

# Core Strategy Review

Consultation Responses to Publication Miscellaneous Matters Policy

April 2014



THE ROYAL BOROUGH OF  
KENSINGTON  
AND CHELSEA

Name	Q1 State planning policy or paragraph number to which you are referring	Q2 Do you consider the planning policy to be sound?(Y/N)	Comments on Q2	Q3 If you have selected NO to the planning policy being sound do you consider the planning policy to be unsound because it is not:					Q4 Do you consider the Planning Policy Document to be legally compliant? (Y/N)	Q5 Do you wish to appear at the Examination on any of these matters? (Y/N)	Q6 General comments	Council's Response	Recommended changes
				Positively prepared	Justified	Effective	Consistent with national policy	Comments on Q3					
Barclays Bank Plc	Corporate Partners Actions Fostering Vitality	N	<p>The Bank fails to see how the use of "Article 4 Directions to control permitted changes of use within each of the land use classes" (Item 11 of "Corporate and Partner Actions for Fostering Vitality" at paragraph 31.4.4) can do anything to promote vitality. That is delusional. By their nature Article 4 Directions are negative and take away permitted development rights granted by Government. This would be 'unsound' as it is not "positively prepared", "Justified" by any evidence, or "Consistent with National Policy".</p> <p>Para 1-2-1 The adopted Core Strategy states at paragraph 1.2.1 "Legislation requires local authorities to be consistent with national policies in preparing their plans. What this means is that as a general rule of thumb we should follow national policy but if there are good reasons why it is not appropriate for us, we can prepare our own policy, so long as we can justify our different approach". With the exception of a minor amendment to the wording replacing "national policies" with the term "NPPF" it does not seem to be the Council's intention to modify this stance. We are unable to find any basis within the NPPF (or indeed elsewhere) for the Council making the assertion that it can continue with such an approach. Adhering to the Government policy within the NPPF is not optional and we have yet to see any evidence that would justify the Council in taking a different approach than the positive one advocated by the NPPF</p>							<p>1 Introduction We act as planning consultants for Barclays Bank plc ("The Bank") in respect of the emerging LDF for Kensington &amp; Chelsea. The Bank is already a major stakeholder within the Borough, with a number of branches within the Council's area, such as Kensington High Street, Notting Hill Gate, Brompton Road, Earl's Court and Sloane Square. The Bank's representation within some of the Borough's centres will continue to evolve over the life of the emerging LDF as the Bank needs to respond to changing customer demand and patterns of use. In view of the likely requirement for improved provision of banking services the Bank would like to continue to contribute to the emerging plan process so that its views are heard and planning policy will take its future business needs into account. The Bank was an active participant in the process of adoption of the existing Core Strategy where attention was drawn to the key role played by financial services retailers generally and the Bank in particular within the Borough's various shopping centres. Representations were also made by the Bank in October 2012 to the previous Partial Review Submission document concerning public houses and shopping facilities, to the review of current Employment Policies in November 2012 (the November representations which explain the provisions of the National Planning Policy Statement, or NPPF, are attached herewith for ease of reference) and yet again in December 2012 in relation to the first stage of consultation on the current amendments. Representations were also submitted by the Bank to the Public Examination into the aspects of the Partial Review concerning Class A4 uses in April 2013.</p> <p>2. The National Planning Policy Framework or NPPF. As set out in the Bank's numerous representations to the Council's seemingly endless rounds of consultation since March 2012, one of the Government's stated reasons for producing the NPPF was to cut down upon the amount of planning policy and in order to create a usable document which allows and promotes genuine participation by the wider community. Just the two documents under consultation that the Bank has examined amount to some 145 pages. It must be the aim of the replacement Core Strategy to be much more concise, as well as more positive in its tone (see below regarding being "positively prepared"), than the existing planning documents. Essentially, this will mean reducing the number of policies and extraneous verbiage throughout the Plan. Indeed if the existing Core Strategy did not contain so much unnecessary detail, the Council would not have to put out so many consultations about revising it.</p> <p>3. The current Core Strategy must be made consistent with its provisions so that it can be considered as "sound" when the Partial Review is submitted for Examination. To be 'sound' a plan must be "Positively prepared", "Justified", "Effective" and "Consistent with National Policy" (paragraph 182). For a "positively prepared" document the Publication version contains a remarkable amount of negativity. For instance, the word</p>	<p>The policies in question (Policies CF2 and CF3) are not subject to this partial review. The response does not make it clear which policies or accompanying reasoned justification are being referred to.</p> <p>It is unclear what unnecessary detail is set out in the Core Strategy as this has not been identified. It is not clear what policies are not required including reasoned justification.</p> <p>Paragraph 154 of the NPPF refers to the need to have</p>	No change	

