

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

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an Inspector appointed by the Secretary of State

Date: 5 July 2024

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Planning and Compulsory Purchase Act 2004 (as amended)

Section 20

## **Report on the Examination of the Kensington and Chelsea New Local Plan Review**

The Plan was submitted for examination on 8 February 2023

The examination hearings were held between 20 June 2023 and 20 July 2023

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## Contents

Abbreviations used in this report .....	4
Non-Technical Summary .....	5
Introduction .....	6
Context of the Plan.....	7
General Conformity with the London Plan.....	8
Public Sector Equality Duty .....	8
Assessment of Duty to Co-operate.....	9
Assessment of Other Aspects of Legal Compliance .....	10
Assessment of Soundness.....	10
Issue 1 – Whether the overall approach of the Plan, including its spatial strategy and vision is justified, effective and consistent with national policy and in general conformity with the London Plan? .....	10
Issue 2 – Whether the Plan is positively prepared and whether it is justified, effective and consistent with national policy and in general conformity with the London Plan, in relation to meeting housing needs, including specialist housing, and Gypsy, Traveller and Travelling Showpeople provision?.....	13
Issue 3 – Whether the Plan has been positively prepared and is justified, effective and consistent with national policy, and in general conformity with the LP, in relation to economic development and wider employment issues? .....	17
Issue 4- Whether the proposed residential/ mixed-use allocations and employment/mixed use allocations are justified, effective and consistent with national policy and in general conformity with the London Plan?.....	19
Issue 5 – Whether the Plan has been positively prepared and whether it is justified, effective and consistent with national policy and in general conformity with the London Plan in relation to the approach to housing land supply? .....	29
Issue 6- the Plan is justified, effective, consistent with national policy and in general conformity with the London Plan in relation to climate change, flood risk, healthy and safe communities, including waste management? .....	34
Issue 7 – Whether the Plan is justified, effective and consistent with national policy, and in general conformity with the London Plan in relation to its approach towards design and the historic and natural environment? .....	39

Issue 8– Whether t the Plan is justified, effective and consistent with national policy and in general conformity to the LP in relation to accessibility, and transport? ..... 43

Issue 9– Whether the Plan is justified, effective and consistent with national policy and in general conformity with the London Plan in relation to infrastructure provision, monitoring and viability?... ..... 44

Overall Conclusion and Recommendation ..... 44

Schedule of Main Modifications..... Appendix 1

## Abbreviations used in this report

dpa	dwellings per annum
AQFA	Air Quality Focus Area
AQMA	Air Quality Management Area
BLV	Benchmark Land Value
BtR	Build to Rent
DTC	Duty to Co-operate
EUV	Established Use Value
Framework	National Planning Policy Framework
GTANA	Gypsy and Traveller Accommodation Needs Assessment
HRA	Habitats Regulations Assessment
IDP	Infrastructure Delivery Plan
IIA	Integrated Impact Assessment.
LBHF	London Borough of Hammersmith and Fulham
LHNA	Local Housing Needs Assessment
LP	The London Plan 2021
MM	Main Modification
OA	Opportunity Area
OAHA	Opportunity Area Heights Analysis
OPDC	Old Oak and Park Royal Development Corporation
PM	Policies Map
PTAL	Public Transport Accessibility Levels
PV	Place Visions
PPG	Planning Practice Guidance
SoCG	Statement of Common Ground
VA	Viability Assessment
WCC	Westminster City Council

## Non-Technical Summary

This report concludes that the Kensington and Chelsea New Local Plan Review provides an appropriate basis for the planning of the Royal Borough provided that a number of main modifications [MMs] are made to it. The Royal Borough of Kensington and Chelsea has specifically requested that I recommend any MMs necessary to enable the Plan to be adopted.

Following the hearings, the Council prepared a schedule of the proposed MMs and carried out an Integrated Impact Assessment (IIA) of them. This overarching document includes the Sustainability Appraisal, Health Impact and Equalities Impact Assessment of the Plan. In addition, a further Habitats Regulations Assessment (HRA) screening took place of the MMs. The MMs were subject to public consultation over a six-week period. In some cases, I have amended their detailed wording and/or added consequential modifications where necessary. I have recommended their inclusion in the Plan after considering the IIA and HRA and all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- The provision of a spatial strategy.
- Highlighting the importance of trauma informed practice and the Council's Charter for Public Participation in the implementation of the policies of the Plan.
- Amending the housing trajectory and an updated housing position.
- Amending the Gypsy and Traveller policy to provide a positive approach to development and relying on the London Plan evidence.
- A number of other modifications to ensure that the plan is positively prepared, justified, effective and consistent with national policy.

## Introduction

1. This report contains my assessment of the Kensington and Chelsea New Local Plan Review (the Plan) in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan is in general conformity with the Spatial Development Strategy i.e. the London Plan (LP). It then considers whether the Plan's preparation has complied with the duty to co-operate, whether the Plan is compliant with the legal requirements and whether it is sound. The National Planning Policy Framework (paragraph 35) (Framework) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The revised National Planning Policy Framework was published in December 2023. It includes a transitional arrangement in paragraph 230 which indicates that plans submitted on or before 19 March 2024, such as this Plan, are to be examined against the provisions of the previous Framework published in September 2023. Therefore, unless stated otherwise, references in this report are to the September 2023 Framework.
3. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound and legally compliant plan. The Plan, submitted in February 2023 is the basis for my examination. It is the same document as was published for consultation in October 2022, other than with the addition of some additional modifications which I agreed could be taken to form part of the submitted Plan [EX4].

## Main Modifications

4. In accordance with section 20 (7C) of the 2004 Act the Council requested that I should recommend any main modifications (MMs) necessary to rectify matters that make the Plan unsound and /or not legally compliant and thus incapable of being adopted. My report explains why the recommended MMs are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2** etc, and are set out in full in the Appendix.
5. Following the examination hearings, the Council prepared a schedule of proposed MMs and carried out further Integrated Impact Assessment (IIA) and Habitats Regulation Assessment (HRA) of them. The MM schedule was subject to public consultation for six weeks. I have taken account of the consultation responses in coming to my conclusions in this report and in this light, I have made some amendments to the detailed wording of the MMs and added consequential modifications where these are necessary for consistency or clarity. None of the amendments significantly alters the content of the MMs as published for consultation or undermines the participatory processes and sustainability appraisal/habitats regulations assessment that has been undertaken. Where necessary I have highlighted these amendments in the report.

## Policies Map

6. The Council must maintain an adopted policies map (PM) which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission PM showing the changes to the adopted PM that would result from the proposals in the submitted local plan. In this case, the submission PM, which was mistakenly given the title of Proposals Map, is identified as CD1/04.
7. The PM is not defined in statute as a development plan document and so I do not have the power to recommend MMs to it. However, a number of the published MMs to the Plan's policies require further corresponding changes to be made to the PM, including a number of new layers. In addition, there are some instances where the geographic illustration of policies on the submission PM is not justified and changes to the PM are needed to ensure that the relevant policies are effective.
8. These further changes to the PM were published for consultation alongside the MMs [EX 55]. In this report I identify any amendments that are needed to those further changes in the light of the consultation responses.
9. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted PM to include all the changes proposed in [CD01/04] and the further changes published alongside the MMs [EX56], incorporating any necessary amendments identified in this report.

## Context of the Plan

10. The Plan has been prepared in the context of the LP which has set the high-level planning framework in which the Plan must operate. The LP identified two Opportunity Areas (OA) within the Royal Borough of Kensington and Chelsea. One of these, at Earl's Court straddles the boundary with the London Borough of Hammersmith and Fulham (LBHF), and the other is at Kensal Canalside.
11. These OAs are not only important for the Royal Borough, but due to the quantum of development proposed, for London as a whole.
12. The Royal Borough is bound by the river Thames to the south, with the London Borough of Wandsworth on its southern banks. The London Borough of Hammersmith and Fulham (LBHF) lies to the west and shares the Earl's Court OA as identified in the LP. The London Borough of Brent (LBB) abuts the north of the Borough. Westminster City Council (WCC) flanks the eastern boundary of the Royal Borough. The Old Oak and Park Royal Development Corporation (OPDC) sits within the LBB and LBHF but also shares a boundary.

13. Kensington and Chelsea is a built up, densely populated, central London borough with a population of c 156,000<sup>1</sup>, and contains a significant number of heritage assets of national importance. Therefore, the opportunities for further significant developments are constrained, predominantly relying on the reuse, conversion, and redevelopment of sites. It also has some of the highest property values in the country [CD7/09] and a significant proportion of its homes are not a principal residence, exacerbating the already acute issues of affordability.
14. Moreover, it serves as a globally renowned tourist hub, with internationally recognised cultural and educational facilities. It hosts some of the most famous retailers in the world, and its many centres have their own distinctive identities.
15. Its population is a mix of different cultures with significant wealth and other disparities. The Grenfell Tower tragedy continues to impact on its communities with the Council having committed to an immediate review [CD9/02] of the adopted Local Plan 2019.
16. Following this review, twelve policies are to be saved and remain part of the adopted plan, some deleted, and others replaced by the Plan which is the subject of this Examination.

## **General Conformity with the London Plan**

17. The Plan must be in general conformity with the Spatial Development Strategy ie the LP 2021, under the terms of S24 of the Planning and Compulsory Act (as amended). There are a number of areas where the Mayor of London considers that further changes should be made to make it more consistent with the LP. Where these go to the tests of soundness, I have recommended MMs in my report below. Nonetheless, he has concluded that the Plan is in general conformity with the LP [CD3/02] and I have no reason to come to a different position. Therefore, I conclude the Plan is in general conformity with the LP.

## **Public Sector Equality Duty**

18. Throughout the examination, I have had due regard to the equality impacts of the Plan in accordance with the Public Sector Equality Duty, contained in Section 149 of the Equality Act 2010. This amongst other matters, sets out the need to advance equality of opportunity and foster good relationships between people who share a protected characteristic and those who do not.
19. There are specific policies concerning specialist accommodation for the elderly, gypsies and travellers and accessible housing and environments, as well as social and community uses that should directly benefit those with protected characteristics. In this way the disadvantages they suffer would be minimised and their needs met in so far as they are different to those without a relevant protected characteristic.

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<sup>1</sup> Figure 1.6 of Plan.



