

## ROYAL BOROUGH OF KENSINGTON & CHELSEA LOCAL PLAN PARTIAL REVIEW

### RESPONSE BY KENSINGTON SOCIETY TO INSPECTOR'S MATTERS, ISSUES AND QUESTIONS ON ISSUES 3b FOSTERING VITALITY

Issue 3b: Fostering Vitality (Policies CP1 and CF1-CF8)  
Retail Development and Town Centres (Policies CP1 and CF1-CF3)

#### **Q1. Does the RBKC LPPR make adequate provision to meet the need for additional retail floorspace identified in Policy CP1?**

**No** – but most gains are unplanned, such as large workspace proposals in North Kensington. There is huge competition from housing. Dependence on larger schemes means slippage or phasing delays delivery.

Policy CP1 say that “the Council will seek to provide 9,700sqm of retail floorspace to 2023 across the borough”. This covers the period 2016-2023.

Firstly, the Retail and Leisure Needs Study by NLP (2016) (SUB33) provides projections the periods 2016-2018 and 2018-2023. Tables 6.1 and 6.2 shows projected additional retail floorspace to 2023 as 700sqm for comparison shopping and 9,000sqm for convenience shopping, almost entirely in “main centres/major stores.

Secondly, since 2016 there have been retail closures which has increased vacancies. These should be counted as part of the capacity. Section 5 of the NLP report deals with vacancies and considers that vacancies “have a role to play in accommodating projected growth”.

Where, as in South Kensington, there has been a major shift to “food and beverage” outlets, the importance of maintaining the proportion of A1 uses needs to be recognised. The Society is, therefore, opposed to the reduction of the aim of retaining 66% of units in A1 use to 50%. (see Question 4(b) below) and increasing concentration of certain non-A1 uses, such as estate agents in secondary frontages and banks (in Kensington High Street) and cafes (in Brompton Road and Kensington High Street) in major centres. We are concerned that the Council has limited powers to maintain the balance of A1 versus non-A1 uses. This is why policy CF3 needs to be properly applied, as set out in the policy, with regard to avoiding the dominance of retail (A1) uses by other uses

#### **Q2. Is the Plan consistent with the expectations of national policy in allocating a range of suitable sites within town centres to meet in full the retail, leisure, commercial, office, tourism, cultural and community needs of the borough?**

**No** – but the expectations of the NPPF (paragraph 23, sixth bullet) are totally unrealistic if read literally.

This NPPF policy is designed as a national, one-size-fits-all policy. In most Inner London Boroughs but especially Kensington and Chelsea, sites in or immediately

adjoining town centres are already in other uses and the opportunities for identifying sites for future town centre uses are limited. The Local Plan has done its best to identify sites, but most opportunities will be “windfalls”.

The main issue in Kensington and Chelsea is how to retain the town centre uses, particularly shops and offices, that we still have from being lost to housing.

If left to the market, much of the Borough’s office space in town centres could be lost. This is why Kensington and Chelsea:

- was the first local authority to introduce a policy to resist the loss of offices to housing – 2010 Local Plan Policy CF5 – proposed by the Kensington Society in 2008;
- was the only local authority in the country to be given a Borough-wide exemption for the change in permitted development rights for change of use from offices to housing; and
- has introduced an Article 4 Direction to cover the whole Borough to remove the permitted development right to turn offices to housing without planning consent.

The Kensington Society advocated these initiatives and, therefore, strongly **supports** the Council’s efforts to maintain the diversity of uses by:

- policies to protect retail uses, offices, light industry, launderettes;
- policies to protect social and community uses (see para 30.3.4 for the list) (Policy CK1) using a sequential approach to change of use;
- policies to protect arts and cultural uses (Policy CF7); and
- the use of Article 4 Directions for offices, light industry, launderettes, pubs

Even with these safeguards, it is still difficult to plan positively for the Borough’s future needs for additional floorspace for retail, offices, leisure, cultural and community needs, especially in town centres.

The application of national policy in these circumstances needs to be applied with some flexibility. The requirement on local planning authorities is not one of detailed conformity, but general conformity. The Council has done as much as they can to plan positively for these uses, including measures to maintain what main town centre uses we have.

### **Offices in higher-order town centres**

Given the scarcity of sites, it is important, therefore, that the upper floors in the main town centres, if no longer needed for retail, should be used for offices rather than housing. This is supported by NPPF (Paragraph 23, ninth bullet) .