										<p>"resist" appearing 95 times in the 119 pages of "Miscellaneous Matters" document and then makes a further 24 appearances in the 26 pages of the "Conservation &amp; Design Policy Review". We do strongly recommend that the Council takes the trouble to read the Bank's representations of 27<sup>th</sup> November 2012 as this would help it to identify the key messages in the NPPF regarding supporting enterprise and meeting the needs of business.</p> <p>However, the Bank's fundamental objection to the "Partial Review" is the failure of so much of the existing policy (but unfortunately is not subject to this exercise) to meet the terms of the NPPF. The current town centre frontage designations are very out-of-date and have clearly not been prepared having regard to the advice within the NPPF. Proper analysis of the frontages shows that in many cases (and in every frontage in the instance of the 'South Kensington District Centre') there are no opportunities for non-shop businesses to expand or relocate under the terms of the Core Strategy's existing policy threshold. Existing policy is not based upon any robust assessment and the current consultation on 'Miscellaneous Matters' should have provided the opportunity to address the Bank's many previous objections to the Borough's shopping frontage policies. The Bank objects that it does not do so and that there is no proposed revision to Policy CF3. In a chapter headed 'Fostering Vitality' one would expect to see policies intended to do that, yet in Policy CF3, ironically headed 'Diversity within Town Centres', the Council persists in the arbitrary restriction of all except A1 uses in primary retail frontages. As the Bank's previous representations have shown, the Council has no evidence for this stance, yet in contrast the Bank has provided the Council with evidence of how it facilitates vitality and viability in accordance with National Policy. Attached as Appendices 1 &amp; 2 are the Bank's pedestrian footfall counts showing the level of attraction of banks when compared with other shopping area activities?</p> <p>4. Closing Comments Within the NPPF the Government has reconfirmed its commitment to HM Treasury's 'Plan for Growth' and its determination that planning policies and their implementation must facilitate economic investment and growth. It is imperative that the Council takes the opportunity for a serious review and, where necessary, proper revision to the 'Development Plan', to ensure that its planning policies are consistent with National Policy and fully justified by robust evidence. Up-to-date development plans are an essential element in underpinning economic growth and the Council must revise unsound policies such as CF3 which do not provide support for investment by important stakeholders such as the Bank. In view of the Bank's likely requirement for improved provision of banking services in the Royal Borough during the life of the LDF it would like to confirm its continued interest in LDF process and in that regard we would be grateful if the Council would continue to notify us of the progress of the submitted document as well as upon any other emerging LDDs.</p>	<p>clear policies on what will or will not be permitted and where. This does not chime with the comments on the NPPF which have been submitted.</p> <p>Paragraph 158 of the NPPF states that each local planning authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. Therefore the revision of the current development plan is required and justified. It is also considered adequate in its scope at this time.</p> <p>Noted</p>	
The Kensington Society (Michael Bach)	Housing Targets: Paras 4.3.2 and 4.3.5 Streetscape: Paras 4.5.9 and CP4 Construction Traffic: new policy CT1(q) and , para 33.3.35 and new policy CR7(f)	N				Y	Housing Targets: Para 4.3.2: Housing target is 585 net additional housing units per year, "after deduction of any net losses from redevelopment or from conversions." Compare with wording of Policy CP1. Para 4.3.5: Net Losses need careful monitoring – not done to date. Line 1: After "Delivery" add ", as well as net losses from developments and conversions," Streetscape: After nearly 15 years of driving up the quality of the Borough's streetscape and a	Y	Y		<p>Housing targets: There is no way of monitoring net loss of housing units accurately as some conversions resulting in the loss of units do not require planning permission. However this issue is not being dealt with as part of this review.</p> <p>Streetscape is adequately covered in other parts of the development plan e.g. The Streetscape Manual is referred to in the 'Engaging Public Realm' chapter, which is read as a whole. It is not necessary to include it here.</p> <p>The need for CTMPs is covered in the publication basement policy which is also</p>	No change

