



St Quintin and Woodlands

NEIGHBOURHOOD PLAN BASIC CONDITIONS STATEMENT



MAY 2015 SUBMISSION VERSION

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ST QUINTIN AND WOODLANDS NEIGHBOURHOOD PLAN

BASIC CONDITIONS STATEMENT

1.0 INTRODUCTION

1.1 This document sets out the legally required additional information that accompanies the St Quintin and Woodlands Neighbourhood Plan. It explains how the Submission Version of the StQW Draft Plan meets the Basic Conditions set by the Localism Act 2011, with which a neighbourhood plan needs to comply.

1.2 This document should be read in conjunction with the separate Consultation Statement, which also accompanies the Plan. The Consultation Statement explains the processes used to consult and engage with local residents and businesses in the preparation of the StQW Plan.

1.3 Significant material which previously appeared in the Pre-Submission Consultation version of the StQW Draft Plan has been transferred across to this document. This material provides detailed evidence (and relevant legal argument) to support certain of the policies proposed in the StQW Draft (those on Open Space and on Latimer Road). RB Kensington & Chelsea has advised the Forum that intends to oppose these policy proposals as Examination stage.

1.4 The Forum believes that these draft policies, and the StQW Plan as a whole, meet the requirements of 'general conformity' with the RBKC Local Plan and 'have regard' to the NPPF. The proposals in the Draft Plan have strong support from the local community within the designated neighbourhood.

1.5 A 'healthcheck' report on an earlier version of the StQW Draft Plan, carried out by a planning QC, has advised that there are good prospects of an Examiner being satisfied on these issues. Substantial extra justification for draft policies has been added to the StQW Plan since that healthcheck was undertaken in November 2014. The Forum is very willing to expand on the reasoning set out in the StQW Draft Plan, the Consultation Statement, and this Basic Conditions Statement, at a public examination hearing.

2.0 REQUIREMENTS FOR NEIGHBOURHOOD PLANS

2.1 To pass independent examination, neighbourhood plans must be prepared by a 'qualifying body' and must meet a set of 'Basic Conditions' set out in legislation. These conditions are:

- must have regard to national policy (the National Planning Policy Framework)
- must be in general conformity with the strategic policies in the development plan of the local area
- must contribute to the achievement of sustainable development
- must be compatible with human rights requirements
- must be compatible with European Union regulations

2.2 The StQW Neighbourhood Forum is a qualifying body to submit a neighbourhood plan. The Forum meets the regulations of the Town and Country Planning Act 1990 (as amended by the Localism Act 2011).

2.3 An application to recognise the Forum and Neighbourhood Area to be covered by a neighbourhood plan was made to the relevant local authority, the Royal Borough of Kensington & Chelsea in April 2012. A public consultation on the designation application for the Forum and Area took place in June and July 2012. Approval to the designation of the Forum and Area was granted by the local authority on July 2nd 2013.

2.4 The same designation application was made at the same time, for a cross-borough neighbourhood area and forum, to the London Borough of Hammersmith and Fulham. In September 2013, that council made a set of decisions to amend the proposed boundary in relation to its own borough, and to refuse designation of the StQW Forum. Subsequent versions of the StQW Plan, and this Basic Conditions Statement, therefore relate only to that part of the originally proposed area lying within RB Kensington & Chelsea. This area, and this area alone, has been designated by RBKC for the purpose of neighbourhood plan preparation. No neighbourhood forum or plan has emerged in the adjoining area designated by LB Hammersmith & Fulham.

2.5 The proposed policies in StQW Neighbourhood Plan relate to planning matters (the use and development of land).

2.6 The StQW Draft Plan has been prepared in accordance with the statutory requirements and processes set out in the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) and the Neighbourhood Planning Regulations 2012.

2.7 The Neighbourhood Plan does not relate to more than one neighbourhood area. There are no other neighbourhood plans in place within the neighbourhood area.

2.8 The policies in the Neighbourhood Plan do not relate to excluded development, such as minerals and waste matters or to Nationally Significant Infrastructure Projects.

2.9 As set out in paragraph 0.1.27 of the Neighbourhood Plan, the Plan covers a maximum 15 year period starting on a date to be determined in 2015 and ending in 2030. It is anticipated that the Plan will be reviewed after 5 years.

2.10 The Plan covers an area in North Kensington, lying within the new electoral wards of Dalgarno and St Helens, in the Royal Borough of Kensington & Chelsea.

2.11 The main aims of the Neighbourhood Plan are set out in its Vision and Objectives. The Vision statement for the Plan is: ***To secure the future of a neighbourhood that offers the best features of life in central London, for this and future generations.*** There are eleven objectives set out in the Plan. Policy proposals are grouped under each Objective and are in ***red bold italic type***, and are supported by a 'reasoned justification' (in ***dark blue italic type***).

2.12 Under each Objective, one or more 'Actions' may be shown, in ***bold green typeface***. These proposals address issues which are not 'planning or development' matters within the terms of the 1990 Town and Country Planning Act. They are included within the main Draft Plan to reflect the fact that these issues are seen as important by local people, and to give coherence to the Plan.

2.13 The following sections of this Statement explain how the St Quintin and Woodlands Neighbourhood Plan fulfils the statutory requirements or 'basic conditions' set out at 2.1 above.

3.0 REGARD TO NATIONAL AND LOCAL POLICY

3.1 Table 1 at Annexe A of the Draft Plan shows how the 11 sets of policies within the StQW Neighbourhood plan relate to the three roles of the planning system in contributing to sustainable development, as set out in the 2012 National Planning Policy Framework. The Draft Plan is positively prepared and seeks to provide more homes and jobs within the designated neighbourhood area than under current Local Plan policies. At the same time it balances these two aims with policies to protect open space, improve biodiversity, and conserve the environmental and amenity qualities of this part of the Oxford Gardens/St Quintin Conservation Area.

3.2 Where relevant, the Plan refers to and quotes the NPPF in relation to specific StQW policies. The StQW Forum has had regard to the NPPF throughout the preparation of the Plan.

Is the RBKC Core Strategy an up to date Local Plan?

3.3 The RBKC Core Strategy was prepared and adopted in December 2010, well before the NPPF was finalised. The RBKC Planning Department takes the view that the 2010 Core Strategy (Local Plan) is now up to date and that its policies are fully consistent with the NPPF. This follows from several stages of a Partial Review undertaken by the Council. To date, these have included reviews of RBKC policies on Conservation and Design, Basements, and 'Miscellaneous Matters', with the subsequent examination and adoption of updated policies. The Miscellaneous Matters document introduced a number of wording changes to the Core Strategy designed to achieve NPPF consistency. The 2010 Core Strategy is being re-titled as the Local Plan for the Royal Borough.

3.4 It remains the case that two key sections of the 2010 Core Strategy have yet to undergo a Partial Review and Examination in Public. These are the sections on Housing, and on 'Enterprise'. Early stages of consultation on 'Issues and Options' were undertaken in 2012, but were put on hold so that the Council could focus resources on its policies on Basement and Conservation and Design. Both these parts of the Core Strategy/Local Plan are now 'tentatively' scheduled to complete their Partial Review and Examination, and be adopted by the Council, at some stage in 2016.

3.5 The StQW Forum takes the view that with a Partial Review still at an early stage on these two key policy areas (with no draft policies published as at May 2015) the 2010 Core Strategy/Local Plan includes policies which can longer be assumed to be up to date, and which may or may not be found on examination to be fully sound and consistent with the NPPF

3.6 In his report on the Partial Review of the RBKC Miscellaneous Matters document, the Planning Inspector noted: *Some representors are of the opinion that certain parts of the adopted Core Strategy that are not covered by this Review, or any of the other partial reviews, ought to be updated. However, that is a matter for the Council to consider and set out as appropriate in future versions of the LDS; it is not something that I considered during my examination of the Review. This report, therefore, focuses only on the parts of the Core Strategy that the Council is proposing to change.*

The changes introduced by this Review go, as far as is practically possible given their extent and the constraints that inevitably exist when amending an existing document, a reasonable way to creating the type of local plan encouraged by the NPPF.

3.7 These comments would not seem to offer unequivocal confirmation that the 2010 RBKC Core Strategy, along with the Partial Review documents adopted in 2014 and 2015, yet represents a Local

Plan which is fully 'up to date'. While the 2010 RBKC policies on housing and enterprise were examined and found sound at the time of their examination, this exercise pre-dated the NPPF by several years.

3.8 The Forum has paid particular heed to certain sections of the NPPF which emphasise the need for Development Plans to be responsive to change and to development pressures. In a borough such as RBKC, already intensively developed and where the market for housing and for commercial floorspace can shift rapidly, it is essential that a 'plan-led' system of development management keeps pace with events. The NPPF states inter alia:

- *Plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas (NPPF para 10).*
- *Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change (NPPF para 14)*
- *Plans should allow a rapid response to changes in economic circumstances (NPPF Para 21)*
- *Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities (NPPF Para 22).*
- *Planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land (NPPF para 47).*

3.9 The StQW Forum has sought to follow this national guidance closely. As is made clear elsewhere in this Basic Conditions Statement, The Forum feels that the Housing and Enterprise chapters of the 2010 RBKC Core Strategy/Local Plan fall short of these NPPF expectations in a number of respects (e.g. lack of identification of smaller 'specific sites' for housing use).

3.10 The Forum recognises the fact that the tests for 'general conformity' between the StQW Draft Plan and the RBKC Local Plan can only be applied in relation to the currently adopted version of the Local Plan (i.e. the 2010 Core Strategy and the adopted sections of the Partial Review). CLG Planning Practice Guidance 009 on Neighbourhood Planning states: *A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. A draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan **although the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested (our emphasis).***

3.11 The Forum considers the second part of this paragraph to be important. The evidence base for the RBKC Core Strategy is now five years out of date (and more so in the case of many supporting documents). In accordance with CLG Planning Practice Guidance 009 on Neighbourhood Planning, the Forum has sought to share with the Council its evidence base for the policies proposed in the Draft StQW Plan. In turn, the Council has made available documents from the evidence base being assembled for the Partial Review of its Core Strategy.

13.12 These include a series of commissioned studies of the viability of commercial and office space across the Borough, and a recent study of the Latimer Road sections of the Freston Road/Latimer Road Employment Zone. The Council also publishes annual Monitoring Reports, assessing the

impact of existing Core Strategy/Local Plan policies. This material, the Forum considers, will be relevant to the testing of the Basic Conditions in relation to StQW Draft Policies in sections 4 (Open Space), 8 (Latimer Road) and 10 (Housing) in the StQW Draft Plan.

3.13 At Examination, the Forum will argue that a neighbourhood plan can be 'ahead' of a Local Plan, in a context where the latter is undergoing an extended Partial Review of key policies on Housing and Enterprise. The Council takes the line that such a scenario can apply only in the absence of a Local Plan and that relevant Core Strategy policies are up to date and in full NPPF conformity.

3.14 Apart from the 2010 Core Strategy/Local Plan and the adopted Partial Review documents, a series of adopted RBKC Supplementary Planning Documents have also been referred to in the preparation of the StQW Draft Plan. These are not themselves policy documents, so issues of general conformity do not arise. These include SPDs on Building Heights (September 2010), on Subterranean Development (May 2009) and on the Westway area (December 2012).

The status of Conservation Area Proposals Statements

3.15 A series of Conservation Area Proposals Statements has been prepared and adopted by the Council since the 1970s. The Borough is rich in heritage and 70% of its area is protected by 35 conservation areas. The Proposals Statement for the Oxford Gardens Conservation Area covers that part of North Kensington within which the StQW Neighbourhood lies. This document was last revised and re-adopted in 1990. The Council is now part way through a programme of preparing and adopting new-style Conservation Appraisals for each Conservation Area in the Borough. These new documents will provide 'policy guidance' but will not set policy.

3.16 In the light of the statement on NPPF Paragraph 185 (that *Local planning authorities should avoid duplicating planning processes for non-strategic policies where a neighbourhood plan is in preparation*) the Council agreed in early 2015 to defer public consultation on the new draft Oxford Gardens Conservation Area Assessment until the Examination of the StQW Draft Plan has concluded.

3.17 In the meantime the 1990 Oxford Gardens CAPS document remains published alongside all other CAPS, on the RBKC website. It is an important document for local residents, being the only area specific RBKC planning publication for the StQW area. The designated neighbourhood does not lie within any of the 14 'places' covered within the 2010 RBKC Core Strategy. Nor has a separate SPD been prepared for the area (as has been the case for the Westway and Notting Hill Gate areas).

3.18 The material weight that can or should be applied to the Oxford Gardens CAPS has become a contentious issue between the Forum and the Council, as a result of the planning protections offered by a specific policy statement the 1990 CAPS document relating to the three remaining backland open spaces on the Quintin Estate. The Council's position on this policy statement, as set out in a report to the Council on April 15th 2015, is that *The policies contained in the Council's Conservation Area Proposals Statements were not the subject of examination and so do not meet the current requirements to be part of the Local Plan. For the reasons stated the 'policy,' carries very little material weight, if any at all.*

3.19 Advice provided to the Forum by planning consultants Smith Jenkin¹ takes a different view. stating: *The weight to be given to any document in making a decision on a planning application is*

¹ Letter from Smith Jenkin to StQW Forum 15th April 2015

up to the decision maker, and the application of weight should normally be made on a case by case basis.

The Oxford Gardens CAP has not been replaced or updated since publication in 1990. The intentions of protecting the Conservation Area remain the same now as they did upon publication. The CAP has formed two functions: in undertaking an assessment of the character and appearance of the Conservation Area, and that assessment is still valid today; and in preserving and enhancing the character of the Conservation Area. The contribution that the Nursery Lane site makes to the Conservation Area is unchanged, and the CAP must be given weight in light of this.

3.19 The Forum accepts that the 1990 Oxford Gardens CAPS document does not form a statutory part of the Development Plan. The document was consulted on prior to adoption in 1990, but was not examined for soundness in the manner now required for Development Plan documents.

3.20 The explanation on the current RBKC web page 'Conservation Areas Explained' describes the CAPS documents as 'guides for development control'. It is clear from RBKC reports and recommendations on planning applications that some consideration and weight continues to be given to the content of CAPS when development control decisions are made. It is also clear that appeal decisions that planning inspectors continue to give *some* weight to these documents. The Forum's perception is that statements in CAPS documents, whether or not defined therein as 'policy', are treated as a material consideration in determining whether a particular proposal preserves or enhances the character of the relevant conservation area.

3.21 As far as Examination of the StQW Draft Neighbourhood Plan is concerned, the question of the material weight to be granted to CAPS documents has a bearing on StQW Draft Policies 2 (Conservation and Design) and 4 (Open Space). In the former case, the question arises of whether a proposed StQW policy which involves some neighbourhood-level fine-tuning of RBKC policies on Conservation and Design needs to be assessed in relation to the 1990 Oxford Gardens CAPS or whether this document is now of minimal or no relevance. **In the case of StQW Draft Policy 4b on Open Space, the question arises of whether the close degree of conformity of this policy to the very similar RBKC policy statement in the 1990 CAPS has relevance to the acceptability within a neighbourhood plan of StQW Policy 4b on Open Space.**

3.22 More details in relation to StQW Draft Policy 4b on the St Quintin backlands, and the questions of 'general conformity' with the RBKC Local Plan and due 'regard' for the NPPF are given in paragraph 11 of this Basic Conditions Statement.

General conformity with the London Plan

3.23 Where relevant, the StQW Plan refers to policies of the **London Plan**. Generally, London Plan policies are broadly framed, and are already reflected in the Local Plans prepared by the London Boroughs. Hence issues of 'non-conformity' with the London Plan appear unlikely to arise in relation to neighbourhood plans within London.

3.24 The StQW Forum is confident that the policies proposed in the StQW Draft Plan both support, and generally conform with, those of the London Plan.

THE STATUTORY FRAMEWORK FOR NEIGHBOURHOOD PLANNING - DIFFERENCES OF VIEW BETWEEN THE StQW FORUM AND RB KENSINGTON & CHELSEA

4.1 In discussions and correspondence between the StQW Forum and the RBKC Planning Department, a series of issues have arisen on which the Forum and Council officers have differed on

how the legislation, regulations, and CLG guidance on neighbourhood planning should be interpreted and applied.

4.2 These differences of view are covered in exchanges of correspondence between the StQW Forum and RBKC planning officers. The most important of these are the RBKC 'formal comments' on the Consultation Version of the StQW Draft Plan (sent to the Forum on January 23rd 2015) and a further set of RBKC comments sent on 27th February 2015. The Forum responded to both of these sets of comments. This exchange of correspondence is included in Annexe B to this Basic Conditions Statement.

4.3 The gap between the views of RBKC planning officers, and those of the StQW Forum, has narrowed during discussions in recent months. The Forum has relied on statements on neighbourhood planning in the National Planning Policy Framework (paragraphs 183-185 in particular) and in the neighbourhood planning section of CLG Planning Practice Guidance. As noted above, a 'healthcheck' of an earlier draft of the StQW Plan was commissioned via the NPIERS service and was undertaken in November 2014 by Christopher Lockhart-Mummery QC. This was helpful in clarifying what the Forum see as basic legal principles involved in neighbourhood planning, and the issue of 'general conformity' in particular. This healthcheck report is annexed to this Basic Conditions Statement at Annexe A.

4.4 The main areas of difference between the Forum and the RBKC Planning Department relate to

- the criteria used to define 'strategic' and 'non-strategic' policies
- the RBKC view that the text (as well as the policies) in a NP should not refer to 'varying', 'altering', 'strengthening' or 'relaxing' existing Local Plan policies.
- the legal interpretation of 'general conformity' as applied to neighbourhood plans.
- whether a neighbourhood plan can vary or de-designate sections of an Employment Zone, as defined within a Local Plan?
- the relationship between policies in an adopted neighbourhood plan and pre-existing Local Plan policies, when development control decisions subsequently come to be made.

4.6 These five issues are considered in more detail below, as they are clearly critical to whether the StQW Draft Plan meets the Basic Conditions and to how NP policies will subsequently be applied by RBKC development management staff, if and when the StQW Plan is adopted by the Council.

Which are the Borough's 'strategic policies'?

5.1 In accordance with NPPF paragraph 184, the Forum asked RBKC Planning Department in July 2014 to identify the 'strategic' policies in the RBKC 2010 Core Strategy, in order that the Forum could establish where issues of non-conformity might arise. The Core Strategy is structured under a set of 'Strategic Objectives' (CO1-7) under which headings the individual chapters of the 400 page Plan are arranged. Each chapter then contains a set of numbered 'policies' in grey/purple boxes.

5.2 When considering such a Core Strategy/Local Plan policy, it is not clear whether all paragraphs and sub-paragraphs warrant the description of 'strategic'. The Council has acknowledged that in some cases, such as detailed policies on conservation, its Core Strategy/Local Plan policies are 'non-strategic'.

5.3 The Forum accepts that it would have been a tedious process for the Council to have set out its view on this issue on each and every RBKC policy in the Core Strategy. Yet without clarity on this issue, on the main policies and enterprise and housing, it has been hard for the StQW Forum to

establish what 'general conformity' requires? **Is every clause and sub-clause of a 2010 policy statement deemed to be strategic, and is such a definition justifiable in the light of CLG guidance?**

5.4 When pressed in meetings and correspondence on what makes a policy 'strategic', RBKC officers have stated that these are policies affecting more than one borough and where the Council has a resultant 'duty to co-operate'. It is on this basis that RBKC officers have agreed that the Council's Conservation and Design policies are 'non-strategic'. This view on the definition of 'strategic' policies was re-stated in the RBKC letter of February 27th 2015 (see Annexe B).

5.5 The Forum has questioned whether these are appropriate criteria for distinguishing 'strategic' and 'non-strategic' policies. CLG Planning Practice Guidance sets out at Paragraph 076 a number of 'useful considerations' for distinguishing 'strategic' policies from 'non-strategic'. The Forum is not clear why RBKC does not follow this guidance, or why it has not been willing to offer a fuller justification, with reference to these criteria, as to why it deems certain policies to be 'strategic', in whole or in part.

5.6 This is an issue which the Examiner will presumably wish to consider in arriving at decisions on 'general conformity'.

Can a Neighbourhood Plan 'vary' Local Plan policies - within the constraints of general conformity?

6.1 The Forum considers the answer to this question to be a clear 'yes', as there would otherwise be little point in Parliament having devolved to parish/town councils and neighbourhood forums the power to prepare a neighbourhood plan. NPPF Paragraph 183 is clear that neighbourhood plans are a 'powerful tool' which can 'set' policies for the designated neighbourhood area. And the term 'general' conformity must surely allow for variance at the margins?

6.2 In discussions with RBKC officers during the second half of 2014, RBKC officers initially stated that the StQW Neighbourhood Plan could not vary or alter RBKC policies. Subsequently the Planning Department has accepted that change to non-strategic policies is possible, but continues to argue that the text of the StQW Plan should not use terminology such as 'vary', 'alter', 'strengthen', or 'relax' in explaining the context for proposed StQW policies (see paragraph 1.4 of RBKC comments of January 23rd 2015 and paragraph numbered 1 of RBKC letter of 27th February 2015 at Annexe B).

6.3 The Forum, on the other hand, thinks it is important to make clear to those reading and voting on the StQW Draft Plan what will be different from the status quo, if and when the Draft Plan is 'made'.

The legal interpretation of 'general conformity' in relation to neighbourhood plans

7.1 Paragraph: 074 of CLG Planning Practice Guidance gives some clarity on this issue and states: *When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:*

- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with*
- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy*

- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach*

7.2 The StQW Forum considers that it has followed this guidance, and that the StQW Draft Policies '*uphold general principles*', and (in some cases) '*provide a distinct local approach*' for which a strong rationale is set out in the Draft Plan itself and in this Basic Conditions Statement.

7.3 As referred to above, the Forum has also paid heed to the advice of Christopher Lockhart-Mummery QC in his health-check report. Paragraphs 14-19 cover the issue of general conformity, and refer to the conclusion of Mr Justice Supperstone in the case of *BDW Trading v Tattenhall Parish Council* "*...I accept [the] submission that the only statutory requirement imposed by Condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted Development Plan as a whole*".

7.4 The StQW Forum has referred the RBKC Planning Department to this case. The response from the Director of Planning has been '*I have read the Tattenhall judgement and it is not analogous to our situation. In that case the development plan was emerging and there was no conflict with an adopted policy*'. In the view of the Forum, the statements in the Supperstone judgment address the issue of 'general conformity' generally, and apply to situations where Local Plans are already in place as much to those where such plans are emerging. As Mr Lockhart-Mummery states, in relation to the requirement for general conformity the Supperstone judgment '*represents the law for the time being*'.

Whether a neighbourhood plan can de-designate areas within an Employment Zone?

8.1 The advice to the Forum from Christopher Lockhart-Mummery QC was '*A NP can make land use allocations. It can, for example, "de-designate" areas subject to restrictive policies in the development plan (for example "countryside" designations) and allocate the land for, e.g., housing. Subject to the test of general conformity, there would seem to be no reason why part of an Employment Zone should not be re-allocated to a more flexible, mixed use in a NP.*

8.2 RBKC planning officers have objected strongly to the idea of de-designation of 4 separate areas in Latimer Road, currently included in the joint Freston Road/Latimer Road Employment Zone. The reason given (RBKC comments of January 23rd) is '*It is not for the plan to remove the Local Plan designations - they are the Council's*'. As set out in the Forum's response, this statement appears to ignore the fact that the policies in the StQW Draft Plan will become '*the Council's*' if and when the StQW Plan is adopted. The Forum accepts that a hierarchical approach can be argued, in which e.g. a Local Plan prepared by a London Borough could not vary or unmake a designation made by the Mayor of London. But this implies that neighbourhood plans are of a lower order status than Local Plans, which is not what CLG PPG 006 on neighbourhood planning suggests.

8.3 Several neighbourhood plans have introduced or varied 'designations' of areas in Local Plans. The Arundel NP for example includes a policy *which is consistent with but replaces Policy AREA20 of the adopted Local Plan 'Arundel Shopping Frontage' by defining a new Primary Shopping Frontage (as provided for in Policy AREA19 for other parts of Arun district) and a new Secondary Shopping Frontage*. The Forum has yet to see legislation or guidance that states that variation or partial de-designation of Employment Zones is a matter beyond the scope of a Neighbourhood Plan.

The RBKC view that neighbourhood plan policies are 'read alongside' pre-existing Local Plan policies

9.1. This view from RBKC planning officers surfaces at 1.4. of the Council's response to the consultation on the StQW Draft Plan (January 23rd letter in Annexe B) which states *'The role of the Neighbourhood Plan is to provide specific policies to be applied in the St Quintin and Woodlands Neighbourhood Area. The Council's adopted policies will remain in force in the Neighbourhood Area and will be read alongside those being developed in the Neighbourhood Plan'*.

9.2 The Forum has questioned the basis on which the Council makes this statement, given that NPPF paragraph 185 is clear that *'Once a neighbourhood plan has demonstrated its general conformity with the strategic policies of the Local Plan and is brought into force, the policies it contains take precedence over existing non-strategic policies in the Local Plan for that neighbourhood, where they are in conflict'*.

9.3 Obviously, where a neighbourhood plan is silent on a particular issue, pre-existing Local Plan policies continue to be applied. The Forum's concern is that RBKC officers for a time held the view that NP policies are somehow balanced alongside pre-existing Local Plan policies, when determining planning applications. The Council's letter of February 27th 2015 restated the position as *'All policies will be read alongside each other, and if there is conflict then the most recent plan will take precedence, unless there are other material considerations which outweigh this'*.

9.4 The Forum sees this second statement as a recognition of the position set out in NPPF paragraph 185, on the precedence of NP policies once made. A further discussion on the issue in March 2015, with the Director of Planning and his senior staff has achieved helpful agreement on the meaning of the term *'take precedence'* and agreement that NP policies in a 'made' Plan carry no less material weight than other LPA derived policies in a Local Plan. Hence this fifth difference of view is now largely resolved, but confirmation of the position (as part of the independent Examination) would be welcomed.

9.5 The above sets out the position on the five general issues on which the StQW Forum has differences of view with RBKC officers as to how legislation and guidance on neighbourhood planning should be interpreted and applied. While differences of view have narrowed, it may prove helpful for outstanding issues to be addressed at an early stage in the Examination of the StQW Draft Plan.

9.6 The next sections of this Basic Conditions Statement address specific parts of the StQW Draft Plan where questions of general conformity or potential conflicts with the NPPF have been raised. Much of this material featured in the December 2014 Consultation Version of the StQW Draft Plan, but has since been transferred across to this Conditions Statement to reduce the length of the Plan itself.

Conservation and Design policies in the StQW Draft Plan

10.1 RBKC policies on conservation and design are extensive and detailed. This reflects the Borough's unusually rich heritage of 18th to 20th century buildings, garden squares, and open spaces.

10.2. In its initial comments on the StQW Draft Plan (Dated September 2014, received by StQW October 6th 2014) RBKC planning officers said in relation to RBKC conservation policies *'We do not consider (the) Neighbourhood Plan would need to be in conformity (with) these policies because they are not strategic. However, separate to our planning policies the Council has a statutory duty to have*

regard to preserving or enhancing conservation areas (Planning (Listed Building and Conservation Areas) Act 1990 section 72²). This duty does not require public authorities to ensure that all development preserves or enhances the character or appearance of conservation areas, it requires 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.

In addition the Examiner of the Neighbourhood Plan will have to ensure that 'having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order'.

10.3 The Forum pointed out that the last part of the above statement was a mis-reading of the legislation. Basic conditions b) and c) in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (on '*having special regard*') apply only to Neighbourhood Development Orders and not to neighbourhood plans. The Council subsequently accepted this.

10.4 RBKC planning officers continued to argue (JW letter of 24 October 2014) that proposed StQW policies on conservation could be in conflict with the Council's general conservation duty to have regard to preserving or enhancing conservation areas (Planning [Listed Building and Conservation Areas] Act 1990 section 72). The Forum has continued to maintain that the proposed StQW conservation policies, coupled with the Actions in the StQW Draft Plan on enforcement and Article 4 Directions, reflect a strengthening rather than weakening of conservation measures for the StQW part of the Oxford Gardens Conservation area. The Forum has considered questions of protection, enhancement and 'harm' in relation to each policy. In the January 23rd 2015 comments, RBKC planning officers asked for amendments to the text of the Plan, but have accepted that proposed StQW policies on conservation can proceed to Examination.

10.5 These draft policies have been discussed and refined at several open meetings of the StQW Forum. Votes were taken of those present at these meetings, and only those policy proposals which commanded significant majority support have been included in the Draft Plan.

10.6 Members of the Forum have joined with RBKC staff and councillors) on three walkabouts of the StQW part of the Oxford Gardens Conservation Area.

10.7 In its comments on the Consultation Version of the StQW Draft Plan, English Heritage (now Historic England) said '*We note that the Council are in the process of updating their conservation area assessments, so to avoid duplicating their efforts you may wish to consider waiting for that piece of work to be completed for the Oxford Gardens Conservation Area, before looking to adopt policies that seem to pre-judge its outcome. As part of the development of their area appraisal the Council should consult on the document, which would give your Neighbourhood Forum the opportunity to highlight any perceived evolution to the areas character.*

In our view this would help ensure you have a robust evidence base that justifies your policies, which will help give them greater weight in the planning process. As the boundaries for the conservation area and the neighbourhood area are different English Heritage is concerned that the measures promoted in this Plan will lead to an inconsistent application of planning policy across the Oxford Gardens Conservation Area'.

10.8 The StQW Forum has responded to the views of Historic England in the Consultation Statement Annex, and in further material sent to this body as part of the SEA screening exercise on the Draft

Plan. Evidence is set out below on certain of the proposed StQW conservation policies so as to demonstrate that these a) meet the Basic Conditions and b) will not prejudice the Council's general duty to preserve or enhance the Oxford Gardens Conservation Area.

10.9 The responses to the English Heritage/Historic England January 2015 comments (set out in the StQW Consultation Statement Annexe) explain that the StQW neighbourhood contains distinct character areas different from those in the remainder of the Oxford Gardens CA. The fact that future conservation policies for the StQW neighbourhood may in future vary (modestly) from those in other parts of the Oxford Gardens CA is seen by the Forum as an inevitable consequence of the neighbourhood planning regime. Other parts of the Conservation Area may in time develop their own neighbourhood plans, within which varied policies might also apply. This is not an 'inconsistency'. It is the application of distinctive policies which recognise and respond to distinctive character areas within a conservation area.

Rear roof alterations

10.10 The proposed StQW Policy 2a is one on which RBKC officers were initially unhappy at a proposed relaxation of RBKC policy. RBKC planning policies on rear dormer windows have long been an issue of some concern in the neighbourhood. Under current RBKC policies, planning permission for loft conversions with appropriately designed rear dormers is granted for houses in nearly all streets (or parts of streets) within the StQW area. But some applicants have in the past found their application refused on grounds contained within the Council's former UDP Policy CD44. This is now replaced by the Council's new policy CL8b(i) which continues to resist roof level alterations '*in complete terraces or groups of buildings where the existing roof line is unimpaired by extensions*'.

10.11 This has led to perceptions amongst residents of inconsistency and unfair treatment. Analysis of roofscapes in the streets of the StQW neighbourhood shows no terraces or part terraces which now have wholly 'unimpaired' rooflines (i.e. no rear dormers). Rear dormers are now common across the StQW area, reflecting the fact that loftrooms provide a cost-effective means of providing an extra room in a family home. Denial of the opportunity to create a loftroom can have a big impact on families and can result in a forced move of home.