In the Kensington and Chelsea context, the loss of upper floor commercial uses to housing, whilst adding the odd unit to housing supply, does nothing to increase the viability of a town centre, as these are surrounded by housing and their viability depends more on density of population in the immediate, walk-in catchment area. Therefore, given the NPPF’s emphasis on identifying opportunities for “new” office

space in town centres, the reuse of commercial space above (or below) shops as offices should be the priority.

The NPPF does not prescribe residential development displacing town centre commercial uses on upper floors, on the contrary it urges local planning authorities to plan positively for the provision of space for main town centre uses within our town centres.

We are pleased to see that the use of upper floors above shops as offices is accepted, in **CV12: Vision for Kensington High Street in 2028**, as an appropriate location for offices. It says, in the third sentence:

“The High Street will have remained a well-connected location for employment with offices on upper floors continuing to support the centre’s vital retail function.”

In the South Kensington (Chapter 14) the fourth bullet says:

“There are a number of office uses, largely characterised by smaller premises on the upper floors of commercial properties.

Paragraph 31.3.24 says: “The NPPG [should be NPPF] also notes that housing may be an appropriate town centre use when on upper floors.”

### **Proposal:**

We therefore **propose** that:

- the statement in para 31.3.24 needs to be qualified by adding: “in Kensington and Chelsea, however, because of the shortage of small office space, upper floors above shops in the higher-order centres should be retained. The conversion of surplus upper-floor retail storage to offices will be encouraged as a valuable addition to the local supply of small offices.”

The Glossary, under town centre uses, includes the statement in last sentence: “Housing can also be a possible town centre use when on the upper floors.”

The Society proposes adding:

“In higher-order centres, upper floors are the right place for retaining or permitting change of use from retail storage to small offices.”

### **Q3. Is the threshold of 400 sqm for retail impact assessments for new shops in the reasoned justification to Policy CF1 justified and consistent with national policy?**

**Yes:** Paragraph 26 of the NPPF explicitly allows local planning authorities to propose a locally-set floorspace threshold for assessing retail impact. Para 31.3.8 explains that, because of the nature of the local retail sector and the tightly-knit network of

local centres, a proposal that produced a net increase of more than 400sqm may have the potential to cause harm.

**Q4. Is Policy CF3 positively prepared, justified and consistent with national policy in respect of its approach to non-A1 uses within existing town centres? In particular:**

**a. Is the resistance to changes of use from Class A1 to Class A2 uses in paragraph 31.3.30 consistent with the GPDO?**

**Yes:** As was presented in the Society's original representations, there are growing number of frontages where A2 uses – banks and building societies (Kensington High Street) and estate agents in a number of frontages, are becoming a dominant feature of these centres.

The Society supports the selective use of Article 4 Directions to tackle the problem of change of use from A1 to A2. We cannot afford to wait until there is a crisis.

The problem of excessive concentrations of A2 use is not new – the current 2010 Local Plan has a policy for secondary retail frontages in Notting Hill Gate (CF3 (b) (ii) which sought to control the number of estate agents, bureaux de change and hot food takeaways.

**Proposal:**

The Society proposes a further sentence be added to para 31.30 which would say:

“There have been growing concentrations, especially of estate agents in secondary frontages and, in some places banks and cafes in primary and secondary frontages. In order to resist excessive concentrations, the Council will be prepared to issue an Article 4 Direction to tackle this.”

**b. Is the reduction to 50% of units remaining within A1 use in secondary frontages justified by the evidence?**

**Yes:** The Society is concerned that Policy CF3, which seeks to protect, enhance and promote a diverse range of shops and to ensure that that these uses will be supported, **but not dominated** by a range of complementary town centre uses.

There has been a growing proportion of non-A1 uses in secondary frontages and in some, due in large part to changes to permitted development rights, the proportion now exceeds a third of uses.

The Society is concerned that changing the threshold from a third of frontages being non-A1 uses to half is a large shift and would accelerate the changes in use in these areas to an extent that would squeeze out many convenience shops.

The Society has not seen any evidence to justify this major change to secondary frontages in the Borough.

In the “Shops and Centres Background Paper (SUB32), the issue reviewing the percentage of non-A1 uses in secondary frontage is only considered in relation to one centre – South Kensington (paragraph 4.60). There is nothing in this document which justifies let alone proposes a change in the current 66% A1 requirement. The main issue of this report, however, is the extent not the content of secondary frontages.

