

## GREATER LONDON AUTHORITY

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**Our ref:** LDF20LDD01 08/02  
**Date:** 10 June 2010

**Mr Jonathan Bore**

Executive Director of Planning and Borough Development  
f.a.o. The Planning Policy Team  
The Town Hall  
Horton Street  
LONDON W8 7NX

Dear Mr Bore,

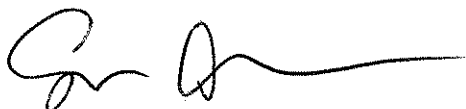
**Planning and Compulsory Purchase Act 2004; Town and Country Planning (Local Development) (England) Regulations 2004 (as amended)****Kensington & Chelsea Council Local Development Framework: proposed submission of the Core Strategy****Revised statement of general conformity with the London Plan**

Thank you for your letter of 8 March 2010, in response to the Mayor's comments on the above documents. The Mayor has delegated his planning powers to me and having now considered your responses and my officer report on this case (reference PDU/LDF20/LDD01 08/01 copy enclosed) I can advise as follows.

As you will be aware, by virtue of section 24(1)(b) of the Planning and Compulsory Purchase Act 2004, all development plan documents must be in general conformity with the London Plan. It is my opinion that the proposed submission document is now in general conformity with the London Plan.

If you would like to discuss any of my representations in more detail, please contact Matthew Carpen (020 7983 4272) who will be happy to discuss and arrange further meetings in advance of the formal hearing sessions.

Yours sincerely

**Sir Simon Milton**

Deputy Mayor – Policy and Planning



cc Kit Malthouse, London Assembly Constituency Member  
Jenny Jones, Chair of London Assembly Planning and Spatial Development Committee  
Ian McNally & John Pierce, GoL  
Colin Lovell, TfL  
Dean Williams/Helen Wood, LDA



## GREATER LONDON AUTHORITY

planning report PDU/LDF20/LDD01 08/01

10 June 2010

Core Strategy, Submission

**Royal Borough of Kensington & Chelsea Local Development Framework****Consultation on Submission Document**

Town & Country Planning Act 1990 (as amended); Greater London Authority Act 1999 and 2007; Planning and Compulsory Purchase Act 2004 (as amended); Town and Country Planning (Local Development) (England) Regulations 2004 (as amended).

**Strategic issues**

The Mayor raised four matters of non-conformity as set out in his final response on the draft submission version of the Core Strategy. The Council has responded to each non-conformity matter. Those matters regarding affordable housing targets and open space are agreed. Matters regarding hotels and tall buildings no longer raise non-conformity issues, however further text and signposting within the Core Strategy is required as set out in the most recent information received from the Council justifying the approach.

**Recommendation**

That the Mayor agrees to submit the comments set out in this report to Kensington & Chelsea Council as a formal updated response to the Submission Core Strategy, and that Kensington & Chelsea Council be advised that the Submission Document is in general conformity with the London Plan in relation to the above strategic issues but that clarity and signposting is required to ensure the approach is justified and effective in terms of the tests in PPS12.

**Context**

1. On 29 October 2009, Kensington & Chelsea Council consulted the Mayor of London on the above document. The Deputy Mayor, acting under delegated authority, responded on 9 December 2010 setting out four matters of non-conformity. This report is attached as an appendix.

**The Mayor's role**

2. All development plan documents must be in general conformity with the London Plan, in accordance with Section 24(1)(b) of the Act. It is also a statutory requirement for local planning authorities to request the Mayor's opinion on general conformity at the same time as it submits the documents to the Secretary of State.

3. PPS12 sets out the definition of general conformity: *"The test is of general conformity and not conformity. This means that it is only where an inconsistency or omission in a development plan document would cause significant harm to the implementation of the spatial development strategy, that it should be considered to not be in general conformity. The fact that the development plan document is inconsistent with one or more policies in the spatial development*

*strategy, either directly or through the omission of a policy or proposal, does not, by itself, mean that the document is not in general conformity. Rather the test is how significant the inconsistency is from the point of view of delivery of the spatial development strategy.”*

4. The Mayor’s General Conformity Guidance Note (July 2006) confirms that the principle of general conformity applies to all policy areas of the London Plan and can apply to a single policy issue. The Guidance Note also confirms that the Mayor will make other comments on development plan documents. However, where these are made they must relate to one of the other tests of soundness.

5. An opinion from the Mayor that the plan is not in general conformity does not mean that the plan automatically falls. Rather, the opinion will automatically be treated as a representation to be dealt with at the examination. The Inspector will determine whether he or she supports the opinion and will recommend accordingly. The Planning Inspectorate has stated that the view of the Mayor’s opinion “*will be given considerable weight*”<sup>1</sup> and that a lack of general conformity with the London Plan will need to be fully justified on the basis of local circumstances, based on relevant evidence. Under the new development plan system the Inspector’s recommendations are binding on the local planning authority, and there is no subsequent modifications stage.