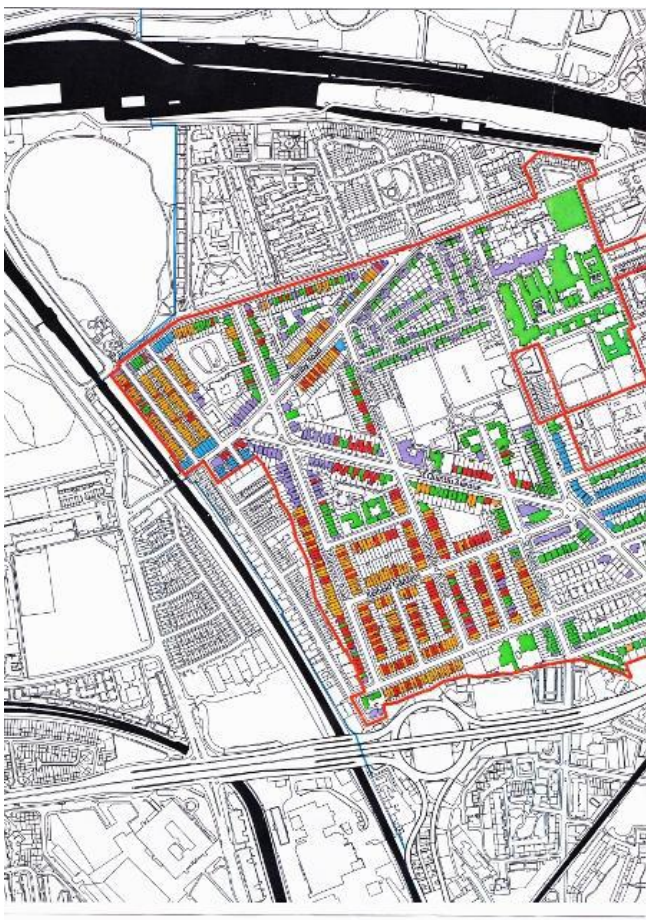
10.12 A recent analysis of roofscapes (see map below) carried out by RBKC officers, has confirmed the view that there are no longer examples of terraced rooflines within the StQW which are wholly 'unbroken'.

10.13 There is a short section on the north side of Kelfield Gardens with only one rear dormer (approved in 1986) and where an application for another was refused and the Council's decision upheld in 2006. House-owners in this particular section of the street have since been told by RBKC case officers that rear dormers are not permitted in their properties. This is despite the fact that these residents look out onto rear dormers in sections of Kingsbridge Avenue (with 5), Highlever Road (with 3), and Wallingford Avenue (with 7). Since the rear view of all four terraces is barely visible from the street, it is very hard to see how this continued restriction in one section of one street '*preserves or enhances the character of the conservation area*'. The adjoining section of Kelfield Gardens, on the same side of the road, now has 7 properties with rear dormers, deemed acceptable and granted approval.

10.14 A similar situation existed until recently on the western side of Bracewell Road, where a row of terraced properties at Nos 1 – 33 was deemed by RBKC planning officers to be 'unimpaired' and as being '*read as distinct from other properties along the road*' (which have a number of rear dormers). Decisions by the Council to refuse four applications for rear dormers within this group of

houses were all overturned on appeal during 2013 and 2014. The planning inspectors involved took account of the fact that this side of the street looks out onto a railway embankment, and that houses have short gardens. Hence the Council's contention that anyone (even a neighbour) is able to 'read' or gain benefit from the aesthetic appreciation of a row of rear roofs was deemed by planning inspectors to be misplaced.

10.15 The StQW Forum therefore feels strongly that a consistent neighbourhood policy on rear dormers, should be introduced as part of this neighbourhood plan. This would apply across those parts of the StQW area with *rear main* roofs that can take a dormer window (i.e. excluding the properties on the 'cottage' estate at Oakworth/Hill Farm/Methwold/Barlby Road and the few with 'butterfly' roofs). The StQW policy would not apply to side roofs. Planning applications would continue to be required, and RBKC case officers would remain in a position to consider proposed height, width, positioning in relation to the roof line and party wall, and the details of design and use of materials.



Roofscape analysis of the StQW part of the Oxford Gardens CA (red boundary).

Roofs shown in red have rear dormers or other roof alterations.

10.16 The change to the status quo is that the StQW policy would make it the norm for approval to be granted and would remove the requirement that a roofline must already be 'impaired' before further rear dormers are permitted. As can be seen from consultation responses to the StQW Draft Plan, this change would be welcomed by several of the households directly affected. The proposed policy has also been well supported at public meetings of the Forum.

10.17 On other proposed StQW conservation policies, points of difference between the StQW Forum and RBKC planning officers have been largely resolved. The Council accepts that RBKC policies are non-strategic, and issues of 'non-conformity' do not arise. The StQW Forum considers

that the conservation policies set out in Section 2 of the Draft Plan are well justified, and well supported by local residents. Their introduction would not cause harm, in the view of the Forum, and would continue to preserve and enhance the character or appearance of the Conservation Area. The 'Actions' proposed alongside the StQW Conservation policies are seen as important further steps in conserving the heritage of the neighbourhood.

Open Space and proposed Local Green Space designations

11.1 It is clear from Paragraph 77 of the NPPF that Local Green Spaces can be designated via a neighbourhood plan. The Forum accepts that such a designation requires evidence that all three of the criteria set out at Paragraph 77 have been met.

11.2 The StQW Draft Plan proposes LGS designation for the three surviving 'backland' areas within the St Quintin Estate. RBKC agrees that two of these spaces are '*capable of designation*'. On the third piece of land (Nursery Lane), having in September 2014 expressed the view that this land did not meet the NPPF criteria, the Council chose to give no view in its response to the StQW Section 14 consultation. The Council's January 23rd 2015 comments say '*There is a distinction between the Nursery Lane site's suitability for designation as a Local Green Space and policy protection for the site within the Council's Local Plan. The Council is not suggesting that designation of the site as a Local Green Space is not in conformity with the Local Plan. However, it will be up to the Forum to demonstrate that it meets the criteria set out in the NPPF for designation of a Local Green Space*'. This view and position is repeated in an officer report to the April 15th 2015 Council meeting on a petition (*Save our Green Spaces*) signed by over 2,500 local residents (see 11.6 below).

11.3 The detailed case for designation of the three St Quintin backlands as Local Green Space is set out in Annexe C of the StQW Draft Plan. Responses to consultation on the StQW Draft Plan, in particular in relation to the Nursery Lane backland, are shown in the Consultation Statement Annexe. The Council has made clear that such designation would not be a 'policy conflict' as such or a failure to 'generally conform'.

11.4 Current proposals for a housing development on one of the three St Quintin backlands are thought to have been prompted by the StQW Forum writing in December 2013 to the owners of the land (the Legard family, who inherited the land from the St Quintin family as the original ground landlords and developers of the St Quintin estate). This site at Nursery Lane was marketed in March 2014 as a '*residential development opportunity*' and a proposed development of 21 houses was exhibited in December 2014 to local residents. A planning application for 20 four bedroomed houses was submitted to RBKC in May 2015.

11.5 Following the 8 week consultation period on the StQW Plan, an open meeting of the Forum on February 5th 2015 decided to add an additional policy to the Open Space section of the Draft Plan. This proposed Draft StQW Policy 4b is consistent with the RBKC policy statement at page 18 of the Oxford Gardens Proposals Statement (re-adopted by RBKC in 1990) which states '*Some leisure and recreational activities have made good use of these spaces and proposals to develop them for more housing will not be permitted*'. The Oxford Gardens CAPS document also states (page 17) that such policy statements, as denoted by super bold type, are ones '*which the Council will implement using its town planning development control powers*'.

11.7 During February/March 2015 an action group of local residents mounted a petition (*Save our Green Spaces*) on the RBKC website. This asked the Council to '*affirm the continuation of its planning policy not permitting the development of the remaining St Quintin backlands and to support their designation as Local Green Space in accordance with the Neighbourhood Plan developed by*

residents. We believe this action is urgently needed to protect the character and biodiversity of the Conservation Area.

11.8 This petition attracted over 2,500 signatures and as a result triggered a debate at the full Council meeting held on 15th April 2015. The Council agenda included a report from the Director of Planning setting out the context. This explained that the policy statement on the St Quintin backlands in the 1990 CAPS document predated the 2004 Planning and Compulsory Purchase Act and *'stood outside the Development Plan'*. The report concluded that *'for the reasons stated the (CAPS) 'policy' carries very little material weight, of any at all.'*

11.9 The StQW Forum fully accepts that the 1990 Oxford Gardens CAPS pre-dates a number of changes to the planning system and that this means that any policy statements it contains now carry limited material weight. Paragraphs 3.14 to 3.21 of this Statement explain the Forum's view that weight should continue to be given to statements in CAPS documents on heritage assets the setting and nature of which have remained unchanged. This view is confirmed planning consultant advice to the Forum.³

11.10 Whatever weight is given to the CAPS document in determining any planning application on any of the three St Quintin backlands will be a matter for the decision-maker at the time. The StQW Forum is simply seeking to establish via this Basic Conditions Statement that the Draft StQW Policy 4b on open space closely reflects the policy intent of the 1990 Oxford Gardens CAPS and is in 'general conformity' with the following RBKC policies in the Core Strategy/Local Plan:

- Policy CR 5 Parks, Gardens, Open Spaces and Waterways
- Policy CL1 which relates to context and character
- Policy CL3 which relates to conservation areas and historic spaces
- Policy CE4 which relates to biodiversity
- Policy CR6 which relates to trees
- Policy CK1 which relates to social and community uses (in respect of land occupied by the West London Bowling Club, and the former Kelfield Sports Ground).

11.11 The officer report to the Council meeting on April 15th 2015 states that *'since these policies provide clear criteria on which to appraise any scheme coming forward a further policy preventing one form of development on the sites in question is not required.'*

11.12 The StQW Forum does not accept this view and considers that a policy within the StQW Neighbourhood Plan is very much required. The aim of such a policy is to re-establish with renewed material weight the principle that these remaining St Quintin backlands are inappropriate sites for housing development. The detailed background to this draft policy is set out in Annexe C to the Draft Plan. The draft policy was added in February 2015 to those included in the December 2014 Consultation Version of the Draft Plan as a direct result of the many consultation responses on the future of the backlands, and the land at Nursery Lane in particular. Local residents see such a policy as providing a continuation of what had long been understood to be a clearly stated RBKC policy in the Oxford Gardens CAPS document, and one which the Council had previously committed to using its development control powers to achieve.

11.13 The Council has subsequently taken the position that StQW Draft Policy 4b *'is not positively prepared as required by the NPPF'*⁴ and has made clear that RBKC officers will oppose at Examination its inclusion in the StQW Plan. The StQW Forum accepts that proposed StQW Policy 4b restricts one

³ Letter from Smith Jenkin to StQW Forum, 15th April 2015

⁴ Letter to StQW of 24th April 2015 from Cllr Tim Coleridge, RBKC Cabinet Member for Planning

form of development on the remaining St Quintin backlands, while allowing for the possibility of others. This is in the context of a neighbourhood plan which identifies and appraises four potential sites for housing use and allocates three to this use (on brownfield sites) while resisting housing development on the fourth (greenfield land, not previously developed).

11.14 The Forum considers this approach to have proper regard to paragraphs 17 and 47 of the NPPF, and to underpin StQW Policies 4b and 10a, 10b, and 10c all of which are 'positively prepared'.

11.15 As explained in Section 10 of the Draft Plan, RBKC has not undertaken an exercise in identifying potential smaller sites for housing use, as part of the Borough's 5 Year Housing Land Supply. There is no evidence that the Council had previously ever considered Nursery Lane as a possible housing site until a speculative proposal came forward in 2014. On the contrary, there is documentary evidence of the landowners of Nursery being advised by Council officers in the 1980s and 1990s that housing development would not be permitted on this site. Page 441 of the 2010 RBKC Core Strategy shows the three St Quintin backlands as 'other green space'.

11.16 The Forum notes that the February 2015 Advice Note from the Chief Planning Officers Society points out that *'Following the Huntingdonshire judgement in 2013 that effectively ruled out the use of ad hoc informal planning briefs and master plans to shape development, neighbourhood plans offer the LPA and local community an alternative way of putting into place detailed planning requirements and advice for developers.* The Forum considers the current scenario on the land at Nursery Lane to be one where RBKC can achieve this outcome and honour the Council's longstanding policy commitment in the Oxford Gardens CAPS, with little risk of a successful appeal from a developer.

11.17 Despite several requests, RBKC officers and councillors have been unable to explain when, how, and on whose authority the Council's policy stance on the land at Nursery Lane changed from that set out in the 1990 CAPS document. It is accepted by the Cabinet Member that *'there was not a particular moment when this happened'* but then argued that the 1990 CAPS policy commitment *'would not now be found to be sound'*.

11.18 The Forum recognises that were the Council to come forward with such a policy, in the context of the 2010 Core Strategy/Local Plan as it stands, this argument might hold water. This results (in the Forum's view) from the fact that the Council has not identified or allocated alternative sites for housing, prior to introducing a policy resisting housing development on a specific piece of land. **But this is not the context that will be in front of an Examiner of the StQW Draft Plan.** The StQW Draft Plan appraises and identifies alternative and more suitable sites for housing, in the manner expected by the NPPF, and provides for significantly more housing units in the neighbourhood than could be built at Nursery Lane.

11.19 Following notification of the Council's view that it could not support StQW Draft Policy 4b, the Forum's management committee has given further consideration to how best to reflect the views of local residents on the St Quintin backlands, as expressed in public meetings and in consultation responses on the Draft Plan. Draft Policy 4c has been added to the Plan as a result. This proposed policy reflects the Forum's view that land which has remained undeveloped so near to Central London should remain as open space, whether private or public, unless there are demonstrable and significant public and community benefits from development. The Forum considers this draft policy to have regard to NPPF paragraphs 17, 74 and 117 and to 'generally conform' with RBKC Core Strategy/Local Plan policies CR5, CL1, CL3, CE4 and CR6.

Employment and Enterprise policies in the StQW Draft Plan - Latimer Road Employment Zone

12.1 Proposed StQW policies on employment and enterprise relate very largely to a single street within the StQW neighbourhood (Latimer Road, W10). Four sections of the street were designated by RBKC in the late 1990s as part of a joint Freston Road/Latimer Road Employment Zone.

12.2 The RBKC Head of Forward Planning, in reviewing an earlier draft of the StQW Plan in October 2014, advised the Forum that: *'In my opinion the evidence you have submitted on Latimer Road provides an incomplete picture of the current situation and I am afraid this is one aspect of the draft Plan that the Council will be making clear that it is not in general conformity with strategic policies in the Core Strategy. I note your view that that neighbourhood plan examiners (and the Courts) have supported the principle that neighbourhood plans can be 'ahead' of Local Plans. However this is in cases (where) there is an out of date plan (not the case in RBKC), or where policies are silent or not clear on a subject. This scenario does not apply in this borough and we are in active policy development stage.'*

12.3 Following this response, significant evidence on commercial viability and rent levels for office premises in Latimer Road was amassed by the Forum and added to the December 2014 Consultation Version of the StQW Draft Plan. The StQW Forum and owners/managing agents of business premises in Latimer Road separately submitted relevant representations in December 2014 in response to the RBKC consultation on an 'Issues and Options' paper on the Council's policies on Enterprise.

12.4 During the 1970s, 1980s and first half of the 1990s, the western side of Latimer road formed part of the Wood Lane Employment Zone, in Hammersmith & Fulham. LBHF at that time was encouraging light industrial and warehousing in this zone. Planning permissions were granted in the 1980s on a small cluster of office buildings at the southern end of Latimer Road, and to the construction of 14 warehouse and light industrial units north of these. This altered the urban form on the western side of the street (previously a mix of 19th century housing and workshops).

12.5 During this period, the east side of Latimer Road (within Kensington & Chelsea) was *not* part of an Employment Zone. It remained (as it has always been) in mixed use with housing alongside commercial buildings and some offices, light industry, two pubs, and a tabernacle. In 1992 the Council approved a development of 20 social housing units behind the east side of Latimer Road (now Westview Close).

12.6 It has proved hard to trace precisely why, when RBKC inherited the western side of the street in 1996, the Council chose to create a joint Freston Road/Latimer Road Employment Zone. Even at that time there had been no road connection between the two areas for the previous 25 years (following the construction of the Westway). Having inherited from Hammersmith part of EZ including a row of light industrial/warehouse buildings, it is unclear why three separate sections of the east side of Latimer Road were also added into this joint Zone? These short sections of the street (which include one single office building on its own) remain interspersed with housing.

12.7 There are only three Employment Zones designated in the Borough (Lots Road in Chelsea, Kensal, and Freston Road/Latimer Road). The Council's 2002 Unitary Development Plan refers to *'important concentrations of industrial uses within North Kensington, particularly in the two Employment Zones of Kensal and Freston Road/Latimer Road'*. The UDP went on to say: *The combination of social and economic deprivation and the opportunities for development of industry and community in North Kensington were instrumental in the successful City Challenge bid for the area. This initiative ran from 1993 to 1998. A Single Regeneration Budget Programme 'Fighting*

Unemployment in North Kensington' (FUNK) has been funded for six years from 1997 to pick up and develop City Challenge training and employment initiatives in the area.

So long as the Council considers there to be a demand for small light industrial premises in the Borough, developments will be encouraged to help meet this demand.

12.8 Those days and those particular issues have long gone. There remains demand for light industrial premises in Latimer Road because such buildings can provide relatively low cost and flexible office space. But the case for physical zoning and separation of 'industrial uses' from housing is much diminished.

12.9 Many parts of the Royal Borough have significant 'scattered' office and business floorspace in mixed use streets which are *not* part of designated Employment Zones. The map at page 67 of the RBKC 2014 Annual Monitoring Report shows this scattered distribution clearly. This characteristic of the RBKC office market is the main factor that has justified the 'borough-wide exemption' from Government measures on permitted development for change of use.

12.10 Mixed use streets are seen by the Council (rightly) as one of the attractions of the Borough. As stated in Paragraph 2.2.38A of the Partial Review document adopted by the Council in October 2013 *'Another important characteristic that is also part of this legacy is the interspersal of small scale studios, shops, pubs and other mixed uses within the residential areas. This adds vitality and variety to the street scene – mixed uses are not confined only to town centres or employment zones in the borough.*

12.11 It is this vitality and variety that has disappeared over the past 30 years in Latimer Road, following the application of restrictive Employment Zone policies limiting the range of permitted use classes. It is this vitality and variety which the policies proposed in the StQW Draft Plan seeks to restore.

12.12 As explained in the StQW Draft Plan, the 14 light industrial and warehouse units on the western side of Latimer Road now offer different opportunities as compared with the 1980s office buildings at the southern end. While a small number of these units remain in use for storage/warehousing only, others have been converted and refurbished for office use. These premises now demonstrate the potential to attract a range of B1 uses, including those in the creative industries (design, architecture, media, the music business).

12.13 The principles behind the policies for Latimer Road in the StQW Draft Plan, as developed over the past two years, are as follows:

- All ground floor and mezzanine floorspace in Latimer Road should be retained for commercial (i.e. employment) use
- Redevelopment on the sites of the 14 light industrial/warehouse units should allow for additional housing units above commercial space, in what has historically always been a mixed use street
- Planning policies should also allow for change of use from office to residential on the upper floors of existing office buildings, given a long-term history of vacant and under-occupied B1 space at the southern end of Latimer Road.

12.14 RBKC planning officers made clear to the Forum in mid 2014 that such policies would be seen as being in conflict with the RBKC 'Enterprise' policy CF5 and would be strongly opposed at

Examination of the StQW Draft Plan. RBKC Policy CF5 restricts loss of B1 space in Employment Zones (with some exceptions).

12.15 The Council has been very opposed to the application within the Borough of the Government's current fixed term planning flexibilities, allowing change of use from office to residential. The Borough has fought hard to achieve its current 'borough-wide exemption' from the national planning flexibility on 'office to residential'. It continued to fight hard to retain such an exemption, in the event of the previous Coalition Government making the flexibilities permanent, as proposed in 2014 in the CLG 'Technical Consultation'. In the event, no such decision by the previous Government was made. The position to be taken by the new Government remains uncertain as at May 2015.

12.16 The StQW Forum respects and supports the Council's position overall. The gap between residential and office values in RBKC has reached levels such that there is a real threat of many small (and large) office premises disappearing were the national flexibilities on change of use to be applied in very many parts of the Borough. **But this argument should not be applied to every single street in the Borough, in the face of clear evidence that existing restrictive planning policies are not achieving sustainable development, nor allowing for mixed development as encouraged by NPPF paragraph 17.**

12.17 The Forum believes that the Council's anxieties over its Borough-wide exemption have unduly influenced its view of the StQW proposals for Latimer Road, and have led to an over-exaggerated concern over the employment implications of proposed StQW policies.

12.18 For example, the RBKC letter of 27th February refers to the risk of the StQW Plan unleashing '*wholesale conversion*' from office to housing in Latimer Road, given the Borough's differential between office and residential values. StQW Draft Policies 8b and 10c propose the retention of all ground and mezzanine commercial floorspace in the street (i.e. the bulk of such floorspace) and do not open up the possibility of '*wholesale conversion*'.

12.19 The Forum's case is that the proposed StQW policies for Latimer Road are well justified by evidence, and do **not** 'undermine' or 'conflict' with the strategic direction of RBKC policy CF5 on 'enterprise'. StQW policies would (in the Forum's view) lead to the creation of **more** office jobs in the street rather than any net reduction.

12.20 Meanwhile, the national approach towards more flexible planning use policies has continued. In March 2015, the Government introduced the new General Permitted Development Order 2015. As shown by the table at page 22 below, there appear to be at least three of Units 1-14 Latimer Road which could demonstrate the required 4 years of previous use as storage/warehousing and hence are eligible for a change of use to residential of up to 500 sq m of floorspace, as permitted development. The RBKC 'borough-wide' exemption does not apply to this GPDO change.

12.21 Whether these building owners will choose to go down this route remains to be seen. But in policy terms, the Government's introduction of these flexibilities is a further signal that restrictive Employment Zone policies disallowing mixed use need to be reviewed. This is especially true in the case of a street such as Latimer Road, which has historically always combined employment and residential use.

The Council's and the Forum's evidence base for Latimer Road

13.1 The evidence base used by RBKC on the development of policies for the 2010 Core Strategy included several studies of office and commercial viability. The most significant of these was the Roger Tym Study (Royal Borough of Kensington and Chelsea: Employment Land Review - Update. Roger Tym & Partners, October 2009)

13.2 As part of the work on the 2014 RBKC Issues and Options paper on Enterprise (an initial stage of the Partial Review of this chapter of the 2010 Core Strategy) the Council commissioned two further studies. These were a *Commercial Property Study*, Peter Brett Associates (Peter Brett/Roger Tym 2013) and a study on *Office Market Review and Viability in RBKC* (Frost Meadowcroft, 2014).

13.3 The 2013 PBA study updated the earlier work by Roger Tym. In relation the Latimer Road, the section on Latimer Road concludes: *'For the oldest office stock in the north of the (Freston Road/Latimer Road) area, viability is marginal, with quoting rents just under £180 per sq m. Going forward, these rents may not be enough to sustain the existing stock. They are certainly not enough to support new development. As we have seen, the offices to the north of the zone are not well occupied and command low rents. The root of the problem is the area's poor environment and difficult access, and the lack of a critical mass of office property. If this does not change, these offices may not be an economically sustainable land use in the long term'*

13.4 The 2014 study by Frost Meadowcroft was (in the view of the StQW Forum) a more superficial analysis than that in the PBA study, with data collection from a limited survey. Frost Meadowcroft listed a number of major firms now located in the Freston Road part of the EZ and commented on the success of this area. This is the larger part of the joint EZ and now exhibits very different characteristics from Latimer Road. This part of the EZ lies close to the Latimer Road Underground station (confusingly named as it lies a 12 minute walk from Latimer Road itself). Frost Meadowcroft acknowledged that *'To the northern area (i.e. the Latimer Road section of the EZ), the proximity to underground and train stations is limited leading to a lower PTAL rating (Public Transport Accessibility Level)'*.

13.5 Apart from this comment, no further analysis was offered by Frost Meadowcroft on the characteristics of the Latimer Road part of the EZ. The study, however, included a table of rent levels in different parts of RBKC and a viability assessment of different locations based on these rent levels. This table is reproduced below, as it has led to differing views on the viability of Latimer Road as an office location, between the Forum and the RBKC planning department

Office Rents	Grade A		Average Grade B	
	per sq m	per sq ft	per sq m	per sq ft
Knightsbridge	£860	£80	£538	£50
Chelsea	£613	£57	£377	£35
South	£592	£55	£409	£38
Kensington				
Kensington	£532	£49	£334	£31
Notting Hill	£485	£45	£312	£29
Latimer Rd/Freston Rd Employment Zone	£400	£37	£280	£26
Kensal Rd Employment Zone	£375	£35	£215	£20

North Kensington Lots Road Employment Zone	£375	£35	£226	£21
Earls Court	£312	£29	£291	£27
	£301	£28	£215	£20

13.5 RBKC Planning Department appear to have relied heavily on this data in preparing its November 2014 Issues and Options paper on Enterprise. The focus of this paper was on developing policies, to be introduced via the Partial Review of the 2010 Core Strategy, which could respond to three alternative scenarios depending on future Government decisions on permitted development for change of use from office to residential. The emphasis of the paper was on the threat to office floorspace across the Borough, and on the need to maintain the Council's generally restrictive approach to the loss of business space while also ensuring compliance with the NPPF.

13.6 The RBKC Issues and Options paper included no specific section on Latimer Road. It noted that the PBA study questioned long-term viability for this part of the EZ. The paper's overall conclusions were that *'the office market is vibrant and there is no reason to believe that the Borough's main office locations are intrinsically unviable for continued office use. There are, however, small pockets within the Borough where the market is less robust or where encouragement is needed if future refurbishment is to come forward'*. Within the paper, Latimer Road is again banded with Freston Road as an area deemed 'viable' and there are no comments made of the differences between the two sections of the joint Employment Zone.

13.7 Building owners in Latimer Road have been drawing to the Council's attention for many years the inherent problems of the area as an office location (low public transport access, very few amenities). Vacancy levels in the business suites at the southern end of the street were a real issue, when work began in 2012 on the StQW Neighbourhood Plan. While the office market across London has improved significantly in the last 18 months, actual rent levels achieved at the southern end of Latimer Road remain for the most part **below £20 per sq ft**. Offers of space at £17.60 per sq ft have failed to attract office tenants for remaining vacant business suites.

13.8 As identified in the 2013 study by Peter Brett Associates, these rent levels are make continued office use a marginal economic activity, providing insufficient income for building owners to invest in significant refurbishment and upgrading of office space, let alone redevelopment of outdated office buildings.

13.9 It is understandable that the Council should want its Issues and Options paper to conclude overall that all parts of the Borough's Employment Zones are viable. As the paper itself recognises at 2.23 *'The NPPF is clear: protection cannot be supported for its own sake, but only when there is a realistic prospect of that land being used for what it has been safeguarded for'* (paragraph 22 of the NPPF).

13.10 The STQW Forum believes that while the Council can make a good case for restrictive planning policies protecting employment across the Borough as a whole, the continued application of such policies to Latimer Road has damaged this location in the past, and will continue to do so if unchanged for the future.

13.11 Following consultation on the Consultation Version of the StQW Draft Plan, and responses to the RBKC 2014 Issues and Options paper on Enterprise, the Council in early 2015 commissioned a further study of office viability, specific to Latimer Road. The Council chose to use the same

consultants (Frost Meadowcroft) as for the 2014 study, the data from which had been challenged by the StQW Forum.

13.12 This further study from Frost Meadowcroft was made available to the StQW Forum in May 2015, just prior to the formal submission of the StQW Draft Plan and this Basic Conditions Statement. The evidence from the study will be reviewed in more detail prior to Examination of the StQW Draft Plan. An initial view is that the study, in its efforts to demonstrate that Latimer Road office and commercial premises are 'viable' under a continuation of existing RBKC policies, has stretched the assumptions used in its viability assessments and models.

13.13 The study provides useful data on the total stock of commercial premises in Latimer Road. The Forum welcomes the fact that accurate figures for rent levels achieved in the street are presented (these being well below the 'average' for Freston Road/Latimer Road quoted in the previous 2014 study by the same firm). These rent levels (quoted as between £16.50 and £22 per sq ft) largely match those set out in the Consultation Version of the StQW Draft Plan. They are very different from the £26 to £37 per sq ft range quoted in the 2014 study by Frost Meadowcroft, from which earlier conclusions on viability were drawn and deployed in the November 2014 RBKC Issues and Options paper on Enterprise.

13.14 Initial questions over the latest 2015 FM viability assessments for individual premises in Latimer Road include the following:

- the adoption of a '5% return on cost' as indicating viability, when a figure of 10% was used by the same firm in its 2014 study of viability across the Borough.
- the estimates of average costs of refurbishment
- the assumptions on the additional rent levels that could be achieved following such refurbishment

13.15 Overall, the StQW Forum remains firmly of the view that the 2013 study by Peter Brett Associates continues to give the more accurate analysis of the future commercial viability of Latimer Road. The PBA study also identifies the need for a new policy approach to this location from the Council, albeit that the conclusions reached as to the best approach differ to an extent from those of the Forum.

Office and other commercial space in Latimer Road – the current situation

14.1 One substantive office building (ground floor only) is located at 316-9 at the northern end of Latimer Road. The head office building of Designers Guild is located behind the eastern side of Latimer Road, half way along the street. The main office floorspace in the street is contained within a cluster of 1980s purpose-built three storey office buildings at the southern end of street. These are where the main problems of long term vacant floorspace have arisen.

14.2 The southern end of the street has not attracted further office development since the 1980s. The Westway Trust obtained planning approval in 2006 for a B1 office building of 1,230 sq m at 301 Latimer Road but did not subsequently implement this permission.

14.3 The table below sets out uses in all the office buildings in Latimer Road. The StQW Forum agrees the Frost Meadowcroft figures of just under 90,000 sq ft of office floorspace. The Forum estimates approx 40% of this to be above ground floor, and of this about two thirds is in the cluster of office buildings at the southern end of the street. A subsequent table gives similar information for Units 1-14 (built as light industrial/warehousing in the 1980s, with several of the premises now in B1 office use).

14.4 The employee figures shown below have been provided by businesses and building owners and are for floors above ground, i.e. those floor areas potentially affected were StQW policies to allow partial change of use to residential to be put into effect. The rental figures (where available) are current. Premises for which these are not available are shown as n/a. Several of the buildings are owner-occupied, where rental levels do not apply.

