years 6-10, from 2022-2027, against a requirement of 3,909 dwellings; and for years 11-12, a supply of 1,261 dwellings against a requirement of 1,564. The identified supply for this period relies in particular on housing delivery at Kensal Canalside commencing in 2022/23, but I have concluded above that the site is developable within this timescale with or without the proposed Crossrail station. Sites at Earl's Court and Warwick Road are already underway and projected to continue to deliver housing between 2022-2025. And I've seen no evidence to suggest that any of the other sites listed in the trajectory for years 6-12 are unlikely to come forward within this time period or that the sources of windfall supply would not continue to deliver housing at the rates allowed for. Therefore, again subject to **MM84-85** and **MM143-149**, I conclude that the Plan identifies a developable supply of 4,569 dwellings for years 6-12 up to the end of the plan period.
85. I recognise that the Plan does not identify a housing land supply sufficient to meet the full London Plan target over the whole of the plan period. There would be a shortfall of 904 dwellings against the housing requirement for years 6-12. The principle reason for this is the decision to end estate regeneration schemes on which the Plan's housing supply relied for year's 6-10 of the trajectory. However, the identified supply is sufficient to maintain a rolling 5 year supply from 2017/18 to 2024/25. The Council has committed to an early review of Plan within 3 years of adoption of the Partial Review, which should enable it to review the housing land supply in light of a revised London Plan target and address any shortfall well in advance of 2024/25. In the meantime, the Council has done all it reasonably can to identify and bring sites forward to address the

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<sup>21</sup> In SUB43.1

shortfall, in what is acknowledged to be a constrained borough. The PPG states that local plans can pass the test of soundness where local planning authorities have not been able to identify sites or broad locations for years 11-15. In the circumstances, I conclude that subject to the changes to the housing trajectory and land supply in **MM84-85** and **MM143-149** the Plan is sound in respect of its housing land supply.

### *Amalgamations and Very Large Units*

86. Criterion b of Policy CH1 seeks to resist the loss of residential units which has been occurring in Kensington and Chelsea through the amalgamation of dwellings and de-conversions of flats to houses. The Council's evidence indicates that there has been a loss of at least 482 dwellings in the borough through amalgamations since 2009/10. Given the constrained land supply in the borough, Policy CH1 is justified in maximising the use of the existing housing stock, which is consistent with Policy 3.14 of the London Plan and paragraph 47 of the NPPF. There is nevertheless a need to provide for family housing in the borough, which is supported by the evidence in the SHMA. Accordingly, criterion b permits the conversion of two units into one with a maximum floorspace of 170 sqm. Whilst there may be market demand for larger family sized dwellings, a floorspace of 170 sqm would allow ample scope for 4+ bedroomed properties in comparison with the Nationally Described Space Standards, both for market and affordable housing. The evidence from amalgamations that have already taken place in the borough shows that setting a threshold above this would permit too many units to be lost. I note that Policy S14 of the Westminster City Plan does not set a threshold for deconversions to family-sized homes, but that is to address the shortage of family homes with gardens there. The Council has assessed a range of alternative policy options, including exemptions for returning listed assets to their original form, but concluded this would be too simplistic and could be dealt with on its merits. Based on the evidence provided, I am satisfied that the threshold based approach to amalgamations in criterion b of Policy CH1 is justified as the most appropriate strategy for the borough.
87. Criterion d of Policy CH1 also seeks to restrict the number of very large units in new residential developments by applying the London Plan density matrix. This is in part a response to the increase in 'super-prime' developments in the borough in recent years. Whilst the prime residential market in Kensington and Chelsea contributes to London's role as a global city and attracts international investment, the provision of very large units has an impact on the ability of the borough to meet its housing targets. Given the constraints on the housing land supply in Kensington and Chelsea considered above, optimising the number of units by applying a consistent London-wide density range is justified as the most appropriate strategy at this stage and would be consistent with national policy in boosting supply. **MM86** and **MM87** amend the criterion and its supporting text to remove reference to the London Plan density matrix to ensure consistency with London Plan housing density policies.

### *Affordable Housing*

88. Policy CH2 seeks the maximum reasonable amount of affordable housing in Kensington and Chelsea. This is in the light of an annual need for affordable housing in the borough of 1,171 dpa, which is more than twice the identified OAN of 575 dpa and significantly above the housing target for the borough of

733 dpa. Whilst I recognise that the figures for OAN and affordable housing need are calculated from different sources, the very high level of affordable housing need in the borough in comparison to the target for new dwellings justifies the policy objective.

89. The current CLP policy for affordable housing requires 50% of the floorspace of residential developments in excess of 800 sqm to be affordable. It also accepts a commuted sum in lieu of on-site provision for schemes of between 800-1200 sqm, but on-site provision for schemes above 1200 sqm. However, the Council's monitoring evidence shows that this policy has delivered only 397 affordable housing units between 2010 and 2016, which represents 20% of all residential completions over this period, significantly below the target. Whilst significant commuted sums in lieu of on-site provision have been secured through this policy, due to the very high land values in Kensington and Chelsea, the opportunities for the Council to use these have been limited to securing additional affordable housing within the Council's existing housing estates. The decision to end new estate regeneration schemes will limit the opportunities for off-site provision of affordable housing using commuted sums in future.
90. The Council has reviewed the policy criteria in order to secure an increase in affordable housing provision on site. The revised Policy CH2 requires residential developments with 650 sqm or more of floorspace to provide 35% affordable housing on-site, with a mix of 50% social/affordable rented and 50% intermediate tenures. It also makes clear that the payment of a commuted sum in lieu of on-site provision will be exceptional and only justified by robust evidence supporting off-site provision.
91. Lowering the target to 35% is supported by the Council's viability evidence<sup>22</sup>, which demonstrates that this proportion of affordable housing would be viable as a minimum on most types of residential development across the borough. Whilst the evidence indicates affordable housing would be viable at 60% in the areas of highest land value, such as Knightsbridge, the opportunities for significant additional residential floorspace in these areas is limited. Most of the sites contributing to the first 5 years of the Plan's housing land supply already have planning permission and would not therefore be subject to the revised policy. The main site without planning permission which makes a significant contribution to the borough's future land supply is at Kensal Canalside, in a lower value area of the borough. A minimum of 35% affordable housing is justified on this basis and would be consistent with the approach set out Mayor's Affordable Housing and Viability SPG (2017) referenced in the London Plan. However, changes to the supporting text and criterion b of Policy CH2 set out in **MM91** and **MM97** are necessary to ensure that 35% is clearly stated as the minimum level of provision, in line with the evidence and the London Plan. The supporting text also directs applicants to increase the level of affordable housing provision to 50% through the use of public subsidy, which again is consistent with the Mayor's SPG referenced in the London Plan.
92. The reduction in the floorspace threshold at which affordable housing would be required to 650 sqm is also aimed at maximising the provision of affordable housing, particularly from small windfall sites which remain an important component of housing supply in the borough. The Written Ministerial