## Assessment of Duty to Co-operate

20. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
21. As set out above, the LP deals with a range of strategic matters. This includes establishing housing targets for each of the London Boroughs. Given the small geographical size of the Royal Borough and the close physical, visual and functional relationship with neighbouring boroughs, including the Earl's Court OA shared with LBHF, and Kensal Canalside OA which has close links with OPDC, there are a number of strategic matters which were of relevance during the preparation of the Plan. These include the approach to tall buildings, with reference to Earl's Court, heritage issues, protected views, the Grand Union Canal, waste management and providing for the needs of the gypsy and traveller communities, as well as the extent of large centres which due to the proximity of neighbouring authorities and their accessibility, are likely to draw people from outside of the borough. Moreover, the Knightsbridge International Town Centre is shared with WCC.
22. Green and blue infrastructure, with its associated biodiversity issues, and sporting facilities will be utilised on a cross boundary basis. Therefore, a general level of co-operation has been accepted between neighbouring authorities on these matters.
23. The Council intends to meet its housing and business needs in full, and conversely has not been asked to provide any capacity for its neighbours.
24. The Council has good working relationships with the Greater London Authority, neighbouring London Boroughs and other relevant organisations and has demonstrated close co-operation on these various strategic matters during the preparation of the Plan, as agreed in a general and a specific waste SoCG [CD4/02 and CD4/03]. However, I am aware that on the matter of Earl's Court it was not possible to come to agreement prior to the submission of the Plan. This is reflected in a Position Statement by LBHF on this topic [CD4/04]. Nonetheless, the extent of on-going co-operation, including with the relevant prescribed bodies, has helped to shape the policies in the Plan.
25. As such, I am content that, prior to the submission of the Plan, the Royal Borough and the relevant bodies have where necessary, engaged, constructively, actively and in an ongoing basis, such that the legal duty to co-operate has been satisfied.
26. This does not require that all those involved have necessarily found agreement. Where matters of soundness have been raised in representations to the submitted plan, I have considered them below.

## Assessment of Other Aspects of Legal Compliance

27. The Plan has been prepared in accordance with the Council's Local Development Scheme [CD2/05].
28. Consultation on the Plan and the MMs was carried out in compliance with the Council's Statement of Community Involvement (2020) [CD2/04] and the requirements of Regulations.
29. The Council carried out an IIA of the Plan, which included a sustainability appraisal, health impact assessment, and equalities impact assessment of the Plan, prepared a report of the findings of the appraisal, and published the report along with the plan and other submission documents under regulation 19 [CD5/05]. The appraisal was updated to assess the main modifications [EX58].
30. The Habitats Regulations Assessment Screening Report [CD6/01] sets out why an AA is not necessary.
31. The Development Plan, taken as a whole, includes policies to address the strategic priorities for the development and use of land in the local planning authority's area. Furthermore, the Plan includes policies designed to secure that the development, and use of land in the local planning authority's area contributes to the mitigation of, and adaptation to, climate change.
32. The Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.

## Assessment of Soundness

### Main Issues

33. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified nine main issues upon which the soundness of the Plan depends. This report deals with these main issues. It does not respond to every point or issue raised by representors. Nor does it refer to every policy, policy criterion or allocation in the Plan.

### **Issue 1 – Whether the overall approach of the Plan, including its spatial strategy and vision is justified, effective and consistent with national policy and in general conformity with the London Plan?**

#### Plan period

34. As submitted, the Plan is ambiguous as to when the Plan period starts and when it ends. Therefore, to ensure that the Plan is effective **MM1** is required to make clear the time frame over which the policies of the Plan relate. The Framework requires a review of any development plan every five years. However, given the particular severe development constraints within the Royal

Borough, **MM3** is required to ensure that the Plan is reviewed promptly to ensure that if housing is not coming forward at a sufficient pace, that the policies of the Plan can be amended, including through bringing forward new allocations. Following the consultation, I have amended this MM, to include reference to the needs of the Gypsy and Traveller community as well as that of the settled community.

### **Conformity with the London Plan**

35. As set out above, the Plan is in general conformity with the LP. However, to clarify the relationship between the plans, to enable the Plan to be effective, an explanation is required of how the policies of the two plans interrelate. This is set out in the new Appendix 5 as per **MM2**.

### **Spatial Vision, Spatial Strategy and Place Visions.**

36. The submitted Plan sets out an aspirational but realistic spatial vision to achieve Good Growth as defined in the LP: that is growth which is socially and economically inclusive and environmentally sustainable. The vision for growth and future development within the Borough is broken down into three categories of green, inclusive, and liveable. This phrase is used throughout the Plan. Therefore, to be effective, a definition is required within the Glossary **MM355**.
37. However, whilst the Plan contains a vision, and has a development strategy which underpins the policies of the Plan, and is in general conformity with the LP, this has not been made explicit as an overarching spatial strategy. Therefore, **MM5** is required to set out new policy which provides a clear spatial strategy for the Borough focussing commensurate growth to the OAs and other large allocations; areas with the potential for some change; the larger town centres, and the local centre and neighbourhoods. This ensures that the Plan is positively prepared, justified, and effective. I have however, amended the wording of the MM, to keep the supporting text referencing the differentiation between strategic and non- strategic policy within Appendix 3. In addition, Appendix 3 as submitted it is not accurate in defining strategic and non-strategic policies. Accordingly, **MM380** is necessary for it to be effective.
38. Individual Place Visions (PV) are set out which define how specific areas within the Borough are intended to develop, including those identified as Site Allocations. Each PV is accompanied by an OS map-based figure which should be treated as for illustrative purposes only. **MM244** and **MM245** are required to move these policies, and the individual Site Allocations from the back of the Plan to immediately follow the Introduction, and to clarify the status of the inset plans. This is to ensure effectiveness.
39. The PVs for the two OA's, of Kensal Canalside and Earl's Court, require modifications **MM246** and **MM248** to be effective. This is to ensure that they accurately reflect the requirements and constraints of the two development sites. The PV for Kensal Canalside should be modified to underline the

importance of providing community facilities and high-quality design, which takes into account the significance of nearby heritage assets. The wording of the PV for Earl's Court should be altered to emphasise that the OA will include a cultural facility of world class quality and with a world class reputation.

40. As submitted Policies PLV8, PLV9, PLV11 and PLV15 require modification to ensure that they are accurate, including reference to the need for the Council to co-design with the community, for the policies to be up to date, and to accurately and clearly articulate the extent and particular characteristics of the individual PVs in an unambiguous fashion. Therefore, **MM249, MM250, MM251, MM253, MM254, MM255, MM256, MM257, MM258, MM259, MM260** and **MM376** are required to enable these policies of the Plan as submitted to be effective.

### **Elevation of studies to development plan status and deferral to other bodies**

41. Individual policies within the Plan have inappropriately elevated specific studies, and guidance to development plan status. Examples of this include within Policy GB1: Sustainable Retrofitting where there is reference within the policy text to specific third-party standards such as Energiesprong, and within GB4: Energy and Net Zero Carbon, to the Mayor of London's most up to date energy assessment.
42. Conversely, the supporting text should not be written so that it could be perceived to have the status of policy.
43. Consequently, for the Plan to be effective the following MMs are required to delete such references from the policy text and where necessary to include additional wording within the supporting text, to provide an effective policy framework **MM6, MM8, MM11, MM17, MM18, MM20, MM28, MM29, MM31, MM33, MM39, MM40, MM50, MM55, MM62, MM194, MM226, MM247, MM252, MM301, and MM315.**

### **Other**

44. The Grenfell Tower tragedy continues to impact on those living and working in the Royal Borough. As such in the interests of effectiveness **MM4** and **MM370** are required to ensure that trauma informed practice and an alignment with the Council's Charter for Public Participation guides the implementation of the policies of the Plan

### **Conclusion**

45. Subject to the MMs set out above, the overall approach of the Plan, including its spatial strategy and vision is justified, effective and consistent with national policy and in general conformity with the LP.

## **Issue 2 – Whether the Plan is positively prepared and whether it is justified, effective and consistent with national policy and in general conformity with the London Plan, in relation to meeting housing needs, including specialist housing, and Gypsy, Traveller and Travelling Showpeople provision?**

### **Housing target**

46. As presented it is unclear what the housing target is within the Plan, and the relevant plan period. In addition, there is ambiguity relating to both the quantum of housing required and how it links to Policy H1 and Table 4.1 of the LP which set out, for the period 2019/20 to 2028/29, the 10-year target for each London borough. For Kensington and Chelsea this is a figure of 4,480 dwellings.
47. The Plan annualises the existing shortfall of delivery against the LP over a ten-year period. However, this ten-year period does not correlate to the LP. In order for the plan to be effective **MM101** is required to paragraph 3.10 of the supporting text to make explicit that the housing requirement is based on that set out in the LP whose base date is 2019. In addition, the updated existing shortfall in delivery against the LP should be attributed to the first five years of the Plan following adoption, which is the last half of the LP.
48. The Plan period runs to 2043/44. The LP does not provide a target moving forward from 2029/30. However, the Council has taken a pragmatic approach to roll forward the annualised LP target of 448 dwellings to April 2038. It is not clear why this cut-off date has been chosen given that the plan period runs to 2043/44. Consequently, to be effective, **MM97** is required to Policy HO1: Delivery and Protection of Homes to make explicit that the delivery of homes, averaged at 448 dpa over the plan period is expected to take place up to 2043/2044.
49. I am aware that, as the responsibility for setting the housing target lies with the LP, this figure is likely to change over the Plan period. However, this will be addressed as part of any forthcoming review of this Plan. Nonetheless, this long-term requirement gives certainty and takes a positive approach to the delivery of housing within the Borough consistent with the objective of significantly boosting the supply of homes. In the interests of effectiveness other consequential changes are required to the supporting text as **MM100**, and **MM102**.

### **Community Housing**

50. The median sales value of a property in the Plan area is around £1.4 million. Unsurprisingly, the Royal Borough of Kensington and Chelsea has an acute issue with affordable housing, which the Plan refers to as community housing, with an annual need for 1,018 dwellings [CD7/10]. It is unrealistic to expect that the Plan will be able to deliver this quantum of affordable housing. However, the Council's Local Plan Viability Study [CD7/01] demonstrates, overall, that,

market housing is able to viably provide the quantum of affordable housing set out in the LP. Nonetheless, in the interests of effectiveness **MM110**, **MM114** and **MM116** are required to Policy HO3: Community Housing and its supporting text to reference viability. This is because it is unclear what is meant by a 'reasonable' or 'deliverable' amount of community housing.

51. As submitted, the Plan relates to floorspace when calculating a percentage of community housing. The supporting text of Policy H5 of the LP prefers the use of habitable rooms as a metric. Nonetheless, the LP is clear that habitable floorspace, may in some circumstances be appropriate. Therefore, to be effective and consistent with the LP, habitable rooms should be referenced within Policy HO3. In the light of representations made in response to the consultation I have made further amendments to **MM109** to make the policy effective in this regard. Moreover, the disparate housing requirements of the wider community need to be considered. As such, **MM121** is required to ensure the Plan is positively prepared.
52. Given the acknowledged requirement for community housing, it is vital that new community housing is provided within the Royal Borough and is integrated within developments. However, when housing is built on public sector land and where there is an agreement with the Mayor, the excess beyond a 35% threshold can be located outside of the Borough. To ensure that the Plan is both effective and consistent with both national policy and the LP, **MM115**, which I have amended in the interests of clarity, together with **MM111**, and **MM119** are necessary.
53. Since the Plan was submitted grant funding is no longer available for London Affordable Rent. Therefore, to be effective **MM112**, **MM113**, **MM117** and **MM118** are required.
54. Policy HO5: Specialist Housing as submitted is clear that older person's housing will be required to provide community housing within schemes and is cross referenced to Policy HO3. However, as worded the policy and supporting text requires amending to make clear that care homes are not expected to provide community housing. As such in the interests of effectiveness the following MMs are necessary **MM123**, **MM124**, **MM127** and **MM128**.
55. The Council has committed to end estate regeneration on Council owned estates. Policy HO7: Estate Renewal relates to estates owned and managed by other providers. To be effective the policy as submitted requires amending to tighten the wording to be explicit that estate renewal must benefit the tenants; they should be able to remain on the estate; there should be a net increase in housing numbers and that any redevelopment will provide a high-quality environment. Therefore, **MM137**, **MM138**, **MM139**, **MM140**, **MM141**, and **MM142** are required.