Latimer Road east side	Current use	No. of staff	Rent (per sq ft)	Comments
316-319 <i>re:fine</i>	Digital content processing and media management company	Nil	n/a	Single storey building so would not be affected by STQW policies.
296	Being redeveloped as an individual photographer's studio and archive.	1-2 on 1st floor	Owner occ.	Will be owner-occupied and for private use. Meeting room + 2 small offices above ground floor.
290-294 Placebold development	Mixed use development comprising 12 flats, offices, workshops	n/a	£22	6,000 sq ft of office space on 1st and 2nd floor might change use under StQW policies, but is more modern and attractive than space at southern end of street
Designers Guild	Headquarter offices for global business on interior design, and fabrics.	24	Owner occ.	Modern office building plus 2 flats approved 2001. Office space above ground floor appears unlikely to change to residential as building is a HQ office for a single firm.
204 Latimer Road	Small office suites	8	n/a	Change of use from office to self-contained residential refused May 2010
220 Latimer Road (The Clock House)	Mixed use building with residential above office use on ground floor.	Nil above ground floor	n/a	Change of use from B1 office to C3 residential approved June 2011, with replacement of 179 sq m of B1 floorspace in basement. Ground and basement office use would remain protected under StQW Policy 8b.
206-208 Park House	Purpose built complex of 6 business units	25	£18/19	
Latimer Road west Side				
335-339 Morelli Building	3 storey private offices and recording studio, with B1 use, owned and used by musician.	6	Owner occ.	Change of use unlikely under present owner
333 Latimer	Three business suites, in a joint	6	£15.50	3 storey plus mezzanine office

Road (Latimer Cortile)	building with No.329 below			development built in 1980s.
329 Latimer Road (Latimer Cortile)	Three further business suites	5	Owner occ.	3 storey plus mezzanine office development built in 1980s.
323-327 Ivebury Court	10 small office suites.	15	£15	3 storey courtyard office development, built in 1980s. Current vacancies.
317-321 Olympic House	Offices and gym/health company.	16	£21	Part of ground floor now in mixed use, health care and gym, bringing 20 employees to the street. Part of this space previously vacant.
303-315 Gumball Rally	London premises of US company organising international motor rallies	19	Owner occ	Same company has 2,000 sq ft on ground floor

Units 1-14 Latimer Road

14.5 On the western side of Latimer Road is a row of low rise industrial units and warehouses. These were built following planning approval granted by LB Hammersmith & Fulham to New Estates Ltd in 1979 for the construction of 10 warehouses and 4 light industrial units. They are known as Units 1-14 Latimer Road. The units are in separate freehold ownership, and a number are owner occupied rather than leased. A recent letting was completed at £16 per sq ft.

14.6 These units provide a total floorspace just under 50,000 sq ft, of which around 10,000 is estimated to be first floor or mezzanine. Introduction of a StQW policy allowing residential use on upper floors would in any event require substantial redevelopment of these premises to take effect. Current uses of these light industrial/warehouse units, with associated employment levels, are set out in the table below.

Name or registered owner	Current use	No. of staff on site	Comments
1 Farouk Garage	Specialist Alfa Romeo garage	1	
2 MGA Motors	Garage and MOT centre	4	
3 S&O Media Ltd	Media company (film) technicians)	20	Owner occupied premise and the building is well used in terms of employee numbers.
4 Central London Dial A Ride Ltd	Currently operating as a commercial laundry	1-2	Freehold now owned by antique business which intends to retake possession Sept 2015 and to use for storage and restoration of furniture.

5	Butchoff Antiques	Furniture and antiques storage	-	Used by a further Kensington-based antique business.
6	private individual	No signage or indication of use	-	No visible activity, and no response from owner to inquiries.
7	Shane Connolly Flowers Knickerbocker Glory	Floral decorations Media production company	7-10	Two separate small businesses
8	The Playground Studio	Theatre and performance space	None	Owner occupied performance space available for hire. Owner currently seeking planning approval to extend at front with a cafe. Use as theatre supported by StQW Forum.
9	Squeeze Event Mixology	Mobile bar hire and bar training	-	No visible activity, and company thought to be in administration.
10	Grove Studios	Recording studio, with 5 rehearsal studios	2-3	Creative/media use as supported by StQW draft policies
11	Latimer Studios	3 small businesses (interior design /architecture)	30-35	Building recently fully refurbished and an example of scope for more intensive office use of these Units.
12	Office and General Holdings Ltd	Commercial cleaning company	20-25	Owner occupied premise, and well used as office floorspace.
13	City Electrical Factors	Electrical supplies (mainly trade sales)	6	StQW Forum in touch with managing agents for owners
14	Frontiers	Storage of shop fittings, mannequins	None	StQW Forum in touch with managing agents for owners

14.7 In 8 of the 14 units the number of employees on site is low, which is unsurprising since 10 of the units were originally constructed as warehouse space rather than light industrial. But in those units which have switched to office use, numbers of employees are significant. The recent refurbishment of Unit 11 shows how these 1980s light industrial/warehouse buildings can become successful office accommodation, suited to small design companies and including the type of open plan meeting spaces/staff self-catering areas that contemporary office tenants seek.

14.8 The details above also show that most of the uses of Units 1-14 would be compatible with residential accommodation on redeveloped upper floors. The viability of redevelopment is discussed below in paragraph 16 on Housing.

14.9 As noted in the Peter Brett Associates study of commercial property in the Borough, much of what is classed as 'light industrial' or warehousing in Kensington has now become the type of relatively open plan studio and workshop/office space, in demand from creative industries. The PBA Study notes at 3.25 *'The borough's former industrial and warehouse occupiers have relocated to other parts of London or beyond. But the properties they used to occupy have been retained because of the presumption against large scale residential uses in the zones. A new type of occupier, from the growing creative industry cluster, has moved in. These are predominantly office occupiers but they value the industrial characteristics of the some of the property on offer'*.

14.10 Such space is scarce in RBKC. Freston Road and Latimer Road, when combined, make up 20% of the Borough total. **The StQW Draft Plan proposes no diminution of this type of floorspace in Units 1-14 Latimer Road. It encourages the transfer of remaining warehouse/storage space at these units to office uses, encouraging use by creative industries and reflecting changes in market demand as identified in the PBA study.**

Conclusions from this evidence

15.1 The information on individual premises in Latimer Road, as amassed locally, leads the StQW Forum to four conclusions:

- the existing office space in the 1980s business suites at the southern end of Latimer Road, on floors above ground level, is let (or owner-occupied) at low occupancy levels. Average space utilisation is around 250 sq ft per person, or roughly three times the space allowance expected in modern office premises.
- there is a long-term history of significant vacancy levels in the purpose-built office buildings at the southern end of Latimer Road. These vacancy levels reduce at stages of the property cycle when demand is high (as in 2014/early 2015) but vacancies soon return when the market falls. This is an underuse of buildings the upper floors of which could provide much needed residential units in a mixed use street.
- even when office demand is high, rent levels remain below nearby office locations due to the inherent shortcomings of the location and this impedes refurbishment.
- Latimer Road is likely to face growing competition in the office market in this part of London. 110,000 sq ft of office space will come onstream at nearby Imperial West, and Imperial will be continuing to offer low cost office space for business start-ups at their Ugli building in Wood Lane, next door to the Central Line. The 50,000 sq ft at Bard Road/Freston Road, and the 45,000 sq ft in the next phase at Notting Dale Village will also offer competition. As in the past, Latimer Road is unlikely to become a 'established office location' for reasons of low critical mass, geography, and poor transport access.
- a more flexible approach to use, from the Council and from building owners, is likely to be the most effective way of boosting employee numbers, rather than policies that lead to the retention of outdated office and warehouse premises.

15.2 On office viability across the Borough, the 2013 Peter Brett Associates study concluded *'As a broad approximation, a rent of around £300 per sq m, combined with a good tenant covenant, is typically required to support viable development in Kensington & Chelsea. At rents below £200 or so, it may not even be viable to maintain existing property in a lettable condition, especially if there is*

pressure to redevelop it for higher-value uses' (Para 4.2.2). This position has applied (for several years) to the southern part of Latimer Road

15.3 The Peter Brett Associates 2013 report suggested that the Council faces policy options of either undertaking serious investment in infrastructure and facilities in Latimer Road, or of pursuing a 'do-minimum' option. Apart from the proposed pedestrian/cycle underpass to Wood Lane (to be financed by LBHF via a S106 agreement with Imperial College) there is no sign of RBKC implementing infrastructure improvements for Latimer Road. The PBA report goes on to say at 4.64 *'If the Council adopts this do-minimum option, therefore, it should consider relaxing the policy that safeguards existing offices the north of the zone. As a result, Kensington & Chelsea would lose some office space and some jobs – probably to other emerging areas in the central London fringe.* The StQW Forum sees widening mixed use, including housing, as the most viable way forward for Latimer Road, and the route which would command the greatest local support.

The extent of policy change on Latimer Road proposed in the StQW Plan

16.1 As explained in the StQW Plan itself (page 55), there are two strands to the StQW Forum's case for a rethink on planning policies for Latimer Road. The first is that current RBKC policies have had limited success over the years, in attracting and retaining BI office use within the Latimer Road sections of a joint Employment Zone. The second is that the street is not offering what office staff and local residents want to see in terms of facilities and vitality.

16.2 Local people would also like to see in Latimer Road some housing opportunities that are 'more affordable' (for rent or sale) than at the very high prices in the surrounding streets.

16.3 Up until the late 1990s, the street was clearly seen as an appropriate location for housing (in 1992 RBKC approved a development of 20 housing units behind the east side of Latimer Road, now Westview Close). The Council also departed significantly from its own EZ policies in a 2007 decision to allow a mixed use development with 12 flats and office space at 290-294 Latimer Road.

16.4 For local residents, Latimer Road provides some useful and valued facilities (motor repairs, plumbing supplies) but has long been seen as a comparatively unsuccessful part of the neighbourhood. The southern end has an abandoned feel, prone to litter, graffiti and fly tipping. Security of office premises has long been an issues, noted in the PBA study (see Section 6 of the StQW Draft Plan). The southern end of the street is avoided by many residents in the hours of darkness.

16.5 StQW Draft Policy 8c) proposes that RBKC should ***'allow A1, A2, A3, A4, D1 and D2 class uses, along with any B class use other than B2 and B8 (over 500 sq m) in those sections of Latimer Road designated as an Employment Zone within the 2010 Local Plan, where such uses contribute to the vitality of the street and to the wider neighbourhood area'***.

16.6 This proposed policy, RBKC officers assert, is in conflict with current RBKC Policy CF5 and therefore fails the general conformity test.

16.7 At the same time, RBKC officers have also asserted that StQW Policy 8c) is 'superfluous' because sub paragraph (j) of RBKC Policy CF5 already allows for the possibility of A and D class uses in the Latimer Road sections of the EZ. The wording involved is ***'where such uses directly support the Employment Zone'***. This sub-paragraph was deployed by RBKC in July 2014 when granting permission for an area of ground floor office space at Olympic House to be converted and let as a small gym/fitness centre (D class) with associated A class use.

16.8 The StQW Forum cannot see how a proposed policy can be both be '*undermining/in conflict with*' a strategic RBKC policy, while also being '*superfluous*' because its outcome is already provided for under existing Local Plan policy? The Council's position appears self-contradictory.

16.9 The Forum does not consider StQW Policy to be '*superfluous*'. It is proposed as a modest widening of RBKC CF5(j), to allow for uses and activities in Latimer Road which contribute to the benefit of the local community. The Forum also questions whether sub-section (j) of current RBKC Policy CF5 is sufficiently clear and well-defined? What types of use or activity '*directly support*' an Employment Zone? Dry cleaners? Mobile phone outlets? The policy signals restrictiveness to building owners and potential developers, and hence very few proposals for wider use have come forward in the last decade.

16.10 In the healthcheck report on the StQW Draft Plan, the view of Christopher Lockhart-Mummery QC was that '*For the present, I would think there to be good prospects of satisfying an Examiner that the desired flexibility of use in Latimer Road would meet the general conformity test*'. The Forum's seeks the Examiner's support for this view, in relation to proposed StQW Policy 8c.

Proposed de-designation of the Latimer Road sections of the combined Employment Zone

17.1 Proposed StQW Policy 8a asks ***the Local Planning Authority to de-designate the four sections of Latimer Road currently defined as part of the combined Freston Road/Latimer Road Employment Zone, within the RBKC Local Plan.***

17.2 Paragraphs 8.1 and 8.2 of this Basic Conditions Statement have already rehearsed the legal questions involved in this proposed policy, and the advice from Christopher Lockhart-Mummery QC.

17.3 The justification for this proposed policy is that the original inclusion of sections of Latimer Road within a joint EZ with Freston Road has proved, after nearly 20 years, to have led to poor outcomes. Inclusion in a EZ has not led to the establishment of a successful and viable cluster of office buildings at the southern end of the street. These 1980s office buildings have experienced long-term vacancies and under-occupation. While Units 1-14 have survived (and now show potential for conversion to modern and attractive use) the 'zoning' of this part of the western side of the street has ruled out scope for redevelopment of these units with housing above.

17.4 'Zoning' of buildings and plots in a street which since first built in the 19th century has combined business and housing, side by side and (originally) on different floors, appears to local residents to be an unhelpful planning practice. The results have worked against sustainable development, have lessened the vitality of the street, and have led to the loss of its original facilities and amenities.

17.5 It is sometimes argued (as for example in the PBA study commissioned by the Council) that residential floorspace above commercial is never satisfactory, and that the commercial floorspace at ground floor level or the resultant flats or apartments above are in low demand. The Forum sees no evidence to support this view, in relation to Latimer Road. The two significant new developments in the street in recent years (290-294 Latimer Road, and the Clock House at 220 Latimer Road) both involve mixed use, commercial and residential, combined on a smallish site. This mix does not appear to have caused problems. Many recent mixed use developments in London combine residential use above A and D class uses.

17.6 If StQW Policy 8c is accepted as meeting the test of 'general conformity' (as argued at paragraph 16 above) the Forum sees the proposed de-designation of the EZ sections of Latimer Road as a natural consequence. What policy purpose would EZ designation then serve, other than to restrict and remove the scope for redevelopment of Units 1-14 with housing above commercial floorspace? The EZ designation currently brings no benefits to building owners in the four zoned sections of the street, nor to the wider neighbourhood. The Freston Road part of the current combined Freston/Latimer EZ should be left to flourish in its own right as a successful example of an Employment Zone.

17.7 The Forum is clear in its desire to see Latimer Road remain as a mixed use street, and to limit conversion or redevelopment for housing to upper floors only. There is no wish to see the street become wholly residential, as a result of the Borough's unusual market pressures and housing values. Hence the Forum needs to have an eye to the situation that would arise, were RBKC ultimately to lose its 'borough-wide exemption' on permitted development for change of use from office to residential.

17.8 To address this issue Action 8ii has been added to the Submission Version of the StQW Draft Plan. This asks that, in the event of the Borough losing its current 'exemption' an Article 4 Direction should be introduced, removing (future) Permitted Development rights on change of use from B1 to residential on the ground and mezzanine floors of commercial buildings.

17.9 Taking account of all the above, the StQW Forum is of the view that the proposed StQW policies in Section 8 of the Submission Version of the Draft Plan are in general conformity with the strategic policies of the Local Plan, and are well justified in terms of achieving sustainable development for the StQW neighbourhood.

Housing policies in the StQW Draft Plan

18.1 A further part of the StQW Draft Plan which is currently opposed by RBKC officers is that on Housing (section 10). StQW Draft Policy 8b proposes '*to allow residential use of upper floors of existing and redeveloped B class buildings within the currently designated Employment Zone sections of Latimer Road, provided that the ground (and any mezzanine) floor remains in commercial use*'. StQW Draft Policy 10c proposes '*to allocate the sites occupied by Units 1-14 for mixed use development, allowing housing use subject to ground and any mezzanine floors remaining in commercial use*'.

18.2 Latimer Road was most often cited by respondents to the 2014 StQW Survey as a part of the neighbourhood suitable for additional housing. As explained above, additional housing has previously been built in the street at Westview Close (approved 1992) and at 290-294 Latimer Road (approved 2007). Change of use to housing of the first floor at 220 Latimer was approved in 2011.

18.3 As a result of the development of the Imperial West across the borough boundary, with buildings ranging from 10 to 35 storeys, the issue of building heights impacting on the southern half of Latimer Road has been taken out of the hands of RBKC and local residents. Heights remain a subject on which residents on the eastern side of the northern half of Latimer Road have strong views, naturally wishing to ensure that views, daylight and sunlight are not significantly harmed by redevelopment on the sites of the light industrial/warehouse units on the western side.

18.4 Draft StQW Policy 8e has been amended from that previously proposed in the Consultation Version of the StQW Plan. The wording in the Submission Version is designed to ensure that building heights respect neighbouring buildings (and the position on the north/south axis of Latimer Road),

while allowing sufficient increased building height to make redevelopment of each of the units at 1-14 Latimer Road financially viable.

18.5 This assessment has been made on the basis of a detailed design work on a typical unit. The addition of two floors of housing (with a significant setback meaning that the top floor would not be visible from the street) would allow for 10 one or two-bed flats at London Plan space standards. An example of such a development, retaining the existing side return which breaks up the massing of Units 1-14, is shown in Section 10 of the StQW Draft Plan.

18.6 Units 1-14 are freehold properties, for the most part in separate ownerships (units 13 and 14 have a single owner). RBKC may therefore have concerns that redevelopment of these premises to include housing may not be 'deliverable' in its desired timeframe.

18.7 Should this be the case, the Forum would point out that current RBKC policies have not brought forward any new housing in the StQW area over the last decade apart from the Pangbourne Avenue/Argyll Place development (recently completed) and the 2006 redevelopment of 290-294 Latimer Road. Under RBKC policies, a proposed mixed use development on the Crowthorne Road site was refused in 2013 on a number of grounds.

18.8 Section 10 of the StQW Draft Plan includes an options appraisal of four potential development sites. It concludes that three are suitable for housing, and includes site allocation policies for each of these (StQW Draft Policies 10a, 10b and 10c). As explained earlier in this Statement, the fourth site (Nursery Lane) is considered unsuitable for housing, given its planning history and conservation/amenity value, and is proposed for designation as Local Green Space (section 4 and Annex C of the StQW Draft Plan).

18.9 These StQW Draft Policies would, in the Forum's view, lead to the delivery of more much needed new housing units within the neighbourhood, and a greater contribution to sustainable development, than under a continuation of current RBKC Local Plan policies. **Given the context set out above, the Forum does not consider that the proposed housing allocations in Section 10 of the Draft Plan could be found to fail the 'general conformity' test. These policies would support the RBKC Strategic Objective for Housing, the Council's Housing Policy CH2, and London Plan Housing Policy 3A. They are 'positively planned' proposals and flow from a more detailed identification and appraisal of potential housing sites in this neighbourhood plan than currently exists at borough-wide level.**

18.10 The StQW Forum takes the view that the majority of present and future commercial uses of the ground and mezzanine floors of Units 1-14 will prove to be compatible with residential accommodation on redeveloped upper floors. As set out in the table above (pages 26-27) only two of these units (the garages) are now in a use which would be described as 'light industrial'. The street has always been 'mixed use' and the design of new housing units on the western side of the street will anyway need to take account of noise from the railway line at the rear of all properties.

18.11 The survey conducted by Peter Brett Associates asked businesses to comment on the issues raised by proximity to residential accommodation. The resultant study concluded at 3.55 *'Therefore the survey suggests that in the main the occupiers are content to mix with residential neighbours. This mainly reflects the fact that the employment zones are dominated by office and studio space, which by definition is more compatible with residential uses'*. This view is confirmed by the Forum's own discussions with residential estate agents, who foresee no lack of demand for new residential accommodation in Latimer Road.

18.12 This concludes the section of this Basic Conditions Statement on issues of 'general conformity' with the strategic policies of the Local Plan. It has proved necessary to include the above level of fine detail, largely as a result of previous questioning of StQW draft policies by the RBKC Planning Department.

HOW THE StQW DRAFT NEIGHBOURHOOD PLAN ACHIEVES SUSTAINABLE DEVELOPMENT

19.1 Such compliance is one of the five basic conditions as set out in paragraph 2.1. above. The Government's definition of sustainable development (for planning purposes) is at the heart of the National Planning Policy Framework and is set out at start of that document. The three dimensions of sustainable development, economic, social and environmental, are defined and explained at paragraph 7 of the NPPF.

19.2 The StQW Plan, in Annexe A of the document, provides a set of tables which explains the relationship between the 12 objectives in the Plan, their related policies, and the 3 national objectives for sustainable development.

19.3 Annexe A to the StQW Plan continues with a detailed Sustainability Appraisal of the draft policies in the StQW Neighbourhood Plan, setting out the extent to which each will contribute to the 16 Local Development Framework Sustainability Appraisal Objectives identified by the Council in its 2009 Sustainability Appraisal Report for the 2010 RBKC Core Strategy.

19.4 The StQW Forum considers that the StQW Draft Plan, and the material in its Annexe A provides an explanation of how its policies and proposals meet the requirement for sustainable development. A full-scale sustainability appraisal is not a legal requirement for neighbourhood plans. The site allocations included in Sections 8 and 10 of the Draft Plan all relate to 'brownfield' sites which have previously been developed. The Draft Plan, taken as a whole, reflects a presumption of sustainable development in terms of the level of new housing proposed for the designated neighbourhood area.

COMPLIANCE WITH HUMAN RIGHTS REQUIREMENTS

20.1 The Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights. It also complies with the Human Rights Act 1998.

20.2 The StQW Forum understands that there is no requirement for neighbourhood plans to include an Equalities Impact Assessment at the time of submission and Examination. It is understood that the Council will perform this Assessment if the Plan is approved at a referendum.

20.3 The StQW Forum has, at all times, sought to ensure that all sections of the community have been given the opportunity to get involved in making the Plan and have had the opportunity to express their views on the Plan. The process of drawing up the Plan, and the work of the Forum since its inception, is set out in the **StQW Consultation Statement** (see separate document). This explains the consultation and engagement processes on which the Plan has been based.

COMPLIANCE WITH EUROPEAN UNION REGULATIONS

21.1 There has in the past been a lack of clarity on the question of whether neighbourhood plans require to be accompanied by a Strategic Environmental Assessment.

21.2 The CLG Planning Practice Guidance (updated February 2015) now states *In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a strategic environmental assessment. Draft neighbourhood plan proposals should be*

assessed to determine whether the plan is likely to have significant environmental effects. This process is commonly referred to as a “screening” assessment and the requirements are set out in regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004. If likely significant environmental effects are identified, an environmental report must be prepared in accordance with paragraphs (2) and (3) of regulation 12 of those Regulations.

One of the basic conditions that will be tested by the independent examiner is whether the making of the neighbourhood plan is compatible with European Union obligations (including under the Strategic Environmental Assessment Directive).

21.3 RBKC has undertaken screening assessment for the Draft Plan, and has issued this to statutory consultation bodies (Historic England, Natural England, and the Environment Agency). The outcome will be available at the Examination of the Draft Plan.

EVIDENCE BASE FOR THE StQW DRAFT PLAN

22.1 The following material has been used to develop the proposals in the StQW Plan

- National Planning Policy Framework (March 2012)
- Communities and Local Government Department Planning Practice Guidance
- The London Plan (July 2011)
- Draft Further Alterations to the London Plan (January 2014)
- RB Kensington and Chelsea Core Strategy (December 2010)
- Westway Supplementary Planning Document (December 2012)
- RBKC Building Heights SPD (September 2010)
- RBKC Subterranean Development SPD (May 2009)
- RBKC Partial Review of the Core Strategy - Conservation and Design
- RBKC Partial Review of the Core Strategy - Miscellaneous matters
- RBKC Partial Review of the Core Strategy - Basements
- RBKC Core Strategy Sustainability Appraisal 2009
- Oxford Gardens/StQuintin Conservation Area Policy Statement (1979/1990)
- LB Hammersmith & Fulham Core Strategy (October 2011)
- LB Hammersmith & Fulham Draft Local Plan 2015-30
- White City Opportunity Area Planning Framework (October 2013)
- White City Opportunity Area Strategic Transport Study, Mayor of London/TfL (March 2011)
- A Vision for Old Oak - Mayor for London
- Planning Framework for the Old Oak and Park Royal area (February 2015)
- Royal Borough of Kensington and Chelsea: Employment Land Review - Update. Roger Tym & Partners (October 2009).
- Peter Brett Associates RBKC Commercial Property Study (March 2013)
- Market and Viability Assessment, Frost Meadowcroft (May 2014)
- Latimer Road W10 Commercial Properties Viability Study (Frost Meadowcroft April 2015)
- Royal Borough of Kensington & Chelsea Enterprise Review - Issues and Options (November 2014)
- Royal Borough of Kensington & Chelsea - Housing Issues and Options (October 2012)
- Royal Borough of Kensington & Chelsea - Planning Brief for Princess Louise Hospital site, January 2007
- Kensington and Chelsea Open Space Audit, RBKC 2004
- Royal Borough of Kensington & Chelsea - Tree Strategy (undated)

- Royal Borough of Kensington and Chelsea. Laying the foundations, A New Station at North Pole Road (February 2008)
- West London Line Group - various papers on transport interchanges at Old Oak and proposals for an Overground station at Western Circus
- Revision of Sites of Nature Conservation Importance, RBKC (June 2009)
- Local Development Framework, Walkable Neighbourhoods and Reasoned Justification on Social and Community Uses (RBKC October 2009)
- RBKC Annual Monitoring Report 2013
- RBKC Annual Monitoring Report 2014
- St Helens Ward Profile
- Dalgarno Ward Profile
- map showing analysis of roofscapes, provided by RBKC, as shown at page 15 of this Statement

StQW Forum May 15th 2015

ANNEXE A TO BASIC CONDITIONS STATEMENT

**ST QUINTIN AND WOODLANDS
DRAFT NEIGHBOURHOOD PLAN
2015-2030
CONSULTATION VERSION OCTOBER 2014**

HEALTH CHECK REPORT

By

Christopher Lockhart-Mummery Q.C.

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Introduction

1. This Report follows my Healthcheck review of the Consultation Version October 2014 St Quintin and Woodlands Draft Neighbourhood Plan 2015-2030. The Plan (NP) has been prepared by the St Quintin and Woodlands Neighbourhood Forum, the Qualifying Body (QB).
2. In undertaking the review I have had close regard to the NPIERS Template for healthcheck reviews, but have not followed it slavishly. The NP raises a number of complex issues, and I have thought it more helpful to deal with these generally on a topic basis.
3. The main documents with which I have been supplied and have considered are:
 - The NP October 2014
 - The Statement of Basic Conditions, October 2014 Version 2
 - The Consultation Statement.
4. I have also read background correspondence between the QB and the Royal Borough of Kensington and Chelsea (K&C), Version 3 of the NP dated September 2014, and a consultation leaflet. I have had close regard to the K&C adopted Core Strategy, December 2010. I was taken on a helpful tour on foot to some of the main features of the area.
5. K&C are at an advanced stage of a limited Review of the Core Strategy. Hearing sessions have been held and consultation is taking place on proposed Modifications. K&C have deferred more substantial revisions, including a review of employment policies, to a later date.
6. SEA screening is currently outstanding. As an informal view, I would be most surprised if SEA were necessary.
7. In the light, in particular, of the Consultation Statement, it appears to me that the NP has been the subject of appropriate pre-submission consultation and publicity, and that

there has been a programme of community engagement proportionate to the scale and complexity of the NP.

Overview

8. Neighbourhood planning gives communities “*direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need... Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community...*”: NPPF183-184. The PPG advises:

“A Neighbourhood Plan must address the development and use of land... Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements. Wider community aspirations than those relating to development and use of land can be included in a Neighbourhood Plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex”.

9. The NP has formulated twelve key objectives to promote the Vision of the Plan: “*To secure the future of a neighbourhood that offers the best features of life in Central London, for this and future generations*”. In my view, the NP is an exceptionally well-reasoned planning document, which – subject to some reconsideration of detailed elements – amply deserves to form a future element of the statutory development plan. In my view, the NP has had “*regard to national policies and advice contained in guidance issued by the Secretary of State*”. I see no obvious conflicts with the NPPF. There is a clear explanation of the ways that the NP contributes to the achievement of sustainable development. I see no issues around compatibility with human rights or EU obligations.

Structure of Report

10. The main part of this report will deal with the following topics:
- A: The respective roles of the local planning authority, the QB and the Examiner.

- B: Comments on general conformity.
- C: Material other than that defined in section 38A(2) of the Planning and Compulsory Purchase Act 2004.
- D: The Statement of Basic Conditions.
- E: Some detailed comments on the NP.

A. The respective roles of the local planning authority, the QB and the Examiner

11. Neighbourhood Plans are a very powerful local planning tool in the hands of a QB. The role of the local planning authority – once a neighbourhood area and QB are in existence – in relation to the NP itself is limited, and (in terms of the statutory provisions) largely administrative. This is made clear by the provisions of paragraphs 5 and 6 of schedule 4B to the 1990 Act, in particular paragraph 6(2) and (3).
12. It is for the QB to consider and decide on the content of the NP, knowing that it will be rejected by the Examiner if it does not meet the basic conditions. Neither the local planning authority, the QB nor the Examiner is concerned to consider whether the Plan is “sound”. It is for the QB (and not the local planning authority) to explain how the NP meets the basic conditions, and to provide a statement accordingly: regulation 15(1)(d) of the Neighbourhood Planning (General) Regulations 2012. In terms of the relationship with the local planning authority, the key constraint is, of course, that of general conformity (see below).
13. An example of the relationship in the present case can be found in the conservation area policies. The relevant duty has been the subject of correspondence between the QB and K&C. The “basic condition” duty to have “special regard” to the desirability of preserving or enhancing the character or appearance of a conservation area applies to NDO’s and not to NP’s, but this point is academic only. The making of a NP is a function to which section 72(1) of the Listed Buildings etc. Act 1990 applies, and hence “*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of [the] area*”. It seems to me that this NP has complied with this duty. There is no issue on general conformity here (K&C not asserting that the conservation policies in the Core Strategy are strategic) but there is a difference of

view as to the merits of certain of the conservation policies in the NP. The QB/NP can take its own view on the appropriateness of these policies, provided it believes that the Examiner will be satisfied that the NP has had regard to national policies and guidance on conservation areas.

B. General conformity

14. I deal with this as a separate topic since it is relevant to a key element of the NP, the approach to Latimer Road.
15. Paragraph 8(2)(e) of Schedule 4B to the 1990 Act specifies as one of the basic conditions:

“The making of the [plan] is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)”.

Section 36(4) – now repealed – used to provide that: “A local plan shall be in general conformity with the structure plan”. In relation to this provision, the Court of Appeal stated:

“Furthermore the use of “general” allows for the possibility of conflict. Obviously there must at least be broad consistency, but this gives considerable room for manoeuvre. The Court’s role in this process is not simply one of statutory construction. There is every reason why...the application of the general conformity requirement...should rest firmly in the hands of the statutory policy-makers themselves...”.

16. The test for Neighbourhood Plans is slightly different. The conformity is not with the development plan as a whole, but with the “strategic policies” in the development plan. This distinction did not seem to impress the court in the BDW Trading case (Tattenhall) which stated at paragraph 82:

“...I accept [the] submission that the only statutory requirement imposed by Condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted Development Plan as a whole”.

Whether or not that approach will survive, it represents the law for the time being.

17. The Core Strategy delineates the Freston Road/Latimer Road Employment Zone. This covers a considerable area outside the NP area. Policy in relation to the Employment Zones is set out in paragraphs in-n of Policy CF5. K&C have not supplied a list, with justification, of what are considered to be the “strategic policies”. It seems likely (particularly in the light of the approach to strategic policies taken in the PPG) that some or all of CF5 would be regarded as such.
18. Draft Policy 9 (which I think should be 8) of the NP suggests the “de-designation” of the Latimer Road section of the Employment Zone. A NP can make land use allocations. It can, for example, “de-designate” areas subject to restrictive policies in the development plan (for example “countryside” designations) and allocate the land for, e.g., housing. Subject to the test of general conformity, there would seem to be no reason why part of an Employment Zone should not be re-allocated to a more flexible, mixed use in a NP. Proposed policies 8b) and 8c) propose, in any event, a more flexible approach.
19. I deal with the implications for this part of the NP further below. For the present, I would think there to be good prospects of satisfying an Examiner that the desired flexibility of use in Latimer Road would meet the general conformity test.