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<sup>22</sup> In SUB51, 53 and 54

Statement (WMS) dated 28 November 2014 states that affordable housing should not be sought on developments of 10 units or less. A threshold of 650 sqm would include schemes of less than 10 units. However, the Council's viability evidence demonstrates that small schemes of 4 houses and 5 flats can viably support affordable housing at 35% for the majority of benchmark land values across all parts of the borough. Therefore, having regard to the Court of Appeal judgement on the WMS<sup>23</sup> I consider that the Council's viability evidence and the particular local circumstances in Kensington and Chelsea, in terms of the scale of affordable housing need and the importance of small sites in helping to meet those needs, justify the threshold of 650 sqm as an exception to national policy. This is also consistent with the approach set out in Policy 3.13 of the London Plan.

93. With regard to the affordable housing tenure mix, a split of 50/50 social/affordable rented and intermediate tenures would be consistent with the London Plan which allows boroughs to set targets within the overall London-wide mix of 60% social and affordable rent and 40% intermediate rent or sale. The Council's evidence justifies a higher proportion of intermediate tenures to support the needs of those on middle incomes unable to afford market housing for rent or sale given the very high property values in Kensington and Chelsea. The viability study evidence shows that for a range of intermediate tenures a 50/50 split is viable at 35% across most development types and areas of the borough.
94. During the course of the examination, the government has widened the definition of affordable housing, to include affordable private rent, starter homes, discounted market sales and other affordable home ownership products within the revised NPPF. Whilst the Plan is being examined under the 2012 NPPF, in order to ensure it is effective in the delivery of affordable housing once adopted, it is reasonable that **MM88-98, MM101-102, MM150-153, MM156** and **MM158-159** update the definitions of affordable housing to encompass the wider range of affordable products now included in national policy<sup>24</sup>, which can contribute to meeting the need for affordable housing in the borough. The viability of these tenures as part of an intermediate tenure mix have been tested by the Council's affordable housing viability evidence at 35% affordable housing<sup>25</sup>. I have made minor changes to the MM97, MM151 and MM158 to ensure clarity and consistency in the definitions used.
95. National policy<sup>26</sup> provides an incentive, known as vacant building credit, for brownfield development sites containing vacant buildings being brought back into use. On such schemes, it expects that affordable housing contributions should only be required for any increase in floorspace. The supporting text to Policy CH2 states that vacant building credit (VBC) will not apply in the borough. The Council cites a number of reasons for this. Firstly, the majority if not all sites in Kensington and Chelsea are brownfield and applying VBC would severely constrain the delivery of affordable housing. Secondly, there is no evidence of a need to incentivise the delivery of housing in the borough by this means given the prevailing level of residential values. The viability

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<sup>23</sup> Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council CI/2015/2559 [2016] EWCA Civ 441.

<sup>24</sup> Paragraph 64 and Annex 2 of the revised NPPF

<sup>25</sup> SUB54

<sup>26</sup> November 2014 WMS and paragraph 21 of PPG on Planning Obligations (Ref ID: 23b-026-20190315)

evidence shows that most types of residential development across the borough are viable at 35% affordable housing. Thirdly, the Council has not applied VBC to date and although the delivery of affordable housing is below target, there is no direct evidence that the failure to apply VBC has been a causal factor. The Court of Appeal judgement on the WMS means that government policy does not have to be applied in a blanket fashion and local circumstances can justify an exception. I am satisfied that the need to maximise affordable housing and the evidence for the viability of residential development in Kensington and Chelsea support the exemption from VBC included in the Plan.

96. Criterion f of Policy CH2 allows for schemes to deliver less than 35% affordable housing where exceptional circumstances apply, there are other public benefits and it is supported by a viability assessment. The supporting text stipulates that viability assessments must base the site value on the existing use value plus a premium to the landowner as an incentive to release the site for development (EUV+). The relative merits of EUV+ and alternative use values were discussed at the hearings. However, the use of EUV+ is consistent with paragraph 173 of the NPPF under which this plan is being examined, in that it should ensure a competitive return to a willing landowner. Further, the new NPPF, under which any future applications for development in the borough will be considered alongside the Plan, expects viability assessments in these circumstances to reflect the recommended approach set out in the PPG<sup>27</sup>, which expects benchmark land values to be based on EUV+. Accordingly, the Plan is consistent with national policy on this point. **MM154** includes a definition of EUV+ which is consistent with the new NPPF and the updated PPG and which will provide clarity in the application of Policy CH2 within the borough. I have amended the MM to refer to the relevant paragraphs of the updated PPG on Viability.
97. Overall, I conclude that Policy CH2 strikes a balance between maximising affordable housing without undermining the deliverability of new housing in the borough. The minimum target, tenure split, floorspace threshold and exemption from VBC support this approach and the viability of development is unlikely to be threatened. As such Policy CH2 is justified as the most appropriate strategy, consistent with national policy and in general conformity with the London Plan.

#### *Housing Size Mix*

98. Policy CH3 seeks to ensure that new housing provides a mix of type and sizes of homes to meet the needs of Kensington and Chelsea. Around 72% of the housing stock is 1-2 bedrooms compared to 54% for the whole of London. Policy 3.8 of the London Plan encourages boroughs to identify the range of needs likely to arise in their communities and ensure that new developments take account of this. Paragraph 50 of the NPPF directs local planning authorities to plan for a mix of housing based on current and future demographic trends. The 2015 SHMA provides the most up to date evidence on this for both market and affordable housing in the borough to 2035. The supporting text to Policy CH3 includes the relevant data tables from the SHMA to guide decisions on housing type and mix. Accordingly, the Policy CH3 is in general conformity with London Plan and sound.