### **Adaptable and accessible housing**

56. As submitted it is unclear how Policy HO4: Housing Size and Standards would be applied and implemented. Therefore, it is not effective and in the interests of clarity **MM120** and **MM122** are required.

### **Older person's and specialist housing**

57. The Framework and the PPG are clear that local authorities should plan for older people with the requirement being described as 'critical' [PPG: ID: 63-001-20190626]. This is reflected in the Council's Local Housing Needs Assessment (LHNA) [CD7/10] which reports a significant rise in both the over 65s and the over 80s as a proportion of the population. As such, it is important to take a flexible and positive approach to housing designed for these age groups and to make explicit the wide variety of housing which is suitable. Therefore, to be consistent with national policy **MM126** and **MM369** are necessary to the supporting text of Policy HO5 and the Glossary.
58. The Framework is clear that plans must cater for different groups in the community. As submitted, the Plan does not take a positive approach to the provision of new hostels or move-on accommodation for rough sleepers. Therefore, to make the Plan positively prepared **MM125** and **MM129** are required.
59. Build to Rent (BtR) housing and co-living schemes are explicitly not supported within the Borough in the Plan as submitted. However, whilst I note that the average rent for BtR may be higher than the median private rented sector property and that the market rents are unlikely to be affordable to key workers, this argument does not preclude the provision of such housing, especially when the Council's VA (Viability Assessment) [CD7/01] considers community housing to be viable within the sector. In the context of a Borough whose median sales value is c £1.4 million pounds, housing for private sale is unlikely to be within the financial reach of key workers. Therefore, to exclude a particular rental sector for this reason appears counterintuitive. Moreover, given the business model, such properties are likely to come to market quickly, and thereby provide much needed market and community housing, with 70% of the community housing provided at social rent levels and increase the viability of complex developments.
60. **MM130**, **MM134** and **MM135** are necessary to set out a positive approach to BtR, but at the same time ensure that such schemes are built as part of wider developments, with a mixture of tenures and housing models, and that the BtR schemes deliver community housing at a level consistent with Policy H03.
61. Similarly, co-living schemes have the potential to add to the mix of housing available within the Borough. This is not reflected in the wording of Policy HO6: Other Housing Products as submitted. Therefore, **MM131** sets out a positive approach to co-living, but includes strict criteria to ensure that any proposals which come forward successfully contribute to the wider mix of housing and

promote balanced communities. However, following consultation I have removed the superfluous reference to a ratio of 1:8.

62. Policy H15 of the LP supports the provision of purpose-built student accommodation (PBSA). Whilst Kensington and Chelsea hosts four higher education universities as well as numerous language and other schools, Policy HO6 as submitted, does not provide a positive approach to the provision of new PBSA. Nor does it allow older accommodation which is incapable of being renovated to meet modern standards to be released from student use. To make the policy positive in relation to PBSA, and consistent with the LP and national policy, **MM132**, **MM133** and **MM136** are required. These modifications ensure that an appropriate mix and quantum of student housing is developed, at an appropriate cost, to include affordable student accommodation without adversely impacting on other competing demands for housing within the Borough.
63. Houses in Multiple Occupation (HMO) play a particularly important role in a market characterised by high values. Therefore, the Plan protects HMOs from redevelopment. However, as submitted, the wording of criterion D of Policy H01 is not effective, and therefore **MM99** is required.
64. To significantly boost the supply of homes a positive approach to housing development is required. As such Policy H01 as submitted requires modification to make this explicit through **MM98**.

### **Small Sites**

65. Many of the windfall sites which come forward for development will of necessity be small. Given the peculiar issues of exceptionally high housing costs, and the reliance on the two OAs for the bulk of the housing proposed over the Plan period, a positive approach to the development of small sites is required. Small sites can also provide the flexibility to provide self-build and custom-built homes, as well as being suitable for community-led housing. Neighbourhood Plans are particularly well positioned to identify such sites.
66. Therefore, for the Plan as submitted to be effective and consistent with the LP and national policy, and to positively articulate the importance of bringing forward small sites **MM105**, **MM106**, **MM107**, and **MM108** are required to Policy HO2: Small Sites and its supporting text.

### **Accommodation for Gypsies and Travellers, Travelling Showpeople and other caravan dwellers**

67. As submitted the Plan referenced a 2016 Joint Gypsy and Traveller Accommodation Needs Assessment (GTANA) A further Joint GTANA dated October 2022 [CD7/12] was published. However, during the examination hearings the Council accepted that there were difficulties with the Joint GTANA studies produced with the LBHF. It was therefore considered appropriate by the Council that the requirement set out in Policy H14 of the LP, derived from a



London wide GTANA 2008 study, should be relied upon for plan making and development management purposes.

68. Whilst this is a much older study, it sets a need for nine additional pitches for Gypsy and Traveller accommodation, with no reference to transit sites or the needs of Travelling Showpeople. This requirement for pitches is greater than both subsequent studies suggested. These relied on a strict adherence to the pre- December 2023 Planning Policy for Traveller Sites (PTSS) definition of Gypsy and Travellers. As an interim measure, given the clear issues with the previous studies which the Council recognises, the reliance on the 2008 GTANA is a pragmatic approach, as a further London wide study is imminent and is due to be completed by the end of 2024.
69. The 2024 GTANA will provide an up-to-date evidence base to inform Gypsy and Traveller provision within the Borough, and in the neighbouring LBHF. Moreover, it will include those who culturally identify as part of the Gypsy and Traveller community [EX52]. Therefore, given that an up-to-date, London wide study is to be provided within the year, and this is likely to be quicker than arranging for a further report to be researched and written, no purpose would be served by delaying the adoption of the Plan to duplicate work which is already in train. Consequently, **MM143** and **MM146** are necessary to ensure that the Plan is effective and justified. However, I have made a further amendment to **MM146** following the consultation to emphasise the importance of meeting the existing and further need of those living in Stable Way. This is a site, located under the busy Westway, which is jointly managed by both Kensington and Chelsea and LBHF.
70. To be consistent with Policy H14 of the LP, the identified need for nine further pitches to serve the needs of the Borough must be made explicit within the Plan. Hence, **MM147** is required.

## **Conclusion**

71. Subject to the MMs identified above, the Plan is positively prepared and justified, effective and consistent with national policy, and in general conformity with the LP, in relation to meeting housing needs, including specialist housing, and Gypsy, Traveller and Travelling Showpeople provision.

## **Issue 3 – Whether the Plan has been positively prepared and is justified, effective and consistent with national policy, and in general conformity with the London Plan, in relation to economic development and wider employment issues?**

72. Given the high land values in Kensington and Chelsea, the need to protect employment uses, ranging from existing offices to storage or distribution, is vital. As is ensuring that the location of any new office development follows the sequential test. This should include locating in the two new OAs, as well as

established Employment Zones at Lots Road, Kensal and the Freston/Latimer Road Employment Zone.

73. It is particularly important and necessary in a densely populated borough that the long-term future of employment uses is maintained, including low value sectors such as storage or distribution. This should include the retention and enhancement of a wide gamut of employment activities which are not only important as sources of employment but also add to the Royal Borough's character. As submitted Policy BC1: Business Uses and the accompanying supporting text of the Plan, is vague as it does not explicitly recognise the peculiar characteristics of the employment uses within the Borough. Moreover, it does not positively set out a framework for meeting the forecast need for some 9,000 sq. m of industrial and storage or distribution uses over the plan period. Nor does it set out clearly how existing employment sites, whether allocated or not, are to be protected in a manner consistent with the LP.
74. The principle of the agent of change must underpin the policy context in which decisions are made and this should be defined within the Glossary. Moreover, there are instances where there is duplication, and lack of clarity in the wording of Policy BC1, and it is therefore not effective. Consequently, **MM44, MM45, MM214, MM215, MM216, MM217, MM218, MM219, MM220, MM221, MM222, MM223, MM224, MM225, MM226, MM227, MM228,** and **MM347** are required.
75. Policy BC3: Affordable Workspace, which relates to the provision of affordable Class E (g) workspace, is not effective as submitted, as it is unclear what percentage of employment floorspace should be provided at what rate and for how long. Consequently, to be found sound, **MM229** and **MM230**, are required. To ensure consistency with these MMs relating to affordable workspace, further consequential MMs (**MM267, MM288**) are required to Policies SA1 and SA2 for the two OAs. Other than **MM230**, which remains unaltered following consultation, I have made further amendments to **MM229, MM267** and **MM288** to ensure clarity and internal consistency.

## Town Centres

76. There are a wide range of centres within the Borough, ranging from those which have been defined in the LP, such as the International Centre at Knightsbridge to locally designated neighbourhood centres which cater for the day to day needs of residents. Each have different characters identified in the relevant vision policies. However, the Plan as submitted, does not set out clearly the differing roles of the various centres within the town centre network; detail the extent of primary and secondary frontages; nor provide a definition of retail deficiency and as such requires MMs. Furthermore, to ensure that the geographical application of the policy is clear, a new layer is required on the PM to reflect the location of the town centres and the extent of the primary and secondary retail frontages of the Higher Order Town Centres.

77. Moreover, the wording of Policy TC1 should be modified to be clear how the sequential test is to be implemented, and to ensure that the new local centres within the two OAs are defined as neighbourhood centres. This is to reflect their limited role, and to ensure that they do not adversely impact on the vitality and viability of other nearby established centres. This will also require further MMs to Site Allocation Policies SA1 and SA2 which are considered below.
78. As worded Policy TC2, which relates to development within town centres, is overly prescriptive and requires a number of changes to ensure that it is effective and links to the visions for the individual centres. Similarly, Policy TC3 needs amending to be clear how the percentage threshold relating to retail frontages is to be implemented, with a consequential additional entry into the Glossary.
79. As such, **MM202, MM203, MM204, MM205, MM206, MM207, MM208, MM209, MM210, MM211, MM354, MM363 and MM383** are required to enable the Plan to be effective in relation to its town centre policies.
80. Hotels are defined as a main town centre use within the glossary to the Framework and are an integral part of the visitor economy for Kensington and Chelsea and London as a whole. However, Policy TC8 Hotels and the accompanying supporting text is not positively worded in respect of the expansion, upgrading and diversification of existing hotels, and therefore requires amendment through **MM212** and **MM213**. Moreover, a layer illustrating the SW5 postcode should be included on the PM to make the policy effective.

## Conclusion

81. Subject to the MMs set out above, the Plan has been positively prepared and is justified, effective and consistent with national policy, and in general conformity with the LP, in relation to economic development and wider employment issues.