C. **Material other than that specified in section 38A(2) of the Planning and Compulsory Purchase Act 2004**

20. This provides:

“A “neighbourhood development plan” is a plan which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan”.

This raises two points. First, does the content of the NP set out policies for the development and use of land? Second, does it set out those policies in relation to the land comprised within the NP?

21. I have referred above to the PPG advice that actions dealing other than with land use within the NP area “*should be clearly identifiable. For example, set out in a companion document or annex*”.
22. This NP contains a significant proportion of material that does not fall within section 38A(2). Reference is made to the “precedents” of other Examination reports. I do not find this persuasive, and doubt that the Examiner for this NP would find that persuasive. Examination reports are not intended to be precedents, and the NP as a whole should be in a form which best complies with the statute and related guidance.
23. As I will illustrate in relation to certain passages of the NP, there seems to me to be a distinction between (1) suggested “Actions” which directly relate to a valid land use policy and its supporting text, and (2) content that simply does not qualify under section 38A(2).
24. As an example of (1) I would refer to the advocacy contained in the NP in relation to the making of Article 4 Directions by K&C. These concerns relate specifically to conservation policies dealing with the development and use of land.
25. As an example of (2) I would refer to the lengthy section on Transport. This appears to me to have nothing (or almost nothing) to do with policies concerning the development and use of land in the NP area. I will give other examples below. I suggest that this material, if it is to be retained at all, should be dealt with as the PPG advises.

D. The statement of basic conditions

26. I make the following suggestions. Section 3 telescopes national policy and the development plan. They are two quite separate matters, dealt with differently in the

legislation, and they should be de-coupled. Regard must be had to national policy; there must be general conformity with the strategic policies.

27. SPD's are not part of the development plan, see paragraph 3.4.
28. There is a lengthy section on Partial Review of the Core Strategy, paragraphs 3.8-3.15. I find this section confusing. Paragraph 3.9 does not appear to follow from paragraph 3.8. Surely, the "non-conforming" parts of the NP are there either better to reflect the "flexible" approach of NPPF, and/or to reflect the detailed circumstances of the locality? Further, I do not think that there need be concern in relation to prematurity (paragraphs 3.12-3.14). As I understand it, there are no relevant draft review policies in existence. In any event, many NP's are bound to be formulated against a changing development plan position.
29. Accordingly, the "above basis" in the summary at paragraph 3.15 is not the correct "basis". I have endeavoured to set out the correct basis above.
30. Paragraph 2.10 refers to "Actions", which I have discussed at paragraphs 20-25 above.

E. The NP

31. This last section sets out some comments on the drafting of the NP itself. Some of these comments follow from the points of principle that I have discussed above, and some are detailed points. I do not pretend to have covered every detailed point such as the occasional typographical error or duplication in paragraph numbering.
32. In the Introduction, paragraph 0.1.9 wrongly refers to a "general conformity" test with the NPPF.
33. Paragraph 0.1.26 implies that the NP must be in "general conformity" with LBHF policies. It also implies that "updating the existing Article 4 Directions" is a direct task of the NP.

34. Paragraph 0.1.27 refers to “Actions”, a matter discussed above.
35. Paragraph 0.2.10 refers to “the proposal” in the NP for an additional Overground station at Western Circus, which falls outside the scope of the NP.
36. Paragraph 0.4.1 wrongly states that NP’s are required to conform with the NPPF.
37. In relation to paragraph 0.4.2, it would seem sensible that the twelve objectives should be set out before Table 1.
38. I question the need for paragraph 0.4.7. The NP is, in my view, too lengthy, and opportunities should be taken to streamline it.

There is an important point about layout and presentation that first arises at paragraphs 0.6.9-0.6.10. In my view, the best format is, under each topic, to set out the over-arching **objective**; then to set out the complete **reasoned justification** for the subsequent **policy** (an excellent example of this being paragraphs 1.0.1-1.0.5 as supporting the first policy); and finally to set out any **Actions** which directly relate to the land use policy which immediately precedes such a section. I do not see the need to set out Community Views as a separate (or part of a separate) section, since these are contained in the Consultation Statement and can be briefly referred to in the reasoned justification where appropriate.

39. In relation to Objective 1, I have no comment, other than the layout comment just made.
40. In relation to Objective 2, I deal with this (very important) section quite briefly. I have referred above to the relevant conservation area duty. In short, I think that it is legitimate for the NP to “fine-tune” existing conservation area policies, and that a powerful case for the local justification for the proposed policies is set out. I do not think it appropriate for the NP to suggest that it “proposes” variations to Article 4 Directions (see e.g. paragraph 2.4.3) but these could be indicated in related Actions. In the policies, would “allow” be preferable to “cease to resist”? At the end of this section, the Reasoned Justification and Community Views section is a good example of my criticism as to layout. This is largely repetitive of the earlier (and true) reasoned

justification, and to the extent that it isn't, it could be a cause for confusion. Room for streamlining here again.

41. In relation to Objective 3, whilst I understand the concern expressed in paragraphs 3.1.8-3.1.11, I cannot see that they have any place in the NP, for reasons already discussed.
42. I think the same goes for paragraphs 3.2.1-3.2.2.
43. Paragraph 3.5.5 provides good reason why the preceding four paragraphs should be in a different section. The proposed policies should be reviewed in the light of section 38A(2).
44. In relation to Objective 4, I question the need for paragraphs 4.4.1 and 4.6.1-4.6.2, and suggest that paragraphs 4.7.1-4.8.2 should be deleted. I appreciate that the proposal to designate the Nursery Lane site as Local Green Space is (and will be) controversial. It seems to me that a convincing case for this proposal has been made, although I would suggest that the "tranquillity" characteristics of the land could be the subject of greater emphasis in the Annexe. I was not sure where the reasoned justification for policy 4b) appeared.
45. In relation to Objective 5, I have commented on this above. I do not think that this section should be in the NP itself.
46. In relation to Objective 6, I have no comments.
47. In relation to Objective 7, I have one comment. Some of the changes of use specified in policy 7a) are already permitted development. It would therefore be desirable to define the changes that are not permitted development, and confine the policy to those.
48. In relation to Objective 8, I have discussed general conformity above. Paragraph 8.2.16 implies that it is only the Review of the Core Strategy that could "de-designate" Latimer Road, whereas policy 8a) implies that the NP can effect this. This confusion must be resolved. Whilst doubtless controversial, I have indicated that it

might be possible to “de-designate” through the NP. On the BDW approach, there could be no doubt about continuing general conformity. However, the QB may feel that it wishes to minimise, where possible, issues with K&C. In my view, the approach in policies 8b)-8e) form perfectly legitimate content of the NP, and stand a good chance of being found to be in general conformity. It will be recalled that this is a matter which is initially for the overall judgment of the QB, followed by that of the Examiner.

49. I have some more detailed comments on this section. First, it might be desirable to introduce plans showing the extent of the EZ at Latimer Road, and that of the EZ as a whole. The section is, in my view, considerably too long, too discursive and in places argumentative (e.g. paragraphs 8.2.10, 8.6.10-8.6.12). I assume that where the evidence is presently incomplete (pages 63/64 and 69) it will be completed prior to submission to examination. Overall, could the section be cast more as a positive response to NPPF, for example paragraph 22, only referred to at page 70?
50. In relation to Objective 9, I do not see that this adds anything to previous sections.
51. In relation to Objective 10, I have no comments.
52. In relation to Objective 11, I have no comments.
53. In relation to Objective 12, in my view this section should be much shorter. It should not repeat material which has preceded it. I would suggest that references to permitted sites, for example the former Hospital, should either be deleted or much truncated.
54. In relation Objective 13, I am not clear whether it is intended that this is to form part of the NP.

Christopher Lockhart-Mummery QC

3 November 2014

ANNEXE B TO BASIC CONDITIONS STATEMENT FOR THE ST QUINTIN AND WOODLANDS NEIGHBOURHOOD PLAN:

CORRESPONDENCE BETWEEN RB KENSINGTON AND CHELSEA AND THE STQW FORUM ON THE DECEMBER 2015 CONSULTATION VERSION OF THE StQW DRAFT PLAN

A.1 RBKC sent to the StQW Forum on January 23rd 2015 a set of comments on the Consultation Version of the StQW Draft Plan, and the Forum responded to these on January 27th and with additional detail on February 3rd.

A.2 Further comments were sent by RBKC to the StQW Forum on February 27th, and the Forum responded to these on March 6th.

A.3 This exchange of correspondence is included as an annexe to the StQW Basic Condition Statement because a number of the issues involved relate to the requirement that a neighbourhood plan must be in 'general conformity' with the 'strategic policies' of the Local Plan. This is one of the 'basic conditions' which an Examiner of the StQW Draft Plan will need to consider in deciding whether the Plan should proceed to referendum, and on any modifications to the Plan that are required.

Part 1 Covering letter from RBKC to StQW Forum of 23rd January 2015

Dear Mr Peterson

The Council supports this Neighbourhood Plan and recognises the commitment it has taken for the St Quintin and Woodlands Neighbourhood Forum to develop the plan to this stage. The Council has been providing help and guidance to the Neighbourhood Forum throughout the process. So far officers have held a series of meetings with the Forum; provided detailed reviews of different iterations of the plan and particularly the plan policies to identify any potential problems; walked around the neighbourhood area with Forum members to understand the issues of concern to local people; brought forward the Conservation Area Appraisal for Oxford Gardens so that up to date evidence will be available to support the Neighbourhood Plan; and provided maps of the area.

Please find below the Council's response to the consultation on the St Quintin and Woodlands (StQW) pre-submission draft Neighbourhood Plan December 2015. This consists of:

1. General comments about the document
2. Detailed comments on the policies and actions
3. Detailed comments of the text of the plan
4. Typographical errors

On the whole these are technical comments and suggestions of how the plan could be made clearer. However, I must draw attention to the following Draft Neighbourhood Plan polices which the Council considers to be in conflict with its strategic planning policies and advises should not be included in the Neighbourhood Plan:

2e) to resist the introduction of non-permeable surfaces to front garden areas (above size limits within Permitted Development rights) other than for the replacement of existing main paths or where approved hard standing for parking, and crossovers is already in place.

5c) *In the context of RBKC policy CR1 on 'street network' to maintain the tranquillity of streets in the StQW neighbourhood area and to resist any changes to the street network which will result in vehicular through traffic compromising amenity in the this part of the Oxford Gardens Conservation area.*

8a) *Subject to confirmation on Examination of the scope and 'general conformity' of this section of the StQW Neighbourhood Plan, the Local Planning Authority to de-designate those sections of Latimer Road currently defined as part of the combined Freston Road/Latimer Road-Employment Zone, within the RBKC Core Strategy.*

8b) *Whether or not Policy 8a above is adopted, To allow residential use of upper floors of existing and redeveloped B class buildings within the currently designated Employment Zone sections of Latimer Road, provided that the ground (and any mezzanine floor) remains in commercial use.*

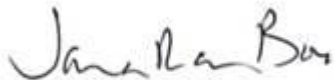
10b) *To provide additional housing in Latimer Road, through conversion/redevelopment of floors above ground and mezzanine level, as an addition to the existing B class floorspace at ground and mezzanine level.*

12a) *to allocate specific sites within the StQW Neighbourhood, in accordance with the policies of the StQW Neighbourhood Plan as set out below:*

- *Latimer Road Units 1-14*
- *Latimer Road existing office buildings*

We look forward to receiving the submission version of the Neighbourhood Plan when you have had the opportunity to review the comments received in response to this consultation. Officers will be available to provide any help that you may require to complete this stage of the process.

Yours sincerely,



Jonathan Bore

Executive Director

RESPONSE FROM StQW FORUM TO RB KENSINGTON AND CHELSEA

Jonathan Bore Executive Director,
Planning RB Kensington and Chelsea Town Hall, W8
27th January 2015

Dear Mr Bore,

St Quintin and Woodlands Neighbourhood Plan — consultation version

I am writing to respond to the RBKC comments which we received with your letter of 23rd January, at the close of the statutory pre-submission consultation on the StQW Draft Neighbourhood Plan. This letter is a lengthy one. It covers three sets of issues, and is likely to feature at the stage when the StQW Draft Plan comes to be examined. Hence we think it helpful to address these issues in one letter. The issues are

- concerns that officers are misconstruing the statutory framework for neighbourhood plans
- future policies for Latimer Road, in the context of the Council's review of the Enterprise section of the Local Plan
- The Council's position on the land at Nursery Lane W10.

This letter is being copied to Cllr Coleridge and to councillors in Dalgarno and St Helens wards. All three of the above issues will shortly come before Members in different forms, and we would not want to see any disconnect between officer and Member views. The PRSC agenda tonight refers to the Enterprise review and its relationship with the StQW Draft Plan.

We are glad to see in your letter that the Council 'supports' the neighbourhood plan and recognises the commitment involved in developing it to this stage. We note that there are 8 proposed policies in the Consultation Version of the StQW Draft Plan which the Council advises should be removed before the Plan is submitted, on the basis that they are 'in conflict with the Council's strategic planning policies'.

We recognise the Council's view, and will devote further effort, via the Basic Conditions Statement to be submitted with the StQW Neighbourhood Plan, in explaining why we consider that these policies are aligned with, and do not undermine, the strategic policies in the Borough's Local Plan.

In the case of policy StQW 2e we question whether the issue of permeable surfaces in front gardens is strategic in the first place, and whether issues of 'general conformity' even arise. On the 6 important proposed StQW policies which you say should be removed from the Draft Plan (relating to Latimer Road, housing proposals, and site allocations) we will be making some wording changes and putting together a more detailed appraisal of potential housing sites. But we will not be changing the thrust of these proposed policies as they are a core part of a what we see as a balanced approach to sustainable development in the StQW neighbourhood.

We are very disappointed to see that the arguments put forward for the removal of these 6 policies, in the RBKC detailed comments, have changed in only a few respects from comments provided to us last October. In particular, we cannot understand why these RBKC 'formal comments' do not address the advice set out in the 'healthcheck' of an earlier draft of the Plan, commissioned by the StQW Forum from RICS/NPIERS and undertaken by Christopher Lockhart-Mummery QC?

The purpose of a RICS/NPIERS 'healthcheck' is for a draft neighbourhood plan to be assessed for compliance with the statutory 'Basic Conditions' set out in the Localism Act, as will be tested by the

independent Examiner when such a plan comes to be examined. This is the exercise that Mr Lockhart-Mummery undertook last November, at which time his report was sent to your officers.

The only reference to this healthcheck in the latest set of RBKC comments is to the suggestion made by Mr Lockhart-Mummery that the current StQW Draft Plan is too long. We fully accept this point and the Draft Plan already notes that those sections of text which are devoted mainly to providing evidence of 'general conformity' will be moved to the separate Basic Conditions Statement, which will accompany the 'submission version' of the Plan. In all other respects, officers seem to have ignored the content of the healthcheck report.

A highly experienced planning QC spent 4 days reviewing an earlier version of the StQW Draft Plan (and walking round the neighbourhood). He provided a 20 page report. His advice covered key issues relating to 'general conformity', on matters under discussion between the StQW Forum and Council officers. Yet the latest RBKC comments make no substantive reference to this exercise.

Statutory framework for neighbourhood plans

We have had great difficulty over the past 6 months, in discussions with your officers, to get them to accept that provided the Basic Conditions and other statutory requirements are met, the content and policy proposals in a neighbourhood plan are a matter for the neighbourhood forum/parish council to decide and not for the local planning authority (see the second bullet below).

Amongst the comments of Mr Lockhart-Mummery in his healthcheck report were the following:

- *In my view, the NP is an exceptionally well reasoned planning document, which – subject to some reconsideration of detailed elements – amply deserves to form a future element of the statutory development plan.*
- *It is for the Qualifying Body (i.e. the StQW Forum) to consider and decide on the content of the NP, knowing that it will be rejected by the Examiner if it does not meet the basic conditions. Neither the local planning authority, the QB nor the Examiner is concerned to consider whether the Plan is "sound".*
- *For the present, I would think there to be good prospects of satisfying an Examiner that the desired flexibility of use in Latimer Road would meet the general conformity test.*
- *In short, I think that it is legitimate for the NP to "fine-tune" existing conservation area policies, and that a powerful case for the local justification for the proposed policies is set out.*
- *I appreciate that the proposal to designate the Nursery Lane site as Local Green Space is (and will be) controversial. It seems to me that a convincing case for this proposal has been made, although I would suggest that the "tranquillity" characteristics of the land could be the subject of greater emphasis in the Annexe.*

An earlier draft of the StQW Plan, as reviewed by Mr Lockhart-Mummery, was revised to take account of his and other comments and suggestions, before the Consultation Version was issued. We were expecting any further RBKC comments on the Consultation Version to focus only on those issues which the Examiner will need to address in testing for compliance with the Basic Conditions.

In the light of the RICS/NPIERS healthcheck, we were expecting that RBKC comments would start by identifying which relevant Local Plan policies are deemed 'strategic', with reference to the guidance set out in CLG Planning Practice Guidance (Paragraphs 074, 075 and 076 and NPPF Paragraphs 156 and 184). We would then have expected adequate explanation of why it is considered that the StQW proposals will undermine or be in conflict with these strategic aims, and hence that the Draft Plan would fail to meet the test of 'general conformity' if these proposed policies were to be included.

Comments which simply assert, rather than explaining why (with reference to CLG criteria), certain RBKC policies are deemed 'strategic' are our first concern. We asked the Council to identify its 'strategic' policies many months ago. PPG 077 asks that LPAs provide this analysis to neighbourhood forums and Examiners of Draft Plans, as we have pointed out. Apart from officers conceding that RBKC conservation policies are 'non-strategic' while indicating that various policies (and sub paragraphs within them) are considered 'strategic', we have not had what we would see as a considered response.

We have been given comments and schedules pointing out the self-evident fact that relevant RBKC policies use one set of wording while a proposed StQW policy uses another. But this is not, in our view, sufficient to establish a lack of 'general conformity' or a conflict with 'strategic policies'. The vetting process of an earlier version of the StQW Draft Plan, by a leading QC, has already concluded that the policies proposed for Latimer Road have 'good prospects of satisfying an Examiner'.

If the Council is serious in its intention that we should remove key elements of the StQW Draft Plan before it is examined, your department will need to provide more robust arguments than those in the comments accompanying your letter. Instead, much of the RBKC comments consist of a further set of suggested detailed amendments to the text of the document. There are some helpful points which will assist us in drafting proposed policies in the Plan with more precision. But most of the comments ask for wording changes that attempt (for a second time) to remove, vary or dilute the proposed policy content from the Draft Plan and/or to insert justification for current RBKC policies.

This is not the intended role of the LPA in supporting neighbourhood planning, as we have now repeated many times, and as Mr Lockhart Mummery confirmed in his healthcheck report. We feel the need to discuss with you what seem to us some misconceptions amongst Council officers about the purpose and statutory framework for neighbourhood plans. It will save an Examiner a great deal of time in reviewing the next 'submission version' of the StQW Draft Plan, and all the RBKC consultation comments submitted, if we can resolve with you these issues of principle, before any further redrafting of the StQW Plan is undertaken.

The key points on which we have a fundamental difference of view with officers (and which have already been discussed on several occasions since July 2014) surface in paragraph 1.4. of the comments attached to your letter. This paragraph reads: *References to amending the Council's policies The Neighbourhood Plan should not refer to adjusting, relaxing, fine-tuning, varying, or strengthening the Council's policies. The role of the Neighbourhood Plan is to provide specific policies to be applied in the St Quintin and Woodlands Neighbourhood Area. The Council's adopted policies will remain in force in the Neighbourhood Area and will be read alongside those being developed in the Neighbourhood Plan.*

The last sentence above seems to us to misunderstand how the legislation works. Policies in neighbourhood plans, as and when 'made' after a successful referendum, become part of 'the Council's adopted policies'. From then on they form part of the statutory Local Plan, and are no longer something separate. Where the NP is silent on a matter, then the policies in the Local Plan obviously remain in force. But on 'non-strategic matters' (or where 'general conformity' is established) the NP policy replaces and prevails over the previous Local Plan policy.

Paragraph 185 of the NPPF makes this clear in stating *Once a neighbourhood plan has demonstrated its general conformity with the strategic policies of the Local Plan and is brought into force, the policies it contains take precedence over existing non-strategic policies in the Local Plan for that neighbourhood, where they are in conflict.* The language in these latest RBKC comments of NP policies being 'read alongside' the Council's policies, and the latter 'remaining in force in the

Neighbourhood Area' does not reflect our understanding of how the Localism Act works, nor the clear NPPF statement above. On a relevant planning issue, it is surely the NP policy and not the former RBKC policy which development control staff should apply, when determining planning applications within the designated neighbourhood area?

The first sentence in RBKC paragraph 4.1 above also causes us problems. Neighbourhood plans can 'set' policies (the term used in NPPF Para 183) to determine planning applications in the relevant area. That is what neighbourhood plans are there to do. The policy thereby set is never going to be entirely identical to an existing policy of the local planning authority, as the whole point of preparing a NP is to add something more (or different in certain respects) to the Local Plan.

Hence it seems to us self-evident that NP policies can by definition 'adjust, relax, vary, fine-tune, or strengthen' various policies of the local planning authority that have gone before. Where such potential shifts of policy are so significant that the Draft Plan would fail the general conformity test, modifications are made by an Examiner (as regularly happens). Just as the Council may state in planning documents that its new Basement policy 'strengthens' and replaces what went before, surely a neighbourhood plan may also use such terms? Christopher Lockhart-Mummery QC had no problem with the principle that the proposed StQW policies would 'fine tune' current Council policies on certain conservation matters (see the quoted extract from his report, above).

If you can point us to any part of the 2011 Act, Neighbourhood Planning Regulations, NPPF, or CLG Planning Practice Guidance which supports the assertions set out in paragraph 4.1 of these latest RBKC comments, we will study it carefully. We think this RBKC comment misrepresents the legal position and ignores the advice from a QC given in the healthcheck of the StQW Draft Plan.

Where we would agree with the Council is that it is not sensible to use terms such as 'vary, strengthen or relax' within the wording of the policy statement in a NP, given that such policies will apply for several years. What has gone before ceases to have relevance over time, so such language ceases to be useful. But in the supporting text of the document, in the reasoned justifications set out, and where appropriate in the 'objectives' the Plan aims to achieve, it seems to us not only reasonable but necessary to make clear that there will be a differentiation from what has gone before—as and when a NP succeeds at referendum.

It is after all this change or differentiation in policy that residents are being asked to vote on, alongside any NP policies which cover wholly new ground. People need to understand the consequences of what they are voting for. If we can agree on these points of principle, many of the edits and amendments that your officers seem to feel are necessary (as set out in their comments) will disappear.

We feel that Mr Lockhart-Mummery rehearsed the statutory position in his healthcheck report, and we intend to proceed on the basis of his advice rather than that of your officers. His advice corresponds with everything that we have listened to at workshops and seminars, and have read about neighbourhood planning, over the past three years. The end result, we believe, will be a Submission Version of the StQW Draft Plan that is clear on the proposed changes from the status quo, and identifies for the Examiner and the public what will be different if and when the Plan is 'made' -- while ensuring that the Plan remains within the limits of 'general conformity'.

Where this latest set of RBKC comments address any factual inaccuracies, a need to update text, or help with clarity of interpretation of policies by development management staff, we will be happy to take these points on board in the Submission Version.

'General conformity' and Latimer Road

The issue of 'general conformity' in relation to the StQW proposed policies for Latimer Road remains a significant issue on which an Examiner will need to decide between the views and evidence provided by the StQW Forum, and that provided by the Council.

The latest set of comments does little to add to what has been sent to us before. The RBKC comments repeat that the proposed StQW policies relating to the Latimer Road part of the Freston Road/ Latimer Road Employment Zone vary from current RBKC Policy CF5. This we well know, and is the intention of these proposed policies. We remain of the view that the level and nature of this variance can be well justified and that the Draft Plan will meet the general conformity test. There is no intention of 'undermining' the strategic thrust of employment policies across the whole of RBKC, nor in neighbouring boroughs.

We also think it likely that an Examiner will pay heed to the fact that RBKC policies on Enterprise are only now being reviewed after a two year delay, that existing policies pre-date the NPPF, and that revised RBKC policies will not be adopted for some time yet. These are all the sort of factors which Examiners have had to weigh up elsewhere across the country, when examining neighbourhood plans for general conformity.

As Mr Lockhart-Mummery notes in his report, the current state of the law does not set a very high bar for 'general conformity'. We have read a great many of the reports of Examiners of NPs who have had to test this issue, and who have also had to take account of the relative timetables of Local Plan preparation or updating, as compared with timetables for preparation and referendums on neighbourhood plans.

As you will have seen, the Secretary of State has been lending support to 'emerging' neighbourhood plans, via a series of decisions on recovered appeal cases on applications for housing developments. The StQW Draft Plan proposes de-designation of the Latimer Road sections of the EZ. The latest RBKC comments state It is not for the plan to remove the Local Plan designations – they are the Council's. We think this again reveals the same misconceptions about who 'owns' the policies in neighbourhood plans as referred to earlier in this letter.

Neighbourhood Plans can a) set policies and b) such policies become 'the Council's' when adopted and made. As we see it, local planning authorities no longer have sole responsibility (or powers) when it comes to designating or zoning parcels of land. It is very clear that allocation of land and sites can take place via a neighbourhood plan. District Councils, working with parish councils in preparing neighbourhood plans, seem to have found it easier than London Boroughs to adjust to this change in the planning system.

We could be wrong on this point in respect of Employment Zones as compared with other planning designations or 'zonings'. We have not yet been able to find an exact comparison in a neighbourhood plan. But unless you or the Council's legal department can point us to any legislation, regulation, or guidance which says that Employment Zone designations cannot be altered via a neighbourhood plan, we will go with the advice in our healthcheck of the StQW Draft Plan.

Christopher Lockhart-Mummery advised as follows: *'A NP can make land use allocations. It can, for example, "de-designate" areas subject to restrictive policies in the development plan (for example "countryside" designations) and allocate the land for, e.g., housing. Subject to the test of general conformity, there would seem to be no reason why part of an Employment Zone should not be re-allocated to a more flexible, mixed use in a NP.'*

In relation to Latimer Road, we continue to hope that Councillors will be persuaded by the level of resident and business support that has come in consultation responses from this neighbourhood that all the proposed StQW policies make sense, and would achieve several worthy policy objectives.

The StQW Draft Plan is proposing policies for Latimer Road which will retain all existing ground floor/mezzanine commercial space in the street for employment use, provide a much needed addition to the Council's housing targets, and incentivise private investment in redeveloping or converting outdated light industrial/warehouse units for office use. This is not (in our view) an 'undermining of' Local Plan strategic policies, such that would fail the general conformity test. The healthcheck report (based on an earlier draft of the Plan and with less evidence than in the Consultation version) considered that there are 'good prospects' that an Examiner will share this view.

We are glad to note that proposed StQW Policy 8c is not amongst those which the Council is saying should be removed from the Draft Plan. We do not consider this proposed policy to be 'superfluous' as the RBKC comments suggest elsewhere. We believe that the combination of proposed StQW policies in the Draft Plan would in practice lead to a net increase in jobs in Latimer Road. We have provided in the StQW Draft Plan a considered forecast for a 'worst-case reduction' in actual employment levels, were every square foot of office floorspace on upper floors instantly to change use to residential (which from our own discussions with building owners, we think is highly unlikely to happen).

We do not see evidence that allows the Council to state firmly (as it has in these latest comments) *'that the most likely effect of these proposed policies is to reduce, and in all probability given the huge value difference, lose most of the office space in the Employment Zone'*. 'Most' of the office/commercial floorspace in Latimer Road is at ground/mezzanine level, and not on upper floors, so would not change to residential as a result of the proposals in the StQW Draft Plan — as we keep having to remind officers.

We estimate in the StQW Draft Plan that the maximum figure for 'employment loss', were every upper floor office in Latimer Road to change use to housing, would be under 100 employees. Under StQW policies, Latimer Road would offer the potential of an additional 40-60 housing units and an element of current office space, some underused and some left vacant for years, would be re-used to help to meet the Borough's acute housing needs. Balancing housing and employment needs is key to the approach to planning and sustainable development set out in the NPPF. We feel that the evidence base we have been assembling, and the consultation responses which will accompany the Submission Version of the StQW Plan, will prove persuasive at Examination.

Local Green Space designations

As explained in the StQW Draft Plan, the Oxford Gardens CAPS at page 18 sets out includes a very clear and site specific policy statement that three remaining backland sites on the St Quintin Estate should not be developed for housing. The Draft Plan goes on to explain the status of CAPS documents, and that they can no longer be treated as setting Local Plan 'policy' on their own.

The set of RBKC comments provided to us last October had this to say on the subject of the land at Nursery Lane: *In the Council's opinion: Land north of Nursery Lane, behind Brewster Gardens, Dalgarno Gardens, and Highlever Road would not meet NPPF tests for designation because it is private land currently used as a nursery.* We subsequently pointed out that this assessment was pre-emptive, given that the StQW Draft Plan was emerging and that the qualities and features of this land, as set against the criteria for Local Green Space, had yet to be tested at Examination.

We note that the latest set of RBKC comments modifies this position and states: *There is a distinction between the Nursery Lane site's suitability for designation as a Local Green Space and policy protection for the site within the Council's Local Plan. The Council is not suggesting that designation of the site as a Local Green Space is not in conformity with the Local Plan. However, it will be up to the Forum to demonstrate that it meets the criteria set out in the NPPF for designation of a Local Green Space.*

Elsewhere the RBKC comments say that the CAPS documents now carry 'very little material weight' (we are surprised at the use of the term 'very' here, since the CAPS continue to be referred to in support of planning approvals and refusals). Be that as it may, the material weight that can be applied to CAPS is not an issue here, given that the advent of the StQW Neighbourhood Plan provides the Council with the vehicle for continuing its policy of protecting the St Quintin Estate backlands from housing development.

As designated Local Green Spaces, all three pieces of backland would have long-term protection. In this context, we have asked (in several letters to Jon Wade) for the Council to make clear its position on the Nursery Lane land, so that the StQW Draft Plan can be finalised for Examination. A petition on the RBKC website, asking the Council to support Local Green Space designation for all three backland sites in the neighbourhood has already attracted 475 signatures.

Many of the responses to the recent consultation on the StQW Draft Plan are also in support of these proposals. Questions that local residents have are:

- If the Council's desired policy on Nursery Lane and other St Quintin backlands has changed from that set out in the Oxford Gardens CAPS, when and how did this happen and who made the decision?
 - If there was no decision to change the policy, is the Council pleased, or unhappy, that as a result of changes in the planning system, this policy set out in a CAPS documents now carries very limited material weight? (the comments attached to your letter imply that officers are pleased that this situation has arisen. We hope this is not the case?).
 - Did this CAPS policy (along with others) simply get lost as a result of non-inclusion in the recent Partial Review of the Conservation and Design section of the Local Plan?
 - If this was the case, is the Council now relieved to find that the StQW Draft Plan provides a means of reinstating this policy on St Quintin Estate backlands, and giving it refreshed material weight?