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<sup>27</sup> PPG on Viability (Ref ID: 10-014-20190509)

### *Specific Housing Needs*

99. Policy CH4 seeks to provide for specialist housing accommodation to meet the needs of specific groups within the borough. This includes the provision of new extra care and sheltered housing for older people, resisting the loss of existing older people's housing, protecting houses in multiple occupation, supporting self-build and build to rent, supporting built student accommodation but not at the cost of general needs housing, and resisting the loss of supported housing and hostels. The policy is consistent with paragraph 50 of the NPPF and Policy 3.8 of the London Plan in planning for the needs of different groups in the community. It is also supported by Policy CH3, criterion b of which ensures that new housing meets Part M and London Plan accessible standards, which over time will support the adaptation of the stock to cater for older people who wish to remain in their own homes and provide more accessible housing to meet the needs of people with disabilities. Together Policies CH3 and CH4 provide an effective policy framework for the support and delivery of housing for older people and for other specific needs.
100. Two further matters concerning specialist older persons housing require clarification. Firstly, the assessment of housing need in the SHMA estimates the need for self-contained residential units including sheltered housing, but excludes residential institutions that primarily cater for those with care, nursing and medical needs (Class C2). Therefore, to ensure the Plan is effective and positively prepared in meeting its overall housing requirement, modifications are necessary to the housing site allocation policies to ensure it is clear they are allocated to deliver C3 residential development (**MM30, MM35-36, MM42-43, MM47, MM59 and MM61**).
101. Secondly, the Council's viability evidence<sup>28</sup> demonstrates that specialist older persons' accommodation is viably able to support affordable housing. Accordingly, the Plan is justified in applying Policy CH2 to this type of accommodation in order to meet the need for affordable specialist older persons' accommodation. Generally this applies to sheltered accommodation categorised as Class C3 residential use. However, to ensure the Plan is effective in maximising affordable accommodation **MM100** is necessary to make sure that whether an older persons' accommodation scheme should provide affordable housing does not depend on whether it falls into a Class C2 or Class C3 use, but on whether it is viably able to support affordable housing.

### *Gypsy and Traveller Accommodation*

102. The Council has worked jointly with the LBHF to address the accommodation needs of gypsies, travellers and travelling showpeople across both boroughs. A Joint Gypsy and Traveller Accommodation Needs Assessment (GTANA)<sup>29</sup> was undertaken, which included engagement with the traveller community for the two boroughs. The GTANA provides a robust evidence base to establish accommodation needs, in accordance with the expectations of the Planning Policy for Traveller Sites (PPTS). There is one site at Stable Way in the borough which provides 19 pitches to meet the identified needs of the gypsy and traveller communities in both boroughs. Over and above this provision, the GTANA identifies a need across the two boroughs for 3 additional pitches over the first 5 years of the Plan period from 2015-2020 and a further 6

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<sup>28</sup> SUB53

<sup>29</sup> SUB57

pitches in the period 2020-2030. It also confirms that there is no known need for plots for travelling showpeople.

103. The PPTS states that local plans should identify a supply of deliverable sites to meet the target for the first 5 years of the plan period and a supply of developable sites for years 6-10 and, where possible, years 11-15. Whilst the submitted Plan does not identify any specific sites, the Council has confirmed that it is working to support the expansion of the Stable Way site onto land at The Triangle to create additional pitches. In addition, the Council has been working with the London Borough of Hammersmith and Fulham (LBHF) on a joint site appraisal study and an options paper to identify further sites during the course of 2018. Policy CH6 in the Plan sets criteria to guide the selection of additional sites in the borough and against which applications for the expansion of the Stable Way site would be considered. The policy is consistent with the criteria based approach and principles set out in paragraphs 11 and 13 of the PPTS.
104. In the absence of an identified supply of deliverable sites which are available now, I am satisfied that the work being undertaken by the Council jointly with the LBHF provides a realistic prospect that the necessary additional pitches will be delivered by 2020 and other developable sites brought forward to meet the identified needs over the remainder of the plan period. Accordingly, the Plan is consistent with national policy in seeking to meet the need for gypsy and traveller accommodation. Modifications **MM112-114** to the supporting text to Policy CH6 are necessary to ensure that the need and the joint work being undertaken to meet that need are clearly set out in the Plan, so that it is positively prepared and justified, and consistent with the approach set out in the adopted Hammersmith and Fulham Local Plan.

#### *Conclusion on Housing Provision*

105. Overall, I conclude that the Plan is positively prepared, justified and effective, consistent with national policy and in general conformity with the London Plan in respect of its policies and proposals for the provision of housing in Kensington and Chelsea.

#### **Issue 4 – Is the Plan positively prepared, justified and effective, consistent with national policy and in general conformity with the London Plan in respect of its policies for ‘fostering the vitality’ of the economy in Kensington and Chelsea?**

##### *Retail Development and Town Centres*

106. Paragraph 23 of the NPPF expects local planning authorities to undertake an assessment of the need for retail, leisure, office and other main town centre uses and ensure a sufficient supply of sites to meet those needs in full. I deal with offices, arts, cultural and hotel uses below. In terms of retail and leisure development, the Council has assessed the need and demand for further floorspace over the plan period in the 2016 Retail and Leisure Needs Survey (RLNS)<sup>30</sup>. It forecasts a need for 15,700 square metres (sqm) of Class A1-A5 floorspace in the period 2015-2023 and 41,700 sqm up to 2028, but limited need for further leisure facilities.