## **Issue 4 - Whether the proposed residential/ mixed-use allocations and employment/mixed use allocations are justified, effective and consistent with national policy and in general conformity with the London Plan?**

### Opportunity Areas

#### *SA1- Kensal Canalside Opportunity Area*

82. Kensal Canalside is identified as an OA in Policy SD1 of the LP. This suggests an indicative capacity for 3,500 new homes and 2,000 new jobs for the site as a whole. The site is some 15.4 ha in area and is split into two by the Great Western Mainline, with the North Pole Depot site to the south, and to the north land owned by the National Grid, which includes two former gasholders, land owned by Ballymore and a Sainsbury's supermarket. Canalside House, the

Water Tower and the Boathouse Centre also fall within the site. To the west is the Old Oak and Park Royal OA. It is currently allocated within the adopted plan.

83. The northern edge of the allocation is bound by the Grand Union Canal and towpath, beyond which, on the other side lies Kensal Green (All Souls) Cemetery. This was the first of the Magnificent Seven Cemeteries built to house the dead of an expanding London. When first opened it lay within a peaceful rural context outside of the city. However, as London expanded it has since become engulfed on all sides by a busy urban environment, including the industry, gas holders and large supermarket at Kensal Canalside. Nonetheless, notwithstanding the surrounding urban context, due to its scale, layout, and mature trees, it still retains a tranquil character reminiscent of its origins and consistent with its continued function as a cemetery. It is a designated heritage asset of the highest order being a Conservation Area, and a Grade 1 Registered Park and Garden of Special Historic Interest. It includes funerary monuments some of which themselves are listed buildings and fall within Historic England's Heritage at Risk register. In addition, to the east of the site on Ladbrooke Grove are Kensal House and Kensal Nursery. Both of which are Grade II\* listed buildings built in the 1930s.
84. The Framework is clear that plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay, or other threats. As submitted, Policy SA1 does not adequately address this positive approach, nor reflect the importance attributed to designated heritage assets within the policies of the LP. During the examination, Historic England and the Council signed a Statement of Common Ground which I have carefully considered [EX5]. In the light of this, to be both effective and consistent with national policy and the LP, Policy SA1 and the supporting text requires strengthening through **MM261**, **MM263**, **MM274**. Following consultation on the MMs, I have made a further change to **MM263** to ensure that it uses the correct nomenclature.
85. To achieve the quantum of development envisaged on the site, and to enable the provision of the associated infrastructure required to make Good Growth, the site has been identified as being suitable for tall buildings. In an urban environment such as Kensington and Chelsea the townscape will of necessity evolve. The evidence which the Council has put forward in its Opportunity Area Heights Analysis studies [CD7/33, CD7/34 and EX39] is sufficiently robust in relation to the principle of the allocation and as a means to inform appropriate height parameters. Nonetheless, this evidence makes clear that the optimum heights tested in the addendum should not be treated as a blueprint for future development. I am content that the detailed parameters set within the site allocation will provide adequate safeguards to facilitate the development of a well-designed and accessible urban environment.
86. However, to ensure that the height and distribution of development within the site is optimised, appropriate and design led, and therefore effective, and

consistent with both the LP and the Framework, the policy requires amending to avoid any ambiguity, by including a height threshold in metres and a clear delineation of where within the site the height thresholds will operate. Therefore, **MM261**, and **MM270** and **MM377** are required. **MM264** is necessary to emphasise the importance of a design led approach to optimise the successful delivery of development on site. However, it would not be appropriate to set out the precise locations for tall buildings, which would be better considered as part of a planning application that could be tested against the detailed accompanying evidence and would be able to flexibly respond to the wider environment, including designated heritage assets.

87. As submitted the levels of housing and employment proposed within the allocation are broadly in line with the indicative figures provided in Table 2.1 of the LP. Given the sensitivity of the site it would not be justified to utilise a minimum figure where this could result in a development which is inconsistent with the positive strategy towards heritage assets set out above. However, it may well be possible with excellent standards of design compatible with the wider context, to successfully deliver a development which provides substantially more. Therefore, **MM265** and **MM266** are required to ensure that levels of development consistent with the constraints of the site are delivered.
88. Considerable investment in the quantum and quality of the supporting transport, social and economic infrastructure, including off-site, will be needed to produce a successful community consistent with the objectives of Policy SD1 of the LP. However, as submitted Policy SA1 is not effective and requires modification to be clear both in how the development will be implemented, and the extent of the supporting infrastructure. The detail of the infrastructure required, including any off-site transport infrastructure, will of necessity in a development of this scale, be considered as part of any planning application. Therefore, **MM262**, **MM268**, **MM269**, **MM273**, **MM275**, **MM276**, **MM277** and **MM278** are needed.
89. In the past there has been a long-standing commitment for a new station on the Elizabeth Line on the site. Transport for London confirms that no further feasibility work is intended within the lifetime of the Plan, and that were it to be progressed it would be required to be technically and operationally feasible. In addition, an increase in journey times and crowding on the line would not be acceptable.
90. I have no doubt that improvements to bus services within the OA would provide good quality public transport, such that the site is capable of being made accessible through the intensification and extension of bus routes within the allocation [CD7/24] without relying on a new station on the Elizabeth Line.
91. Nonetheless, having carefully considered the evidence, I am content in a time of uncertainty in infrastructure provision, notwithstanding that the Borough do not envisage that further feasibility studies for a station are to come forward within the lifetime of the Plan, that the additional benefit of a new station means that its long-term safeguarding remains appropriate. The policy requires

modification to make explicit that the land is being safeguarded over the long term and that a 'meanwhile use' should be integrated within the wider development. As such, to be effective **MM271** and **MM272** are required.

92. To be consistent with the LP and to be effective **MM279** is necessary to be clear that the OA is to deliver net zero carbon development.
93. I have carefully considered all the viability evidence provided, including the Kensal Canalside Abnormal Costs note [EX40] and am aware that the Council's VA Assessment [CD7/01] considers that residential sales values in this location to be the lowest in the Borough, with commercial rates the same as at Earl's Court.
94. I note that such complex sites require considerable upfront infrastructure. The policy explicitly references that some of this may be constructed through forward funding, where the Council or another body is recompensed for the cost of the development through a S106 obligation. This would significantly reduce risk and improve cash flow for any developer. Moreover, I concur with the approach taken in the Council's VA study<sup>2</sup> which references that in general abnormal costs are to be considered as cost neutral when determining Benchmark Land Value.
95. Given that the varied and specialist land uses within the site may not readily equate to generic secondary industrial land, further consideration may be required as to the levels at which the Existing Use Value (EUV) has been gauged within the Kensal Canalside Development Infrastructure Funding Study Refresh [CD7/26]. Similarly, there will be variations in the returns which the various landowners might reasonably expect depending on whether the land is in public ownership [EX25]. As such, given the complexities of the site, such fine grain issues, would be best explored in support of a planning application which references the delivery of the site as a whole.
96. As such, I am content that it would be possible to implement the wider redevelopment of the OA, which would provide both the development required and the associated infrastructure to facilitate Good Growth. If at the detailed application stage, it was considered that the proposed contributions, including affordable housing at a policy compliant rate, rendered the development unviable, the applications would be considered in line with Policy H5 of the LP.
97. I consider that the site is developable over the plan period. Given the progress made on the site, with a planning application submitted for part of the site, I also conclude that it will be able to contribute 390 dwellings to the Council's five-year supply of deliverable housing as set out in the revised trajectory at Appendix 1 of the MMs.

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<sup>2</sup> Para. 4.40 [CD7/01].

*SA2: Earl's Court Exhibition Centre*

98. The site of the former Earl's Court Exhibition Centre is identified as an OA in Policy SD1 of the LP and straddles the boundary with the LBHF. The LP envisages that the wider Earl's Court/ West Kensington site could provide for indicative figures of 6,500 homes and around 5,000 jobs. However, the site area has been substantially reduced leaving an area of 17.4 ha, of which 7.43 ha lie in the Borough. Both authorities are at different phases in their plan making with Kensington and Chelsea at a more advanced stage. Consequently, it is likely that the Plan's Policy SA2 will of necessity be adopted prior to LBHF's development plan review. Irrespective of this, the implementation and development of the Opportunity Area in both boroughs will require co-operation, an element of flexibility and a policy framework which recognises the importance of planning for the development of the site across each borough.
99. The site benefits from an allocation in the existing Local Plan for, amongst other uses, a minimum of 900 dwellings and a minimum of 10,000 sq. m office floorspace. Planning permission has been granted and development has commenced on the site<sup>3</sup>.
100. The site has been identified as a new urban quarter, which is to be landscaped in an area with a paucity of public open space [CD7/08]. The redevelopment of the site is to include social and community infrastructure, comprising a park and green spaces, a new Neighbourhood Centre to serve the day to day needs of the visitors and residents, and housing and employment uses, together with a cultural facility of world class significance to continue and build on the legacy of the demolished former Earl's Court Exhibition Centre, all at a location well served by public transport.
101. To enable this to be realised on a predominantly cleared site, but one which is constrained by existing public transport infrastructure, the site allocation is identified, consistent with the LP, as an area in which tall buildings would be appropriate. The introduction of tall buildings must be undertaken sensitively, with the opportunity taken to integrate the Empress State Building Tower into the wider townscape.
102. I am confident that the evidence which the Council has put forward in its Opportunity Area Heights Analysis studies (OAHA) [CD7/33, CD7/35 and EX39] is sufficiently robust in relation to this site allocation. Nonetheless, this evidence makes clear that the optimum heights tested in the addendum should not be treated as a blueprint for future development (p 399 of the OAHA draft report).
103. Indeed, figure 10.2 of the Plan provides a more strategic and flexible approach to the location of maximum heights, rather than the detailed blocks of development which have been tested as part of the evidence, and which have

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<sup>3</sup> PP/11/01937

informed what the Council considers to be an optimal Height Scenario. However, in the interests of effectiveness, this figure requires amending through **MM378**, **MM284**, **MM294** to be both consistent with an extant planning permission on part of the site [PP/21/0272], and to stress that the range of heights set out are considered as being 'appropriate', consistent with Policy D9 B of the LP. These MMs clarify that the heights of any tall buildings must be appropriate to the context of the wider development, within the maximum height parameters set by figure 10.2. and, therefore, allowing further refinement at the design stage of the exact locations of any tall buildings.