We, and many local residents, feel that the Council should welcome the fact that a policy commitment in the Oxford Gardens CAPS on the RBKC website (on which residents living round the Nursery Lane land have trustingly relied) can now be swiftly reinstated, with material weight, via the Council's adoption of the StQW Neighbourhood Plan.

All four of the candidates subsequently elected last May in Dalgarno and St Helens Wards gave public expressions of support for the Nursery Lane site to remain as open space. Why would the Council be unhappy at this turn of events, when there is little risk in the Council losing a planning appeal from a developer once the StQW Neighbourhood Plan is 'made' (a process which could be achieved within a few months, given support by the Council over the remaining stages)?

Some damage has already been done by an earlier set of RBKC comments, sent last October and reflected in the text of the Consultation version of the StQW Draft Plan. Consultants acting for a potential housing developer have picked up on the RBKC view at that time, stating that Nursery Lane does not meet one of the NPPF criteria for Local Green Space. This has clearly given them comfort in proceeding towards making a planning application. We do not know the exact position on the pre-

application advice provided to these developers, having been refused sight of this advice following a FOI request. We will be pursuing this issue separately with the Council's FOI team.

The Council now seems to have modified its earlier view (rightly) in the face of evidence that this backland site might well meet the NPPF criteria as being demonstrably '*special to a local community and holding a particular local significance*', as well as providing tranquillity and bio-diversity to the area. We hope and trust that this modified view is now being communicated to the potential developer of the Nursery Lane land, with whom (we are told in the response to our FOI request) negotiations are ongoing.

We continue to consider all three backland sites as having good prospects of an Examiner being satisfied that the NPPF criteria for Local Green Space are met. We say this having looked at such designations in other neighbourhood plans, and on advice from Mr Lockhart-Mummery. All three sites are private land, and none (to our knowledge) has ever been open to the general public. While the Council has given a view that two are 'capable of designation' as Local Green Space, the latest RBKC comments leave the Council sitting on the fence in relation to Nursery Lane.

The RBKC comments say '*it will be up to the Forum to demonstrate that it (Nursery Lane) meets the criteria set out in the NPPF for designation of a Local Green Space*'. Why only up to the StQW Forum? Why should not the Council re-affirm what is said about all three backland sites in the Oxford Gardens CAPS, or provide such a statement to the Examiner of the StQW Plan?

The Examiner will very naturally wish to know the view of the local planning authority (as is normally the case when Local Green Space designations come forward in neighbourhood plans). On what basis is the Council choosing to duck this particular question, given the policy statement in the Oxford Gardens CAPS?

Similarly, what is going to be said in the new Oxford Gardens CAA about the value of these open spaces and the fact that '*in the St Quintin Estate the use of space has produced a pleasant 'suburban' enclave within a busy high density part of the city*' (1990 Oxford Gardens CAPS).

Local residents will react strongly to the Council's consultation on a draft new CAA, should this now paint a different picture of the role and value of these backlands as open space. Very little about Nursery Lane and the surrounding streets has changed since 1990.

We recognise that there must be some doubt about achieving LGS designations for all three pieces of lands, and hence will consider including in the submission version of the StQW Draft Plan an additional policy that echoes the wording of the 1990 Oxford Gardens CAPS policy statement (i.e. stating in relation to the three specified backlands that 'proposals to develop them with more housing will not be permitted').

This policy would be applicable to any of the three backlands not designated as Local Green Space, on Examination of the Draft Plan. It would seem hard for an Examiner to find such a policy as failing to 'generally conform' when it remains the Council's stated policy as set out in the CAPS document.

I hope that we can have an early meeting to discuss these three sets of issues. If you cannot make time to meet, we will expect a written response to these points, and one on which the Council's legal department has been consulted in respect of the Forum's views on the construction of the statutory framework for neighbourhood plans, as compared with that set out in the latest RBKC comments.

Best wishes

Henry Peterson Chair, St Quintin and Woodlands Neighbourhood Forum
0207 460 1743
cc Cllr Tim Coleridge, Cabinet Member
Councillors Allison, Bakhtiar, Thompson and Healy (St Helens and Dalgarno wards)
Jonathan Ward, Graham Stallwood, Joanna Hammond, RBKC
StQW Forum management committee
Nursery Lane Action Group

FURTHER LETTER FROM StQW FORUM TO RBKC JONATHAN BORE FEBRUARY 3RD 2015

Dear Jonathan,

St Quintin and Woodlands Neighbourhood Plan — consultation version

This letter follows up our previous response (27th January) to the RBKC comments on the Consultation Version of the StQW Draft Plan.

We have reviewed all the comments and proposed deletions/amendments to the StQW Draft Plan, which accompanied your letter of 23rd January. Most of these are not ‘technical comments’ as your letter suggests, but attempts to change the scope and content of the Draft Plan very fundamentally.

For ease of reference, our responses are in red type, under each section of RBKC comments that accompanied your 17th January letter. For the final submission of the StQW Draft Plan, we propose to include the attached as an annexe to the Basic Conditions Statement which will accompany the submitted version of the Plan.

We feel that this makes sense, as an alternative to including all the attached RBKC comments in the Consultation Statement which will also accompany the submitted Plan. This is because most of the RBKC comments revolve around issues of ‘general conformity’ and these will be addressed within the StQW Basic Conditions Statement rather than in the Consultation Statement.

The StQW Consultation Statement will include all the consultation responses received from residents, businesses, statutory bodies and other third parties—along with a commentary on how these responses have been taken into account in finalising the Submission Version of the StQW Plan. We are putting together this statement at the moment, and will let officers have sight of a draft.

Meanwhile, as requested in my earlier letter, we would welcome a meeting to discuss what are clear areas of difference between the Forum and RBKC on the statutory framework for neighbourhood planning. Where we find agreement, this can be reflected in the Basic Conditions Statement which we will be submitting. We do not wish an Examiner of the StQW Draft Plan to have to trawl through more sets of conflicting views than necessary.

Best wishes

Henry Peterson,

Chair, St Quintin and Woodlands Neighbourhood Forum

ST QUINTIN AND WOODLANDS NEIGHBOURHOOD FORUM

RESPONSES TO RBKC JANUARY 23RD COMMENTS ON THE CONSULTATION VERSION OF THE DRAFT StQW NEIGHBOURHOOD PLAN.

The Forum is required to publish a Consultation Statement and a Basic Conditions Statement to accompany the formal submission of the StQW Draft Plan to the local authority. The first of these must set out how the Forum has taken account of responses received on the statutory pre-submission consultation on the Draft Plan. The second document must set out how the submitted version of the Plan meets the statutory Basic Conditions for neighbourhood plans.

The pre-submission consultation on the StQW Draft Plan took place from December 2nd 2014 until January 25th 2015. A set of comments from RBKC was received 23rd January.

This document sets out the Forum's response to these comments, and how it intends to take account of them in revising the current Draft Plan. Most of the important issues involved are concerned with whether the policy proposals Plan meet the 'general conformity' test.

Hence it is intended to include these RBKC comments, and the StQW response to these, in the Basic Conditions Statement rather than the Consultation Statement. This is intended to assist the Examiner of the StQW Draft Plan.

A separate letter was sent from the Forum to RBKC on 27th January, asking for a meeting to discuss three sets of issues included in the RBKC responses.

The responses below remain subject to this meeting and further dialogue with RBKC officers prior to the submission of the StQW Draft Plan.

RBKC planning officers have proposed a substantial number of edits, additions and deletions to the text of the StQW Draft Plan. Some of these were helpful in improving clarity, while others sought to alter the sense of the document. The majority of these proposed edits are not accepted by the StQW Forum, for reasons explained below.

All proposed edits, and the StQW responses, are recorded in this document and the final version will be made available to the independent Examiner of the StQW Draft Plan.

RBKC comments on the Consultation Version of the Draft Plan are in black typeface below, with StQW responses in red.

1. General comments

1.2 Length of the document

The Council appreciates the huge effort and commitment that it has taken the StQW Neighbourhood Forum to consult local people and develop the plan to this stage, but is concerned that the urge for detail has resulted in a plan that is currently too long (102 pages) for anyone to read, and which makes it difficult to identify the policies. The Council agrees with the view in paragraph 0.0.3 of the plan that it would benefit from considerable consolidation, and in particular making a closer link between the explanation for each policy and the policy itself and removal of details of consultation findings into a separate consultation statement, as advised in the independent Health Check Report paragraph 38. The Council considers the plan will not be truly effective until this exercise is undertaken and would strongly urge that this is done before the plan is formally submitted to the Council. Officers would be happy to provide help and advice on how this can be achieved without weakening the plan.

The Council is concerned to see the comment in 0.0.4 that the reason the conservation and Latimer Road sections are long is because Council officers have questioned and challenged the proposals. The plan only needs to provide sufficient evidence to explain and justify the proposed policies, additional detail is not required just because there are policies which the Council may not currently support because they could be viewed as contrary to strategic Local Plan policies.

Points covered in StQW letter of 27th January. Parts of the text justifying StQW policies which the Council does not currently support will be moved to the Basic Conditions Statement. But for the purposes of public consultation on the Draft Plan it was important for local residents and businesses to understand that a) the StQW Policy proposals vary from existing RBKC policies and b) that the StQW proposals are considered (in our view) to be well justified and to meet the general conformity test.

1.3 Clarity of the consultation leaflet

The Council is concerned that the consultation leaflet and the neighbourhood plan objectives it is based on are highly aspirational. There needs to be a stronger link between these aspirations and the policies themselves. It would be regrettable if the policies are not made clear in the leaflet at the next stage given the length and complexity of the plan itself.

The Council's own consultation material is often 'aspirational'. It is not possible to achieve a leaflet which remains readable for every residents while also explaining the detail of policy proposals. Issue was addressed in earlier correspondence, and the StQW made a number of edits to the consultation leaflet in response to RBKC comments. Funding permitting, there will be a further leaflet distributed to all households in the neighbourhood at the time of the Referendum on the StQW Draft Plan.

1.4 References to amending the Council's policies

The Neighbourhood Plan should not refer to adjusting, relaxing, fine-tuning, varying, or strengthening the Council's policies. The role of the Neighbourhood Plan is to provide specific policies to be applied in the St Quintin and Woodlands Neighbourhood Area. The Council's adopted policies will remain in force in the Neighbourhood Area and will be read alongside those being developed in the Neighbourhood Plan.

Covered in depth in the StQW letter of 27th January. The Forum considers this paragraph above to be an incorrect interpretation of the statutory framework for neighbourhood plans.

1.5 References to the Core Strategy

Following adoption in January 2015 of changes made to the basement policies through the partial review process the Core Strategy will be the Council's Local Plan and all references to the Core Strategy should be removed.

Noted and accepted. The Consultation Version of the Draft Plan was issued prior to January 2015.

2. Policies and Actions

The Council has comments on individual policies and actions as detailed below and recommends inclusion of the additional text underlined and removal of the text struck through, where shown. Where text from the plan is quoted this is shown in italics.

Objective 1 Keeping life Local

- i) *As a neighbourhood forum, to play an active part within the planning system, ensuring that the policies of the local planning authority are implemented, monitored, and reviewed, and planning applications determined, with maximum input from the neighbourhood level.*

It would be useful if the Neighbourhood Forum defined what they consider to be 'maximum input from the neighbourhood level'. The Council is keen to work with the Forum on matters that relate to the neighbourhood area and indeed wider issues, but this cannot extend to involvement in pre-application planning advice, as this is confidential, or pre-consultation on emerging documents or policies.

Comment noted. 'Maximum input' refers mainly to active involvement in responding to consultation exercises, and to significant planning applications in the StQW area. We consider that the current RBKC stance in terms of a relationship with a neighbourhood forum is too 'arms-length' in some respects, and too 'controlling' in others and will continue to work to achieve a more co-operative relationship as partners in the process of developing planning policy for a neighbourhood.

Too 'arms length' in denying any involvement in pre-application discussion and advice. Given that NPs in the later stages of their development (post pre-submission consultation) represent 'emerging policy' we believe there is a good case to be made for involvement in pre-application advice on applications within the NP area. How else is the Council to know when a Draft NP policy may be changing as a result of consultation responses received (e.g. on acceptable building heights in Latimer Road)?

How can the Council provide planning advice on a relevant application, if it does not involve the NP? Issues over 'commercial confidentiality' could be overcome by members of the Forum's management committee agreeing to sign a confidentiality undertaking, as many LPAs require of elected members. Given that NPs have statutory powers to 'set' planning policies, officers of a neighbourhood forum can demonstrate a level of 'need to know'.

The same arguments apply to involvement in sight of drafts of Council consultation material, in advance of publication to a wider audience. RBKC seems reluctant to accept that NFs have a different role to resident or community groups, and have a statutory part to play in the planning system.

The Submission Version of the Plan will explain 'maximum input' more fully, in the supporting text of the Draft Plan.

Objective 2 Conservation

- 2a) *In respect of all houses within the StQW area, whether or not subject to the current RBKC Article 4 Direction 46/62 and with the exclusion of 'cottage' properties in Oakworth Road, Methwold Road, Barlby Road (south side) and Hill Farm Road, dormer windows enabling loft extensions will be permitted on rear main roofs subject to details of dimensions, positioning in relation to the roof ridge and party wall, and use of materials. This ~~relaxation of RBKC conservation policies~~ policy will not apply to those few properties in the StQW neighbourhood with 'London/butterfly' roofs.*

People may not understand what a London / Butterfly roof is so it may be useful to direct them to the Conservation Area Appraisal, which will include a roofscape map, in paragraph 2.3.5.

The wording struck out explains that this policy relaxes existing RBKC policy on an issue on which local residents have long had concerns. As set out in the StQW letter of 27th January, the Forum does not accept that such terminology cannot be used in a neighbourhood plan. It is necessary for residents to understand what they voting on at referendum stage, a process to which Local Plans are not subject. Hence the need to use such terms in the text of a Local Plan is less.

Responses to the Consultation version of the StQW Plan demonstrate that residents of Kelfield Gardens, to whom RBKC Policy CD44 (now new Policy CL8b(i)) has been applied to date (preventing the creation of a loftroom in their homes) recognise that this is a relaxation of policy, and welcome it.

Reasoned justification: there are no remaining streets in the neighbourhood which have rooflines without one or more rear dormers, and which are wholly 'unimpaired'. There are few viewpoints from which the rear of properties can be seen from the street or public areas. There are a small number of groups of terraced properties where ~~the~~ the revised RBKC policy CL8(b)(i) is currently deployed to resist rear dormers. Such application of current RBKC policies is seen by the majority of local residents as restricting the scope of house-owners to make use of attic space, while doing very little to 'preserve or enhance' the character of the StQW part of the Oxford Gardens Conservation Area, where the rear of properties has limited historical or architectural merit. ~~Varying This RBKC-neighbourhood plan-policy in respect of the StQW part of the Oxford Gardens CA~~ is seen by the StQW Forum as having no material impact on the character of the conservation area, given the number and extent of rear dormers already in place.

Same comments as above apply to the proposed deletions of wording.

The Neighbourhood Plan should include guidance on the design of dormer windows as this will not be provided in the Oxford Gardens Conservation Area Appraisal because this an appraisal which does not provide guidance or policies.

Annexe B to the Draft Plan provides some guidance on rear dormers at 8.7.4 and 8.7.5, and 8.8.2 makes clear that applications will continue to require RBKC approval. The photograph on page 21 gives examples of a 'conforming' rear dormer and a wider one pre-dating more recent planning controls. We will consider also re-using the drawings in the 1990 Oxford Gardens CAPS.

- 2b) *within those streets (and part streets) within the StQW part of the Oxford Gardens Conservation Area covered by Article 4 Direction 46/62 (as listed below) the introduction of rooflights to front main roofs facing the highway will continue to be resisted.*

Balliol Road Nos 1-25 odd 2-26 even inclusive

Finstock Road Nos 3-41 odd and 2-42 even inclusive

Highlever Road Nos 1-127 odd, 2-88 even inclusive

Kelfield Gardens Nos 15-21 odd, 22-33 odd, 2-46 even inclusive

Kingsbridge Road 1-23 odd inclusive

Oxford Gardens Nos 135-185 odd, 122-174 even inclusive

St Helens Gardens 21-51 odd inclusive

St Quintin Avenue Nos 1-31 odd inclusive
Wallingford Avenue Nos 1-69 odd, 2-74 even inclusive

The Council appreciates the aim is to clarify the current position with regard to front rooflights but this policy represents no change from the current Article 4, which removed permitted development rights, and so is not technically a Neighbourhood Plan policy. The Council recommends the following text to appear in the plan text:

Rooflights are 'permitted development' and do not normally require planning permission. However, in STQW Neighbourhood Area there is a longstanding Article 4 direction that removes this right in the following locations:

- Balliol Road Nos 1-25 odd, 2-26 even inclusive
- Finstock Road Nos 3-41 odd and 2-42 even inclusive
- Highlever Road Nos 1-127 odd, 2-88 even inclusive
- Kelfield Gardens Nos 15-21 odd, 22-33 odd, 2-46 even inclusive
- Kingsbridge Road 1-23 odd inclusive
- Oxford Gardens Nos 135-185 odd, 122-174 even inclusive
- St Helens Gardens 21-51 odd inclusive
- St Quintin Avenue Nos 1-31 odd inclusive
- Wallingford Avenue Nos 1-69, 2-74 even inclusive

Front rooflights are an issue discussed on several occasions at open meetings the StQW Forum. As Annexe B to the StQW Draft Plan explains, current controls require an understanding of the interactions between PD rights and Article 4 Directions and are these not understood by many house-owners. As a result front rooflights are installed without planning permission, leading to extended and costly enforcement action (and enforcement appeal action) for RBKC.

The purpose of including StQW Policy 2b in the Draft Plan is to make it clear to local residents that the controls in the named streets have the force of policy. Whether or not StQW 2b is 'technically' no change in the status quo is not the point. Transferring this policy statement to the supporting text would not achieve the same result in terms of raising public awareness of the planning position. We have explained this point a number of times and cannot see why the Council should be opposed to this proposal.

As the wording in the current Neighbourhood Plan requests that the Council increases this control to Pangbourne Avenue and Bracewell Gardens (east side) it would be clearer if this was included as an Action Point, such as, to ask the Council to implement a new Article 4 direction removing permitted development rights for front rooflights in Bracewell Gardens (east side of street) and Pangbourne Avenue.

Action 2i) asks the Council to progress the adoption of a consolidated Article 4 Direction as at present residents find it hard to access and navigate their way through the relevant information on the RBKC website. The present Directions applying in the StQW neighbourhood date back several decades, and people find the language arcane and hard to understand. Action 2i) already states that such a consolidated Direction should be extended to Pangbourne Avenue and Brewster Gardens (east side). (The present text says, incorrectly, 'Bracewell Gardens' when it should refer to Brewster Gardens.

The Council notes that the extension of the Article 4 direction to include Oakworth Road, Hill Farm Road and Methwold Road is no longer included in the plan and would like to check whether this is intentional and not an oversight.

This is not an oversight. Paragraph 2.3.5 of the Draft Plan explains that the streets that the StQW Policy would apply to roofs which can take a dormer window. The houses in Oakworth/Hill Farm/Methwold have low roofs unsuitable for loft conversion. We are not aware of any proposals for rear dormers having ever come forward in these streets.

2c) *for ground floor rear/side extensions within the StQW area, where the original external side passage is incorporated into the body of the house, to make no requirement under RBKC Policy CL9 for a small setback in the rear facade, so as to allow for full width sliding doors.*

The requirement for a setback was removed in the 2014 review of conservation and design policies. Policy CL9 requires the modifications to be subordinate to the original building but this is not the same as requiring a setback, so this policy is no longer strictly necessary.

This comment will come as welcome news to house-owners who have hitherto been advised by planning officers of the requirement for a setback, negating the opportunity for full-width sliding doors. StQW Policy is in the Draft Plan because residents have asked for it. We would ask the Council to recognise that the wording 'subordinate to the main building' is a term which someone without an architectural or conservation training finds very hard to understand. The aim is to provide clarity on an issue which has caused householders in the neighbourhood to delay alterations to their homes until the position is clarified.

2d) *for ground floor rear/side extensions within the StQW area, where the original external side passage is incorporated into the body of the house, to resist proposals which exceed 3m in height at the party wall, and/or with a roof slope greater than 45 degrees, and/or which infringe on Rights of Light of neighbouring properties.*

The walkabout with the Neighbourhood Forum indicated that height at the party wall is an issue of concern to some residents of neighbouring properties. Although up to 3m is permitted development outside a Conservation Area it may be better not to set arbitrary height and slope requirements, but leave this to be decided through individual planning applications, where particular circumstances can be treated on their own merits.

We do not accept that the 3m height is 'arbitrary'. It relates to national PD rights (again a subject on which many house-owners are not well informed) and to discussions within the Forum as to acceptable height levels at party walls. The aim of StQW Policy 2d is to set some parameters for a very common form of house extension, where planning permission is required. Our understanding is that PD rights in relation to a side/rear extension are not removed by any Article 4 Direction that applies to the Oxford Gardens CA, and hence many conversions of this kind are progressed via Lawful Development Certificates rather than planning applications.

There may be 'exceptional circumstances' which would justify a departure from this proposed policy, which RBKC officers will be able to apply as necessary in assessing applications.

(We will amend the word 'passage' in the current draft policy, as the policy refers to the outdoor area between a closet wing and a party wall, while the term passage could cause confusion with infilling the gaps between terraced properties, as occur in some parts of the StQW terraces.

2e) *to resist the introduction of non-permeable surfaces to front garden areas (above size limits within Permitted Development rights) other than for the replacement of existing main paths or ~~where approved hard standing for parking, and crossovers is already in place.~~*

The Council is concerned that this policy represents a possible weakening of strategic Policy CE2 Flooding that seeks to resist impermeable surfaces in front gardens. The draft Neighbourhood Plan policy would remove the opportunity to negotiate replacement of existing non-permeable hard standing with a permeable surface as part of development proposals. As the Neighbourhood Plan notes in paragraphs 3.5.1 to 3.5.5 this area is subject to flooding and it is important that all possible opportunities to increase sustainable urban drainage are taken.

Policy CE2 we consider to be inadequately framed, in 'resisting impermeable surfaces in front gardens' and thereby implying that even a front path is unacceptable.

One of the characteristic features of the StQW Neighbourhood is that many of the houses have front gardens, with attractive tiled or mosaic front paths. We want a policy which makes clear that these paths can be retained (and many are being refurbished to a high standard) with the continued use of an 'impermeable' surface. We would not wish these paths '*to be replaced with a permeable surface as part of development proposals*'. We also want to recognise that there are PD rights which cannot be removed by a StQW policy without a supporting Article 4 Direction, which we are not seeking in this instance.

There is however an Article 4 on hard standing. Our understanding is that StQW Policy 2e could not (as and when adopted by RBKC) be used to remove the right of a house-owner to renew hard standing where this has previously been approved. So we are not clear why the third line in the StQW policy above is proposed for deletion? We are trying to avoid a scenario in which property owners become concerned that a StQW policy is over-restrictive and will impose change, in the lead up to a referendum.

Thames Water has responded to the StQW consultation, and has supported StQW Policy 2e)

2f) *where planning permission is needed, to require minor alterations to house fronts including the siting of bike or bin stores, and the addition of external security bars or shutters, satellite dishes, flues, visible gas meter boxes on front facades, to be visually discreet.*

Only satellite dishes, bike or bin stores would normally require permission in a conservation area.

This is helpful advice. We quite like the wording of our proposed policy, in that it makes house-owners think twice before installing unsightly equipment at the front of the houses.

By saying 'where planning permission is needed' we leave scope for a house-owner to check with RBKC on a particular item (and presumably the Council *would* refuse permission for e.g. a highly intrusive external boiler flue on a front facade?). So we do not feel that it is a misleading policy, as drafted. It also gives house-owners some ammunition to resist visible meter boxes, and to require the utility company concerned to install internally (a request which will often be accepted, if a house-owner is persistent and points out that the property is in a Conservation Area).

2g) *within those streets (and part streets) of the Oxford Gardens Conservation Area covered by Article 4 Direction 46/62 (as listed under 2b above) to ~~ease to resist~~ allow minor adjustments to roof ridge heights for insulation improvements, where this does not materially affect the appearance of the roof or create an uneven roofline in a terrace, and to require main chimney stacks to be retained.*

This policy may conflict with the duty to preserve or enhance the character or appearance of a conservation area. Under the Planning (Listed Buildings and Conservation Areas) Act 1990 varying main roof heights and allowing removal of side chimney stacks may compromise the integrity of roof lines in terraced streets and cause harm to the character or appearance of the conservation area. At the very least 'minor' needs to be defined in the Neighbourhood Plan.

We cannot see how this policy as worded could lead to *'harm to the character of the CA'* when it is qualified by the wording *'where this does not materially affect the appearance....'* If such an alteration is barely noticeable from the street, how can it cause 'harm'? As discussed on our walkabouts, there are many other things (such as boundary wall treatments) which cause far more harm. We believe 'minor' to be adequately defined by the subsequent wording *'where this does not materially affect'*. We have previously suggested wording such as *'roof ridge adjustments of up to 150mm'* but were then advised by RBKC to avoid using a specific figure.

The proposed change of wording from *'cease to resist'* to *'allow'* is acceptable to us in this instance, as examples of where the Council has refused applications in the past have been few, and there is less of a need to signal the change of stance in the Submission Version of the Draft Plan.

2i) *to ask RBKC to progress alongside the adoption of this neighbourhood plan the adoption of a consolidated and updated Article 4 Direction to cover specified streets (and part streets) in the StQW area. Such a Direction to remove permitted development rights for:*

- *alterations to roofs and facades facing the highway (as currently removed by the present Direction 46/62)*
- *alterations to elevations facing the highway (as currently removed by the present Direction 46/62, with clarification as to whether the Direction applies to front boundary walls)*
- *the painting of original brickwork on elevations (an addition to existing Directions removing Permitted Development rights)*
- *provision or extension of a hard surface (as currently removed by the present Direction No.69) for those addresses defined in that Direction)*

Such a Direction to be extended to the following streets in relation to roof alterations only

- *Pangbourne Avenue*
- *Bracewell Gardens (east side)*

The Council is concerned that in requesting a consolidated and updated Article 4 Direction it is not clear that this would increase the scope of the current Article 4s to include painting of original brickwork on elevations. The plan should draw attention to where additional control is being sought so that local people understand what they are voting for.

We cannot see why this is 'not clear', as the wording of this 'Action' states that this would be *'an addition to existing Directions removing Permitted Development Rights'* while making clear that the other elements of a consolidated Direction continue the status quo. We will put *'an addition....'* in bold text so that it is highlighted. The preceding paragraph 2.5.3 explains what is proposed, in terms that seem clear enough to us. We entirely agree that people should know what they are voting for, which is why we think it strange and unhelpful for RBKC to ask for the deletion of terms such as *'relax'*, *'strengthen'*, or *'vary'* from the Draft Plan.

In the case of StQW Action 2i, people will not in fact be voting on the substantive issue but only that RBKC should progress a consolidated Direction. We still wish that there had been agreement for such a Direction to be drafted, consulted on, and voted on at the same time as the StQW Draft Plan.

This would have been a process that people understood, with a chance to vote on the Draft Direction as part of the Draft Plan. We remain unclear why the Council was unwilling to pursue this approach.

2(ii) STQW to inform ~~To urge RBKC to take prompt enforcement action on~~ of any infringement of Permitted Development rights in respect of a) front boundary walls and b) outbuildings in rear gardens, including the requirement that all uses of the latter be ancillary to the main dwelling and c) impermeable surfaces in front gardens.

The Council is only able to take enforcement action if it is made aware of an infringement so it would be more effective for this action point to be amended as suggested. In view of the concern expressed in 2.7.3 about lack of enforcement against the introduction of impermeable surfaces in front gardens it may be useful to include this as well.

Yes, impermeable surfaces could be added to the list although it is harder for the public to spot when a bit more impermeable surfacing is added to a front garden, or whether the works are done in such a way that they are 'permeable'.

We do not agree with the proposed amendment to our text. which suggests that the 'action' needed is for the Forum to inform RBKC of infringements. The Forum (and the St Helens Residents Association) will continue to their bit in this respect, but it is the Council that has the paid and professional enforcement staff, and not us. When approved works to a property are complete, checking that front boundary reinstatement has been included in the permission would seem to us a good place for the Council to start. These works are often done at the end of a project and sometimes seem to slip through the net

We are reconsidering whether we need to revert to the idea of a specific StQW policy on garden outbuildings. Many rear gardens in the neighbourhood are small, and the PD right to build structures '*no more than half the land around the original house*' can result in sizable outbuildings and very small remaining gardens. We will look again at our earlier attempts to come up with a workable policy, along with policy that was included in the Norland NP.

Objective 3 Environment

3d) to maintain present numbers and quality of street trees, as a highly valued feature of the StQW neighbourhood.

This is an aim rather than a policy, it is covered in action point 3iii, we suggest amending the wording to:

3.iii) StQW to monitor damage to street trees and contact the Council to ensure swift replacement of any that do not flourish.

We do not understand what is meant here by 'this is an aim not a policy' given that the intent is very similar to RBKC Policy CR6 on Trees and Landscape? We will look again at the wording. Responses to the StQW Survey demonstrated the importance to residents in the neighbourhood of its street trees, and we wish to reflect a strong wish for the Council's admirable approach to street trees to remain in place for the future. Is this not a 'policy' matter?

3iv) to liaise with RBKC and telecoms companies on the location of any telecoms equipment not requiring planning permission, so as to mitigate the impact on the conservation area

Most cabinets do not require prior approval so there is no opportunity to influence siting. Masts do require prior approval. However, the Council has a very limited time to approve such equipment before it has deemed consent and therefore there needs to be further discussion with the Forum on this point.

Further discussion is fine, but in our experience to date there is an opportunity for local amenity bodies to be consulted on location of such equipment, and we have been in the past. On this basis we see no need to remove or amend this modest proposed 'Action' in the Draft Plan.

Objective 4 Open Spaces

4a) *Reflecting their origins as communal sports and recreation areas, to protect from inappropriate development the remaining 'backland' private open spaces in the neighbourhood, by designating as Local Green Space (under paragraph 77 of the National Planning Policy Framework) the following pieces of land:*

- *Land north of Nursery Lane, behind Brewster Gardens, Dalgarno Gardens, and Highlever Road.*
- *Land behind Kelfield Gardens, Wallingford Avenue, and St Quintin Avenue*
- *Land behind Highlever Road, Pangbourne Avenue, and Barlby Road (WLBC site)*

We included the word 'inappropriate' on the basis that are certain types of structure (sports pavilions, sheds on allotments) which we would see as compatible with a Local Space Designation. But if such structures do not constitute 'development' in terms of the NPPF and legislation we are happy with the proposed deletion above.

Although this will be a decision for the Neighbourhood Plan Examiner not the Council in our opinion the West London Bowling Club and the Methodist Church sites are capable of meeting the criteria for designation as a Local Green Space. RBKC Policy CR 5 Parks, Gardens, Open Spaces and Waterways a.iii) states the Council will resist the loss of private communal open space and private open space where the space gives visual amenity to the public. Policy CL1 which relates to context and character will also be relevant together with Policy CL3 which relates to conservation areas and historic spaces. Development of any of these spaces will need to be assessed with these policies in mind.