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<sup>30</sup> SUB33

107. To meet this need, a total of 5,670 sqm of new retail floorspace has been completed between 2015 and 2017. The RLNS records 11,300 sqm of vacant shop units across the borough, the reoccupation of which would reduce the requirement for new retail floorspace. In combination with the completed floorspace, it would effectively meet the retail floorspace need up to 2023 and reduce the need to 2028 to 24,730 sqm. Opportunities for a further 5,050 sqm of retail floorspace have been identified in the allocations for Kensal Canalside (CA1), Wornington Green (CA3) and Harrington Road (CA11). Policy CF1 also identifies new centres to be created in Latimer and at the Earl's Court and West Kensington Opportunity Area. Other opportunities for new retail floorspace also exist within the Chelsea Farmer's Market site (CA12) and the Newcombe House site recently granted planning permission within Notting Hill Gate.
108. Whilst the Plan does not allocate sites to meet the retail floorspace needs in full up to the end of the plan period, it identifies sufficient opportunities to meet the leisure and retail floorspace needs of the borough for around the first 10 years of the plan period. The RLNS states that long term forecasts beyond 2023 are less reliable and more susceptible to change. The Council's commitment to an early review of the Plan to be adopted within 3 years of adoption of the Partial Review should provide the opportunity to monitor the take up of vacant floorspace and the impact of new development on retail floorspace demand in the borough and if necessary allocate more sites at that stage. On this basis, I am satisfied the Plan is positively prepared in respect of its provision for new retail development and is consistent with national policy in ensuring a sufficient supply of suitable sites to support the growth of the borough's town centres.
109. In line with paragraph 23 of the NPPF, the Plan also continues to identify a network of town, district and neighbourhood shopping centres, to support the borough's role as a national and international shopping and cultural destination and to maintain quality of life in its residential communities. The Council has reviewed the hierarchy, summarised in the Shops and Centres Background Paper 2015 (SCBP)<sup>31</sup>. It designates new neighbourhood centres at Talbot Road, Latimer Road and Kensington High Street (Warwick Road), upgrades the Earl's Court Road from a neighbourhood to a district centre, and de-designates Ifield Road as a neighbourhood centre due to shrinkage. All of these are justified by the evidence of change.
110. Policy CF1 seeks to ensure the vitality and viability of these centres through a town centre first approach to new retail development, which is consistent with the sequential approach in paragraph 24 of the NPPF. The supporting text to Policy CF1 sets a threshold of 400 sqm, whereby any proposal for new retail development at or above this size in an 'out of centre' location should be subject to a retail impact assessment to test its impact on the vitality and viability nearby centres. This is below the default threshold of 2,500 sqm set out in paragraph 26 of the NPPF, but represents the threshold for a large shop with a convenience function. Shops at this scale could affect trade within the network of smaller neighbourhood centres in the borough, which are important in meeting local community needs. The threshold is therefore justified to allow the Council to test the impact of such proposals on nearby neighbourhood shopping centres in particular. **MM65** to the supporting text is necessary to make clear the impact assessment applies to 'out of centre' proposals only, to ensure Policy CF1 is consistent with national policy.

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<sup>31</sup> SUB32

111. Policy CF2 supports retail development within town centres, requiring the scale and nature of development to relate to the size, role and function of the centre. This is consistent with paragraph 23 of the NPPF in managing the growth of centres and recognising their individuality. The previous version of the policy in the CLP has been updated in the submitted Plan, with criterion c, which sought the provision of affordable shops in new large scale retail developments, deleted on the basis that it has been ineffective. However, criterion b and the supporting text continue to support a range of shop sizes, including small units for start-up businesses, where necessary secured through S106 agreements. I am satisfied that the revised Policy CF2 in the Plan is justified as the most appropriate strategy to support new retail development in the borough.
112. Policy CF3 promotes a diversity of uses within the hierarchy of town centres in Kensington and Chelsea, including A1-A5 uses. It continues to define primary and secondary retail frontages within the higher order centres of Knightsbridge, Kings Road, Fulham Road, Brompton Cross, South Kensington, Kensington High Street, Portobello Road, Notting Hill Gate, Earl's Court Road and Westbourne Grove where retail uses should predominate to protect the vital role of these centres as shopping destinations. The extent of the frontages has been reviewed in the SCBP and updated where there is evidence of change. Policy CF3 contains clear guidance on where and in what proportions non-A1 uses should be permitted within both primary and secondary frontages. The requirement for 80% of ground floor units to remain in A1 uses in the higher order centres is justified given the importance of maintaining their retail function.
113. For secondary frontages within these centres, the Plan sets a threshold of 50% of ground floor units to remain in A1 uses, compared to 66% in the adopted CLP. This would result in a reduction in A1 uses of 64 units or 2.8% of all units within the higher order centres in the borough. I note the concerns expressed in representations about the effect of this change on the vitality and viability of these centres. However, other than the changes to South Kensington due to the spike in demand for food and drink outlets to support the strategic Cultural Area, it does not appear from the evidence of increasing vacancy rates within the borough's town centres that this reduction would undermine the primary retail role of the borough's higher order centres. Rather, if anything, it would allow for a greater diversity of uses to maintain vitality and viability of these centres, reduce vacancies and provide a wider service base for local communities.
114. Policy CF3 as drafted in the submitted Plan retains a restriction on changes of use to Class A2 estate agents or bureaux de change in Notting Hill Gate from the CLP. However, this has been superseded by amendments to the GPDO in 2015. Accordingly, **MM67** and **MM68** are necessary to ensure the Plan is consistent with national policy in respect of permitted development rights for changes of use from A1 to A2 uses. Subject to the main modifications referred to above, the approach set out in Policy CF3 to support the vitality and viability of the borough's town centres by maintaining their primary retail function and encouraging a diversity of complementary uses is positively prepared, justified, effective, consistent with national policy and in general conformity with the London Plan.

115. Finally, **MM66** proposes a change to the supporting text to Policy CF3 to protect commercial and community uses in the upper floors above shops in town centres from change of use to housing. Whilst I understand the local concerns about this, on reflection MM66 is not consistent with the wording of the NPPF in respect of residential development within town centres. Accordingly, I have amended MM66 in the Appendix to remove the additional wording 'when not at the expense of non-residential town centre uses'. Shops, offices and community uses at first floor level and above are adequately protected by Policies CF3 and CF5 in the submitted Plan and Policy CK1 in the CLP.

### *Business Uses*

116. Policy CP1 and the supporting text to Policy CF5 identify the quantum of office floorspace required to meet the needs of Kensington and Chelsea up to 2028. The net requirement in the submitted Plan was 86,600 sqm from the 2015 London Office Policy Review (LOPR), which was based on a 2011 start date. However, during the examination a new LOPR 2017<sup>32</sup> was published, with a December 2015 base date. This shows that the forecast demand for office space for the period 2016-2028, including permitted losses, is 71,612 sqm. To meet that need the Plan identifies a supply of 84,461 sqm, comprising 74,461 sqm in outstanding permissions and 10,000 sqm allocated at Kensal Canalside. So overall the Plan can now demonstrate a small surplus of 12,849 sqm in the supply of office floorspace to meet the identified demand over the plan period. Main modifications (**MM7**, **MM9**, **MM69** and **MM70**) to Policy CP1 and its supporting text and to the supporting text to Policy CF5 are necessary to ensure that the plan is justified in providing for the most up to date objectively assessed needs for office floorspace up to 2028 in line with the 2017 LOPR.

117. Policy CF5 seeks to ensure there is a range of business premises in the borough to allow businesses to grow. It sets out criteria for the protection of existing and provision of new office, industrial and warehousing space. With regard to offices, it protects offices throughout the borough, with some exceptions which I deal with below. This borough-wide protection is allied to an exemption from permitted development rights for change of use from offices to residential throughout Kensington and Chelsea, which was granted by the government in 2013 and renewed in 2016. Despite the vibrancy of the office market in the borough, due to the significant differential in land values between business and residential uses in Kensington and Chelsea, the conversion of offices to residential has contributed to a significant loss of office floorspace in the borough from 2010-2015. The evidence put forward was sufficient to persuade the government to grant the exemption. An Article 4 Direction removing permitted development rights for this change of use has subsequently been confirmed and brought into force in May 2019 replacing the exemption.