6. Based on experience elsewhere in the country it is likely that, where an opinion that a plan is not in general conformity is made, the Mayor will be expected to be represented in person at the examination. Other representations may be dealt with in person or through further written representations. The examination in the present case is due to be held in the middle of 2010.

7. The Mayor of London’s comments will be made available on the GLA website [www.london.gov.uk](http://www.london.gov.uk).

## **Previous representations**

11. The Deputy Mayor acting under delegated authority made representations at the submission consultation stage of the plan preparation process on 9 December 2009, (planning report PDU/LDF20/LDD01 07/01).

12. In summary, the Submission Document for the Core Strategy and Proposals Map are considered, on the whole, to be broadly consistent with the London Plan. There were, however, some outstanding, albeit few, issues of general conformity. These general conformity matters related to affordable housing targets, the non-protection of hotel use within Earls Court; lack of an open space strategy and tall buildings. The previous report considered these matters as well as matters regarding climate change and transport.

13. Since that time the Council has responded to each area of non-conformity, which are considered below.

### Affordable housing targets

14. At the submission stage the Mayor raised concern that parts of policy CH1 were not fully justified in terms of the tests set out in PPS12 and therefore raise non-conformity concern that the matter should be taken forward for discussion at any subsequent examination. Since then the Council has sought to explain the rationale. Whilst the response is helpful the Council should also recognise that the housing target for the borough can exceed those in the London Plan provided there is an evidence base to support such an approach. There remains a clear evidence of need, as such the

<sup>1</sup> Development Plans Examination – A Guide to the Process of Assessing the Soundness of Development Plan Documents (The Planning Inspectorate, 2005), paragraph 1.2.6

statement that it is not possible to introduce the higher figures prior to the introduction of the new London Plan targets is not the case.

15. It is however recognised that the supply side is constrained and the timescale of the Council's interim targets are short term (90 units per annum up to 2011) and that the Council is unable to identify capacity to support the emerging target (200 units per annum) in the interim period. The intention is that the 200 unit target will apply from the adoption of the new London Plan in 2011. Without any clear plan for realistic delivery in the interim period, the short term lower target is therefore accepted in this instance.

## **Open space**

16. As previously reported, Policy 3D.12 of the London Plan requires boroughs to prepare Open Space Strategies and lists what should be included in Paragraph 3.309. The strategy should inform the basis for open space policies within the Core Strategy and has an important role to play in managing and dealing with open space over the plan period within the borough.

17. The Council has confirmed that they do not intend to produce an open space strategy but that the work towards a strategy has been undertaken to a detailed level. The Council has provided a pack of documentation, which is intended to act as an open space strategy in all but name. This clearly shows a considerable amount of detailed work has been undertaken, and is helpful in supporting the Council's approach. In terms of clarity it is however unfortunate that this information is not contained in a single document, which is easily accessible and understandable. There is also an apparent lack of clear investment programme, notwithstanding the assumptions that the priority areas would be those areas of deficiency.

18. The Council should consider setting out a clear programme of priority investment to ensure that the open space strategy will be effective in terms of delivery. The Council's response provides sufficient evidence to suggest the strategy has been produced albeit through a range of papers.

## **Hotel protection**

19. The Mayor previously considered that the impact of reducing concentrations of hotels should not be at the expense of the borough contributing to meeting the need for more hotels (40,000 net additional hotel bedrooms) across London in more appropriate locations. The Council's desire remains clear, however, the contribution forms part of London's strategic supply and as such its loss should be resisted. The GLA suggested a floorspace approach within the borough, however this was not pursued. Policy 3D7 of the London Plan acknowledges that boroughs should resist further intensification of provision in areas of existing concentration, except where this will not compromise local amenity or the balance of local land uses.

20. The evidence provided by the Council suggests that over the last four years, applications for the loss of 238 bedrooms have been granted, and of those, 136 were actually lost (planning permission implemented).

21. These figures rolled across the plan period could amount to a significant proportion of the overall 4,550 bedspaces in Earls Court. Given the London Plan policy 3D.7 seeks to "resist the loss of strategically important hotel capacity" the Council should agree to monitor any loss at early stages of the plan period, as suggested in the response to the GLA. This should be signposted in the Core Strategy reasoned justification and would not amount to a material change, but would satisfy the previous concern raised by the GLA.

## **Tall buildings**

22. The Council has responded to the non-conformity concerns raised and retains the position in seeking not to identify suitable locations for tall buildings, including those suggested in the previous comments from the Mayor, at the emerging Opportunity Areas in Earls Court and Kensal.

23. The Council's response is helpful. It confirms that further detailed design analysis is underway on Earls Court in partnership with Hammersmith & Fulham Council (and the GLA) and that the views study will evidence the approach. Similarly at Kensal design constraints regarding impacts on the conservation area and other heritage assets require identification and this will need to be developed in a similar approach to Earls Court.

