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Our ref. NTH/AXG/J5255

3 September 2010



Dear Mr Banks

RBK&C Proposed amendments (Reference RBKC/18F)

We write further to your email dated 17 August 2010 to comment on the changes proposed within the Council's response document to third party statements dated 13 August 2010.

With regard to policy CF2, despite the debate on this matter at the Examination in Public, we note the Council are not proposing any changes or amendments. As a result, our objections as set out in our representations dated 11 June; 1 September and 12 December 2009, and the 22 July 2010, remain.

With regard to Policy CF5, we do not consider the Council's amendments go sufficiently far enough to provide flexibility for circumstances where the loss of offices may be an entirely sensible approach and we made comments to this effect at the Inquiry.

Policy CF5(a) provides a blanket protection of very small, small, medium sized and large offices in 'accessible areas' which is defined as an area with a PTAL rating of 4 or more.

The policy contains no criteria whatsoever to allow for the release of these sites for other uses even taking in account situations where the loss may be totally justified on the basis of:

- Lack of market demand;
- Inappropriate locations;
- Out of date or unviable accommodation.

In order to not sterilise sites unnecessarily, it is considered essential to include flexibility within the policy to allow these circumstances to be considered. Therefore, in respect of Policy CF5 (Part A) it is suggested that additional criteria are added for the circumstances that may be considered to justify the loss of offices:

- "i. The existing office use creates significant adverse effect on the character and amenity of the surrounding area;

- ii. There is evidence of lack of demand or an oversupply of office floorspace in the existing location;
- iii. The existing office space is redundant in its redevelopment of a new commercial office floorspace is unviable.

Existing criteria (i) and (ii) would then be renumbered as criteria (iv) and (v) respectively.

Finally, with regard to the Council's proposed amendments to Policy CH2, we generally support the amendment to policy CH2(P) although it is considered essential to make the following underlined addition to the proposed text:

“...i) the maximum reasonable amount of affordable housing is provided through the provision of a viability assessment, using the GLA toolkit or an agreed alternative or;

ii) the exceptional site circumstances or other public benefits to justify the reduced affordable housing provision”.

The Councils drafting would require both demonstration of viability matters and demonstration that there were exceptional circumstances. We do not consider it was the intention of the Council to require both criteria to be satisfied. Clearly, if a scheme is not viable then it is appropriate to consider a lower percentage of affordable housing than 50% even if there are no exceptional site circumstances. The amendment set out above clarifies this point.

In addition, it has come to our attention that the policy does not make it clear that an affordable housing contribution will only be sought on the net increase of residential floorspace on a site. For example, for a site that is proposed for a redevelopment scheme providing 2,000 sq m of residential floorspace but which has 1,000 sq m of residential on site already, the existing floorspace should clearly be excluded and only the net increase of 1,000 sq m should be considered for the purpose of Policy CH2 criteria (i) to (r). We have presumed this is an oversight in the drafting and point this out for the purpose of creating clarity of interpretation of the future policy.

We trust that you will receive these comments in the spirit that they are intended in order to bring about a robust and clear policy framework for proposals to be tested against in the future.

Please do not hesitate to contact either Neil Henderson or Hannah Pennington if you have any questions.

Yours faithfully



Gerald Eve LLP

c.c. Hugh Seaborn Esq - Cadogan Estates Limited