The StQW letter of 27th January addresses this issue in depth.

4b) *To maintain amenity and biodiversity by requiring that mature trees on private open spaces and within gardens within that part of the Oxford Gardens Conservation Area falling within the StQW neighbourhood remain protected.*

The Council appreciates there is local concern about loss of trees on private land but trees in conservation areas have the same level of protection as those in communal gardens. This is not a planning policy and should be in the plan text.

If this is 'not a planning policy', how come RBKC Policy CR6 on Trees and Landscape is included in the Local Plan? We appreciate that StQW Policy 4b) may not add much to RBKC Policies CR6 on Trees and Landscape and CR4 on Bio-Diversity, but the green and suburban feel of the neighbourhood is an acknowledged feature, and one which the local community wishes to see supported in the Draft Plan.

The neighbourhood plan contains policies and actions in relation to trees in 3d, 3iii, and 4b, it would be clearer if these were all in one chapter of the plan.

The references refer to different aspects of the significance of trees.

Objective 5 Transport

5b) *to allocate the site at 301 Latimer Road for transport use to allow possible future infrastructure proposals to come forward, related to either a) the Mayoral proposals for a Westway section of the east/west Cycle Superhighway or b) a ticket office and entrance to Overground platforms at an additional station on the West London Line (see also Section 8 on Managing Development).*

The Council recognises this would support the function and character of the employment zone.

This is welcome, albeit that 'supporting the function and character' may cease to be a policy requirement depending on an Examiner's view of proposed StQW policies for Latimer Road.

Now that the Mayor of London has given the go ahead to the proposed east/west Cycle Superhighway, we would appreciate if the Council's transport planners could look in detail at the prospects of cycle lifts on this site, as we believe this proposal would contribute to a cycle route that exploits the potential of the proposed adjacent underpass and would remove the need for future cycle traffic to and from Scrubs Lane/Old Oak to navigate the already congested Wood Lane/A40M junction. This would have significant safety and traffic benefits.

~~5c) *In the context of RBKC policy CR1 on 'street network' to maintain the tranquillity of streets in the StQW neighbourhood area and to resist any changes to the street network which will result in vehicular through traffic compromising amenity in the this part of the Oxford Gardens Conservation area.*~~

The Council appreciates this is an issue of concern to local people but it is primarily a transport rather than a planning matter and this policy potentially conflicts with RBKC Policy CR1 which requires as much connectivity as possible. CR1 is a strategic policy and the Council considers it would be better if this issue was addressed as an action point. Suggested wording, Action Point: STQW will work with RBKC Transport Department to identify what can be done to maintain the tranquillity of streets in the western part of the Oxford Gardens St Quintin Conservation area by limiting the extent to which these offer through routes to traffic.

We accept that Policy CR1 covers an issue which is 'strategic' but would suggest that the policy is expressed in somewhat ideological terms - i.e. that more 'connectivity' must always be a good thing. While there may be many occasions in which its desirable to *'require the new street network to be inspired by the Borough's historic street pattern'* this cannot always be the case. The impact on individual neighbourhoods in the Borough needs to be taken into account.

The street pattern of the StQW neighbourhood has been separated at its southern boundary, by the Westway, for 50 years. There have been drawbacks for local people, as well as some advantages. Adjoining neighbourhoods have adjusted and settled within the resultant barriers to movement. It does not seem unreasonable, within a neighbourhood plan, for a local community to wish to resist changes to the network that will lead to through traffic and loss of amenity/tranquillity.

Such changes to the street network are realistically likely to arise only as a result of major developments, so surely this is 'development' matter as well as a transport matter?

At present (as far aware are aware) there are no development proposals which would lead to the creation of a new street network that would affect traffic within the StQW neighbourhood. But such is the level of development proposed for the Old Oak and Park Royal MDC, and White City East, that new proposals may emerge within the initial 5 year life of the StQW Plan. Hence the desire to include StQW Policy 5c.

If RBKC has views that Policy 5c would have impacts harmful to adjoining neighbourhoods (or to LBHF across the borough boundary) we would be very glad to consider these, just as the Council would consider the implications of policy proposals for one of the 14 'Places' defined in the Local Plan for an adjoining 'Place' (the StQW area not being one of such 'Places'). But in the absence of such planning considerations we wish StQW Policy to remain in the Draft Plan. LBHF has raised no concerns about the proposed policy, in its consultation response.

5v) to promote the introduction of electric car point within the StQW neighbourhood area.

There is no text in the plan to explain the reason for this action point or suggestion of where it might be located. This should be provided.

Agreed

5vii) to support ~~Option C~~ provision of an additional West London Line station at Hythe Road (off Scrubs Lane) of the three options proposed by Transport for London for an Overground interchange at Old Oak.

Recommendation for clarity.

Agreed. The Mayor of London has now decided that Option C is his preferred option for this Overground station. This decision was subsequent to the publication of the Consultation Version of the StQW Draft Plan and this Action needs updating.

Objective 6 Safety and tranquillity

6v) to support residents of Blakes Close in achieving adequate access control, improved lighting, management and maintenance so as to prevent fly-tipping and discourage anti-social behaviour on the private access road and parking areas within this housing development.

It is not clear what is envisaged by 'achieving adequate access control' in Blakes Close but the Council does not support the creation of gated communities (see Designing out Crime SPD 5.2 and Local Plan Policy CR1e).

'Achieving adequate access control' refers to vehicles only and not to pedestrians. This housing development on a backland site has suffered from poor design of vehicle entry. The word 'vehicle' will be added to the policy. There is no proposal to create a gated community.

Objective 7 Shopping

7a) Within the StQW neighbourhood area's ~~and its~~ two neighbourhood shopping parades ~~(as defined in the RBKC Core Strategy)~~ of St Helens Gardens and North Pole Road, to allow permanent change of use between;

- *A1 – shop, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices (but not sorting offices), pet shops, sandwich bars, showrooms, domestic hire shops, dry cleaners, funeral directors and internet cafes*
- *A2 - Financial services such as banks and building societies, professional services (other than health and medical services) including estate and employment agencies and betting offices)*
- *A3 - restaurants and cafes*
- *B1 - offices and light industry appropriate in residential areas*
- *D1- non-residential institutions - clinics, health centres, crèches, day nurseries, day centres, schools, art galleries (other than for sale or hire), museums, libraries, halls, places of worship, church halls, law court*
- *D2 - Cinemas, music and concert halls, bingo and dance halls (but not night clubs), swimming baths, skating rinks, gymnasiums or area for indoor or outdoor sports and recreations (except for motor sports, or where firearms are used) use classes subject to amenity considerations.*

It would be helpful to explain what the use classes that would be permitted are, as this is not common knowledge.

Agreed, albeit that such explanations are not included in Local Plan policies, and the current StQW Draft plan is criticised by the Council for excessive length.

It is misleading to include this policy, as worded, under shopping as it would apply to the whole neighbourhood area, including the Employment Zone. The neighbourhood centres need to be defined on a map in the Neighbourhood Plan, and it needs to be made clear that this policy only applies in the neighbourhood shopping parades.

Agreed that the policy should be re-worded to make clear it applies only to the two shopping parades. The wording 'as defined in the RBKC Core Strategy' was included as the fact that these parades are listed in that document as 'neighbourhood centres' has policy relevance in terms of the current application of RBKC Policy CF3 on Diversity of Uses within Town Centres. We do not understand the reason for this proposed deletion.

Objective 8 Latimer Road

8a) Subject to confirmation on Examination of the scope and 'general conformity' of this section of the StQW Neighbourhood Plan, the Local Planning Authority to de-designate those sections of Latimer Road currently defined as part of the combined Freston Road/Latimer Road Employment Zone, within the RBKC Core Strategy. To designate Latimer Road as an area where policies 8b-8e apply.

The decision on general conformity is for the Examiner to make not to confirm. This should be worded as a policy that would go to referendum, if it does not pass examination it will not go to referendum.

We agree to the first sentence above, and that the phrase 'subject to' should be deleted from this draft policy. The submission version of StQW Policy 8a will start 'To de-designate those sections of the Latimer Road Employment Zone.....'

It is not for the plan to remove the Local Plan designations – they are the Council's.

As set out in the NPIERS healthcheck report, legal advice to the StQW Forum is that Local Plan designations can be amended via a neighbourhood plan. When the NP is 'made' such amendments

become those of the Local Planning Authority i.e. 'the Council's'. This point is covered in more detail in the StQW letter to RBKC of 27th January.

The Council objects strongly to this policy on the grounds that it is contrary to Policy CF5 location of businesses uses that is a strategic policy which affects more than just the Royal Borough, and one on which the Borough has a duty to cooperate with other boroughs. In view of this the Council does not consider that this is an issue that should be decided at local level. However, the Council is fully aware of the concerns that have been raised by landowners in the area and will be considering the best policy approach for Latimer Road as part of the current Enterprise policy review due to be completed in 2015.

These points are responded to in the StQW letter to RBKC of 27th January. The StQW Forum considers that the Council has hitherto failed to provide any analysis of which of its Local Plan policies are 'strategic' on the basis of the criteria and guidance referred to CLG Planning Practice Guidance (Paragraphs 074, 075 and 076) and the NPPF Paragraphs (156 and 184). in the NPPF

We remain of the view that StQW 8a, when read and carefully and considered in the context of the supporting evidence in the text of the StQW Draft Plan and Statement of Basic Conditions, will be found on Examination to meet the general conformity test.

The duty to co-operate placed on the LPA would seem to us to be only one of several criteria that makes a policy 'strategic'. LB Hammersmith & Fulham, adjoining the western boundary of the StQW neighbourhood, has submitted two set of consultation responses on the StQW Draft Plan. Neither response raises concerns or objections to the proposed StQW Policy 8a. The STQW Draft Plan cannot realistically be said to impact on any other more distant London Borough.

8b) ~~Whether or not Policy 8a above is adopted, To allow residential use of upper floors of existing and redeveloped B class buildings within the currently designated Employment Zone sections of Latimer Road, provided that the ground (and any mezzanine floor) remains in commercial use.~~

The Council objects strongly to this policy it is contrary to strategic Policy CF5 for the reasons stated under 8a above.

We remain of the view that StQW 8a, when read and carefully and considered in the context of the supporting evidence in the text of the StQW Draft Plan and Statement of Basic Conditions, will be found on Examination to meet the general conformity test. As explained in the Draft Plan and the StQW Forum letter of 27 January, a net loss jobs in Latimer Road is not foreseen as a likely result of the policies in the StQW Draft Plan.

Policy 8b, would (in our view) lead to the creation of 40-60 housing units as a result of StQW Policy 8c. These RBKC comments on the Consultation Version of the StQW Draft Plan, at a time when the Further Alterations to the London Plan have increased the RBKC housing targets from 585 to 733 homes per year (and the Council's 2013 Monitoring report shows only 244 units approved), give no reasoned explanation as to why the Council maintains resistance to additional housing in Latimer Road, other than a perceived 'policy conflict'. A large number of responses to the recent StQW consultation support the idea of more housing in Latimer Road, which has always been a mixed use street.

The RBKC comments responding the Consultation Version of the StQW Draft Plan offer no explanation as to why the Council is not prepared to consider a balanced approach to 'conformity' with its Policy CF5 and the need to identify additional housing sites. A large number of responses to the recent StQW consultation support the idea of additional housing in

Latimer Road, which has always been a mixed use street. Additional housing achieved through redevelopment of light industrial/warehouse units should oppose a policy allowing additional housing

As above this should be worded as a policy intended to go to referendum.

Agreed, as above, and the first 8 words of the draft policy will be deleted in the Submission Version of the Draft Plan.

8c) ~~Whether or not Policy 8a above is adopted~~, To allow:

- A1 – Shop, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices (but not sorting offices), pet shops, sandwich bars, showrooms, domestic hire shops, dry cleaners, funeral directors and internet cafes
- A2 - Financial services such as banks and building societies, professional services (other than health and medical services) including estate and employment agencies and betting offices)
- A3 - Restaurants and cafes
- A4 - Drinking establishments - Public houses, wine bars or other drinking establishments (but not night clubs).
- D1- non-residential institutions - clinics, health centres, crèches, day nurseries, day centres, schools, art galleries (other than for sale or hire), museums, libraries, halls, places of worship, church halls, law court
- D2 - Cinemas, music and concert halls, bingo and dance halls (but not night clubs), swimming baths, skating rinks, gymnasiums or area for indoor or outdoor sports and recreations (except for motor sports, or where firearms are used) use classes subject to amenity considerations.
- B1 Business - Offices (other than those that fall within A2), research and development of products and processes, light industry appropriate in a residential area.
- class uses, along with any B class use other than B2 and B8 Storage or distribution – (This class includes open air storage) up to 500 sq m.
~~(over 500 sq.m) in the currently area of Latimer Road designated Employment Zone sections of Latimer Road, in Policy 8a, where such uses contribute to the vitality of the street and to the wider neighbourhood area.~~

Currently the Council's policy would allow B2 use, but this use is very unlikely to come forward in this location, and Policy CF5j requires there be no net loss of business floorspace in Employment Zones unless to uses which directly support the function and character of the zone like gyms, shops and cafes. So this policy is superfluous.

We cannot agree that this proposed StQW Policy is 'superfluous' on the basis of the existing RBKC Policy CF5j. The latter uses the wording 'directly support the function and character of the Employment Zone'. This is a criterion which is very hard for owners or purchasers of buildings to interpret, and can be applied by RBKC narrowly or generously over time. What uses 'directly support a EZ' and what do not? Restaurants? Bicycle repair shops for those who cycle to work? Dry cleaners who will press a shirt? Mobile phone outlets?

The proposed StQW Policy 8c is different, primarily because it refers to where such uses contribute to the vitality of the street **and to the wider neighbourhood area**. We are assuming that (if adopted) the Council will interpret this as covering uses that benefit all residents in the neighbourhood (and

which will also create jobs and economic activity). This would include a creche, nursery, school, other educational establishment, art gallery, places to eat and drink and all the other uses that we have reiterated (many times now since 2012) local people want to have the possibility of in Latimer Road. All these A and D classes uses produce jobs.

8d) *To encourage building uses which support the creative and cultural industries, and which contribute to the Royal Borough's policies on Cultural Placemaking and RBKC Core Strategy Policy CR6.*

This policy appears to contradict policies 8a, 8b and 8c since creative and cultural uses tend to occupy smaller, lower value space of precisely the kind which is described as not viable by the owners and is highly likely to convert to other uses, particularly residential, if these policies came into effect.

*We do not see any contradiction. Commercial rents in Latimer Road are very low by RBKC standards, as shown by the StQW Plan (page 67) and other evidence from agents which we have sent to the Council. The light industrial/warehouse buildings can be well converted to 'studio' style work space in demand by creative industries. There are already several design and media firms in the street (mainly in buildings other than the 1980s office developments at the southern end and including Designers Guild). As explained elsewhere in these responses we think a wholesale conversion to residential unlikely, and the StQW policies would anyway continue to resist this in all ground floor/mezzanine space i.e. including **all** the present employment space at Units 1-14.*

8e) *To allow increases in building heights on the western side of Latimer Road to a guideline maximum overall height of 14m, taking into account the position within the street in terms of immediately neighbouring buildings and any buildings which have received planning approval from LB Hammersmith & Fulham across the borough boundary.*

14m appears to be an arbitrary height limit in the absence of design guidelines that set out how this development would be achieved, or any evidence that such development would be commercially viable. Is it really worth stipulating a height limit in these circumstances?

As is made clear in para 8.10.2 of the Draft Plan (and as has been pointed out before in response to RBKC comments) the proposed maximum guideline height of 14m for buildings on the western side of Latimer Road is not 'arbitrary'. It is the same height as that of the tallest building on this side of the street that has received RBKC planning approval, a building for which a fourth floor was granted approval in 2010.

The submission version of the StQW Plan will include further information on the commercial viability of redevelopment of Units 1-14, assuming that these are redeveloped by individual building owners over time. It will also include examples of massing and heights for such redevelopment, taking account of consultation responses received during the 8 week StQW consultation. It should not be assumed that the 14m guideline figure will remain, or that any specific height will be include in the final Draft policy. (see also response below under RBKC comments on 8.1.2 of the text of the Draft Plan).

8i) *to develop a set of Design Guidelines, in conjunction with RBKC, to provide a framework for the incremental redevelopment of Units 1-14 and other commercial premises on the western side of Latimer Road, so as to ensure a consistent approach to building lines, building heights, massing,*

fenestration, use of materials, delivery and parking arrangements, with the aim of restoring a coherent streetscape of human scale, with active frontages and a positive relationship between buildings and the street.

These guidelines should be developed before the plan is submitted to the Council so they can be subjected to public consultation, examination and referendum. In the absence of guidelines this is an action point rather than a policy.

This point is accepted, and 8i in the Draft Plan is shown as an Action (in green type) and headed as such. It is not proposed as a policy.

Objective 9 Employment

~~9a) in the context of mixed use policies for Latimer Road as set out in StQW Policy 9.8 to encourage uses which will increase employee numbers on site (as opposed to e.g. warehousing and storage) within the full range of A, B and D class uses.~~

This is not a policy it is a restatement of policies 8a to e. It is also misleading since the most likely effect of these proposed policies is to reduce, and in all probability given the huge value difference, lose most of the office space in the Employment Zone.

Again, we do not agree or accept any likelihood that 'most' of the office space in Latimer Road will be lost as the larger part of the current space is on ground and mezzanine floors where StQW policies would continue to resist change of use. Some current warehouse/storage space is likely to transfer to office, or to the wider range of use classes that StQW Policy 8c would allow. Policy 9a states that uses which involve and increase employee numbers on site should be preferred over those that do not. This is not a duplication and we cannot see why should be contentious?

~~9b) through increased flexibility on permitted use classes under StQW Policy 7, to reduce the number of vacant shop units within the two neighbourhood shopping parades (North Pole Road and St Helens Gardens) thereby creating new employment opportunities.~~

As above this is not a policy it is a restatement of policy 7a.

We do not see this as a complete restatement of StQW Policy 7a. It is expressing a policy aim (to reduce vacant shop units) and we would hope that the Council would apply it, as and when adopted, in giving serious consideration to e.g. pop-up shops, galleries, restaurants.

Objective 10 Housing

10a) To allocate for housing use (with an element of mixed use as appropriate to the individual location) the following potential development sites within the StQW neighbourhood

- 3-4 Crowthorne Road
- 142a Highlever Road

3-4 Crowthorne Road was granted permission for offices in 2001, but this was not implemented. In 2013 there was a mixed use application for 20 apartments, class B1 and A2 floorspace which was refused because it did not meet affordable housing requirements. In view of the site's planning history it may be better to judge an application on its merits, based on RBKC policies, particularly since the wording 'an element of mixed use as appropriate to the individual location' is quite vague.

Page 86 of the Draft plan rehearses the planning history of the Crowthorne Road site. We accept that the wording 'an element of mixed use' is insufficiently precise. We will look for better wording that reflects the STQW view that Crowthorne Road is a good potential housing site, and its development should not be held back by RBKC policy demands on the issue of loss of employment floorspace (one of the grounds for the 2013 refusal.)

Housing use of the 142a Highlever Road site would be contrary to Policy CK1, because loss of a petrol station would impact on access to petrol for more residents than in the neighbourhood area as there are so few remaining in the borough. Similarly, if the current use is light industrial this would be resisted by Policy CF5(f) which is also strategic. The Council accepts this is a highly unusual petrol station so if this site came forward for redevelopment it may be better for it to be judged on its merits, as above, and remove the policy approach from the Plan which does not really assist the future development of the site.

To us, this is an example of where dogmatic adherence to policy can get in the way of beneficial development. The Borough falls way below its housing targets. This is a site which could be developed for low rise mews type housing, and which has two points of vehicular access. We cannot see why '*removing the policy from the StQW Plan*' will be helpful at all, if the Council will then seek to apply Borough-wide policy CK1 in the situation of what RBKC acknowledges is '*a highly unusual petrol station*'. Inclusion of a site allocation will provide greater certainty for potential developers of the site, and allow parameters for development to be set, We are happy to discuss more refined wording.

~~10b) To provide additional housing in Latimer Road, through conversion/redevelopment of floors above ground and mezzanine level, as an addition to the existing B class floorspace at ground and mezzanine level.~~

This is not a policy it is a repetition of policy 8b which the Council objects to for the reasons given under that policy.

This is clearly a 'policy', and in the context where RBKC is falling well behind on its housing targets, an important policy which is consistent with NPFF and London Plan priorities. In the (in our view unlikely) event of StQW Policies 8a and 8b failing at Examination, Policy 10b provides a route to redevelopment of the light industrial/warehouse units at 1-14 with an additional 2-3 storeys of housing above existing B1 floorspace (none of which would be lost). Mixed use developments with a significant housing element above commercial have been approved by RBKC in Latimer Road relatively recently (290-294 Latimer Road).

Hence Policy 10b is not simply a repetition of 8b. The policy will be reworded to make this more clear.

We cannot understand why the Council is reluctant to see additional housing in Latimer Road (as a separate issue from employment floorspace) given the need to identify deliverable housing sites in the Borough. Many local residents are showing support for housing in this location, and few are opposing the idea.

Objective 11 Health and Education

11a) To allocate the site of the St Quintin Health Centre in St Quintin Avenue for social and community use.

This site is currently in social and community use, and Council Policy CK1 would protect this use, so this is not an allocation.

A similar level of policy 'protection' was included in the Council's SPD for the Princess Louise Hospital site. This did not prevent the loss of this site to a housing development (Argyll Place). This latter development, now nearing completion, has been cited by many respondents to the StQW consultation as a prime example of how the planning system, in a Borough with the development pressures of RBKC, is failing to deliver 'what works' for the StQW Neighbourhood. Hence the wish for a site allocation policy in the StQW Draft Plan.

The wording of StQW Policy 11a) will be amended to make clear that a development which incorporated good quality accommodation for the two GP surgeries currently on the site could be considered, subject to other Local Plan policy requirements.

Objective 12 Managing Development

This section of the StQW Draft Plan will be extended to include a more systematic options appraisal of housing sites. The Forum does not accept the deletions proposed below in the RBKC comments.

12a) to allocate specific sites within the StQW Neighbourhood, in accordance with the policies of the StQW Neighbourhood Plan as set out below:

Potential Development Site	Uses proposed under StQW Neighbourhood Plan	Council comment
Nursery Lane (Clifton Nursery)	Local Green Space in accordance with StQW Policy 4a	The Forum will need to prove to the Examiner why a Local Green Space designation is appropriate.
3-5 Crowthorne Road	In accordance with StQW Policy 10a, housing use with an element of B1 floorspace	The Council advises against this allocation for the reasons set out under policy 10a.
Latimer Road Units 1-14	In accordance with StQW Policies 8b, 8c, and 10b, mixed use, allowing A1, A2, A3, B1, B8, D1 and D2 class commercial uses (excluding night clubs) on ground floor and mezzanine. Allowing residential or other C class use within redeveloped additional floors, within height limits set by StQW Policy 8e. Design Guidelines for redevelopment of Units 1-14 to be drawn up.	The Council objects to this allocation for the reasons set out under policies 8b, 8c and 10a.

Latimer Road existing office buildings	In accordance with StQW Policies 8b and 8c, mixed use, allowing A1, A2, A3, D1 and D2 class uses, along with any B class use other than B2 and B8 (over 500 sq.m). Allowing residential or other C class use above ground floor, within height limits set by StQW Policy 8e.	The Council objects to this allocation for the reasons set out under policies 8b and 8c.
301 Latimer Road	In accordance with StQW Policy 10a, transport infrastructure use pending further review of the StQW Neighbourhood Plan in 5 years.	The Council recognises this would support the function and character of the employment zone.
St Quintin Garage (142a Highlever Road)	In accordance with StQW Policy 10a, housing use subject to density and heights causing no significant harm to the amenity and privacy of neighbouring dwellings in Highlever Road.	The Council advises against this allocation for the reasons set out under policy 10a.
St Quintin Health Centre	Social and Community use, with any redevelopment to be subject to StQW Policy 11b encouraging reinstatement of GP surgeries at ground floor level.	This site is currently in social and community use so this is not an allocation.

3. Detailed comments on the text of the draft plan

General - as explained in the StQW letter of 27th January to RBKC, we consider the number and content of these wording amendments to fall well outside the role of a LPA in supporting/assisting a neighbourhood forum to draft a NP with clear policies. Many proposed amendments seek to dilute or alter the text of the Plan, to support RBKC proposals for deletion of proposed StQW Policies, or to justify reinstatement of RBKC policies.

Here we are responding only on those that we consider most important, or helpful and to be taken onboard. The content and drafting of a neighbourhood plan is for the forum/parish council to decide.

Introduction

- 0.1.1 This paragraph would be better at the start of designation of the neighbourhood area and STQW Forum.
- 0.1.2 *A revised version will then be submitted to the Royal Borough of Kensington. The Council will arrange for an independent 'examination' of the revised Draft Plan. Provided the Examiner finds that the plan meets the basic conditions for a neighbourhood plan. ~~With any modifications proposed by the Examiner,~~ a local referendum on the final Plan will subsequently be held. If supported by a majority of those voting, the StQW Neighbourhood*

~~Plan will be adopted~~ made by the Council as part of the statutory planning framework Local Plan for the Borough.

We accept the addition of 'Provided the Examiner finds the plan meets the basic conditions, but wish to keep 'with or without modifications'. All but one or two of the 45 or more Draft NPs examined to date have proceeded to referendum, with a varying number of modifications. We see no reason to change the original wording. The requirement to meet Basic Conditions is referred to in the Plan and fully explained in the Basic Conditions Statement. The role of the Examiner is to determine whether a NP can proceed to referendum and will amend 'with any modifications' to

0.1.7 The delay in designation was not caused by the Royal Borough.

This paragraph in the StQW Draft Plans does not say that it was.

0.1.9 The decision on general conformity will be taken by the Examiner, it is not helpful for the plan to refer to meeting the test of general conformity, in the Forum's opinion, without explaining what this test is. This point is covered later in 0.6.3.

This paragraph clearly refers the reader to the separate Basic Conditions Statement which will accompany the Submission Version of the Plan and will (we assume) be available on the RBKC website at the same time as the Plan.

0.1.13 History of development of the area - for brevity it may be better for this detail to be provided in the Conservation Area Appraisal.

We think that more local residents in the neighbourhood, and particularly those with no great interest in conservation, are more likely to read the StQW Plan than the Oxford Gardens CAA (which will cover a much wider area). Our experience is that residents are quite interested in the history of the neighbourhood, and this section is shorter and less detailed than in several other NPs.

0.1.26 *Within the constraints of achieving 'general conformity' with relevant higher level plans, a neighbourhood plan can still have significant influence on what happens within a small area.*

The StQW Neighbourhood Plan:

- ~~introduces policies on employment and housing which would allow residential uses in the Latimer Road Employment Zone, but may not meet the general conformity test. will contribute to sustainable development of the neighbourhood and its long-term success, adjusting the way in which certain RBKC Core Strategy policies are applied within the StQW neighbourhood and ensuring that their application is in line with the National Planning Policy Framework.~~
- *provides for residents a clear and understandable set of conservation policies, largely reflecting those that apply Borough-wide while fine-tuning these to the reflecting the character and building types within the neighbourhood.*
- ~~asks RBKC to update the existing Article 4 Directions[1] which already apply to specified streets and part streets within the StQW neighbourhood, and adds some new elements to these removing permitted development rights on painting original brickwork on front elevations and installing front rooflights, following local consultation on conservation, heritage and design.~~
- *proposes policies for the regeneration and residential development of Latimer Road, as a part of the neighbourhood which has not fulfilled its potential since the construction of the Westway in the late 1960s*

- contributes to the Borough's targets for new housing
- ~~addresses issues on transport and traffic, with an eye to the greatly increased demands being placed on the local road network as a result of development in the surrounding area.~~

As previously detailed the Council objects to the first bullet point suggesting RBKC policies are not in line with the National Planning Policy Framework. In relation to the second bullet point, the Neighbourhood Plan provides policies for the area it is not the purpose of the Neighbourhood Plan to amend Council policies. When describing Article 4 directions the plan should make clear the additional controls that will be sought. The final bullet point addresses non-planning matters where the plan can have little impact.

We do not accept most of these proposed deletions, for reasons explained above in relation to each policy. We accept the additional wording explaining what would be added to a consolidated Article 4 Direction, as this explains the changes sought.

0.1.29 *This Draft Plan uses the term 'Actions' to distinguish such recommendations from 'Policies'. It is the Policies alone which will form the statutory part of this Plan. Subject to a successful local referendum, these policies They will be used in future carry 'material weight' in decisions by RBKC on planning applications on sites and buildings within the StQW neighbourhood.*

We do not accept the thrust of this deletion and the implication that the NP policies will only be 'used' in decisions by RBKC. See also our letter of 27th January and the RBKC view that NP policies are 'read alongside',

In order to make clear that NP policies carry material weight, we may decide to use the wording of PPG 006. We assume the Council has no objection to this?

A neighbourhood plan attains the same legal status as the Local Plan once it has been agreed at a referendum and is made (brought into legal force) by the local planning authority. At this point it becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (see section 38(6) of the Planning and Compulsory Purchase Act 2004).

0.1.31 (There are two paragraphs 0.1.31)

This Neighbourhood Plan is intended to cover ~~a maximum of 10-15 year time period, covering the period from 2015-2030. It may require earlier review in the light of the major developments that will be taking place in the surrounding Opportunity Areas, or if RB Kensington and Chelsea make substantial changes to its own Core Strategy. It will be reviewed after five years.~~

We are not clear why RBKC feels able to amend this paragraph to state the StQW Plan 'will be reviewed after five years'. While 5 years is the normal span of a NP it can be reviewed earlier and this would be a matter for the StQW Forum to decide in consultation with the Council.

Draft policy 12a states 301 Latimer Road will be allocated for transport infrastructure use pending a review of the StQW Plan in 5 years. If this is the intention then this should be made clear in paragraph 0.1.31.

0.2.15 *The situation in respect of business and retail activity in the StQW neighbourhood contrasts strongly with that on housing. Whereas there are buyers chasing every residential property, property owners report there is a long-term problem of lack for demand for existing office floorspace at the southern end of Latimer Road.*

The Council considers this point unproven that is why it is being investigated as part of the Enterprise Review, and appropriate evidence is being assembled.

Deletion not accepted. It is not only 'property owners' who report the lack of demand, it is every local estate agent who has been commissioned in recent years to let office space. And local residents are capable of seeing 'To Let' signboards, coupled with lack of employees coming and going and darkened office floors. These problems were researched and reported on by Peter Brett Associates, and the local community is increasingly frustrated at the Planning Department's ostrich-like approach to the realities of Latimer Road,

0.2.17 It would be helpful to add 'shop' after A1 as the majority of the public will not understand what A1 means. *The paragraph says 'A1 retail' which we think that people understand.*

0.5.2 The Council is concerned that these objectives bear little resemblance to the policies contained in the plan particularly objective 9 where the policies allowing residential use in the employment zone could lead to a reduction in employment opportunities.

We beg to disagree except in relation to Objective 8. Originally this 'objective' was conceived as covering vacant shops as well as vacant office space. As the Plan has developed the focus on Latimer Road has increased. We will review the wording of this Objective. As explained in the Draft Plan, the StQW letter of 17th January, and in these responses we do not share the view that StQW policies will lead to loss of employment opportunities in the Latimer Road sections of the EZ. Paragraphs 8.8.1 to 8.8.6 of the Draft Plan explain why, and our continuing discussions with building owners reinforce our view.