104. At the hearings I was referred to the Mayor of London's recent Local Plan Guidance (paragraph 4.4.12) [EXAM 28], which states that it is possible to use the concept of appropriate heights within development plans, although it is explicit that the use of maxima is preferable.
105. In such a complex wider site, which lies in two boroughs and is likely to be developed over several years and in phases, it is important that there is flexibility within the site allocation which lies within the Borough. The use of appropriate heights allows this, whilst at the same time setting out broad parameters to be consistent with the LP. Paragraph 10.10 of the supporting text makes it clear that exact locations and heights will be the subject of detailed master planning. In this context, a pragmatic flexible approach to ensuring the delivery of a well-designed development within the Borough is required. Therefore, in the interests of effectiveness **MM283**, **MM292**, **MM296** are necessary to make explicit that any development must take into account the wider site which falls within the LBHF, as well as the wider townscape context outside of the Borough.
106. Similarly, other MMs are required to ensure that Policy SA2 is effective and consistent with national policy and the LP. These will enable the site to be successfully implemented in a comprehensive fashion, which is design-led and takes into account nearby heritage assets, with cultural activity of international quality being central to its identity, and relevant infrastructure provided in a timely manner. Therefore, in order for the policy to be effective **MM282**, **MM285**, **MM289**, **MM293** and **MM295** are necessary.
107. To ensure that all the social and other infrastructure, such as the existing bus stops, other transport facilities, affordable housing and workspace, Neighbourhood Centre and public open space are provided, or retained at a quantum consistent with the objectives of Policy SD1 of the LP, and other policies of the Plan, and are effective and consistent with national policy **MM280**, **MM288**, **MM290**, **MM291**, and **MM298** are required. Following public consultation on the MMs, I have corrected **MM280** in relation to land within the LBHF and in the interests of consistency have deleted some text in **MM288**.
108. Policy SA2 as submitted is not consistent with the Framework in relation to flood risk and surface water drainage matters. Nor is it consistent with the LP in relation to the control of parking and the achievement of net zero carbon



development. Therefore, **MM281**, **MM297**, **MM299** and **MM300** are required for the Plan to be sound.

109. The redevelopment of the Earl's Court site will be complex and requires that significant levels of infrastructure be provided to ensure that a successful well-designed scheme is able to be developed and maintained into the future. The Council considers that a range of 1,241 and 1,332 homes and 40,000 sq. m of non-residential floorspace would fit within the height parameters set out in its evidence [CD7/35]. However, as submitted the quantum of housing is set below this figure. Nonetheless, given the constraints of the site it would not be appropriate to reference a minimum quantum of housing or non-residential floorspace. Conversely, at the detailed design stage it may be possible to successfully integrate a greater quantum of policy compliant development.
110. Therefore, **MM286** and **MM287** are necessary for the Policy to be effective and to provide flexibility in the amount of development which could be considered acceptable on such an extensive site, and to ensure that the levels of development are optimised consistent with the parameters set out within the Site Allocation policy and the wider policies of the LP. **MM287** is also necessary in the interests of effectiveness to clarify what employment uses are appropriate. This would be consistent with the approach set out within the LP, as optimisation of development on the site may not necessarily equate to maximising the amount of development on the site. As such, the quantum proposed is compatible with the provision of the requisite infrastructure, without compromising the design of the development.
111. I have carefully considered the viability evidence provided as part of the examination. I am confident that a viable mixed-use scheme with its own distinctive character could be delivered on the site. This could be done without compromising the long-standing wider objectives of its redevelopment, given the assumptions made within the Council's VA, which I consider to be robust and to be set at a level to provide generous headroom. In addition, the flexibility built within Policy SA2 as proposed to be modified, in relation to the number of units or floorspace, and the different acceptable models of development, would contribute to the viability of any development.
112. I consider that subject to the MMs set out above the site is developable over the plan period. I also conclude that it will be able to contribute to the Council's five-year supply of deliverable housing, with a total of 200 dwellings in years four and five of the Plan period, as set out in the revised trajectory at Appendix 1 of the MMs.

### **Large Sites: SA3- SA11 inclusive**

113. All the nine proposed site allocations reflect the complex mixed-use nature of the existing and proposed development within the Borough. Each of the site-specific policies has been tailored to be consistent with the peculiar characteristics of the individual sites. No further MMs have been identified for

Policy SA4: Former Territorial Army Site. Nonetheless, many of the policies as submitted share the same issues relating to soundness which I consider below.

114. Flooding is a significant threat in Kensington and Chelsea [CD7/02 and CD7/03 and EX32]. Policies SA5 (Wornington Green), SA6 (Lots Road South), SA7 (Edenham Way), SA9 (Latimer Road) and SA11 (The Plaza, 535 Kings Road) do not adequately address either the issue of flood risk or the limiting of surface water run-off, or both, and are therefore, not effective nor consistent with national policy. Consequently, **MM305**, **MM307**, **MM309**, **MM319**, **MM326**, and **M331** are required to change the planning constraint information as appropriate.
115. As set out below in my report in relation to Issue 7, Kensington and Chelsea is rich in the extent, depth and quality of its heritage assets, ranging from Georgian terraces within Conservation Areas to iconic modernist post war housing, such as at the Grade II Cheltenham Estate, and the Grade II\* Trellick Tower itself. Heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.
116. However, Policies SA6: Lots Road and SA7 Edenham Way as submitted, are not consistent with paragraph 190 of the Framework, as they do not provide a positive strategy for the conservation and enjoyment of the historic environment. The Lots Road site lies just off the Kings Road between the railway line and Chelsea Creek to the south, which has seen considerable new development. As is suggested by its name, Lots Road has a tradition of auction houses, including within the development site. Whilst there is considerable residential in the wider area, the road still retains a commercial character which is redolent of its historic and ongoing use and is markedly different to the modern development to its south. As a pocket of land which is adjacent to the Lots Road Conservation Area and has the capacity for further development, it is important that any redevelopment of the site successfully builds on the character of the wider area and is consistent with the new Policy CDX which is set out below in Issue 7. This should be done by providing a sensitively designed scheme, which is visually coherent and respectful of the immediate context and is consistent with its character.
117. Policy SA7: the Edenham Way site sits immediately in front of the Grade II\* Trellick Tower and is part of the wider Grade II Cheltenham Estate. The site still retains the physical concrete walkways and service areas linked to Trellick Tower and the visual coherence of the wider estate would be vulnerable to the proposed development as envisaged by the policy as submitted. Moreover, the construction of a 14-storey development within the site would compete with the setting of Trellick Tower, unsettle the planned intervisibility of the buildings within the wider listed estate, and impact on its historic interest as a model of planned social housing, detracting from its significance as a listed building of more than special interest.

118. I am confident that an appropriate low rise design solution could be found which would be able to provide for the 60 dwellings proposed as part of the allocation together with social and community facilities, whilst retaining and enhancing the existing historic fabric, and remaining consistent with and sensitive to the original vision of the architect.
119. Similarly, Policies SA8: Chelsea Farmers' Market, SA9: Units 1-14 Latimer Road Industrial Estate, SA10: Newcombe House, and SA11: The Plaza, 535 Kings Road require amending to reflect the need to address the requirement to provide a suitable setting for the relevant designated heritage assets.
120. Accordingly, **MM317**, **MM320**, **MM321**, **MM322**, **MM323**, **MM325**, **MM328**, **MM330**, and **MM333** are necessary to Site Allocation Policies SA6 to SA11, to ensure that the heritage significance of either the heritage assets themselves or their settings, is not compromised by the proposed developments set out in the Plan.
121. Both SA6: Lots Road and SA9: Latimer Road, fall within designated Employment Zones, where it is important that any residential development does not prejudice the future of employment uses within the respective sites and wider zones. Therefore, **MM318** and **MM327** are necessary to reference the agent of change principle and to be effective and consistent with Policy BC1, as modified by **MM220**, as well as the LP and the Framework.
122. In the specific context of SA6: Lots Road, auction uses and other employment uses not only contribute to the wider economy of the Borough, but continue to make a positive contribution to the immediate and particular character of the area. The policy requires strengthening to make clear that further development is to be employment led and that the existing auction house is to be retained. Therefore, for the Plan to be found effective, **MM310**, **MM311**, and **MM316** are required. **MM308** is necessary to correct a factual error.
123. As submitted, the wording of Policy SA11: The Plaza at 535 Kings Road reads as if the existing office floorspace is to be retained rather than that the quantum of floorspace is to be replaced as part of any redevelopment of the site. Therefore, in the interests of effectiveness **MM332** is required.
124. In the context of a myriad of constraints, it is clear that setting out a minimum number of dwellings or other thresholds of development is not appropriate for all of the sites. This is because there could be an irreconcilable tension between requiring a specific level of development, or more, to be delivered on site, whilst at the same time being consistent with the other criteria of the policy, including heritage constraints. Therefore, in order to be flexible and effective, the extent of development at the Lots Road allocation, SA6, should be altered to be 'around' rather than phrased as a minimum, as set out in **MM312**, **MM313** and **MM314**. Moreover, in order, to be effective and to remove any ambiguity, following the consultation on the main modifications, I have made further changes to these MMs, to remove the superfluous 'or more', which in the

context of a relatively small site could result in overdevelopment for housing, which would not be consistent with my conclusion that the site should be employment led.

125. Similarly, **MM324** is necessary as the word 'around' should be substituted for 'a minimum' when relating to Policy SA8: Chelsea Farmers' Market, and the number of dwellings increased to around 60 to reflect the most up to date information.
126. Policy SA10: Newcombe House, as submitted does not include residential. However, to ensure flexibility and effectiveness, the use should be included as an option. As such, **MM329** is necessary.
127. **MM302** is required to Policy SA3: Cromwell Road to remove the requirement for car parking, which is not justified, albeit I am aware that the site is under construction.
128. Policy SA5 Wornington Green relates to the third phase of an estate redevelopment. Paragraph 131 of the Framework makes clear the importance of trees in urban environments. **MM303**, **MM305** and **MM306** are required to ensure any development is of a high standard and provides the requisite quality of green space. Similarly, **MM304** is necessary to ensure that existing tenants are able to continue to live within the estate following any redevelopment. These MMs would make the Policy effective and consistent with national policy.
129. I consider the following large sites to be deliverable: SA3: Cromwell Road, which is under construction; SA5: Wornington Green Estate Phase 3, which at the time of the hearings was subject to a live application; SA6: Lots Road South, which the Council together with a development partner are committed to taking forward; and SA7: Edenham Way, which the Council's owns and intends to develop in the next five years.
130. Two separate planning permissions have been granted within the SA9: Latimer Road allocation. A conservative approach has been taken to the delivery of 10 units within this allocation.
131. As such, subject to the MMs set out above, cumulatively, the large sites are likely to deliver some 804 dwellings within the next five years, and some further 4,957 dwellings over the remainder of the Plan period, as set out in the revised trajectory, **MM102**, and the linked revised Appendix 1.

#### **Small Sites: SA12- SA16**

132. The Plan as submitted includes five site allocations, which due to their small size, are not presented with the same amount of detail as the other larger allocations within the Plan, both as supporting information and as policy. This means they are not effective, as this lack of policy and supporting text means it is not evident how a decision maker should react to development proposals on these sites.

133. Therefore, the policy wording and supporting text for all the small site allocations requires restructuring. In common with the larger site allocations, other MMs are necessary for the policies to be consistent with the Framework with reference to site specific flood risk matters and consideration of heritage assets.
134. Following the hearings, it is clear that Policy SA13: Emmanuel Kaye Building may not be developed to deliver housing as this is not the intention of the landowner. Therefore, this policy should be modified to remove 10 units from the housing trajectory, albeit residential may be acceptable in the development. Similarly, SA14: Highlever Road is unlikely to come forward within the next five years. To avoid ambiguity, SA15: Colebrook Court, requires amending to make explicit that the site will provide a minimum of 20 net units following redevelopment.
135. Therefore, for the Plan to be sound, the following MMs are required **MM334, MM335, MM336, MM337, MM338, MM339, MM340, MM341, MM342, MM343, MM344** and **MM345**.
136. Following the MMs set out above, the small sites are not likely to make any contribution to the Council's five-year supply of deliverable sites. However, the relevant sites are developable and are likely to contribute some 156 homes over the next 15 years, as set out in the revised trajectory **MM102** and the linked Appendix 1.

