

Royal Borough of Kensington and Chelsea Local Development Framework

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

Schedule of Matters and Issues for Examination

Inspector: Simon Berkeley BA MA MRTPI

Programme Officer: Chris Banks
Programme Officer
c/o Banks Solutions
21 Glendale Close
Horsham
West Sussex
RH12 4GR

Telephone: 01403 253148
Email: bankssolutionsuk@gmail.com

Timetable for the Hearing sessions

Date	Morning session 10am	Afternoon session 2pm
Day 1 Wednesday 1 May	<ul style="list-style-type: none">• Opening• Matter 1 – Legal and procedural matters• Matter 2 – Whether the revisions have been positively prepared and are justified <p><i>Attendance – to be confirmed</i></p>	<ul style="list-style-type: none">• Matter 2 (continued if necessary)• Matter 3 – Whether the revisions are effective and consistent with national policy <p><i>Attendance – to be confirmed</i></p>
Day 2 Thursday 2 May	Reserve day and Inspector site visits	

Schedule of matters and issues for Examination

Note: It is implicit that in answering the following questions, if respondents identify a deficiency in the submitted document they should make clear how it should be changed.

Matter 1 – Legal and procedural matters

Issues

- 1.1 Overall, have the proposed revisions to the Core Strategy (CS) been prepared in accordance with the legal requirements? Have they been prepared in accordance with the plan-making advice in the National Planning Policy Framework (NPPF)?
- 1.2 Do the revisions have regard to national policy and if there are any divergences how are these justified?
- 1.3 Have the revisions been prepared in accordance with the Council's Statement of Community Involvement and met the minimum consultation requirements in the Regulations?
- 1.4 Are the proposed revisions based on a sound process of sustainability appraisal and testing of reasonable alternatives?
- 1.5 Have the main modifications put forward by the Council to the submission version of the proposed revisions been subject to sustainability appraisal?
- 1.6 Is an Appropriate Assessment necessary to satisfy the Habitats Regulations?
- 1.7 Are the revisions consistent with the remainder of the adopted Core Strategy, and would they support its delivery?
- 1.8 Is a sustainable communities strategy in place? How do the revisions relate to this, and to any other plans and strategies which might influence their delivery?

Matter 2 – whether the proposed revisions to the Core Strategy have been positively prepared and are justified

Issues

- 2.1 Have the revisions been 'positively prepared' in the terms set out in the NPPF?
- 2.2 What alternatives to the proposed revisions have been considered? Are the revisions chosen the most appropriate in the circumstances?
- 2.3 The Council has proposed main modifications to the submission version of the revisions. Taken together, those listed as MM4, MM5 and MM6 in the table attached to the Council's letter of 20 February effectively alter the approach to resisting the change of use of buildings where the current use contributes to the character of the area and its sense of place. As originally submitted, this resistance was proposed to apply across the Royal Borough. As proposed to be modified, it appears to only apply to Conservation Areas.
 - a) For the avoidance of doubt, is that correct?
 - b) If so, what is the justification for this modification? Is it necessary for soundness?
- 2.4 What is the justification for the proposed policy stance? In particular:
 - a) Why is it desirable to prevent public houses and each of the other uses involved from changing to alternative uses?
 - b) What problems do the proposed revisions aim to address?
 - c) What evidence is there to indicate that, in the absence of the proposed policy intervention, the public houses and other uses involved would be likely to come under pressure for residential redevelopment?
- 2.5 Why do the proposed revisions to Policy CK2 resist the loss of public houses and other drinking establishments throughout the borough, but only resist the loss of restaurants and cafés, and financial and professional services outside of Higher Order Town Centres? Why is this distinction made?
- 2.6 Taken overall, are public houses and the other uses involved financially viable uses in this part of London? Is there any evidence on this one way or the other?

Matter 3 – whether the proposed revisions to the Core Strategy are effective and consistent with national policy

Issues

- 3.1 Public houses and the other uses concerned sometimes cease trading, leaving their host buildings vacant.
- a) In such an event, is there a risk that the proposed policy revisions could lead to the building involved remaining vacant and unused?
 - b) How does the development plan deal with a situation of this sort?
- 3.2 The Council's letter of 20 February effectively indicates how the Council would, in practice, approach applications to change the use of a public house to a different use. I understand this to include proposed changes to a residential use. It suggests that evidence showing the public house use to be unviable, and any evidence of it having been marketed for other uses permitted without the need for planning permission, would be taken into account as material factors weighing against the proposed policy revisions.
- a) Should this explanation be included in the proposed revisions?
 - b) If not, why not?
 - c) If so, should the revisions set out the circumstances in which viability and marketing evidence would overcome the policy's resistance to other uses being acceptable?
 - d) Should the development plan clearly indicate how a decision maker should react in these circumstances? If not, why not?
- 3.3 Is the evidence underpinning the proposed revisions robust enough to justify not including a caveat in relation to viability in the development plan?
- 3.4 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'.
- a) Does paragraph 70 of the NPPF suggest that some losses of valued facilities and services may be necessary?
 - b) If so, are viability factors among those which may cause such a loss to be necessary?
 - c) If a public house or one of the other uses concerned is shown to not be viable, would allowing its loss conflict with paragraph 70 of the NPPF?
 - d) How do the proposed revisions to the Core Strategy reflect paragraph 70 of the NPPF in this regard? If the concept of

unnecessary loss, and hence necessary loss, is not incorporated, do the revisions impose a stricter regime than national policy? If so, is the evidence sufficiently robust to justify this?

- 3.5 Businesses of the sort mentioned in the proposed revisions to Policy CK2 move premises from time to time, for example to larger, higher quality or better located premises.
- a) Would such relocation amount to a 'loss' under the terms of the proposed revisions to Policy CK2?
 - b) Should the Council's approach, as explained in the letter dated 20 February, be set out in the revisions, to ensure the policy's effectiveness?
- 3.6 Should the proposed revisions to the Core Strategy include revisions to Chapter 38: Monitoring? How will the success or otherwise of the proposed revisions be measured and monitored? What are the contingency plans in the event that the proposed revisions are considered to be unsuccessful, and when would the contingency plans be triggered?