0.6.8 *If supported by a simple majority of those voting, the Plan becomes part of the statutory Local Development Framework of the local authority. Its policies will then be used ~~a 'material consideration' to be taken into account~~ when the Council decides on planning applications within the StQW Neighbourhood Area.*

See response above. This proposed deletion and rewording repeats what we see as a RBKC misconception about the statutory status of NPs. NP policies that are part of a 'made' neighbourhood plan are not just 'used' or 'read alongside', they are 'applied' and carry material weight.

We struggle to see how the StQW wording above differs in its sense from that in CLG PPG 006 (quoted above). If we are going to have to continue to have to argue this point, we will use the CLG wording in place of our current 0.6.8

Objective 2 Conservation

Objective 2, ~~Update~~ Provide conservation policies to protect heritage, while reflecting contemporary lifestyles and making best use of existing housing stock

The Council objects to the word 'update' as this implies the Council's policies are out of date, which is not true they were examined and found sound in 2014.

We accept this deletion. When this 'objective' was first drafted the Council was applying UDP and Core Strategy policies which we accept are now 'updated' via the Partial Review. We were in fact using the term 'update' to mean 'ensuring that policies keep up with contemporary lifestyles' but will find an alternative way of expressing this.

2.0.2 ~~In 2014 the Council has this year~~ started a programme of Conservation Area Appraisals, to replace the original CAPS documents. In light of the StQW Plan, the Council has decided to bring forward from 2016 ~~to 2014~~ the appraisal exercise for the Oxford Gardens CA and has been undertaking this work since November 2014. The new Conservation Area Appraisals will not set 'policy', but will provide evidence as to those features which are considered to contribute towards the character or appearance of the Conservation Area and are likely to be a material consideration in decisions on planning applications and in interpreting Borough-wide policies within each Conservation Area.

No problem with this additional wording

2.0.7 Hence this Plan proposes a number of ~~variations to RBKC Core Strategy~~ policies on conservation which would ~~(subject to a successful referendum)~~ be applied to future planning applications within the StQW neighbourhood. The Council acknowledges that its policies on conservation are ~~detailed and are~~ 'non-strategic'. ~~Such policies are open to variation by so a neighbourhood plan, can provide policies provided due regard is paid to national policies and guidance on conservation areas.~~

We do not accept the deletions of the term 'variation' for reasons explained in the StQW letter of 27th January and above, and see no need to amend this paragraph other than below..

The Council acknowledges that its policies on conservation are 'non-strategic'. However, this has nothing to do with the detail contained in the policy.

We will drop the word 'detailed' to be helpful but still do not accept that the level of detail in a planning policy has 'nothing to do' with the strategic/non-strategic definition. PPG 076 answers the question *How is a strategic policy determined?* The criteria set out there are:

- whether the policy sets out an overarching direction or objective
- whether the policy seeks to shape the broad characteristics of development
- whether the policy sets a framework for decisions on how competing priorities should be balanced

We see 'setting a framework', 'over-arching' and 'broad characteristics of development' as self-evidently meaning that such 'strategic' policies do not get into the detail.

Where there is debate at Examination as to which RBKC policies (and sub paragraphs within policies) we feel that an Examiner is likely to rely on the PPG criteria, rather than a RBKC definition which seems to rely heavily on the 'duty of so-operation' (not mentioned in PPG 076).

- 2.2.2 In proposing a set of ~~variations to existing RBKC~~ policies, to apply within the boundary of the StQW Neighbourhood Area (and to this part only of the Oxford Gardens Conservation Area) the Forum is seeking to get this balance right for the area.

Deletion of 'variations...' not accepted for reasons as above.

- 2.2.6 *In order for house-owners to understand the 'rules' that apply to different types of building alteration, it is necessary to understand the inter-relationship between planning permission and 'permitted development'. This relationship can appear complicated, not least because a building owner is required to refer to several different sets of Council documents and national Government ~~or~~ web pages. One of the aims of the final StQW Plan is to provide residents with a single document that explains all in one place.*

Accepted

The Conservation Area Appraisal will also provide details of all the Council's conservation policies and links to central Government information on permitted development.

- 2.3.5. *The StQW Forum therefore feels strongly that a ~~consistent~~ neighbourhood policy on rear dormers, should be introduced as part of this Plan. This would apply to houses across those parts of the StQW area with rear main roofs that can take a dormer window (i.e. excluding the properties on the 'cottage' estate at Oakworth/Hill Farm/Methwold/Barlby Road and the few with 'butterfly' roofs). The StQW policy would not apply to side roofs. Planning applications would continue to be required, and RBKC case officers would remain in a position to consider proposed height, width, positioning in relation to the roof line and party wall, and the details of design and use of materials.*

The Council objects to the word consistent because the Council's policies are not inconsistent, the sense of the sentence works without this word.

Please read in due course some of the consultation responses to the StQW Draft Plan from house-owners who have been told that they cannot have a rear dormer, whereas those in the same street (and most other streets in the StQW area) can. The roofscape analysis has demonstrated that the number of 'unbroken' rooflines in the neighbourhood has shrunk over the years to a few small sections of streets. Application of RBKC policies has caused real problems for some families, including some who have moved house as a result. Paras 2.2.2 and 2.2.3 of the Draft Plan give more detail. We have used the term 'perceived inconsistency' in 2.2.2, to avoid any suggestion that case officers may act unfairly - but the reality is that this view exists. Para 2.3.5 accurately uses the term 'consistent' because the proposed new StQW Policy would apply to *all* streets in the StQW area except the 'cottage-estate' houses where attic spaces are too low to allow a loft room and rear dormers are not an issue.

- 2.3.6. *The change to the status quo is that the StQW policy would make it the norm for approval to be granted for appropriately designed rear dormers and would remove the requirement that a roofline must already be 'impaired' before further rear dormers are permitted.*

Additional wording accepted.

The view of the Forum is that rear dormers should be allowed in all streets in that part of the conservation area within the STQW neighbourhood boundary, provided ~~they~~ the details meet design guidelines in terms of width and height.

The plan proposes that rear dormers are to be permitted so we do not understand the inclusion of this paragraph,

It is there to explain that this is a change to status quo, before this section of the Draft Plan sets out the proposed new policy.

2.9.1 House prices and pressure on space have led to an increase in the number of permanent outbuildings constructed in rear gardens in this neighbourhood, often described as 'workrooms' or 'studios'. Under current Permitted Development Rights in 2015, outbuildings, sheds and garages do not need planning permission, within certain parameters. The most important are:

- no outbuilding on land forward of a wall forming the principal elevation
- must be single storey with a maximum eaves height of 2.5m and a maximum overall height of 4m with a dual pitched roof and 3m for any other roof.
- no verandas, balconies or raised platforms
- no more than half the area of land around the 'original' house to be covered by additions or other buildings.

Permitted development rights are subject change and property owners should check the currently applying rights on the Government's planning portal www.planningportal.gov.uk.

No problem with this addition

2.11.2. RBKC has ~~been revising~~ ~~ed~~ and ~~strengthening~~ ~~ed~~ its policy towards basements, and is at an advanced stage in adopting a new SPD setting out set of detailed requirements for basement applications. The Council's new policy requires that basements should:

- not exceed more than one storey
- not exceed a maximum of 50% of each garden or open part of the site (85% currently)
- have a good quality construction management plan and traffic management plan
- ~~ensure structural stability for neighbours~~
- plus some other conditions

It is not possible in planning terms to ensure structural stability for neighbours, the policy wording is 'be designed to safeguard the structural stability of the existing building, nearby buildings and other infrastructure including London Underground tunnels and the highway.'

The StQW Draft land will make clear that the new RBKC on Basements is in place and is a 'strengthening' of policy.

Objective 3 Environment

3.1.4 The 1979/90 Conservation Area Proposal Statement (~~while now out of date and to be replaced by a Conservation Area Appraisal~~) remains a document formally adopted by the Council and referred to ~~until December 2014~~ in decisions on planning applications until the new Conservation Area Appraisal is adopted in 2015. ~~But its status in policy terms has long been unclear to the public.~~ The Conservation Area Proposal Statement ~~It is referred to in reports determining planning applications as 'policy guidance', whereas the original document states that passages in **Super bold type** signify 'specific policies and proposals which the Council will implement using its development control powers.~~ ~~3.1.5 It seems clear that~~ However, P ~~planning legislation subsequent to 1990 means that the CAPS cannot now be treated as a statement of planning policies and can only be treated as 'guidance'.~~ In the same way, ~~it is accepted that~~ the Council's new series of Conservation Area Appraisals will not set policy, and will only provide an evidence base that sets out what are the principle

features which contribute to the character and appearance of the Conservation Area.
interpretation of the RBKC Core Strategy in relation to the conservation area in question.

The benefit of including this detail is questioned since the new Conservation Area Appraisal will be adopted shortly.

It seems a little ridiculous for RBKC to request that a sentence asking for deletion of a comment saying that the Oxford Gardens CAPS is 'out of date', The CAPS is clearly 'out of date' in that (for example) its clear 'policy statement' that housing developments should not be allowed on the St Quintin backlands no longer carries more than 'very limited material weight',

This has come as an unwelcome shock to houseowners surrounding this piece of land. There is nothing on the RBKC website that alerts them to the change of status, and of material weight, of 'policies' in the CAPS documents. They are described on the RBKC website as '*guides for development control*'.

Whether or not the new Oxford Gardens CAA is '*adopted shortly*' this will not change the fact that the 1990 CAPS is on the RBKC website, and the public assume that its 'policy statements' mean what they say. It is a source of concern that there is nothing that communicates to residents that this is no longer the case.

We see no reason to change the original wording of this section of the StQW Draft Plan, even if this makes for uncomfortable reading by officers.

Objective 4 Open Spaces

4.1.6 *As pointed out in Section 3 above, the status of 'policies' set out in the Council's Conservation Area Policy Statements has changed since these documents were first adopted by the Council. These policies were never subject to formal examination or found to be sound so their adoption process did not meet current more extensive requirements for any part of a statutory Local Development Framework and the Council can only give very limited weight to them. Nevertheless, ~~the Council has continued~~ to rely on the CAPS documents as policy guidance when determining planning applications, until the new Conservation Area Appraisal is adopted.*

We have no great objection to these proposed wording changes. They still reflect a regrettable state of affairs, with residents very unclear as to why what they read on the RBKC website no longer means what it did in terms of policies in the CAPS document. It is wholly unreasonable to expect the general public to be aware of changes in planning legislation which changes the legal status of various different forms of planning document.

4.1.7 *At borough level, RBKC Core Strategy Policy CR5 states that the Council will resist loss of private communal open space and private open space where the space gives visual amenity to the public. ~~There is also a specific policy CD31 on backland sites, 'saved' from the previous Unitary Development Plan which states:~~*

To resist the development of backland sites if:

- 1. a) there would be inadequate vehicular access, or*
- 2. b) the amenity of adjoining properties would be adversely affected, or*

~~3. c) there would be a loss of open space, or
4. d) the character of the area would be harmed.~~

We accept that this former UDP Policy is no longer extant and will make the deletion as shown.

Saved UDP policy CD31 has been replaced with Policy CL1 which requires all development to respect the existing context, character and appearance of the area. CL1g. requires the development of backland sites to ensure vehicular and pedestrian access is properly integrated into the surrounding street network and that the scale and massing respect the hierarchy of the existing urban block so as to enhance the character of the area.

Policy CL1 will be referred to in this section of the Draft Plan

Objective 5 Transport

~~5.2.11 *Planning authorities at higher levels are doing too little to incentivise 'behavioural choice' towards alternative forms of transport in this part of London. Local people can, through their own choices and actions, encourage development of only hope that the neighbourhood planning system will begin to provide a counterweight, and will allow for alternative transport solutions (such as proposed below) to emerge. gain weight within the Local Development Frameworks of RBKC and LBHF.*~~

It is not realistic for the neighbourhood planning process to hope to resolve these issues.

The above is the view of the STQW Forum, which is entitled to include such views in a NP in the same way that RBKC includes statements on 'behavioural choice in the Local Plan. Local people see very little evidence that planning authorities (GLA, TFL, RBKC) are having much success in encouraging people to change their mode of transport, Our evidence is the daily reality that queues of traffic attempting to exit westward via the North Pole Road exit onto Wood Lane grow longer month by month. The StQW Forum has communicated with TfL and have met onsite to review the workings of the SCOOT system which controls the relevant traffic lights, with no obvious improvement.

Objective 7 Shopping

7.1.2 *RBKC Core Strategy policy CK2 resists loss of A1 retail use in neighbourhood centres. This has in the past given some planning protection to the two shopping parades in St Helens Gardens and North Pole Road. But given the changes in shopping habits affecting all small high streets, coupled with the 2008-12 recession, this has not stopped shops in the StQW neighbourhood from becoming vacant. financially unviable.*

Shops in St Helens Gardens have become vacant but this does not necessarily mean they are financially unviable, shops can become vacant for a variety of reasons like landowners not bothering to let them or having unrealistic rent expectations. If they are unviable you would expect all to be empty, which is not the case.

We do not know what evidence RBKC has to propose deletion and replacement of 'financially unviable' with 'vacant'? Our local information and communications with building owners has led us to conclude that these shops/cafes closed as a result of non-viability. If RBKC wishes to contest this view it will need to supply relevant correspondence or data. Clearly you would not expect 'all to be empty' as shops have different business models and sell different goods, some surviving while others fail.

Amendment not accepted.

7.1.5 *Given the context of long-term vacant shops in both parades, this StQW Draft Plan proposes permanent increased flexibility in allowing change of use between A1, A2, A3, B1, D1 and D2 use classes, subject to amenity considerations (e.g. noise nuisance for neighbours from plant and AC extracts). While this would not conform with current RBKC Policies CK2 and CF 3d, it should be recognised that the Government has been consulting (late 2014) on changes to the Use Class Order to form a wider retail class, containing shops, banks and estate agents etc, but excluding betting shops and pay day loan shops. These measures ~~are expected to~~ may come into effect in Spring 2015.*

7.2.7 *If experiments with such use of this section of the street proved successful, the next step ~~would~~ could be to replace the road surface with an attractive 'shared surface', revise the car parking and delivery arrangements, and install a means of road closure such as rising bollards.*

The StQW Forum will be participating in a new North Kensington Streetscape Advisory Group, set up by the Council, which will start work in late 2014.

Such a step would be dependent on many factors such as funding and transport impact.

Understood, and Para 7.2.6 of the StQW Draft Plan states that the Forum will be '*investigating the scope for experimenting with more frequent temporary road closures*'. This is a further example of an unnecessary comment by RBKC officers.

It might be useful to explain the role of the North Kensington Streetscape Advisory Group.

Yes, can do, having now seen the terms of reference of this Group which met for the first time in mid January after the Consultation Draft of the StQW Plan was published for consultation.

Objective 8 Latimer Road

Objective 8 ~~Maintain (and in some parts of the neighbourhood)~~ widen the mix of uses to keep buildings occupied and in active use.

This text relating to some parts of the neighbourhood is misleading under the heading Latimer Road.

Not clear what text is being referred to? Para 8.1.1 is clear in cross-referencing to section 7 on shopping.

The quote beneath and the views expressed from 8.1.1 to 8.2.20 are very selective and do not reflect the range of evidence on the potential of Latimer Road. This issue is being investigated fully through the Council's Enterprise Review.

These quotes are not '*very selective*'. They are taken from the 2013 PBA study commissioned by the Council. The first quote comes from the PBA study at para 4.56, immediately before the 'conclusions' section on Latimer Road. The second quote comes from para 4.58, the first of the 'conclusions' section on Latimer Road. There is no basis for RBKC to assert that these quotes are '*selective*' as they reflect the foregoing assessment in this professional study and demonstrate a

clear relationship with the material and evidence that precedes them, as any fair-minded reader can see for themselves.

They may not say what RBKC would now like to hear about Latimer Road, but that is another matter.

These quotes may not reflect the conclusions of the 2014 Frost Meadowcroft study, but for reasons set out in 8.3.2 onwards of the StQW Draft Plan, and expanded on in the Forum's response to the RBKC Issues and Options paper on Enterprise, the Forum considers the analysis and conclusions of this further study commissioned by the Council to be superficial, much inferior to the PBA study, and deeply flawed in terms of viability conclusions.

We are happy for an Examiner of the StQW Draft Plan to reach his/her own conclusions on these issues, once the Examiner has reviewed both consultancy studies and the content of the StQW Draft Plan and Basic Conditions Statement.

The description under the map page 59 should be amended to 'boundary of the area where Latimer Road policies apply'.

We do not understand this comment. The map at page 59 shows the boundaries of the 4 sections of the Latimer Road part of the Freston Road/Latimer Road EZ, and is labelled as such. The map is taken from the RBKC UDP,

8.3.4 *As is the case for the 2010 RBKC Core Strategy Local Plan, the new Issues and Options paper takes a narrow view of what constitutes 'business' use. This is confined to those which fall under Class B of the Use Classes Order, and include office, light industrial and storage uses. However, Council Policy CF5j allows uses which support the employment zone's function like gyms, shops and cafes. The retail and food/drink sectors are therefore excluded. So are the range of D class uses (gyms, creches, day nurseries, galleries*

There has been one example in recent years (2014) where a building owner in Latimer Road has obtained planning permission for a use other than B1, for a relatively small amount of floorspace. The current RBKC policy CF5j 'requires there be no net loss of business floorspace unless to uses which directly support the function and character of the zone'. The wording is 'directly support' and not just 'support' as stated in the comment above). Given the inclusion of the term 'directly' there has been a perception (not unreasonably) amongst building owners that this policy will be strictly applied. It took the services of a planning consultant to achieve approval to wider use classes in the one example referred to above.

RBKC is now trying to argue that proposed StQW Policy 8c is 'superfluous' when RBKC Policy CF5j is already there. See comments on page 15 of this response as to why this makes no sense.

8.3.5 *The new RBKC Issues and Options paper asked a series of questions about employment uses in the borough and specific questions about Latimer Road. The forum has responded to this consultation raising its concerns about the area. does not appear to recognise that without coffee shops, food stores, and a range of other activities, streets zoned for a narrow definition of 'business use' are not where Londoners want to come to work in this day and age. The direction of travel set by the Issues and Options paper is welcome in opening up some new avenues, but remains too little and too late to achieve a revival of Latimer Road.*

In relation to the RBKC proposed deletion/amendments above, which of the questions in the RBKC Issue and Options paper on Enterprise referred to Latimer Road? We have been unable to find one, let alone a 'series'. There is a brief reference to Latimer Road at para 2.26 of the Issues and Options

paper, but no reference within any of on the consultation questions which respondents were asked to address. The proposed inserted amendment above is simply untrue.

The above is a stark example of RBKC officers asserting what they might *like* to be the case, when it is not. This and many other instances of proposed amendments/deletions to the StQW Draft Plan has undermined any confidence amongst the StQW Forum that RBKC officers are seeking to provide support in getting the Plan 'made, rather than attempting to obstruct its passage every inch of the way.

Consultation on Issues and Options for RBKC's Enterprise Review closed in December 2014, and the definitive policy will emerge in 2015.

- 8.3.6 ~~*RBKC seeks to justify is investigating the case for a continuation of restrictive policies to protect B1 office use on the need to have 'robust' policies in place under three different scenarios which may emerge after a forthcoming Government decision on permitted development flexibilities and on the current RBKC borough-wide exemption. It floats a series of policy options for the future, but none of these are seen by the Forum as providing a solution for Latimer Road and the Forum has responded accordingly. Earls Court is singled out by the Council as a 'very secondary office location' in need of differential policy treatment, but this differential approach is not proposed for Latimer Road.*~~

This paragraph refers to paragraph 2.5 of the Issue and Enterprise paper and we believe it to be fair comment. It will however be shifted from the submission version of the StQW Draft Plan to the Basic Conditions Statement. The proposed deletions/amendments are not accepted.

- 8.5.2 ~~*Each unit is now in separate freehold ownership. In most (but not all) cases the title deeds include a covenant restricting use of the premises, and excluding the sale of alcohol and residential use. It is not clear who now holds this restrictive covenant, although there is reference in the deeds to the National Westminster Bank acting as trustee for the London Small Business Property Trust (a body which seems no longer to be extant).*~~

Has the Forum taken legal advice on the position in relation to this covenant?

No, but some building owners have, and the covenant is not seen as a significant impediment to redevelopment of these units.

- 8.8.4 ~~*In practice, Evidence produced by RBKC in support of the borough's successful application for exemption from changes to permitted development rights allowing conversion of offices to residential use demonstrated that the value difference is sufficient to incentivise all office uses to convert to residential. a changed planning regime for the street would not lead to an instant switch from B1 office to A or D class uses, or to residential as proposed below. Given that a number of the buildings are owner-occupied, and Units 1-14 are in separate ownerships, plans for refurbishment and/or redevelopment would be likely to come forward on an incremental basis, allowing the street to evolve over time.*~~

This wholesale deletion/amendment is not accepted as it completely distorts a key policy direction that the StWQ Draft Plan is pursuing. The evidence that RBKC put together to support its case for a borough-wide exemption from changes to PD rights for office to residential does not demonstrate that 'all office use', street by street, will be incentivised to convert to residential. Latimer Road, while coming up in the world as a residential location, lies next to a railway line and is a mixed use street of comparatively unattractive overall appearance.

The case made in 8.8.4 (without the RBKC deletions) and in succeeding paragraphs of the StQW Draft Plan is as follows:

- a number of the office buildings and light industrial units in Latimer Road are owner occupied. Where owners consider that they are getting an adequate rate of return and their businesses are doing fine, instant conversion to residential is unlikely. Such conversions carry significant costs in terms of meeting residential standards of accommodation.
- As explained in 8.8.1 onwards of the Draft Plan, even if all the circa 100 jobs currently based in under-utilised business suites on upper floors of office buildings in Latimer Road disappeared (following implementation of StQW Policies 8a and 8b) it would take the redevelopment of only a small handful of the light industrial/warehouse units 1-14 into well designed office space to replace these 100 jobs. There would be no loss of B1 space at units 1-14 in the process, as StQW policy 8b requires this to be retained.
- incremental redevelopment of Units 1-14 are what the local community wants to see happen, as opposed to attempts by developers to acquire all units for a comprehensive redevelopment (such approaches from developers have been made in recent months).
- it is appreciated that planning policies cannot dictate who undertakes development. The individual owners of Units 1-14 need sufficient incentive to redevelop, These existing 1980s buildings are nearing the end of their lifespan.
- StQW Policy 8b, allowing housing use on upper floors in Latimer Road, provides in our view sufficient incentive for building owners to redevelop these light industrial/warehouse units (or to sell for such a purpose). This would also contribute to much needed additional housing units in the borough in a (relatively) affordable location..

We can only repeat that we do not understand why the Council remains opposed to this set of policies. They reflect what the local community wants to see happen in Latimer Road. They respond to NPPF objectives for sustainable development, and to London Plan policies.

The only possible objection that we can understand is that the Council is nervous of anything that could be seen as creating even a small chink in its position on a Borough-wide exemption on PD rights for office to residential. As we have explained on many occasions, this should not be allowed to stand in the way of sensible and balanced policies for the sustainable development of the StQW neighbourhood, developed and refined through local consultation.

We feel that proposed StQW Policies 8b, and 10b, allowing residential use of upper floors in Latimer Road, take account of the history of the street where housing has always been intermingled with commercial premises. They reflect the direction of NPPF Paragraph 51, and the fact that LPAs are required to take this paragraph into account when considering applications for change of use, even in an area covered by a Borough-wide exemption from permitted development for office to residential.

The fact that RBKC officers seem to feel free to re-write key parts of the text of the StQW Draft Plan, in an attempt to reinstate their own view of the world, is not acceptable. Neighbourhood planning is about allowing other voices, at neighbourhood level, to be heard.

- 8.9.4 ***The best prospect for retaining a good level of employment activity in this small part of North Kensington lies in studio/workshop accommodation at modest rents, which can continue to attract 'creative industries'. Inclusion of other employment generating uses (A and D class) also makes sense, and would bring activities to the street which local people want to see there. ~~The light industrial premises at Units 1-14 are potentially more suited to such uses than are the upper floors of outdated 1980s small business suites at the southern end of the street.~~***

There is no evidence to support this statement - the upper floors of existing buildings are just as likely to accommodate creative industries as conversion of light industrial premises, which will incur costs.

There is clear evidence to support this statement. from the examples of those of Units 1-14 which are in current office use (including a recent conversion already accommodating 30 employees in the creative industries) as compared with the record of the office buildings at the southern end of Latimer Road in attracting tenants. RBKC officers are not justified in their constant assertions that their evidence is better than that of those on the spot in the StQW area.

- 8.10.2 The 14m maximum height restriction proposed appears somewhat arbitrary and there is no evidence that building one or two storeys on top of office buildings would be financially viable.

The Submission Version of the StQW Plan will provide further evidence of the financial viability of residential accommodation above commercial floorspace, at redeveloped buildings on the sites of Units 1-14 Latimer Road. There are fine judgements to be made between financial viability and building heights, and the StQW Forum will be discussing these further at an open meeting of residents and businesses in the light of consultation responses to the StQW Draft Plan.

As is made clear in para 8.10.2 of the Draft Plan (and as has been pointed out before in response to RBKC comments) the proposed maximum guideline height of 14m for buildings on the western side of Latimer Road is not 'arbitrary'. It is the same height as that of the tallest building on this side of the street that has received RBKC planning approval, a building for which a fourth floor was granted approval in 2010.

- 8.11.1 As explained under 8.8.4 above given the value difference between office and residential use evolutionary development is unlikely.

We do not see that the Council has any solid evidence to support the above statement in relation to the specific context of Latimer Road. The Latimer Road buildings are in separate ownerships and highly unlikely to change use en bloc. Forecasts of the impact across London of temporary flexible PD rights have so far proved to be overstated, with many developers going through the notification process to increase negotiating leverage over affordable housing but not following through with actual residential conversions. The StQW Forum considers that its contacts with building owners, and the consultation responses received on the StQW Draft Plan, place us in a better position than RBKC to forecast the effect of policy changes in this one street.

Objective 9 Employment

9.1.7 Given the huge value difference between office and residential uses in the Royal Borough it is highly unlikely that the existing levels of business and commercial activity would be retained if the draft policies were approved.

As above, we do not see that the Council has the evidence to support this statement in relation to the specific circumstances of Latimer Road.

Objective 10 Housing

Objective 10 seek out opportunities for building housing affordable to younger generations

This objective is misleading since none of the housing opportunities identified are likely to result in housing which people in established jobs, let alone younger people, could afford. As the table under 10.2.9 shows average prices for a two bedroom flat in W10 have been between £525,000 and £800,000 for the last three years.

We do not consider this objective to be 'misleading'. It is true that house prices in W10 are high, but not as high as other parts of RBKC. The reason why the StQW Draft Plan includes policies to locate housing in Latimer Road is because such units (mainly 1 and 2 bed and possibly studios) will be significantly 'more affordable' than those developed at Argyll Place (Pangbourne Avenue) or those for which developers are attempting to gain permission at Nursery Lane.

The 2 bed flats currently being marketed at the More West development in Bramley Road (opposite Latimer Road tube station and hence with much better transport connections than Latimer Road) are priced at £616,000 upwards. One bed flats at the Clock House conversion in Latimer Road were recently priced at £445,000. With low interest rates, this is not beyond the range of young couples.

10.2.6 Fair rent data from 35 years ago is too out of date to draw useful conclusions, particularly given the enormous rise in residential prices in this borough in recent years.

The data on 246 properties with Fair Rents in the StQW area, included at 10.2.6 of the Draft Plan, is not '35 years old'. These are properties currently registered with the Valuation Office, where residents have remained in their accommodation since legislation changed in 1989. This is very probably because these rents have increased on a fixed basis and are now well below market rents. These details are included in the StQW Draft Plan to demonstrate that the area remains more mixed (in terms of income) than many might assume.

Annexe B

B.1.1 We suggest adding: Details of permitted development rights can be found at www.planningportal.gov.uk

Accepted

B.2.1. ~~Chapter 34 of the Council's 2010 Core Strategy document~~ Local Plan is called 'Renewing the Legacy' and sets out conservation and design policies across the Borough. ~~There are also a set of more detailed policies on conservation that were 'saved' from the former Unitary Development Plan, and which have been used until recently by the Council in determining planning applications.~~

Accepted that these UDP policies are now defunct. They were not when the Consultation Version of the STQW plan was drafted

B.2.2 ~~The Council has now gone through an exercise of consolidating the 'saved' UDP policies and the Core Strategy policies into a single document, as part of a 'Partial Review' of the Core Strategy. This process has now concluded and the updated policies apply from December 2014.~~

Accepted, as above

B.4.4 ~~These new Conservation Area Appraisals will not set or change RBKC policy. Policy on conservation and design is set by the RBKC Core Strategy Local Plan. The CAAs will form an evidence base setting out what contributes to the character or appearance of the conservation area. ~~policy guidance and (as with the former CAPS) will be a material consideration in decisions on planning applications.~~~~

Not clear why the wording '*will be a material consideration*' is proposed for deletion, as this is what is stated in the introduction to all the CAA documents published so far?

B.5.2 ~~Subject to support in a referendum, the conservation proposals in the StQW Neighbourhood Plan will be 'policy' rather than 'policy guidance'. This is because neighbourhood plans (once adopted by the Council) form a statutory part of the Core Strategy/Local Plan. So the StQW policies will be used in determining ~~have a stronger role than the CAA as a material consideration in deciding~~ planning applications. This is why it is important that the proposals in the StQW Plan are widely understood within the neighbourhood, and are supported by a majority at the referendum stage.~~

Deletions in first 4 lines accepted, but not those in second 4 lines for the same reasons as under RBKC comment 0.1.29 above and in the StQW letter of 27th January

B.6.4 ~~In certain respects, and particularly in relation to the rear of houses, the proposed StQW neighbourhood plan proposes some new conservation policies ~~involve some relaxation of current RBKC borough wide policies.~~ It is hoped that this will reduce the number of occasions when house-owners feel aggrieved, or unfairly treated, as a result of refusal of an application which appears similar to one approved in a neighbouring street.~~

Deletions not agreed. Residents need to be aware that the StQW proposed policies reflect a relaxation of current RBKC policies at the rear of houses. So far we have not had objections to such relaxation but there may be some at referendum stage.

B.6.5 Repetition.

Not so. This paragraph gives the numbers of planning appeals on conservation issues where RBKC decisions have been overturned. We consider this a relevant factor in proposing variations to current policies. Such appeals cost Council Tax payers money for little result, when upheld, as well as causing stress for householders involved.

B.7.2 ~~The policies proposed in this Draft Plan seek to introduce some new ~~vary some RBKC~~ policies, to ensure that their application in the StQW neighbourhood becomes more consistent and fair. But even if this Draft Plan is supported at a referendum, it will still be the Council which makes the decision on an individual planning application.~~

Acceptable, as wording makes clear that the Draft plan policies will be 'new' and hence different from status quo,

B.7.3 *RBKC takes conservation issues very seriously (as it should). We trust that when and if this neighbourhood plan is adopted by the Council, case officers making recommendations on planning applications will follow the policies set out in the Plan – rather than just carrying on as before. We believe the legal position to be that policies in an adopted neighbourhood plan, where up to date and specific on a local issue, should prevail over those in the RBKC Core Strategy. RBKC planning officers suggest that planning applications will continue to be . this will be a matter of weighing up the two individual applications assessed on their own merits particularly in relation to the Council's statutory duty to consider the desirability of preserving or enhancing the conservation area, but the Neighbourhood Plan and Local Plan policies will also be taken into account.*

We hope that this paragraph can be deleted if we can resolve views in discussion, and RBKC accepts that the concept of policies on a specific issue being 'read alongside' is not correct.