## **Conclusion**

137. Subject to the above MMs, the proposed residential/ mixed-use allocations and employment/mixed use allocations are justified, effective and consistent with national policy and in general conformity with the LP.

## **Issue 5 – Whether the Plan has been positively prepared and whether it is justified, effective and consistent with national policy, and in general conformity with the London Plan, in relation to the approach to housing land supply?**

### **Supply**

138. As set out above in Issue 4, some of the sites which have been allocated within the Plan already benefit from planning permission, and in some cases these have started. There are other sites, which as set out above, require MMs in order for them to be found sound. Nonetheless, with the exception of SA13: the Emmanuel Kaye site, all should remain within the housing supply, contributing some 5,867 homes to the housing supply over the next 15 years.
139. Taking the figures set out in [EX54], which updates Appendix 1 of the submitted Plan, the developable housing supply over the next 15 years is some 8,453 dwellings. This is made up of the site allocations set out above, 159 homes

from the Council's New Homes Delivery Programme; 732 from Other Large Sites and Major Developments; 147 dwellings from the pool of existing small sites with planning permission; and 1,548 dwellings predicated on the 129 dwellings per annum small site allowance set out in the LP.

140. As such, **MM102** is required to update Appendix 1. Moreover, Appendix 1 as submitted, is presented in 5-year tranches. This does not give the clarity required. Consequently, the amended appendix should include an entry for every year.
141. There is an acknowledged reliance on the two OAs of Earls Court and Kensal Canalside, both of which are expected to come on stream at the end of the ten-year period defined in the London Plan.
142. Consequently, it is clear, given the revised trajectory **MM102** [EX54] that the Council will not be able to meet the London Plan requirement for 4480 dwellings between 2019/20 and 2028/29 inclusive, with 3973 dwellings rather than 4,480 dwellings likely to have been delivered.
143. This would leave a shortfall of some 507 dwellings. However, I draw comfort from the fact that some two years later, by 2030/31, cumulative completions will have exceeded the LP target. This approach is consistent with the advice provided by the Mayor in a letter received during the examination [EX27], that the housing should be delivered as soon as possible after 2028/29, '*or in the first few years after..*'. This is reinforced by **MM98** and **MM105** which require the Plan to take a positive approach to the delivery of housing. Moreover, by 2038/39 the Plan is forecast to have delivered some 9,842 dwellings which would exceed the cumulative target of 8,960 dwellings.
144. The Plan as submitted has referenced a shortfall of 257 units against the LP, which it has averaged over a ten-year period. However, at the time of writing this figure should be 850 units to reflect the current shortfall.
145. I note that the previous inspector was content that the shortfall be spread over the plan period using the Liverpool approach. Whilst I accept that the larger sites are likely to be delivered later on in the plan period, time has moved on since the last examination with progress in the delivery of the OA sites. Moreover, developers from both OA sites were generally supportive of delivery coming on stream in a meaningful way from both sites by the late 2020's.
146. Consequently, in the context of there being no national support for a bespoke approach put forward by the Council and the acute need for the delivery of housing within the Borough, I conclude that this shortfall should be added to and delivered within the first five years delivery of the Plan. As such, **MM101** is necessary.

## Stepped trajectory.

147. As set out above, most of the housing is to be delivered from two large sites later in the plan period. To reflect the projected delivery of homes, the plan as submitted includes a stepped housing requirement of 1,500 dwellings from years 1- 5 of the LP, and 2,980 from years 6-10.
148. Notwithstanding the Plan already includes a stepped trajectory, for the Plan to be positively prepared and effective **MM97** is required to further amend the stepped trajectory to require the delivery of fewer dwellings in the first five years of the plan and to make compensatory provision by increasing the target in years 6-10. This leads to the delivery of 250 dwellings per annum (1,250) in years 1-5, 646 dpa (3,230) in years 6-10, and 448 dpa thereafter.
149. This MM is required to reflect the reality of the supply situation and the encouragement by the GLA to set out a realistic and stepped housing delivery target over a ten-year period<sup>4</sup>. Given the reliance on the two OA's a pragmatic approach is needed otherwise the Plan would not deliver the number of homes required.
150. When the shortfall against the LP is added together with a 20% buffer the annual delivery requirement is some 504 dwellings per annum.
151. Following the changes as a result of the MMs to both the stepped trajectory, and the delivery of housing identified above, **MM102** requires the deletion of figure 3.1 and its replacement together with Appendix 1 of the Plan as submitted.
152. Appendix 1 requires amending not only to reflect the changes which have taken place in the housing supply, and my conclusions relating to individual site allocations, but in the interests of effectiveness to set out explicitly the delivery of housing for each year. To clarify the link between the revised Appendix 1, which sets out the delivery of housing over the next 15 years of the Plan and which was consulted upon as part of the MMs, I have made a small amendment to **MM102**. Moreover, to rectify a typographical error, a further modification is required to the first column in Appendix 1. However, this does not impact on the number of dwellings within the forecast trajectory.

## Five- year supply

153. The Council has expressly asked me to confirm that it can demonstrate a five-year supply of deliverable housing. Taking into account the MMs set out above I am confident that the Council will be able to demonstrate this on adoption. To be effective and consistent with national policy, **MM101** is required to make it explicit that the Plan can provide a five-year supply of deliverable housing and to set out the revised figure, how it has been calculated, including the adding of

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<sup>4</sup> 4.1.10 of London Plan.

the shortfall against the LP, together with a 20% buffer against a requirement of 250 dwellings per annum. I accept that at 5.1 years this is marginal. However, this figure includes the appropriate buffer, and there is nothing in national policy to suggest that anything more is necessary.

### **Gypsy and Traveller Accommodation**

154. The Plan when modified, would not provide for any allocations of pitches to meet the revised identified need and ten-year pitch target derived from the GTANA, as set out in **MM146** and **MM147**.
155. In the absence of an allocation within the Plan, any sites brought forward would be determined by Policy HO8: Gypsy and Traveller Accommodation. However, the policy, as submitted is not effective and clearly sets a higher bar for the provision of additional pitches for the Gypsy and Traveller community than for housing for those within the settled community. Therefore, for the policy to be effective and consistent with national policy, **MM143**, **MM144** and **MM145** are required. This will enable any proposals for additional pitches, which come through the development management process, to be determined in a fair and equitable manner, to enable the unmet need, which the Council accepts to exist, to be addressed expeditiously.
156. During the examination I have been made aware of several potential sites close to Stable Way. However, none of the sites to which my attention has been drawn have been brought forward as part of the Call for Sites process. I understand that the land known as the Triangle has been identified as a site that may be suitable, and that the Council is working collaboratively to explore this possibility, including resolving leasing arrangements. However, it is not a site over which the Council has direct control [EX42].
157. It is clear to me that going forward there is a need for a robust approach to the delivery of additional pitches for the wider Gypsy and Traveller community within the Borough, and as it stands, the Plan does not identify the land required to meet its needs. However, in the absence of sites brought forward through the Call for Sites process, I am not convinced that in the near future it would be possible for the Council to quickly allocate sites to meet the additional need for Gypsy and Travellers. Therefore, even were I to require the Council to allocate further sites, this is unlikely to be achieved within a reasonable time period. This would hold up the adoption of the Plan, including the modified HO8.
158. Moreover, the objective of providing additional pitches to meet the needs of the Gypsy and Traveller community would not be best achieved by delaying the Plan's adoption. The quickest and most pragmatic way to achieve additional accommodation would be to address the complex barriers to the provision of an expansion site at Stable Way, with the Council, the LBHF, and stakeholders working with the Gypsy and Traveller community, and to bring forward other sites through the development management process.



159. **MM3** as set out at the beginning of my report, requires a prompt review of the Plan, given the acute need for housing within the Borough. Following the consultation, I have amended it to reflect the acute need of the Gypsy and Traveller, as well as that of the settled community. Consequently, as a priority, the Council should work to achieve the bringing forward of further sites to enable the housing needs of the Gypsy and Traveller community to be met.
160. In coming to this conclusion, I have taken into account the fact that the Mayor considers the Plan to be in general conformity with the LP.

### **Other Housing Supply Issues**

161. Around 9,000 dwellings within Kensington and Chelsea are used as second homes and are not main residences. This leads to properties not being fully utilised. The underoccupancy of the housing stock is further exacerbated through the 'buy to leave' phenomenon. This is where large high value properties are bought as a vehicle to achieve increases in capital value and are left empty. Currently, there are over 2,700 empty units in the Borough. Taken together, this means that around 1 in 8 properties or around 11,800 dwellings [CD7/09], which is more than the 15-year housing requirement, are either empty all, or a significant proportion of the time.
162. **MM96** and **MM103** are required not only to highlight this issue, consistent with footnote 48 of the Framework, but to make explicit how the Council intends to address this in a Borough of acute housing need. This is to ensure that new dwellings which are built, not only meet the Borough's numerical housing target, but are made available so that people can live in them as their primary residence.
163. Furthermore, due to the specialist high value housing market within RKBC there is a trend to amalgamate properties. This further reduces the stock of available homes. As submitted, the supporting text to HO1 is unclear in relation to this. Therefore, **MM104** is required.

### **Conclusion**

164. Subject to the MMs identified above, Plan has been positively prepared and is justified, effective and consistent with national policy, and in general conformity with the LP, in relation to the approach to housing land supply.

## **Issue 6: Whether the Plan is justified, effective, consistent with national policy, and in general conformity with the London Plan, in relation to climate change, flood risk, healthy and safe communities, including waste management?**

### **Climate Change**

165. Retrofitting of the existing housing stock is a positive means by which to reduce carbon emissions and to reduce vulnerability to the impacts of climate change. It is possible to successfully integrate energy efficiency and microgeneration, such as solar panels, into older buildings, including heritage assets. However, the application of modern building techniques to older properties may result in the removal of historic fabric rather than the repair or application of alternative means to meet the same objective, and unintended damage, including damp, to the fabric of the historic buildings. This would be both contrary to the Framework, which makes clear that great weight should be given to the conservation of heritage assets as they are an irreplaceable resource and may also result in buildings which are less energy efficient, and thereby negate the thrust of Policy GB1: Sustainable Retrofitting.
166. Consequently, to ensure that Policy GB1 is effective and consistent with the Framework, **MM7**, **MM9** and **MM10** are required to take a more nuanced approach to addressing climate change, in relation to older buildings.
167. In December 2023, a Written Ministerial Statement was published on local energy efficiency standards. The Council has concluded [EX51] that this does not have any implications for Policy GB4: Energy and Net Zero Carbon, which is consistent with Policy SI 2 of the LP. I concur with this conclusion.
168. However, as submitted **MM11**, **MM12**, **MM13**, **MM14**, **MM16**, **MM19**, **MM23**, **MM24**, **MM25**, **MM26** and **MM27** are required to Policy GB4: Energy and Net Zero Carbon in the interests of clarity and effectiveness, and for the Plan to be up to date, including referencing working with the LBHF. Similarly, **MM15** is required to allow flexibility given the fast-evolving low carbon technology sector.
169. In addition, to be effective Energy Use Intensity metrics, which are set out in the Greater London Authority Energy Assessment Guidance 2022 and are an appropriate and effective means of driving down carbon emissions, should be referenced within Policy GB4, and the supporting text as **MM13**, **MM20**, **MM21** and **MM22**. Technical definitions should be added to the Glossary as **MM353** and **MM368**.
170. Following the consultation, in the interests of certainty and effectiveness, to enable developers to have a clearer concept of the costs of schemes, where they have demonstrated that they are unable to rely on and off-site renewables, I have amended **MM13** and **MM26** to reference the current carbon offset price

based on that set by the Mayor. Also, in the interests of consistency I have made a further change to **MM19**.