118. However, in the light of the constraints on the borough's housing land supply, I have considered as part of my examination whether Policy CF5 remains justified, given that it is holding back potential opportunities to convert offices to housing which could help to boost the housing supply in the borough. The Council's evidence on this issue is comprehensive, including the evidence to

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<sup>32</sup> EX006

support the Article 4 Direction, prepared in 2016<sup>33</sup>, and an Office Market Review (OMR) undertaken in 2014<sup>34</sup>. I have also taken into account evidence submitted by interested parties on this point during the examination.

119. In summary my findings are as follows. The borough's office market supports a closely related set of business clusters in the creative industries sector, which are important to the London economy. Although there is a forecast surplus of office space over the plan period, the OMR shows an availability shortfall in the borough with only 2.8% of office floorspace vacant at the end of 2017. Any further loss of office space would exacerbate this position, potentially driving up office rents. Paragraph 22 of the NPPF states that the long term protection of employment sites should be avoided where there is no reasonable prospect of a site being used for that purpose. However, the low office vacancy rates in Kensington and Chelsea indicate a healthy and viable office market. This suggests that changes of use from offices to residential are driven by the differential in values not a lack of demand for office space. Despite a recent levelling out of residential values, the differential in values remains. Having considered the evidence, I conclude that the restriction on the loss of offices in Policy CF5 is justified.

120. There are two noted exceptions to the borough-wide office protection policy. Firstly, the St Quintin and Woodlands Neighbourhood Plan supports a wider mix of commercial uses within the Freeston/Latimer Road Employment Zone where this contributes to the vitality of the area and increases employee numbers on site. The supporting text to Policy CF5 makes this clear. However, **MM63** is necessary to ensure the Plan confirms that in this and other locations the policies of the neighbourhood plan take precedence over the non-strategic policies in the Local Plan in accordance with national policy. Secondly, within the Employment Zones Policy CF5 allows for a more flexible approach given their role in supporting innovation, start-up and micro-businesses. It permits Class A and other town centre uses where they support the business function and character of the Zones and residential uses which enable a significant uplift in the quantity and quality of business use in the Zones. **MM72** and **MM73** are necessary to ensure the policy and its supporting text are justified and effective in allowing changes which retain the business 'function' of the Zones rather than their 'character', which is related to design and appearance and not relevant in the context of Policy CF5.

121. Policy CF5 also protects industrial and warehousing uses across the borough. There has been a loss of both industrial and warehousing floorspace in the borough to higher value uses. Whilst the warehousing sector in Kensington and Chelsea does not serve a strategic function for London, it is important in serving the storage needs of local businesses and residents. Therefore, Policy CF5 is justified in seeking to protect it from loss, other than to another Class B use which will support the local economy. However, **MM71** is necessary to ensure the policy is consistent with paragraph 22 of the NPPF in allowing for change of use or redevelopment to a non-B Class use where there is no economic need for it to be retained. The need for the warehouse use to be established is also necessary to ensure the policy is effective in preventing a change from offices to warehousing and from warehousing to residential both of which can be done under permitted development rights, thereby

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<sup>33</sup> SUB39

<sup>34</sup> SUB37

circumventing the future Article 4 exemption to protect offices. Whilst I note the further changes to MM71 sought by the GLA, these are not necessary for soundness.

122. Overall, subject to the main modifications discussed above, I conclude that Policy CF5 and its supporting text are positively prepared, justified, effective, consistent with national policy and in general conformity with the London Plan in seeking to protect offices, industrial and warehousing uses in the borough and its more flexible approach in the Employment Zones.

### *Arts and Cultural Uses*

123. Policy CF7 supports arts and cultural uses in the borough, seeking to protect existing cultural facilities, permit new such uses and allow redevelopment of former arts and cultural sites where this enables the provision of new arts and cultural uses either on site or elsewhere in the borough. The policy is justified given the importance of the borough's arts and cultural institutions both locally and at a national and international level. It is also consistent with the approach to planning for cultural facilities set out in paragraph 70 of the NPPF. Whilst I understand the concerns expressed in representations about the potential for enabling development to cause harm to heritage assets in the context of Kensington and Chelsea, the CLP provides a robust framework of policies for the conservation of the historic environment which would also need to be satisfied.

124. The reasoned justification to Policy CL7 supports ancillary retail, food and drink uses within the borough's cultural institutions to support their operation. **MM74** is necessary to ensure the Plan is consistent with the sequential and impact tests for town centre uses in national policy in only supporting such facilities where they are genuinely ancillary to the main cultural use.

### *Hotels*

125. Policy CF8 supports the visitor economy in Kensington and Chelsea through appropriate hotel provision. Criterion a seeks to protect existing hotels and hotel bedrooms, particularly from conversion to housing. Although this is a further constraint on the potential supply of housing in the borough, I am satisfied from the evidence available that this is justified. The borough is the third largest supplier of hotel bed spaces in London, representing 10% of the total, which is critical to London's tourist economy, as well as supporting the visitor destinations in the borough. The 2017 GLA Economics report on the demand for and supply of visitor accommodation in London<sup>35</sup> indicates that the supply and demand for hotels in the borough is in balance.
126. Criterion b sets out guidance on the appropriate locations for new hotels. The publication plan limits this to sites in or adjoining the borough's higher order centres and the Earl's Court site allocation. However, to ensure the policy is in general conformity with the London Plan on this point **MM75** expands the range to include appropriate locations outside of these areas, provided there would be no harm to residential character or amenity. Otherwise Policy CF8 is positively prepared, justified, effective and consistent with national policy.

