



Banks Solutions

Royal Borough of Kensington &
Chelsea
Att: Jonathan Wade
Policy Team Leader

Sent via email

**Examination of the partial review of the
Kensington and Chelsea Core Strategy:
Policies relating to the protection of
public houses and other uses**

INSPECTOR:

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Dear Mr Wade:

***Kensington and Chelsea Core Strategy: Policies relating to the protection of
public houses and other uses***

Further to your submission of the Partial Review of the Core Strategy for examination, I have now had the opportunity to review the examination documents. I have a number of questions and comments which I set out below.

Firstly, I understand that the Council has not asked representors with the right to be heard whether or not they would wish to exercise that right. My Programme Officer, Chris Banks, is currently in the process of rectifying matters in this regard. I will contact you again on this once the position is clearer.

I would be grateful for confirmation of the precise scope of the examination. The submission version of the partial review document, dated September 2012, puts forward modifications to Policies CL1 and CK2, among other related changes. This is clear enough. However, the Recommended Changes document, dated January 2013, muddies the water somewhat.

It sets out the same alterations to Policy CK2, and appears to effectively move the change previously proposed for Policy CL1 to Policy CL3. On the face of it, it seems to me that these changes to the Core Strategy policies are those being sought through this examination. However, the document also includes Policy CL1 with a suite a different changes to it. I note that these changes are also set out in the draft document concerning the partial review of the Core Strategy in relation to Conservation and Design, and it may be that you have incorporated these for completeness. However, I need to be clear about the position here so that the scope of the examination is wholly unambiguous. To this end, I would ask that you provide the following.

- A note explaining the situation which explicitly states the scope of this examination and which confirms whether or not the changes put forward in the Recommended Changes document have been the subject of public consultation

- A schedule of the main modifications (to the submission version of the document) you now consider necessary for soundness, in the format of the table enclosed with this letter
- A 'tracked changes' version of the document limited to the changes proposed through my examination, and omitting changes you intend to bring forward in relation to the Conservation and Design partial review

In addition, I would be grateful if you could clarify the extent of the evidence base underpinning the proposed policies. I note the figures given in various documents concerning the loss of public houses. For the avoidance of doubt, do these relate solely to public houses, or do they include other drinking establishments within Class A4?

It appears that there is some inconsistency in these figures, and a definitive set would be helpful. It would also assist my understanding of the issue if you could provide such figures on an annual basis along with any other relevant information (ie simply setting out the number of public houses lost to another use each year, noting what use the premises changed to if that is known).

As I understand it, the Council's justification for taking the proposed policy stance relies on the evidence about the loss of public houses, the text of the National Planning Policy Framework (NPPF), particularly at paragraphs 69 and 70, and the views of the Inspectors in the appeal decisions produced. Have I understood this correctly, have I missed anything, and is there any other evidence you would wish to bring to my attention which has not been submitted with the examination documents? What evidence is there to suggest that other drinking establishments within Class A4, restaurants and cafés (Class A3), and financial and professional services (Class A2) outside of Higher Order Centres are being lost to other uses? As things stand, and subject to your clarification on these issues, I have some concern about the degree to which the evidence supports the robust, apparently inflexible approach you propose in Policy CK2.

Perhaps more fundamentally, I am concerned that the operation of the proposed policies could lead to unintended negative outcomes. The issue here is that of the viability of public houses and the other businesses that would be affected. How would the policies deal with a building used as a public house which could either be shown to be unviable in that use or could not be sold or let for such a use? How would the policies deal with the other uses covered in Policy CK2 in this regard? Is there a danger that if such viability factors are ignored, then Policy CK2 could lead to buildings standing empty? Is there any evidence on any of this?

Paragraph 70 of the NPPF says that planning policies should 'guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs'. Without acknowledging viability factors, does Policy CK2 go further than the NPPF, in that some losses may be necessary? What evidence is there to demonstrate that all of the A4 uses throughout the Royal Borough, and all of the A3 and A2 uses outside of the Higher Order Centres, are valued as community facilities/services? How do the two policies take this into account?

On a matter of greater detail, I am not certain how the policies address relocation. For example, if an estate agency in one centre wishes to vacate and take up new premises in another, would that amount to a 'loss' under Policy CK2? Should the Core Strategy clarify this?

These questions will be among my matters and issues for examination. Nonetheless, with an efficient examination process in mind, I ask that you give careful consideration to these issues now and let me know your position.

So far as I can tell from my initial review of the documents, it appears that a Habitats Regulation Assessment screening exercise has not been undertaken. You will appreciate that I have a duty to consider whether the review would be likely to have significant effects on European sites. In this regard, it would be extremely helpful to have unambiguous confirmation from Natural England that an Appropriate Assessment is not necessary.

Finally, I am given to understand that a policy addressing the presumption in favour of sustainable development along the lines of that published by the Planning Inspectorate must be included in development plan documents for them to be considered sound at examination. Would you wish to take the opportunity of this partial review to put forward such a policy?

I hope this letter has been of some help to you. I look forward to your response at the earliest opportunity. Once I have that, and confirmation in relation to the wishes of those with the right to be heard, I shall set a timetable for the examination and any hearing sessions necessary.

Yours sincerely

Simon Berkeley

Inspector