171. The Framework also requires the risks of climate change to be managed. **MM28** is required to Policy GB5: Overheating to extend its application to all developments to avoid the impacts of overheating.

## Healthy and Safe Communities

### *Water related policies.*

172. The Plan as submitted has been supported by an appropriate flood risk evidence base, including a Strategic Flood Risk Assessment, which has been updated to be in accord with the October 22 PPG [CD7/02, CD7/03, CD7/04], as well as a Flood Risk Sequential Test [CD7/28].
173. However, the wording of Policy GB11: Flood Risk requires strengthening to be effective and consistent with the Framework, by emphasising the need to undertake the sequential and exception tests unless exempt. As such **MM49** and **MM51** are required. A significant proportion of the Borough falls within a Critical Drainage Area. Given the potential dangers of sleeping accommodation being below ground level, **MM48** is necessary to include it within the categories of development which require a site-specific Flood Risk Assessment. In the interests of effectiveness, following the consultation I have made a minor alteration to the wording of this MM.
174. Reducing and slowing down run-off rates is increasingly important in reducing flood risk. As submitted, Policy GB12: Sustainable Drainage is not effective, as it suggests that greenfield run off rates are to be delivered for every major development. In the context of an urban environment this may not always be possible. Therefore, in the interests of clarity and effectiveness a clear exposition is required of how applications are to be determined and of the expectations made of developers. Therefore, **MM52**, **MM53**, **MM54**, **MM55** and **MM56** are necessary.
175. Similarly, the wording of Policy GB13: Waste and Wastewater Infrastructure requires modification through **MM57** and **MM58** to enable it to be effective.

### *Air Quality*

176. The whole of the Borough falls within an Air Quality Management Area (AQMA) as levels of nitrogen dioxide and particulate matter exceed the National Air Quality Objectives. **MM35** is necessary in the interests of effectiveness to identify the vulnerable groups within the population who are particularly affected by air pollution. Within the AQMA there are three Air Quality Focus Areas (AQFA) where there is high human exposure to nitrogen dioxide levels, which

exceed EU annual mean limits. These are identified separately through the LP and therefore fall outside of the remit of the examination.

177. Nonetheless, to ensure that the Plan is justified and effective **MM36** is required to make it explicit that the three identified AQFAs may change, and to highlight the two AQFAs on the border of the Borough.
178. As submitted Policy GB6: Air Quality is loosely worded and does not set out clearly how it is to be implemented. Therefore, for clarity and effectiveness, **MM30**, **MM32** and **MM34** are required to the policy text and consequential amendments to **MM35**, **MM37**, **MM38** and **MM40** to the supporting text. To ensure that the geographical application of the policy is clear, the outline of the AQFA at the time of adoption, should be included within the PM.

### *Contamination*

179. In a central London location, it is unavoidable that there will be some form of contamination on development sites. To ensure that the land is remediated properly, and the Plan is both effective and consistent with the LP and Framework, **MM90**, **MM91**, **MM92**, and **MM93** are required to Policy GB20: Contaminated Land.
180. Given the nature of the large OA sites it is particularly important that a whole site approach to decontamination is taken and that this is factored in early in the redevelopment of the sites. As such, in order to be effective **MM94** is necessary.

### *Amenity*

181. When construction is taking place, it is vital that development does not adversely impact on ground water resources with particular reference to Source Protection Zones. As submitted, the Plan is not effective as the supporting text does not set out how any such impacts are to be actively addressed. Therefore, **MM95** and **MM367** are required.
182. All development is likely to have some impact on the amenity of those living or working nearby. However, poorly executed development can have a strong adverse impact on people's quality of life through construction (GB7); noise and vibration (GB8), odour (GB9), light pollution (GN10) and the poor consideration of the impacts of waste, (GB19) including how waste will be stored and sorted on site. To ensure that the wording of these policies, insofar as they relate to amenity, is effective, **MM41**, **MM42**, **MM43**, **MM46**, **MM47**, **MM84**, **MM85**, and **MM89** are required.

### *Fire Safety*

183. Following the Grenfell Tragedy, ensuring that new build is safe is paramount. However, the wording of Policy CD15: Fire Safety, as submitted, is not effective as it does not clearly articulate what is required of developers. Moreover, the threshold for a Qualitative Design Review panel report is set at 50 m. Given that these technical panels consider the means of escape from proposed buildings, the figure should be revised downwards to be consistent with the tall building definition of 30 m set out in the Plan. This will ensure that the opportunity is taken to ensure a rigorous consideration of fire safety through the input of technical experts who have demonstrated a high level of competency. As such, for the Plan to be effective **MM192** and **MM193** are necessary.
184. How planning applications will be determined, with reference to fire safety, is set out in the supporting text. However, in the interests of effectiveness, **MM196**, **MM197**, **MM198**, **MM199** and **MM200** are required to provide further detail, including to highlight the importance of ensuring fire safety is considered for the lifetime of a development.
185. It is vital that any relevant recommendations which come forward through Phase 2 of the Grenfell Inquiry should be taken into account moving forward. Moreover, consideration of fire safety within the Borough should be undertaken in a sensitive manner given the continuing impact of the Grenfell Tragedy within the wider community. Therefore, to be effective **MM195** and **MM201** are necessary.

### *Parks and Gardens and Open Spaces.*

186. Given the dense nature of the development within the Borough, the existing private and public open space is at a premium. Moreover, every opportunity should be taken to integrate new public open space within new developments including at the two OAs, at Cremorne Wharf as a meanwhile use, and at the Chelsea Embankment as part of the Thames Tideway Tunnel.
187. As submitted Policy GB16: Parks, Gardens and Open Spaces is not effective in relation to the provision of new parks, gardens, play and open spaces, and the protection of existing parks and open space. This is because the wording is unclear and at times duplicates parts of GB14: Waterways as modified.
188. The supporting text requires modification to make clear that Cremorne Wharf is safeguarded, and that any 'meanwhile use' of the Wharf is predicated on it being released for waterborne waste handling when required.
189. Moreover, the policy does not explicitly require the two OA's to provide on-site public open space, nor that Parks and Gardens of Special Historic Interest are to be given protection under the auspices of the policy. In addition, mention of Kensal Canalside has been overlooked within the supporting text. Furthermore, in the interests of completeness, and effectiveness, additional parks and

gardens should be included in the supporting text and a definition set out within the Glossary as **MM361**. To ensure that the geographical application of the policy is clear, a new layer is required in the PM to set out the location of the various parks, gardens and open spaces to which Policy GB16 applies.

190. Policy T3: Living Streets and Outdoor Life includes a policy on the use of Parks and Gardens for special events. However, this can cause damage to their fabric. Therefore, to avoid harm to the Parks and Gardens and to make the policy effective this should be referenced.
191. Therefore, to address these soundness issues, for the Plan to be effective and consistent with the LP, and national policy, **MM70, MM71, MM72, MM73, MM74, MM75, MM76, MM78, MM79, MM80, MM81** and **MM235** are required. In addition, the reference to protecting the open spaces and streets around the Royal Hospital is superfluous. Consequently, **MM77** is necessary.

### *Social Infrastructure*

192. Access to social infrastructure is vital for healthy and safe communities. As submitted, the Plan does not appropriately articulate this and is therefore not effective, nor consistent with national policy, nor the LP. Therefore, **MM232** and **MM233** are required to expand the categories of social and community uses.

### **Waste Management**

193. The LP sets a target of 123,000 tonnes per annum of household and commercial and industrial waste for the Royal Borough. As set out in the Council's hearing statement M9/1, the Borough has a total capacity of some 90,600 tonnes made up of Cremorne Wharf and exempt sites, leaving a shortfall of 32,000 tonnes. However, the SoCG [CD4/03] between the Council, LBHF and OPDC is clear, that were the Council to be unable to cater for its own apportioned needs, the capacity for household and commercial and industrial waste would be catered for by LBHF and OPDC. **MM88** is required to include this figure within the supporting text of Policy GB19: Waste Management to ensure that the Plan is justified.
194. Cremorne Wharf lies within the Borough and has the potential to provide waste management capacity, but for now is temporarily used for the delivery of the Thames Tideway Tunnel. Policy GB19: Waste Management as submitted, requires amending to be explicit that Cremorne Wharf can be used for waterborne cargo to enable the Plan to be effective. Clarification of the supporting text is also necessary to make explicit that the Wharf is safeguarded under a ministerial direction and that any proposals for development on the wharf must be referred to the Mayor. As such, **MM83, MM86, MM87** and **MM88** are required so that the Plan is effective.

## Conclusion

195. Subject to the MMs set out above, the Plan is justified, effective, consistent with national policy and in general conformity with the London Plan in relation to climate change, flood risk, healthy and safe communities, including waste management.

## Issue 7 – Whether the Plan is justified, effective and consistent with national policy, and in general conformity with the London Plan, in relation to its approach towards design and the historic and natural environment?

### Design

196. Policy CD1: Context and Character is an overarching design policy which sets out in detail how development proposals are to be considered within the Borough. However, to ensure the policy as submitted is effective, criterion H requires amending to remove reference to examples of building types. These should be included within the supporting text, which, in the interests of effectiveness, requires revising to include a definition of Beauty; referencing the Living with Beauty report; and to recognise that the character of the Borough is varied with fine buildings, including from the twentieth century. Therefore, **MM148**, **MM149**, **MM151**, **MM152**, and **MM153** are required.

197. As submitted, criterion B of Policy CD14: Views is not worded in a robust manner reflecting the importance of the views set out in figure 4.5, nor does it reference the view from King Henry VII's Mound to St Paul's Cathedral. Therefore, to be consistent with Policy HC3 of the LP, **MM190** and **MM191** are necessary. In addition, to ensure the geographical application of the policy a new layer is required to the PM illustrating protected views within the Royal Borough.

### Tall Buildings

198. Policy D9 of the LP sets out an overarching policy for tall buildings for London. Policy CD7: Tall Buildings together with figures 4.3 and 4.4 of the Plan, as submitted, provide a local policy on tall buildings; a diagram illustrating specific localities for tall buildings, including two definitions of tall at 30 m and over, and 21 m and over; and a diagram identifying suitable locations for tall buildings identified within the site allocation policies.