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<sup>35</sup> EX007

**Issue 5 – Is the Plan positively prepared, justified and effective, consistent with national policy and in general conformity with the London Plan in respect of its environmental policies for parks, gardens and open spaces, heritage assets, climate change, air quality and flooding in Kensington and Chelsea?**

*Parks, Gardens and Open Spaces*

127. Policy CR5 seeks to protect and enhance parks, gardens and open spaces, including waterways, and requires new open space to be provided. It has been updated in the Partial Review in respect of planning contributions to open space through the CIL, which was introduced in Kensington and Chelsea in 2015. This is justified and consistent with national policy.
128. As part of the representations, a request was made for the designation of Meanwhile Gardens as a Local Green Space (LGS). Paragraph 76 of the NPPF explains that by designating land as an LGS local communities will be able to rule out new development. However, Meanwhile Gardens are already protected as a Site of Nature Conservation Importance by Policy CE4 of the CLP and as a public open space by criterion a(ii) of Policy CR5. Therefore, the case for designation as an LGS is not justified based on the evidence before me. However, should this or other green spaces within the borough be considered for LGS status in future either through a future review of the local plan or through a neighbourhood plan, Policy CR5 does not expressly reference LGS's for protection. **MM77** and **MM78** are therefore necessary to ensure the Plan is consistent with national policy regarding the designation of LGSs in paragraphs 76 and 77 of the NPPF.
129. Other aspects of the policy, including the adequacy of the evidence base for outdoor and indoor sports provision, the protection and enhancement of ecology along the waterways and its protection of strategic open spaces, were reviewed when the policy was considered as a whole as part of the examination of the Partial Review of the Core Strategy in 2014. The Council intends to review the policy as a whole again as part of its early review of the Plan. Subject to the main modifications referred to above I am satisfied that Policy CR5 is positively prepared, justified, effective, consistent with national policy and in general conformity with the London Plan.

*Heritage Assets*

130. Policy CL4 was examined as part of the Partial Review of the Core Strategy in 2014 and confirmed as consistent with national policy. I have no basis to reach a different conclusion on those parts of the policy which remain unchanged, given that the basis of national policy on which the Plan is being examined remains the same as in 2014. The policy has been updated to include reference to Archaeological Priority Areas (APAs) identified in a Review of APAs by Historic England in 2016<sup>36</sup>. The additional requirements for desk based assessments and field evaluations for proposed developments are consistent with paragraph 128 of the NPPF. However, **MM79** is necessary to ensure the supporting text is consistent with national policy in expecting development to protect the 'significance' of APAs.

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<sup>36</sup> SUB42

### *Climate Change*

131. Policy CE1 sets out a range of policy measures to ensure new development makes a significant contribution to meeting national CO<sub>2</sub> emissions reduction targets. The policy was reviewed and examined in 2014 and found to be sound at that stage. Since then there have been changes to policy on energy efficiency in new buildings at a national level through the WMS of March 2015 and in the London Plan 2016, following the government's review of housing standards.
132. Amongst other things the Code for Sustainable Homes was withdrawn by the WMS, with reliance now placed on energy requirements in the Building Regulations. However, local planning authorities will continue to be able to set and apply policies in their local plans requiring compliance with energy performance standards that exceed the energy requirements of the Building Regulations until commencement of amendments to the Planning and Energy Act 2008 in the Deregulation Act 2015. The relevant amendments are not yet in force and, accordingly, Policy 5.2 of the London Plan 2016 on minimising CO<sub>2</sub> emissions leading to 'zero carbon' homes for major developments continues to apply. The submitted Plan proposes changes to Policy CE1 to bring it into line with the London Plan and the WMS.
133. Concerns were expressed in representations that Policy CE1 focuses on carbon reduction and does not address other aspects of the effects of development on climate change, such as water efficiency, flood risk and sustainable drainage (SuDS), green infrastructure and vehicle emissions. However, these matters are covered in other policies in the CLP, the submitted Plan and the London Plan and so there is no need to duplicate them in Policy CE1. Water efficiency is addressed through the London Plan Policy 5.15 on water use, which references the optional requirement in Building Regulations. This is referred to in the supporting text to Policy CE1. The requirement for a BREEAM very good standard for non-residential development in Policy CE1 also includes an assessment of water efficiency. Green infrastructure is covered in policies CR5 and CE4, flood risk and SuDS in Policy CE2 and Air Quality in Policy CE5.
134. Therefore, I am satisfied that Policy CE1 as revised in the submitted Plan is positively prepared, justified, consistent with national policy and in general conformity with the London Plan. **MM119**, **MM121** and **MM155** also ensure the policy is effective by adding text to the reasoned justification to explain the BREEAM assessment and signpost applicants to the other policies in the Plan dealing with mitigation of the effects of development on climate change.

### *Flooding*

135. Policy CE2 requires development to address and reduce the risk of flooding and its impacts. The main flood risks in Kensington and Chelsea are breaching of the River Thames tidal defences, flooding from surface water and sewer flooding due to lack of capacity in the sewerage system. Alongside the tidal/fluvial Flood Risk Zones 2 and 3, Critical Drainage Areas (CDAs) are identified at Holland Park, Kensington, North Kensington and Sloane Square, where there is an interaction of both surface water and sewer flooding, recognising increased incidences of flooding from these sources. The CDAs cover around half of the borough.

136. Policy CE2 has been substantially altered in the submitted Plan in the light of updated evidence from the 2014 Strategic Flood Risk Assessment and Surface Water Management Plan and the 2015 Local Flood Risk Management Strategy. The revised policy requires flood risk assessments (FRAs) and sequential tests for development in the CDAs as well as Flood Risk Zones 2 and 3, thereby ensuring the highest level of flood risk protection for around 50% of the Borough area and resisting vulnerable development in these areas entirely. In all other areas of the borough FRAs are required for sites above 1 hectare (ha) in line with national policy<sup>37</sup>. Whilst there may be a limited number of development sites in Kensington and Chelsea of above 1 ha, this would capture the majority of development planned within the Plan. There is little evidence to support the case for applying a local threshold below this level. However, where mitigation measures are identified they should be 'applied' rather than merely 'considered'. Therefore, **MM125** to criterion d(iv) of Policy CE2 is necessary to ensure the policy is effective.
137. Policy CE2 also includes significantly reduced surface water run-off rates and SuDS in all development. Representations sought to require all surface water run-off be absorbed on-site, but this would be impractical and unreasonably onerous on new development. However, the particular problem of flooding from sewers was discussed at the hearings. It can be mitigated through the use of pumped devices or flooding local improvement projects (FLIPs). Whilst Policy CL7 of the CLP requires the installation of pumped devices for basement development, this does not apply to developments with lower ground floors that are not basements, and which can also experience flooding from sewers. Therefore, **MM123** and **MM124** are necessary to ensure the Plan is effective in protecting all development with floors below sewer level from flooding.
138. Finally, the updated Policy CE2 supports the provision of water infrastructure projects including the Thames Tideway Tunnel and the Counters Creek storm relief sewer, which is in line with the approach in the London Plan. Thames Water informed the examination that the major sewer tunnel forming part of the Counters Creek Scheme is not, at present, required. However, this remains under review by the Council. Accordingly, **MM122** is necessary to the reasoned justification for Policy CE2 to ensure the Plan is justified and effective in respect of the delivery of the Counters Creek scheme. I have amended it to ensure the wording accurately reflects that the scheme is under review. Other changes to CV1, the reasoned justification to Policy CP1, the infrastructure table and the glossary to update the text for the Counters Creek scheme, as suggested in representations on the main modifications, do not affect the soundness of the Plan and can be made as additional modifications at the Council's discretion.
139. Subject to these main modifications, I conclude that Policy CE2 is positively prepared, justified, effective, consistent with national policy and in general conformity with the London Plan.

