

**Partial Review Of The Core Strategy Public Examination
Matter 2 – Whether the proposed revisions to the Core Strategy have been
positively prepared and are justified**



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Dear Mr Banks

**Local Development Framework for the Royal Borough of Kensington & Chelsea
CORE STRATEGY – PARTIAL REVIEW PUBLIC EXAMINATION
Matter 2 – whether the proposed revisions to the Core Strategy have been positively
prepared and are justified**

1. Introduction & Background

We act as planning consultants for Barclays Bank plc (“the Bank”) in respect of the Local Development Framework (LDF) for the Royal Borough of Kensington & Chelsea (RBKC) and this letter, together with the Bank’s representations on the Partial Review Core Strategy Submission on 16th October 2012 form the Bank’s written representations to the Public Examination of the Core Strategy.

Although the focus of this part of the Partial Review is nominally about Class A4 uses, alterations to Core Strategy policies are proposed that will also have an impact upon other land uses, such as Class A2 occupiers. In the Bank’s view the changes were unnecessary and unsound and it was for these reasons that the Bank submitted its representations. We trust that these representations have been passed on to the Inspector but if for any reason they have not please contact us immediately and we will provide the Inspector with copies as, in line with the Inspector’s guidance notes, this representation does not set out to repeat at length matters we raised in the above documents.

From an examination of the Council’s own original evidence (see Table 2 of its ‘Scoping Report’) the Bank concluded that there was little need for these policy amendments, although we now see that a further table has been produced which has a slightly different figure for the number of pub conversions to residential (it now seems to be 15 rather than 13 as set out in the ‘Scoping Report’, although this is still less than 0.5 of a pub per annum over the 32 year study period). To assist the Inspector we have scheduled these conversions into five year blocks and this table is attached as **Appendix 1** to this evidence.

Amongst the other 'evidence' submitted by the Council since the Partial Review Submission stage, and added to the schedule of Public Examination documentation, is a 2012 article from the *'Evening Standard'* concerning the proposed conversion of the "Phene Arms" to residential use. Rather curiously the appeal decision letter has not been adduced which dismissed the appeal, using existing policy, mostly on grounds of harm to the character of the conservation area from the loss of a commercial use (<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2175522&coid=2167330>).

In fact, of the 4 appeals for residential use listed on the Council's latest schedule, 3 were dismissed, a success rate for appellants considerably below national average levels (a rate that has varied little over the years from about 35%), which supports the Bank's view that the existing (and very extensive) policy base is already more than adequate to exercise planning control. As a matter of principle, the Bank is of the view that in order to succeed, commerce requires less planning policy rather than more, a message supported in the NPPF.

2. The Inspector's Questions

2.1 Have the revisions been 'positively prepared' in the terms set out in the NPPF? – The proposed changes set out with the intention of preventing acceptable development and limiting the normal operation of the General Permitted Development Order. In this sense they are not positive. Furthermore, by not being based upon robust evidence the revisions fail an additional NPPF criterion.

2.2 What alternatives to the proposed revisions have been considered? Are the revisions chosen the most appropriate in the circumstances? – as far as the Bank is able to establish, no alternatives have been considered. The Bank has also given its views as the 'appropriateness' of the revisions. The revisions are unnecessary.

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?

Clearly, these questions are for the Council to answer, although the Bank still poses its original question about how the policy, even if now only applied in parts of the Borough, can be applied objectively as paragraph 182 of the NPPF requires. It should also be pointed out that reducing the scope of the policy is not much of a concession when at least 70% of the Borough is subject to conservation area restriction.

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?

Again these are questions for the Council, as the Bank's conclusion is that the revisions are unnecessary in principle.

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?

Again these are questions for the Council, as the Bank's conclusion is that the revisions are unnecessary in principle.

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?

The Council adduces no evidence regarding financial viability, thus undermining its stance.

3. Concluding Remarks

The National Planning Policy Framework (NPPF) re-emphasises the requirement for a Development Plan to be "sound" when it is submitted for Examination and that in order to be so it must be "*Positively prepared, Justified, Effective and Consistent with National Policy*". The Government expects the development plan process to consider alternative strategies before deciding upon the most appropriate, that decision being based on evidence to support the choice (paragraph 182). The NPPF is clear that each LPA should "*ensure that the Local Plan is based upon adequate, up-to-date and relevant evidence*" and that their assessments and strategies "*take full account of relevant market and economic signals*" (paragraph 158). These points were explained in the Bank's representations upon the Submission document in October 2012.

Those representations also highlighted the paragraphs stressing the positive attitude that the Government requires in development plan documents that deal with the economy, town centre and retail development, also noting the Planning Minister's Foreword emphasising the requirement for the planning system to facilitate positive growth. It is therefore essential that all policies in the Borough's Core Strategy should facilitate that positive approach required by the NPPF if it is to be found sound.

In the Bank's view the suggested amendments to the wording of the Core Strategy are not justified, not based upon robust evidence, unnecessarily subjective and will introduce uncertainty into the development control process. If adopted they are likely to undermine investors' confidence and would clearly be inconsistent with National Policy, being contrary to the Government's Growth Agenda. These are matters that the Council has shown itself unable to address and the proposed revisions cannot be made sound. Accordingly, the proposal should be abandoned.

Yours sincerely



Michael Fearn of Shireconsulting
On behalf of BARCLAYS BANK PLC

Appendix 1

Schedule Of Public Houses In The Borough Converted To Residential Use By Five Year Segment

Years 1990-4

1	Bridport Arms	1994-11-14
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Years 1995-1999

2	Lowndes Arms	1998-06-08
3	The Latimer Arms	1999-03-31
4	The Earl of Zetland	1999-07-23

Years 2000-2004

5	Bee Hive	2000-09-30
6	Moore Arms	2001-03-28
7	The Plough	2003-02-12
8	Duke of Clarence	2004-02-19

Years 2005-2009

9	The Malvern	2006-10-30
10	The Tavistock	2009-05-14
11	The Ifield	2009-12-04
12	The Tournament	2010-01-19
13	The Cow Shed	2010-12-23

Years 2010-2012

14	Kensington Arms	2011-03-08
15	Prince of Wales	2011-09-01
16	The Kensington	Withdrawn

Source: *"Loss of A4 uses 1980-2012"* RBKC & Planning Register for the status of the application at *"The Kensington"*.

Note: There are no residential conversions scheduled upon the Council's list before 1994, but even taking the 18 year study period the 'loss' is less than 1 pub per annum.