							<p>continuing commitment to continuing this – see revised lead policy statement on Policy CR4: Streetscape, streetscape should be mentioned specifically: Para 4.5.9: Line 3: After “townscape,” add “streetscape” – to reflect the last 15 years’ efforts and continuing commitment to drive up the quality of our streetscape.</p> <p>Policy CP4: After “townscape” add “streetscape” Chapter 32: Better Travel Choices There should be a policy on the need for construction traffic management plans, which minimise impact on traffic congestion and on parking, by operating a presumption that wherever possible nothing will be put on the highway. A CTMP will be required as part of the planning application where major construction work will occur, including basement developments.</p> <p>After Policy CT1(p): add: “q. ensure that wherever possible all skips, building materials and plant in connection with building works is kept off the highway.”</p> <p>Chapter 33: Engaging Public Realm Para 33.3.35: After “sites’ in Line 1 add “construction sites,”</p> <p>Policy CR 7: Add a further bullet: “f. require applicants to provide a proposed construction traffic management plan, which seeks to minimise the impact of the demolition, excavation and construction to minimise the impact on residents and to minimise the use of the highway for skips, materials and plant.”</p>				<p>for consideration by PINS at this time. The adopted subterranean development SPD also sets out the requirements for CTMPs and their contents. It is not appropriate to repeat it here.</p>	
Egerton Gardens Mews Residents' Association (Joanna Morritt)		Y						Y	N		Support noted	No change

English Heritage										<p>Thank you for the opportunity to provide comment on the Royal Borough of Kensington and Chelsea's Partial Review of its Core Strategy (pertaining to the policies on Basements, Conservation and Design, and a range of Miscellaneous Matters). As the Government's adviser on the historic environment, English Heritage is keen to ensure that the protection of the historic environment is fully taken into account at all stages and levels of local planning.</p> <p>English Heritage has reviewed the document in light of the National Planning Policy Framework (NPPF), which includes, as one of its core principles, that heritage assets be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. Having done this, English Heritage advises that we are broadly content with the soundness of the proposed revisions in terms of the historic environment.</p> <p>We would ask the Royal Borough to consider the potential for a more detailed approach to matter of retrofitting heritage assets for improved energy performance, perhaps via a dedicated Supplementary Planning Document. We also note that the relevant reference (Footnote 20 on page 58, Miscellaneous Matters) is out of date and is probably best replaced with a reference to our website as follows: <a href="http://www.english-heritage.org.uk/your-property/saving-energy">www.english-heritage.org.uk/your-property/saving-energy</a>.</p> <p>For the avoidance of doubt it must be stated that this advice is based upon information provided by you and does not affect our obligation to advise you on, and potentially object to, any specific development proposal which may subsequently arise from this or later versions of the SPD, and which may have adverse effects on the environment.</p>	Noted and the change will be made to the footnote on the miscellaneous matters document.	Recommended that the change to the footnote on page 20 be made.
The Chelsea Society (Terence Bendixson)	Policy CE6c Noise and Vibration Reasoned justification Paragraphs: 36.3.39 36.3.42 36.3.44	Y but	<p>The Society's proposed changes are in CAPITALS.</p> <p><b>CE6b</b> Given the extreme impact of basement developments, and given too that impacts from underground excavation and construction rise in line with the scale of the works involved, this policy would benefit from the following modifications. (Chelsea Society proposals in CAPITALS.)</p> <p>resist developments, PARTICULARLY THOSE INVOLVING BASEMENT EXCAVATIONS AND CONSTRUCTION, which fail to meet STRINGENT local noise and vibration standards;</p> <p><b>CE6c</b> This policy contains the word acceptable. It is a good word but it is loose and leaves infinite scope for argument. It is therefore essential for the Council to define levels of noise and vibration that may not be exceeded during development. With this in mind the Chelsea Society proposes the following changes to CE6c:</p> <p>THE COUNCIL WILL DEFINE LEVELS OF NOISE AND VIBRATION THAT MAY NOT BE EXCEEDED DURING DEMOLITION AND CONSTRUCTION WORKS AND WILL resist all applications for noise and vibration generating development and plant. THE LEVELS CHOSEN WILL BE DESIGNED TO ENSURE THAT RESIDENTS IN THE SURROUNDINGS WILL SUFFER NO SIGNIFICANT LOSS OF AMENITY. (that would have an unacceptable noise and vibration impact on surrounding amenity;*)</p> <p>Reasoned justification paragraphs 36.3.39 36.3.42 36.3.44</p> <p>The Chelsea Society strongly supports this policy and its reasoned justification but we are concerned by the lack of any defined levels of nuisance by which excess could be judged.</p> <p>We are also concerned that the policy makes no reference to basement excavation and to the extreme nuisance it creates – particularly between adjoining houses. It also lacks urgency. We therefore propose certain modifications.</p> <p>36.3.39 The dominant sources of noise in the Borough are generated by road and rail traffic, building and construction activity (including DIY), noisy neighbours, pubs and clubs,</p>					Y	Y	<p>The suggested changes relate largely to creating a focus on the impact arising from basement development. This is a specific area which is being addressed by the formulation of a specific policy (CL7) with its own RJ (also for consideration by the Inspectorate). Therefore, the need for a specific reference to basements within this policy and the supporting text is unnecessary as it would only be repeated elsewhere.</p> <p>The suggestion to add 'AS A MATTER OF URGENCY AND STARTING NO LATER THAN 2014' is not appropriate to include in the supporting text as it is dependent on another department who have different priorities and corporate pressures. It would not be appropriate to add a deadline to the RJ.</p>	No change	