199. The Council has undertaken a number of studies [CD7/13, CD7/14, CD7/33, CD7/34, CD7/35 EX31], which, with CD7/20, have informed this policy. On this basis, I conclude that the evidence base is suitably robust such that, with the exception of SA7: Edenham Way, the policy is justified.

200. As, I have concluded earlier in the report that SA7: Edenham Way is not appropriate for tall buildings, **MM181** and **MM373** are required to remove it from figure 4.4 and for the Plan to be effective. I have considered the appropriateness and presentation of the tall building thresholds for the two OAs above within Issue 4. I have also concluded, due to the particular characteristics of the Earl's Court site, that rather than the potential tall building heights being referred to as maxima, the term 'appropriate' should be used. Further detail relating to tall buildings on the two OA's is covered within the individual site allocation policies and has resulted in changes to figures 10.1 and 10.2.
201. Following a drafting error which did not reflect an extant planning permission, figure 4.3 requires amending through **MM372** to be effective and to marginally extend the tall building area along Brompton Road at SA2: Earls Court.
202. As submitted, Policy CD7 duplicates much of Policy D9 of the LP, which provides a comprehensive approach to determining tall buildings within London. Therefore, **MM182** and **MM183** are required in the interests of effectiveness to delete criteria E and F. To aid clarity, the supporting text should set out the thrust of the LP that tall buildings are not acceptable in principle where they fall outside of the identified suitable locations (**MM187**).
203. Following the consultation, in the interests of effectiveness and consistency with the approach of other policies within the Plan, I have amended **MM187** to remove text setting out how development, which is not in line with a particular policy will be determined, as this would add no value.
204. Similarly, in the interests of effectiveness, the supporting text to Policy CD7 should be amended through **MM184**, **MM185**, **MM186**, and **MM189**, to reference the importance of design at the planning application stage in determining whether a tall building is appropriate within its context, and to clarify how the definition of a tall building has been provided.
205. Given that the protected King Henry's Mound to St Paul's Cathedral linear view crosses the south of the Borough and may have implications on potential tall buildings, in the interests of effectiveness it should be referenced within the supporting text as **MM188**.
206. Therefore, **MM181**, **MM183**, **MM184**, **MM185**, **MM186**, **MM188** and **MM189** are required for soundness.
207. To ensure that the geographical application of the policy is clear, a new layer is required in the PM to reflect Policy CD7: Tall Buildings. However, following consultation this requires amending to make it consistent with figure 4.3, which references tall buildings as being over 21 m outside of the area hatched yellow.



## Heritage

208. I have considered the heritage matters relating to individual site allocations earlier in this report. The Royal Borough is rich in heritage with a wide spectrum of assets including numerous conservation areas, listed buildings, registered parks and gardens of special historic interest, two scheduled monuments and archaeological priority areas. Therefore, it is vital that the Plan should provide a positive strategy for the conservation and enjoyment of the historic environment which is consistent with the Framework.
209. The Plan does not have an overarching policy related to Heritage Assets. Therefore, **MM179** is required to clearly articulate the approach to determining applications which affect heritage assets. Following the consultation, this has been modified in the interests of consistency to refer to setting within criterion D.
210. **MM180** sets out supporting text to the new policy which in the interests of effectiveness sets out the interrelationship between the different legislation which relates to heritage assets, explanation of significance, a definition of settings and references the Council's approach to non-designated heritage assets.
211. The heritage related policies of the Plan, as submitted, are not effective or consistent with national planning policy in that they do not adequately reflect the intrinsic value of the historic fabric of heritage assets, consistently reference setting, nor appropriately express the importance of significance in the determining of applications.
212. A more robust approach is required to the need to sustain and enhance the significance of heritage assets, including the importance of taking into account appropriate evidence or specialist expertise. Moreover, a positive approach to development within the strict parameters of heritage constraints is not articulated within the submitted policies and there are inaccuracies in the nomenclature of the various heritage assets.
213. In addition, it is unclear how archaeological remains are to be considered as part of the development process.
214. Finally, the approach to determining applications in the context of substantial and less than substantial harm to heritage assets and public benefits requires to be made explicit.
215. Therefore, to ensure consistency with national policy **MM154, MM155, MM156** are required to Policy CD3: Heritage Assets; **MM159, MM160, MM161, MM162, MM163, MM164, MM165** to Policy CD4: Listed Buildings; **MM169, MM170** and **MM171** to Policy CD5: Scheduled Monuments and Archaeology; and **MM175, MM176**, and **MM177** to CD6: Registered Parks and Gardens.

216. These require consequential MMs to the supporting text. Further MMs are required in the interests of accuracy to reflect the extensive heritage of the Borough, including the interrelationship between the various types of heritage asset and to correct the misapprehension that it is not possible to control the quality of workmanship by condition. Therefore, **MM150, MM151, MM153, MM157, MM158, MM166, MM167, MM168, MM172, MM173, MM174** and **MM178** are required. For clarity and effectiveness, the Glossary requires extending to include accurate definitions as **MM348, MM349, MM350, MM351, M352 MM356, MM357, M358, M359, MM360, MM362, M364, MM365** and **MM366**.

### *Natural Environment*

217. It is important in a dense urban area with limited greenspace that all opportunities are taken to enhance the natural and urban environment and to ensure that as many elements of a development take on more than one function. This can be to provide open space, facilitate bio-diversity net gain or to reduce surface water run-off rates.

218. As submitted the Plan includes separate policies GB14, GB15, GB17 and GB18 which relate to Waterways, Green Infrastructure, Biodiversity, Trees and Landscape.

219. To ensure that the Plan is effective and does not lead to undue duplication GB14, GB15 and GB17, together with part of GB18 should be amalgamated and detailed modifications made to the wording. This will provide a clear and effective approach to Green and Blue Infrastructure within the Borough, including the Grand Union Canal, Chelsea Creek, and the River Thames.

220. It will ensure a strategic long-term approach to the provision, management, and maintenance of green and blue infrastructure is taken and will clearly set out the responsibilities of developers. This will provide a positive framework in which developments can come forward as Good Growth, including the two OAs. Consequentially, **MM59, MM60, MM61, MM62, MM63, MM64, MM65, MM66, MM67, MM68** and **MM82** are necessary. In addition, for the Plan to be effective, a new illustrative diagram setting out the Green and Blue corridors within the Borough and those shared by neighbouring authorities is required as **MM69** and **MM371**.

### **Conclusion**

221. Subject to the MMs set out above, the Plan is justified, effective and consistent with national policy, and in general conformity with the London Plan, in relation to its approach towards design and the historic and natural environment.

## **Issue 8- Whether the Plan is justified, effective and consistent with national policy and in general conformity with the London Plan in relation to accessibility and transport?**

222. Transport matters in so far as they relate to site allocations are considered above. The Healthy Streets concept as set out in the LP, and consistent with the Framework, is central to the promotion of development that encourages active modes of transport, such as walking and cycling, and public transport which gives access to the facilities which people require. It also ensures that streets feel safe by encouraging activity. As submitted, the supporting text to Policies T1 and T3 requires amending through MM234 and MM236, to ensure that new developments include dedicated public highway and that al fresco hospitality does not hinder those travelling or harm the living conditions of nearby residents. These are necessary for effectiveness.
223. Moreover, the supporting text to Chapter 7 which relates to Social Infrastructure requires amending as **MM231** in the interests of effectiveness, as it presupposes that everyone has access to a vehicle.
224. Public Transport Accessibility Levels (PTAL) are an important tool. However, **MM238** is required to remove an inaccurate statement with reference to Land Use and Transport. To ensure the Plan is effective, **MM374** is required to provide an illustrative map of PTAL levels within the Borough. In addition, to ensure the Plan as submitted is effective, **MM239**, **MM375** and **MM240** are required to improve cycle provision within the Borough.
225. Kensington and Chelsea is identified as an Inner London area within Annex 2 of the LP. As such, parking in any form is strictly managed. As worded Policy T8: Car Parking requires amending to ensure the policy is effective as **MM241**.
226. Servicing of developments remains important in mitigating the impacts of new development. Policy T9: Servicing requires modifying to ensure that emergency services are not adversely impacted by developments which do not have onsite servicing, nor that food delivery services harm the living conditions of nearby residents. Therefore, **MM242** and **MM243** are necessary to ensure the Plan is effective.

### **Conclusion**

227. Subject to the MMs set out above, the Plan is justified, effective and consistent with national policy and in general conformity to the LP in relation to accessibility, and transport.

## **Issue 9– Whether the Plan is justified, effective and consistent with national policy and in general conformity with the London Plan in relation to infrastructure provision, monitoring and viability?**

228. The Plan has been accompanied by a detailed Local Infrastructure Delivery Plan [CD7/38] which lays out how the infrastructure required to facilitate the development proposed within the Plan is to be delivered, including funding sources. Evidently, there are likely to be changes to this during the lifetime of the Plan. Nonetheless, together with the Policy Formulation Report [CD8.23], it sets out detailed evidence to support the Plan. Policy IP1: Infrastructure and Planning Contributions articulates the mechanism by which infrastructure is to be delivered. The policies of the Plan as submitted are consistent with the necessary tests, with the exception of Policy T4: Streetscape, which requires **MM237** to be consistent with national policy.
229. The LP, which sets the development requirements for the Borough, has been subject to a high-level VA. A further VA of the Plan (CD7/01) has been undertaken, which I consider has robustly tested the policies of the Plan and from which it is possible to conclude that the Plan is viable.
230. The two OAs will require considerable infrastructure provision to enable the developments to be implemented. However, I am confident that these can be viably delivered as set out above. In any case, Policy H5 of the LP, together with DIF1 of the LP, set a clear approach to the consideration of viability if any major development is considered not to be viably able to meet the requisite policy requirements.
231. **MM379** is required to ensure the Plan is effective and consistent with national policy, through updating the list of existing development plan policies to be replaced by the Plan.
232. As submitted, Appendix 4 which sets out the approach to the monitoring of the Plan does not relate to individual policies and is not precise. Therefore, it provides no value in determining the efficacy of the Plan. As such, **MM381** is required to replace the monitoring framework.

### **Conclusion**

233. Subject to the MMs set out above, the Plan is justified, effective and consistent with the London Plan and national policy in relation to infrastructure provision, monitoring and viability.

### **Overall Conclusion and Recommendation**

234. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issues set out above.

235. The Council has requested that I recommend MMs to make the Plan sound and/or legally compliant and capable of adoption. I conclude that the duty to cooperate has been met and that with the recommended main modifications set out in the Appendix the Kensington and Chelsea New Local Plan Review satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.
236. I conclude that if adopted promptly (with the recommended MMs) the Plan establishes a five-year supply of deliverable housing sites. Accordingly, I recommend that in these circumstances the LPA will be able to confirm that a five-year housing land supply has been demonstrated in a recently adopted plan in accordance with paragraph 75 and footnote 40 of the NPPF.

*Louise Nurser*

Inspector

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