### *Air Quality*

140. The whole of the borough is designated as an Air Quality Management Area (AQMA) due to seriously high levels of nitrogen dioxide (NO<sub>2</sub>) and particulates (PM<sub>10</sub> and PM<sub>2.5</sub>). The largest source of NO<sub>2</sub> and PM<sub>10</sub> emissions is vehicle transport and the second largest source is from domestic and commercial gas

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<sup>37</sup> Footnote 20 to the NPPF

burning. However, non-road mobile machinery on construction sites is a significant source of PM10 emissions. The Council's Air Quality and Climate Change Action Plan 2016-2021 (AQCCAP) defines the actions to be taken to reduce emissions, which contribute to the London Local Air Quality Management Plan, national objectives and EU limit values.

141. Policy CE5 seeks to control the impact of development on air quality, in particular pollution from vehicles, construction and the energy use of buildings. The policy was reviewed and examined in 2014 and found to be sound at that stage. It has been updated in the submitted Plan in particular to include reference to the Council's AQCCAP and remove reference to the Code for Sustainable Homes following the change to national policy in the 2015 WMS. Separate criteria deal with measures to offset the impact on air quality arising from new development and point sources of air pollution including biomass and CHP technologies and construction activity. The policy requires air quality assessments for all major developments and requires that development is 'air quality neutral'.
142. The updated policy is consistent with national policy set out in paragraph 124 of the NPPF and the PPG on air quality. It is also in general conformity with the suite of climate change policies in the London Plan as confirmed in representations from the GLA. It is fully justified given the level of air pollution in the borough and the contribution of development to that. **MM133** to the reasoned justification is necessary to ensure Policy CE5 is effective in referencing the requirements of the Council's Air Quality SPD and construction management plans which play an important role in providing guidance on measures to reduce emissions.

**Issue 6 – Is the Plan positively prepared, justified and effective, consistent with national policy and in general conformity with the London Plan in respect of its provision for waste in Kensington and Chelsea?**

143. The London Plan sets out the apportionments for household, commercial and industrial (HCI) waste streams to be managed by the boroughs. For Kensington and Chelsea its current apportionment is 138,000 tonnes per annum (tpa) in 2016 rising to 198,000 tpa in 2036. However, the borough is unable to provide capacity to meet its full apportionment and likewise does not have capacity to manage its construction, demolition and excavation (CD&E) waste arisings. The current available capacity in the borough is 30,660 tpa and therefore the capacity gap for HCI waste arisings was 107,000 tpa in 2016 rising to 167,000 tpa in 2036. The site at Cremone Wharf will become available in 2022 following its use for the Thames Tideway Tunnel project, which Policy CE3 safeguards for waste management in line with the London Plan, but this would only reduce the capacity gap by a further 23,400 tpa.
144. Given the constraints on land availability in Kensington and Chelsea, particularly for suitable sites for waste management facilities, it is evident that the borough is currently unable to become self-sufficient in terms of waste management capacity within the borough. However, national policy on waste<sup>38</sup> states that there is no expectation that each local planning authority should deal solely with its own waste to meet the requirements of self-sufficiency and proximity. Further, there are often economies of scale in local authorities working together to make efficient use of available waste management capacity.

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<sup>38</sup> PPG paragraph: 007 Ref ID: 28-007-20141016

145. Accordingly, the Council is working jointly with other WPAs in the Western Riverside Waste Authority (WRWA) to share waste management facilities and collectively manage waste arisings. Details of that joint work are set out in the Waste Technical Paper<sup>39</sup>. Waste is dealt with in accordance with the waste hierarchy and the proximity principle, including materials recycling facilities with the WRWA. However, the majority of residual waste arising within the WRWA is exported to facilities elsewhere in London and the south-east. In terms of HCI waste generated within the WRWA, around 70% is exported, the majority to the Riverside Resource Recovery Limited energy from waste facility in Bexley. There is an agreement in place to continue this arrangement until 2031.
146. The Council has been working with the WRWA authorities and the Old Oak and Park Royal Development Corporation (OPDC) on a formal agreement for the pooling of waste apportionments and shared capacity, including the expansion of capacity within the WRWA at the Powerday facility in the LBHF. Whilst formal agreement has not yet been reached, I am satisfied that the current sharing and exporting arrangements provide the necessary capacity for the borough to meet its London Plan apportionment to the end of the Plan period and beyond. Apportionments are being reviewed as part of the emerging new London Plan. The Council's commitment to an early review of the local plan will allow capacity to be reconsidered in light of any revised apportionments and further progress on pooling arrangements. **MM126-130** are necessary to update the evidence on apportionments and capacity in the supporting text to ensure the Plan is justified against the current London Plan and future proofed for any changes to the waste apportionments in the new London Plan.
147. Policy CE3 seeks to manage waste and meet the London Plan apportionment in line with the waste hierarchy and the proximity principle. It commits the Council to continuing to work with the WRWA and the GLA to pool apportionments and capacity and meet any shortfall. To minimise waste arisings from new development, it also requires on-site waste management and recycling facilities as part of the strategic allocations at Kensal Canalside and Earl's Court. However, it only seeks the potential for such facilities on other residential, commercial and mixed use developments, which would apply to all other developments in the borough for the lifetime of the Plan. **MM131** is therefore necessary to ensure Policy CE3 makes on-site management facilities a requirement in other developments as well, where practicable, to minimise waste arisings. **MM132** is also necessary to ensure excavation waste is managed in line with national policy. Subject to these MMs I am satisfied that the Plan is positively prepared, justified and effective, consistent with national policy and in general conformity with the London Plan in respect of its provision for waste in Kensington and Chelsea.