24. At this stage therefore the Council wishes to protect its position regarding the impacts subject to testing as identified above. This approach is accepted, however the Core Strategy should signpost this in the reasoned justification, including the positive approach to joint working with neighbouring boroughs.

25. The omission regarding the strategic linear view from King Henry VIII's Mound, Richmond to St Paul's Cathedral, still requires inclusion within the final document. Policy 4B.16 of the London Plan states that Boroughs should base the designation and management of local views in their DPDs on Policies 4B.16-4B.18 of the London Plan. The Core Strategy should reference this view.

## Legal considerations

26. All local development documents must be in general conformity with the London Plan in accordance with Section 24(1)(b) of the Act. This is a key test of the soundness of plans. The Mayor's representations made at this stage will go forward to the examination in public and must include an opinion regarding general conformity with the London Plan. The test of general conformity is set out in Circular 1/2008 and states that LDDs should not be adopted unless they properly reflect the policies in the Spatial Development Strategy.

## Conclusion

27. The policies throughout the documents are, on the whole, consistent with the London Plan. The further information provided by the Council help to evidence and explain the approach and help to satisfy the previous non-conformity concerns raised by the Deputy Mayor. The Core Strategy should, however provide clear signposts to make it clear the intentions with regard to reviewing policy on hotel provision in Earls Court and tall buildings work in the Opportunity Areas. GLA officers will engage with the Council to reach a position of common ground.

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for further information, contact Planning Decisions Unit:

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Kensington & Chelsea council and the Greater London Authority statement of common ground in relation to the GLA's objections relating to core strategy policies and supporting text relevant to affordable housing, open space, tall buildings and hotel protection in Earls Court.

Introduction

This statement of common ground:

- Confirms the GLA's strong in principle support for the Core Strategy's broad approach, subject to resolving the specific concerns that it has raised in relation to matters as specifically listed and addressed later in this Statement of Common Ground;
- By reference to the Issues and Matters listed of the Inspector's Matters and Issues list circulated by email on 8 June 2010, outlines and explains where the Council and GLA have agreed specific amendments to the text of the Core Strategy in a way which addresses GLA's specific concerns that (if the Inspector accepts such agreed amendments) would enable GLA to withdraw its objections based on such concerns. The Council and GLA confirm that they both consider that these amendments are within the scope of the Inspector's powers to make binding recommendations as to amendments at the conclusion of the Examination.

At the publication/submission stage of consultation, the GLA made formal representations on the soundness of some aspects of the proposed core strategy. This Statement of Common Ground relates to those representations which are focused on affordable housing, open space, hotels and tall buildings.

Representations where GLA and K&C have reached agreement on the basis of which GLA's representations can be withdrawn (and where appropriate details of the agreed minor amendments which form the basis of that agreement).

The Council and GLA have engaged in constructive discussions in order to resolve the concerns so that the GLA's representations can be withdrawn and GLA can then offer its full and unqualified support to the Core Strategy policies. They agree that if, following his consideration of the matters and issues set out to this Statement of Common Ground which is informed by the Council's response dated 8 March 2010 to the GLA's letter of non-conformity dated 9 December 2009, the inspector is minded to make the changes to the Core Strategy as set out below, that the following wording would be acceptable to both parties.

Affordable housing

No text or changes required – adequate justification has been provided.

Open space

No text or changes required – adequate justification has been provided.

Hotel protection in Earls Court

The following text in italics should be added into paragraph 31.3.48

*“Whilst hotels contribute greatly to both the Borough's economy and to its reputation, they are not always good neighbours. Poorly run hotels can cause problems, and a*

concentration of hotels in a residential area can change the area's character. This has been the case in the Earl's Court ward. The Council does however, recognise that the benefits of hotels can be maximised and their negative impact minimised, when hotels are located in the Borough's international or major centres; when they lie close to major tourist attractions; or when they lie in areas which enjoy excellent links to Central London. *The Council considers that there is likely to be a significant net increase of hotel bedrooms through the Borough (and the wider area) and is not therefore expecting the policy approach taken in Earl's Court to result in significant or strategic loss in hotel capacity in the borough. Should evidence show this not to be the case as part of Annual Monitoring, the Council will review the policy in light of the evidence.*

#### Tall buildings

The following text should be added either as a new paragraph after paragraph 34.3.29 or added to the end of paragraph 34.3.29:

*"On sites where there may be scope for a district landmark, a design-led approach is essential. In such cases the Council will promote close working with the stakeholders and, where appropriate, with strategic and neighbouring authorities, in the production of an urban design framework that will guide the siting and appropriate height of the building(s), particularly in relation to existing views and to ensuring a wholly positive benefit to the townscape."*