B.7.4 Rooflights are permitted development unless there is an Article 4 direction.

We will clarify that StQW Policy 2b applies only where Direction 46/62 covers the street/address.

B.8.2 No photos provided under design guidance.

We will look at re-using drawings from the CAPS and adding to the photo on page 25.

Annexe C

There is a distinction between the Nursery Lane site's suitability for designation as a Local Green Space and policy protection for the site within the Council's Local Plan. The Council is not suggesting that designation of the site as a Local Green Space is not in conformity with the Local Plan. However, it will be up to the Forum to demonstrate that it meets the criteria set out in the NPPF for designation of a Local Green Space.

As per the StQW letter of 27th January, we do not understand why the Council will not give a view on whether the Nursery Lane site meets NPPF criteria for LGS, when it will on the 2 other backland sites.

Annexe D

D.1.2 The Council's CIL scheme will be adopted in January 2015.

Noted

D.1.7 Initial suggestions are:

- *streetscape improvements and other measures to improve the environment of Latimer Road*
- *CCTV in North Pole Road*
- *painting ~~and removal of flyers~~ beneath the North Pole railway bridge*
- *subject to successful temporary road closures in St Helens Gardens (section outside the church) and resolution of transport issues installation of a shared surface on the roadway*

In order to qualify for inclusion in a neighbourhood CIL list the investment identified must address demands that development puts on the area.

We will review suggested CIL expenditure item in light of this advice
CIL Regulation R59F(3):

The charging authority may use the CIL... to support the development of the relevant area by funding –

- (a) the provision, improvement, replacement, operation or maintenance of infrastructure; or
- (b) anything else that is concerned with addressing the demands that development places on an area

The North Pole Bridge is in LB Hammersmith and Fulham and they should have a contract to remove graffiti and fly posters so this should not be necessary. StQW Neighbourhood CIL could be used to fund Network Rail to paint the bridge.

Noted

4. Typographical errors

In reviewing the document we have noticed the following:

0.1.1 means of bringing third bullet updating

0.2.7 Kensal Rise–Canalside Opportunity Area

1.0.1 area

2.82 'More' missing from second sentence

2a) RJ capital The.

Page 40 text box St Quintin

Noted, with thanks

Planning and Borough Development
Kensington Town Hall, Hornton Street, London, W8 7NX

Executive Director for Planning and Borough Development
Jonathan Bore

Head of Forward Planning
Jonathan Wade

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THE ROYAL BOROUGH OF
**KENSINGTON
AND CHELSEA**

27 February 2015

My reference: PBD/STQNP/JH/3
Please ask for: Joanna Hammond

Dear Henry

Re: St Quintin and Woodlands Neighbourhood Plan

Thank you for your reply and consultation statement received on the 10 February. I think it would be useful to run through some of the issues relating to the Plan and your reply to our comments sent to you on 23 January.

Purdah

There should not be a problem proceeding with the Neighbourhood Plan during the purdah period as this is not a party political matter. However, our Electoral Services Department would not be free to start arranging a referendum until after the election and it would be wise to organise after the election in any case.

Selection of an Examiner

We are happy to proceed with selection of an independent examiner. The key experience required is a track record of examining urban neighbourhood plans and holding of a hearing, as this may be necessary. Ideally the examiner should also have knowledge of London. Do you agree? If you do I will ask NPIERS to provide CVs for us to review. However, the Forum must also be part of the process so that you have faith in it being undertaken appropriately and we will share this information with you. Clearly the examiner is totally independent of the Council so I am unclear as to the nature of the concerns you expressed in your letter to Mr Bore dated 9 February. It is entirely up to you whether you wish to accept the views of the Council or not and I simply do not understand how you think this can influence any administration of the Plan, the two are not linked in any way.

Formal consultation

Would you like the Council to write to every household to make them aware of the consultation? Normally we would just put the consultation on the Council's website and notify stakeholders via the Planning Bulletin and the online planning policy consultations

portal but you might wish to consider whether coverage needs to be more widespread than this.

If the Forum would like to produce a new leaflet for the Council's consultation the Council would be prepared to fund its production.

Outstanding issues with the draft Neighbourhood Plan

You have indicated that the Forum is not minded to make many of the changes that the Council has recommended. That is the Forum's choice. However, at this stage we think we should draw your attention to the following points.

1. The Forum needs to be clear that the Development Plan consists of the London Plan, the Council's Local Plan and the Neighbourhood Plan once this is made. The Neighbourhood Plan does not cancel out other Development Plan policies. All policies will be read alongside each other, and if there is a conflict then the most recent plan will take precedence, unless there are other material considerations which outweigh this. This is why the Council is recommending that the Neighbourhood Plan contains policies specific to the area rather than referring to amending the Council's Local Plan. It is misleading to describe Neighbourhood Plan policies superseding or amending Council policies in this manner and any reference to Council policies needs to make clear the distinction.
2. The role of the Forum is to develop a Neighbourhood Plan. This does not extend to involvement in pre-application discussions or pre-consultation on emerging Council documents. The Forum remains a separate body to the Council. Of course, the Forum is at liberty to make their views known at the appropriate time which is what you have been doing and I am under no illusions as to where you stand on the various issues. The role of pre-application discussions has been clearly set out in my letter of the 24 February and you should now be very clear on my views of the Nursery Lane site. Opportunities for individuals or groups to comment on planning applications is set out clearly in our 'Involving People in Planning' Statement of Community Involvement (December 2013).

The DCLG reports that Neighbourhood Forums are taking on additional roles to deliver wider community aims after a plan has been adopted. Participation in the North Kensington Streetscape Advisory Group would be a good example of how this can be done, and the Neighbourhood Forum may want to work with developers bringing forward proposals in the area to ensure they understand the Forum's objectives. Once the Plan is made the Council would like to set up periodic meetings with the Forum to discuss development issues and review how the Plan is being used in practice. We have already held a similar meeting with Norland Neighbourhood Forum.

3. We strongly recommend including acceptable dormer design drawings in the Neighbourhood Plan. Please let us know if there is anything we can do to help. These drawings and illustrations can help immensely in understanding what an appropriate design might look like.
4. Policy 2c) - is suggesting RBKC Policy CL9 requires a small setback; this is not the case, so we hope the amendment suggested will be made. The policy will be used by development management planners who understand what subordinate means in this context. Please refer to the latest adopted Conservation and Design policies adopted on the 3 December 2014 and available on the Planning Policy webpage.

5. Policy 2e) - makes it clear that main paths would be excluded, the Council is concerned that this should not be extended to existing approved hard standing as this removes the opportunity to improve surface drainage in the area. In fact the policy could be reinforced to say that: when replacing existing hard standing the new surface should be permeable (there are plenty of permeable paving and porous substances which could be used and will allow for certain amount of natural drainage).
6. Action 3v) - this could have the following text added at the end: "and liaise with the Council's Lead Local Flood Authority representative about flood risk issues."
7. Action point 2i) - the word, 'consolidation' is slightly misleading since the Plan involves extension of the use of an Article 4 direction and residents need to be clear of this intention. It was a new Article 4 on painting building facades which led to a late 'no' campaign just before the Norland Neighbourhood Plan referendum, and we would like to avoid the risk of this happening again if at all possible.
8. Action point 2ii) – just to be clear here, the planning service has a statutory duty to determine planning applications, not follow up all planning applications to ensure that they have been constructed in accordance with the plans. We do not have the resources to check all work once it has been completed. The enforcement team will only get involved if we are alerted to a possible infringement and of course, anyone living in the Neighbourhood Plan can report infringements and these will be investigated. The enforcement team are undertaking some proactive checking of certain types of sensitive development such as listed buildings and basements, but this is highly unlikely to be extended to all development.
9. Policy 3d)- we do not doubt that local people value street trees but I think a reword may assist here along the lines of resisting the loss of street trees unless dead, damaged or deceased and if lost a suitable replacement is provided.
10. Action 3iv) - we are not suggesting that the wording should be removed; just more discussion is needed on how the Forum might comment on siting within the time constraints which are tight.
11. Policy 4a) - the concern here is that addition of the word 'inappropriate' weakens the position and would require definition. It will be argued by those that wish to, that their scheme is appropriate to the site (and this could include housing). I doubt if this is your intention.
12. Policy 4b) - trees in the area are protected because it is in a Conservation Area. There are no additional controls that can be brought in to protect them. It probably would be more effective if the Plan drew attention to the protection that the Conservation Area provides for existing trees which residents may not fully understand.
13. Policy 5b) - support for the provision of cycle lifts, if this is what is proposed, would be suited as an action point in the Neighbourhood Plan.
14. Policy 5c)- is a good example of how the strategic need for London to function as a city and for people to move around cannot be compromised by local residents'

desire for tranquillity. This is a strategic matter and would be best tackled by an action point rather than a very broad brush policy in the Neighbourhood Plan.

15. Policy 6v) - if the proposal is to create a road barrier to this very small cul-de-sac this is likely to be contrary to Policy CR4 (which resists non essential street furniture), but is it really justified? The installation of a barrier at the entrance to Blakes Close (which is a private road) would result in any vehicle waiting for the barrier to rise possibly blocking the Barlby Road/ Pangbourne Avenue junction and detrimentally impacting on highway operation. This would be a strategic matter and if a barrier is intended, then this element should be removed from the policy. Improving lighting, management and maintenance of the highway to prevent fly-tipping are transport not planning matters so this should be an action point not a planning policy. I think there may be other more successful ways of dealing with the fly-tipping problem and I am happy to discuss these further so that something can be included in the Plan.
16. Policy 7a) - it may be advisable to caveat that the current Use Classes may change during the lifetime of the Plan. We think you need to define the areas that Neighbourhood Plan policies relate to within the Plan as it is not clear – you simply refer to the ‘neighbourhood area.’ It would certainly help any individual reading the plan not to have to refer to the Council’s Local Plan as well on this point. We can provide maps if this would be helpful.
17. Policy 8a) - this policy should make it clear via a map which areas the Neighbourhood plan Policies relate to rather than de-designating the Latimer Road part of the Employment Zone in the Council’s Local Plan. We have already made it clear that policies in the Neighbourhood Plan cannot de-designate adopted Council planning policies.

The Council objects to this policy because it is not in general conformity with the Council’s strategic Policy CF5.

Paragraph 076 of the Neighbourhood Planning Guidance states ‘Strategic policies will be different in each local planning authority area. When reaching a view on whether a policy is a strategic policy the following are useful considerations:

- whether the policy sets out an overarching direction or objective
- whether the policy seeks to shape the broad characteristics of development
- the scale at which the policy is intended to operate
- whether the policy sets a framework for decisions on how competing priorities should be balanced
- whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan
- in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan
- whether the Local Plan identifies the policy as being strategic’

The Regulations make it clear it is for the Council to decide which of its policies are strategic. The Council’s Local Plan does not identify strategic policies because it was adopted before the Localism Act. We have defined strategic policies as ones which affect more than one borough or the functioning of London as a whole and are the ones on which the Council has a duty to co-operate with

other Boroughs. Housing and Business policies in the Plan are considered to be strategic. Policies in the 'Renewing the Legacy' chapter relating to conservation and design are not considered to be strategic.

The duty to cooperate was introduced with the Localism Act 2011 that also established Neighbourhood Planning. It places a legal duty on local planning authorities, county councils in England and public bodies to engage constructively, actively and on an ongoing basis to maximise the effectiveness of Local Plan preparation in the context of strategic cross boundary matters.

The Council does not agree that it is possible for a Neighbourhood Plan to alter part of a strategic policy. However, this will be a matter for the examination.

18. Policy 8b) - as above the Council objects to this policy, but this will be a matter for the examination.
19. Policy 8c) - we are not suggesting this policy must be removed. However, since the uses proposed would be allowed under current policy and no applications of this type have been refused in the area it is unlikely to be effective. A search on the Council's website shows 120 planning decisions in Latimer Road. Two were for conversion of office to residential which were refused; one for public house to flat, which was refused; one application for a theatre which was withdrawn; and one for ground floor retail conversion at 272 which was permitted. We assume the Forum would support refusal of change of use of the pub but, as written, this policy would remove protection for the public house, which we think is not the Plan's intention.
20. Policy 8d) - the existing office space in Latimer Road accommodates creative and cultural occupiers, and our concern is that they may be forced out by residential conversion. We do not share your confidence that wholesale conversion would not happen as the value difference between offices and residential is so great in this borough. Our evidence indicates that across the borough the value difference between offices and residential is around 100% and taking into account the usual costs associated with residential development anything over 45% represents a compelling case for redevelopment.

In view of the continuing debate about the viability of Class B1 Business floorspace in Latimer Road we have commissioned a viability study specifically relating to Latimer Road and we will be happy to share this with the Forum when it is available. Clearly if issues of concern are highlighted we will discuss them with the Forum. This report should be received in the near future.

I would also remind you any town centre use proposals, including retail uses, which are over 400 sq m in floorspace area, are likely to be the subject a sequential test, in line with the Government's town centre first policy.

21. Policy 8e) - we await further details, but without the design guidelines this is a rather difficult policy to realise. We have already made it clear that to stipulate arbitrary height limits is perhaps not the best approach and design guidelines would be better. However, it is the Forum's choice at the end of the day.
22. Policy 9a) we do not agree that employee numbers should be prioritised over land use issues and they will clearly vary over time in any case. As detailed under Policy 8b) we consider any space that can convert will convert to residential.

23. Policy 9b) if the intention is to create new employment opportunities by encouraging pop up uses this should be made clear, as an action point, but this is not a planning policy as pop-ups do not require planning permission if the use class is not changing.
24. Policy 10a) any allocation requires viability evidence, and evidence that alternative options have been considered. It will also be important to demonstrate that this allocation has been discussed with the owner.

Paragraph 42 relating to Neighbourhood Planning of the National Planning Practice Guidance states that a Forum should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria and it provides guidance on how to do this. The Forum needs to be satisfied that this area has been covered adequately before consultation. If you would like any help with this process please let me know.

With regard to sustainability appraisal there is no requirement to have one for a Neighbourhood Plan as set out in section 19 of the Planning and Compulsory Purchase Act 2004. However, a Forum will have to demonstrate how its plan will contribute to achieving sustainable development. To this end a sustainability appraisal may be a useful approach for doing this and we are happy to assist in this aspect of the Plan once you are clear as to what you might leave in, take out or amend.

In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a strategic environmental assessment. Whilst I do not think this is the case with the St Quintin/Woodlands Neighbourhood Plan it would be wise to assess the proposals. To this end it will be assessed (or screened) according to the requirements set out in Regulation 9 of the Environmental Assessment of Plans Regulations 2004. We have started to do the screening process to assist you, but I am happy to talk about this aspect further.

25. With regard to the allocation of 142a Highlever Road we are sorry if it was not clear but the aim was to set out the policy position demonstrating how it would be possible for the Council to judge an application on its merits, despite being contrary to Policy CK1, because this is not a normal petrol station. Since 12.5.4 of the Neighbourhood Plan acknowledges the owner has no plans to dispose of the premises there is no evidence it is likely to come forward during the lifetime of the Plan. In view of this it still may be better to rely on a planning application to be decided on its merits, rather than rely on a site allocation policy in the Plan.
26. Policy 11a) - it would not be for the Neighbourhood Plan alone to decide what facilities the Healthcare Commissioning Body provides for the local community. The health centre is already a social and community use which is protected by Core Strategy CK1 and therefore an additional policy may be superfluous. The policy read by itself possibly weakens the current policy position as it refers to social and community uses. I am sure we can reach a policy that satisfies all parties
27. Policy 12a) - we note that the plan allocates Nursery Lane as a Local Green Space but not the other Local Green Spaces. Was this deliberate? All allocations would require viability evidence, and evidence that alternative options have been

considered. I think it would be useful to have a further discussion on this point to decide how much evidence is needed for examination purposes.

28. With regard to the wording of certain paragraphs, in paragraph 0.1.29 the suggested wording 'using the policies to make planning decisions' is stronger than carrying material weight, reflecting, as you say, that these policies become part of the Development Plan. I would therefore omit the reference to 'material weight.'

NPPG Guidance paragraph 006 on Determining a Planning Application sets out the position of policies and other material considerations: 'To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (see section 70(2) of the Town and Country Planning Act 1990 and [section 38\(6\) of the Planning and Compulsory Purchase Act 2004](#) – these provisions also apply to appeals).'

29. Paragraph 8.3.5 - apologies this was an error, the requested change should read 'Employment Zones' not 'Latimer Road'. The Enterprise Issues and Options Paper asked a series of questions about the future of the entire Borough's Employment Zones, including Latimer Road / Freston Road. Whilst not as explicit as it could be, Policy CF5 (j) allows a net loss of business floorspace for those uses which directly support the function and character of the zone. Such uses could include a small restaurant or coffee shop. This clearly does not go as far as you envisage in the Neighbourhood Plan but does allow supporting service uses.

I hope you find these comments useful.

Yours sincerely



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March 6th 2015

Dear Joanna,

St Quntin and Woodlands Draft Plan

Thank you for your letter of 27th February, responding to ours of the 10th and providing further comments on the StQW Draft Plan. We appreciate the time that the Department is taking in reviewing the Consultation Version, even if we do not agree with all your proposed revisions.

Purdah

Thanks for the clarification. We are not envisaging a referendum taking place before the General Election in May.

Selection of an Examiner

As per our previous request, we would like this process to get underway, and are happy for the NPIERS arrangements to be used. As we understand, NPIERS normally provide 3 CVs or descriptions of individual's expertise, from which local authorities and Forums can express a preference. Availability of individual Examiners may always be an issue.

The first step in the process is for us to agree with the Council on the areas of expertise sought for the examination of this particular NP. While London experience would be useful, it would not be top of our list of criteria in finding an Examiner best equipped to examine this particular neighbourhood plan.

As we have explained to Jonathan Bore, we are serious in our request that this next stage of the process is handled outside the Planning Department. You say you are unclear as to the nature of our concerns. May be you have not seen our letter to Jonathan of February 9th, which we did not copy to others (and to which we yet to receive a reply).

In the absence of any response from Mr Bore personally, we can only repeat our request that the Forum be allowed to work with a different department of the Council on the choice of Examiner. Mr Bore has said in writing that '*we will not allow*' certain outcomes from the Examination. He has not clarified who 'we' are, but in our view his email of February 5th has irredeemably compromised the role of the department in handling and overseeing what needs to be a visibly 'independent' examination of the neighbourhood plan.

Unless this issue is resolved at a meeting with Mr Bore, we will be submitting the Draft Plan to Nicholas Holgate with an explanation of what further steps the Council is required to take in seeing it through remaining stages of the process.

Formal consultation by RBKC on the Submission Version of the Draft Plan

Given the costs of the Council sending letters to all 1,700 or so households in the designated

neighbourhood, we think this step is unnecessary. Our last 'all household' leaflet was distributed in the first week of December, so not too long ago. We would welcome the Council funding a further leaflet at the start of the Council's publicity and consultation period. As you will have seen, we received responses from some but not all of the recommended statutory consultees (nothing from TfL or the GLA). So some agencies will need to be chased up during the final 6 week consultation.

Outstanding issues with the Draft Plan

Your letter includes a further long list of these. Some are issues raised for the first time. Others are points about e.g. proposed StQW conservation policies being deemed unnecessary, on which we have explained our reasons for wishing them to be included (i.e. to ensure clarity and to raise awareness amongst local residents). We will reply on these in due course.

There are some more fundamental issues amongst your latest comments, on which we are responding below:

'Reading alongside' (your paragraph 1)

On the first 4 lines of your paragraph, we have no problems. We agree that a NP does not cancel out 'other' Local Plan policies and have never suggested that it does. But policies in a NP (when made) do overtake and take precedence over previous LPA policies on the issues that they cover.

We objected strongly to paragraph 1.4. of the RBKC comments of January 23rd on the Draft Plan because it said that *'The Council's adopted policies will remain in force in the Neighbourhood Area and will be read alongside those being developed in the Neighbourhood Plan'*. This implied some form of merged view of the two would be applied by development control staff, which is not what paragraph 185 of the NPPF states. We have also been arguing against your comments (and a number of proposed edits) where these have insisted that the text of the Plan cannot use terms such as 'vary', 'fine tune', 'strengthen' or 'weaken' in relation to current RBKC Local Plan policies.

We do not see that it is 'misleading' to explain that a NP policy is different from a policy within the current Local Plan, or that the more recent policy will replace the former on adoption and hence vary what has gone before. Is it 'misleading' of RBKC to explain at 34.3 of the new Basement policy that this is a more restrictive regime than that which was applied previously? Clearly not. Why is this any different when a NP becomes part of the suite of documents in a Local Plan?

We have accepted that such terms such as 'vary', 'strengthen' or 'weaken' should not be used in the text of the policy statement itself, as there can be no certainty as to when a new Local Plan, or a chapter of a Partial Review, will be in place. But at the time each part of the Local Plan is 'made' (including neighbourhood plans) it seems to us sensible and necessary to explain how the new plan will impact on what has preceded it.

Clearly the policies in a NP are 'specific to the area' as they are only applied to decisions on development within the area. But within that area, as NPPF 185 on NPs makes clear *'once brought into force, the policies it contains take precedence over existing non-strategic policies in the Local Plan for that neighbourhood'*. As we see it, this position applies unless or until the NP is itself revised, or an area-specific Local Plan policy is subsequently adopted and becomes 'the most recent' plan.

So I am afraid that we still cannot agree with the last sentence of your paragraph 1 in your latest letter. But we welcome the clear statement (earlier in that paragraph) that where there is policy conflict between separate adopted elements of a Local Plan (e.g. between Norland NP policies and 2010 Core Strategy policies) *'the most recent will take precedence'*. This is the first time that the basic position set out in Para 185 of the NPPF, on precedence of NP policies, has been acknowledged by the Council in our many exchanges on this issue and at our several meetings.

Pre-application discussions (your paragraph 2)

On pre-application discussions, our view remains that 'involvement' of a neighbourhood forum should take the form of the LPA liaising with the forum, during the period of neighbourhood plan preparation, on applications for significant development within the designated area, as part of the process of issuing pre-application advice. How else can a LPA inform itself of views held by the NF (or parish council where this is the body involved)? Without such close liaison, what authoritative advice can the LPA provide on draft policies that may be changing, within an emerging neighbourhood plan ?

This is not an extreme viewpoint. It is consistent with LGA/Planning Advisory Service guidance on the pre-application process, as set out in their *Pre Application Advice Suite*. At page 9, this says *All LPAs should include arrangements in their pre-application offer for informing ward councillors and cabinet members of pre-application discussions happening in the area. Equally, the development of good sustainable developments will be aided by LPAs encouraging the active engagement of town and parish councils and formal neighbourhood forums at the earliest stages* (our emphasis). As we have pointed out before, a neighbourhood forum has a different legal status from other resident or amenity bodies.

Your letter suggests that the Council has decided against such involvement of neighbourhood forums in pre-application advice. This seems at odds with the open approach to community engagement which RBKC claims, as well as with the LGA/PAS advice. At present, the Council's web pages on the pre-application process make no reference to neighbourhood planning. Before any further neighbourhood forums are designated in the Borough, developers and residents need to be made aware of the changed position resulting from the Localism Act, as reflected in the LGA/PAS guidance.

We accept that this need for a LPA to liaise with a neighbourhood forum on pre-application advice applies mainly when neighbourhood plans in preparation, and that once 'made' it is the LPA which is the decision-maker on NP policies as part of Local Plan policies. We think that continuing dialogue on interpretation makes sense, and welcome the fact that this is now happening in relation to the Norland NP.

Dormer designs (your paragraph 3)

We would be happy to include in Annexe B of the Plan drawings of dormer designs, similar to those in the Oxford Gardens CAPS. We have no resources to produce these ourselves, as our grant funding from Locality ended December 31st. If your Conservation team can produce a couple of drawings, we will include them in the Submission Version. But time is pressing on this, as we are making final revisions to the Plan prior to submission. The text in Annexe B of the Plan already explains what the Council looks for in dormer design.

Latimer Road Draft policies 8a and 8b

Your letter provides no new legal advice as to why the boundaries of an Employment Zone

cannot be varied through a neighbourhood plan, with some sections de-designated. Hence we will stick with the advice we have had from Christopher Lockhart Mummery QC on this issue and await the decision of the Examiner.

As explained to Chris Turner at the recent workshop on the Enterprise Issues and Options paper, we agree with the Council that the use of Article 4 Directions should be considered, were RBKC to lose its whole borough exemption on PD rights. In this event, we would wish the StQW Plan and its policies to continue to protect employment floorspace on all ground floor premises in Latimer Road, as per the policies in the current Draft Plan.

We are therefore adding a further 'Action' to the Draft Plan, asking the Council to introduce an Article 4 that would remove any PD rights on change of use in relation to the ground floor of B class premises in the street were the 'whole borough' exemption to disappear. The areas/addresses specified in the Direction would be the same as for the four current sections of the EZ in Latimer Road. This would ensure that the balance of office and residential use in Latimer Road would remain as per the policies in the StQW Plan.

On your comments of Draft Policy 8d we again point out that 'wholesale conversion' to residential use in Latimer Road will *not* be an outcome of StQW policies. This is because the opportunity for change of use under StQW draft policies applies only to floors above ground and mezzanine level, thereby excluding all existing employment space at Units 1-14 and a significant part of the remaining B1 floorspace (the large office building at 316-319 for example is ground floor only). 'Wholesale' change of use is not on the cards, and we would welcome the Council ceasing to use such exaggerated language in relation to the StQW proposals.

As we have also said, we are confident that any loss of B1 floorspace on upper floors would be more than offset by more intensive office use of B1 space at Units 1-14, given a reasonable planning incentive for redevelopment of these premises.

Strategic policies

We have pointed you towards CLG PPG paragraph 076 in the past, so did not need reminding of its contents. We still don't understand why the Council chooses to distinguish and define which of its policies are 'strategic' by reference to the duty of co-operation, rather than the criteria in PPG 076. Your latest letter does not expand on this point. We do not consider that all elements of the Council's enterprise and housing policies meet the criteria of being 'strategic' and will leave this issue for the Examiner to grapple with.

Heights in Latimer Road

Following discussion at the last meeting of the StQW Forum, we have dropped the idea of using a fixed height guideline. Draft Policy 8e has been revised for the Submission Version to read:

StQW Draft Policy 8e: In order to restore the original urban form of the street, to allow increased building heights on the western side of Latimer Road subject to:

i) Consideration of heights of nearby buildings which range from four storey at the southern end to two storey at the northern end, and taking account of building heights in LBHF

ii) Meeting RBKC and national requirements on standards of daylight, sunlight, and visual

privacy for occupants of new development and for occupants of existing properties affected by development

iii) No harmful increase in the sense of enclosure to existing buildings and spaces and neighbouring gardens

We repeat our invitation to Cllr Coleridge, Jonathan Bore, Chris Turner and yourself to come and visit one of the Latimer Road units which has been modernised and converted for more intensive office use. This would include a presentation on how each of these units could be redeveloped with 10 housing units above existing B1 floorspace. We think that such a meeting would help to persuade the Council that our proposals for new housing in Latimer Road are both sensible and viable.

Pub at 274 Latimer Road

The St Helens Residents Association objected to the previous application (refused) for change of use of the Ariadne Nektar bar at 274 Latimer Road from a pub to a family house. The StQW Forum would not want to see the loss of an A4 premise. But StQW policies would not allow a change of use of the ground floor part of the building, and the flat above already has C3 use. So we do not see a risk of loss of the A4 use as a result of the StQW Plan, unless we are missing something?

Housing

More work has been done on this section of the Draft Plan in response to consultation. We have recognised the need for an options appraisal of potential housing sites, and have looked at examples of methodologies used in other NPs. I think that you were referring us to Para 046 of the CLG Planning Practice Guidance, rather than 046 of the NPPF?

We are not aware that RBKC has carried out any of the stages of a Housing and Economic Land Availability Assessment, or issued a call for potential housing sites, in relation the Local Plan? Or have we missed this? As we understand, the Council's SHLAA and its forecasts for the Mayor of London are confidential documents, unlike the comparable publications widely used by District Councils when consulting the public on potential housing sites?

If there is any document we should be looking at in terms of a RBKC assessment of individual housing sites in the StQW neighbourhood, please let us know? It seems a bit much for a NP to be required to present an options appraisal on possible sites when the Local Plan does not do this. But we have done our best to prepare such an appraisal.

We have not come across a requirement in either the NPPF or PPG for such a housing options appraisal to include a viability assessment? If there is one can you please point us to this?

Sustainability appraisal and SEA

We have asked in the past about the possible need for a full scale SEA. We share your view that this should not be necessary in the case of the StQW Draft Plan, taking account of recently updated guidance in CLG PPG 027.

Annexe A of the Consultation Draft of the StQW Plan contained a basic sustainability appraisal. Are you now saying that the Council believes that something more will be needed for the Submission Version? Paragraph 026 of CLG PPG says there is no legal requirement for a neighbourhood plan to include a sustainability appraisal.

Local Green Space designations

StQW Draft Policy 4a states clearly that all three of the St Quintin backlands are proposed for designation as Local Green Space, and this has always been the case in earlier draft (Section 12 of the Plan has been dropped, on the basis of your advice that it was repetitive). Annexe C of the Consultation Version of the Plan gave a detailed case for the Nursery lane land only, as designation of the other two sites appeared to be uncontroversial. In the light of comments received (including those from Jon Wade on the prospects for LGS designation of any private land) Annexe C to the Draft Plan has been revised and extended to cover all three backland sites.

We have tried to ensure that all three landowners are informed of these proposals. The Trustees for the Methodist Church have yet to respond on their land behind Kelfield Gardens. The owners of the Bowling Club land support the designation, and the position of the Legard family has been made clear. **Your letter refers to a requirement that proposed LGS designations must be accompanied by 'viability evidence'. Where is this stated, and what is meant by 'viability' in this context?** This particular requirement is new to us and we have not seen examples in other NPs, within which Local Green Spaces have been successfully designated.

Your paragraph 28

We do not agree that your suggested formulation of *'using these policies to make planning decisions'* is stronger than ours of making clear that NP policies, when made, carry *'material weight'*. The former could mean 'using but largely ignoring' in a scenario of NP policies being 'read alongside' Local Plan policies. We consider our wording to reflect CLG PPG 004 on neighbourhood plans.

The task of re-editing the Draft Plan to take account of consultation responses, including comments from your Department, is now very largely completed. The Submission Draft is shorter, with the more detailed material in the sections on Conservation and on Latimer Road transferred to the Basic Conditions Statement. Annexe C, on Local Green Space designations, is longer as we will clearly need to provide detailed evidence to satisfy and Examiner on these proposals.

I would welcome one further meeting, before we formally submit the StQW Plan, to run through the changes that have been made in the Submission Version and to discuss the Basic Conditions Statement and the Consultation Statement (the annexe to which you already have in draft). Are you able to make a time early next week?

Yours sincerely,

Henry Peterson
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Cc Jonathan Bore RBKC, Jon Wade RBKC
Libby Kinmonth, Clive Wilson, Norland Conservation Society