**Issue 7 – Is the Plan positively prepared, justified and effective, consistent with national policy and in general conformity with the London Plan in respect of its approach to the delivery of infrastructure required to support development and growth in Kensington and Chelsea and its policies for planning obligations and enforcement?**

148. The infrastructure needed to support the development proposed in the submitted Plan is set out in the Infrastructure Schedule in chapter 37 of the plan. In turn this is based on the Local Infrastructure Delivery Plan Update

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<sup>39</sup> SUB64

(IDP) updated in May 2017<sup>40</sup>. This is a comprehensive assessment of the infrastructure and facilities needed in the borough over the plan period and beyond, including transport, flood prevention, education, health and social care, leisure and community infrastructure and facilities. It is positively prepared and identifies delivery partners and sources of funding, including planning obligations and Community Infrastructure Levy (CIL). The IDP is a living document, which the Plan confirms will be monitored to ensure delivery and updated as schemes are completed. I have no reason to consider this will not be effective. **MM134-142** are necessary following the decision to end new estate regeneration schemes at the Silchester, Barlby-Treverton and Warwick Road Estates.

149. Policy C1 makes clear the requirement for adequate infrastructure to serve developments and the expectations for CIL and planning obligations to fund or provide infrastructure. It has been updated in the submitted Plan in the light of the introduction of a CIL in the borough in 2015. I am satisfied that the revised policy is justified and consistent with national policy and the statutory tests. **MM64** is necessary to ensure that the supporting text to Policy C1 is consistent with national policy and regulations on the neighbourhood portion of CIL receipts.
150. Policy CR4 dealing with the streetscape was examined as part of the Partial Review of the Core Strategy in 2014 and confirmed as sound and consistent with national policy. The criterion for public art in major developments has been revised in the submitted Plan, amongst other things to seek contributions for public art through planning obligations where on site provision is not appropriate. The wording of the policy is consistent with national policy in 'seeking' rather than requiring contributions. Policy C1 makes clear that any obligations will be negotiated in accordance with the regulations and tests.
151. The Plan includes a new Policy C2 on planning enforcement, which sets out the Council's approach to enforcing breaches of planning control, with reference to a Local Enforcement Plan. The policy is proportionate, justified and consistent with national policy.
152. Policy CT2 has been updated to reflect the current proposals for new and enhanced rail infrastructure in the borough. This includes support for the location of the new station on the West London line at Westway Circus and safeguarding of the route and proposed station location for Crossrail 2 on the King's Road. The policy is positively prepared and in general conformity with the London Plan. Whilst the reference to a station at Imperial Wharf in the LBHF has been removed from the policy, **MM76** is necessary to ensure the supporting text does not pre-judge the outcome of the station location decision for Crossrail 2 and is both deliverable and effective in the provision of cross boundary strategic infrastructure.
153. Overall, subject to the main modifications referred to, I am satisfied that the Plan is positively prepared, justified and effective, consistent with national policy and in general conformity with the London Plan in respect of its approach to the delivery of infrastructure required to support development and growth in the Borough and its policies for planning obligations and enforcement.

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<sup>40</sup> SUB30

## Public Sector Equality Duty

154. Throughout the examination I have had due regard to the equality impacts of the Plan in accordance with the Public Sector Equality Duty, contained in Section 149 of the Equality Act 2010. This has included my consideration of the vision and spatial strategy and place visions, and the policies for housing for older people and those in need of supported accommodation, accessible and wheelchair standard dwellings, affordable housing for both social/affordable rent and intermediate tenures, and for gypsy and traveller accommodation. The impact of the Plan on groups with protected characteristics has also been assessed through an Equalities Impact Assessment incorporated within the IIA.
155. Whilst the Plan does not provide in full for the accommodation needs of gypsies and travellers for the whole of the plan period, it adopts a pragmatic and proportionate approach to addressing the shortfall. The Council propose to meet the shortfall in accommodation jointly with the LBHF through an expansion of the existing Stable Way site, a search for additional sites in both boroughs and by granting planning permission for other pitch sites subject to the criteria set out in Policy CH6. This matter was discussed in detail at the examination hearings. Subject to **MM112-114** to secure the commitment to undertake this joint work, I am satisfied that the disadvantages gypsies and travellers suffer would be minimised and that their particular accommodation needs will be met. There is no compelling evidence that the Plan as a whole would bear disproportionately or negatively on this group of people or others with protected characteristics.

## Assessment of Legal Compliance

156. My examination of the legal compliance of the Plan is summarised below.
157. The Plan has been prepared in accordance with the Council's Local Development Scheme (LDS). Paragraph 153 of the NPPF allows for a partial review of a local plan. The content of the Plan is consistent with the scope of the review set out in the LDS and excludes those parts of the CLP which were only recently reviewed and adopted following examination. The timescale for the review was consistent with the LDS up to submission.
158. I have considered the extent and nature of consultation carried out on the submitted Plan in detail above. I am satisfied that the consultation on the Plan and the MMs was carried out in compliance with the Council's Statement of Community Involvement and the statutory requirements in the 2012 Regulations.
159. Sustainability Appraisal (SA) has been carried out in the form of an Integrated Impact Assessment (IIA)<sup>41</sup>, which also incorporates the requirements for Strategic Environmental Appraisal. This was updated to take account of the MMs. The IIA has assessed the likely environmental, social and economic effects of the Plan accurately, tested the plan, its allocations and policies against reasonable alternatives and it is evident that it has influenced the policies and mitigation measures. Overall, the SA is adequate.

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<sup>41</sup> SUB 67-73

160. The Habitats Regulations Assessment Screening Report (December 2015)<sup>42</sup> sets out why an Appropriate Assessment (AA) is not necessary. It concludes that the policies being reviewed are not likely to have a significant effect on any European sites within or around London, of which the closest are two Natura 2000 sites at Richmond Park and Wimbledon Common. Natural England concurs with this finding.
161. The Plan includes 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. In particular this includes Policies CE1, CE2, CE3 and CE5, allied to existing policies in the CLP for biodiversity, parks, open spaces, trees and landscape.
162. The Plan is in general conformity with the spatial development strategy (The London Plan). This is confirmed by my examination of the main issues above and my conclusion on this has been informed by letters from the GLA in March 2017<sup>43</sup>, November 2017 on the Further Modifications and September 2018 on the MMs.
163. Chapter 41 of the submitted Plan identifies the extant UDP policies which are being replaced by policies in the Plan, in compliance with Regulation 8(5) of the 2012 Regulations. The Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.

## Overall Conclusion and Recommendation

164. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.
165. The Council has requested that I recommend main modifications to make the Plan sound and capable of adoption. I conclude that, with the recommended main modifications detailed in the Appendix to my report, the Royal Borough of Kensington and Chelsea Local Plan Partial Review satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

*Mike Hayden*

Inspector

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

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<sup>42</sup> SUB 65

<sup>43</sup> SUB 9