			<p>pavement cafés/outdoor seating and noisy building services plant and equipment. BASEMENT EXCAVATION AND CONSTRUCTION CREATE PARTICULARLY ACUTE IMPACTS. Aircraft and helicopter noise is also a concern in parts of the Borough.</p> <p>36.3.42 The Environmental Noise (England) Regulations 2006, the London Plan and the National Planning Policy Framework requires the consideration of protecting tranquil/quiet areas. At present, there are no such areas identified in the Borough, however the Council will work with the Department for Environment, Food and Rural Affairs to identify these AS A MATTER OF URGENCY AND STARTING NO LATER THAN 2014 in due course.</p> <p>36.3.44 The evidence on noise and vibration shows that we need a policy to ensure that new development, PARTICULARLY BASEMENT EXCAVATION AND CONSTRUCTION, MAKES USE OF STATE-OF-THE-ART QUIET EQUIPMENT AND ENSURES THAT (takes account of existing sources of noise and vibration and proposed *) noise and vibration generating development does not impact on (existing*) THE amenity OF RESIDENTS AND VISITORS. * Words within brackets to be deleted</p>									
Greater London Authority (Hermine Sanson)										Royal Borough of Kensington and Chelsea - Local Development Framework Partial review of the core strategy: housing, basements, design and miscellaneous matters and no other comments related to mm.	Noted	No change
Highways Agency (Nick Elphick)										<p>Thank you for your publication dated July 2013 inviting the Highways Agency (HA) to comment on the Statement of Representation Procedure (Basements Publication, Housing Publication, Miscellaneous Matters, Conservation and Design - Planning Policies) Partial Review of the Core Strategy.</p> <p>The HA is an executive agency of the Department for Transport (DfT). We are responsible for operating, maintaining and improving England's strategic road network (SRN) on behalf of the Secretary of State for Transport. The HA will be concerned with proposals that have the potential to impact the safe and efficient operation of the SRN.</p> <p>We have reviewed the consultation and do not have any comment at this time.</p>		
Natural England (Piotr Behnke)										<p>Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.</p> <p>Natural England does not consider that this Partial review of the Core Strategy with a focus on North Kensington poses any likely or significant risk to those features of the natural environment for which we would otherwise provide a more detailed consultation response and so does not wish to make specific comment on the details of this consultation.</p> <p>We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.</p>	Noted	No change
Thames Water Property Services										Thames Water has previously commented on the earlier stages of consultation, most recently in May 2013. Having reviewed the proposed planning policies Thames Water has no further comments.	Noted	No change