The Council has produced an assessment of secondary retail frontages in major centres. South Kensington is one of the centres where non-A1 uses dominate. In the centre as a whole 64.5% of the units (56 out of 87 units) are non-A1 units, whilst in the Thurloe Street, Station Arcade, Thurloe Place and Exhibition Road frontages 72.2% of the units (39 out of 54) were Non-A1 uses, and many of the remaining A1 uses were in fact an A1/A3 “borderline”

The Society is pleased that the Council withdrew a proposal to reclassify this latter area. **The Society is opposed to a reduction by one third of the minimum proportion of A1 uses within secondary frontages.**

### **Business Uses (Policies CP1 and CF5)**

**Q5. Does the RBKC LPPR make adequate provision to meet the need for additional office floorspace identified in Policy CP1? If not, is this justified and consistent with national policy? How would any shortfall be addressed in the Plan?**

**No:** Policy CP1 has quantified the need for additional office floorspace at 93,000sqm by 2028. This will be extremely challenging, not least until the Council’s proposed Non-Immediate Article 4 Direction to remove permitted development rights to turn offices to housing is approved by the Secretary of State after the one-year is up in September. Unless the Borough succeeds in getting the Borough-wide Article 4 Direction the supply of offices will decline rather than grow.

The proposed revised Local Plan (para 4.2.6) acknowledges the difficulty of creating a significant increase in office floorspace. The potential for major increases, such as through development in the Kensal and Earl’s Court/West Kensington Opportunity Areas, will depend on whether these are part of any planning consents and the phase in which they are delivered.

**Q6. Are the restrictions on the loss of office space throughout the borough in Policy CF5 justified by the evidence and consistent with national policy and the London Plan?**

**Yes:** The Society, following large losses of offices between 2000 and 2008, persuaded the Council that these losses, mainly to housing, were unsustainable..

This new policy, CF5: Business Uses, was adopted in the 2010 Local Plan, perhaps one of the first local authorities in the country to adopt such a policy.

The Government's policy, as expressed in para 51 of the NPPF (2012) focused on circumstances under which local planning authorities should consider approving a change of use to housing, specifically:

"They (LPAs) should normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use classes) where there is a need for additional housing area, provided that there are not strong economic reasons why such development would be inappropriate."

In Kensington and Chelsea, the Government has already agreed that this would be inappropriate by giving a Council a borough-wide exemption. This approach is also in general conformity with the London Plan, whilst the draft London Plan (2017) Policy E1: Offices in section says:

"Boroughs should consult upon and introduce Article 4 Directions to ensure that the CAZ, NIOD, Tech City, the Royal Docks Enterprise Zones, **Kensington and Chelsea** and geographically-defined parts of other existing and viable strategic and local office clusters ..are not undermined by office to residential permitted development rights."

This explicitly supports a borough-wide Article 4 Direction for the Borough.

The Society **strongly supports** the Council's application for a borough-wide Article 4 Direction and expects to see it confirmed next September.

**Q7. Is the restriction on residential uses within Employment Zones in paragraph k of Policy CF5 justified by the evidence? Should the proposed modification to paragraph 31.3.53 (MINOR/051) to clarify the approach to residential uses in Employment Zones be considered as a 'main modification'?**

The Society **strongly supports** the Council's policy for retaining the concentration of employment uses within Employment Zones.. The Employment Zones policy has been a long-standing policy in successive plans for the Borough.

The LPPR has embraced mixed-use developments with site allocations in the Local Plan, but only in a limited way for Employment Zones.

The latest policy developments, particularly in the Draft London Plan (2017), are to combine the need to protect employment uses with the need to optimise the use of development sites and to promote "co-location" of employment and housing. (See Draft London Plan Policy E7: Intensification, co-location) This policy, which runs through the Draft London Plan, is aiming to result in no loss of employment space but a contribution to meet the need for more housing. This is a "win-win" approach to stop the wholesale loss of employment land.

The Society **supports** the proposed modification to paragraph 31.3.53 (MINOR/051) in that it **clarifies** the Council's approach to allowing mixed-use development whilst

maintaining both the employment floorspace and the predominantly business character of the property and the Employment Zone.

**Q8. Is the protection of warehousing throughout the borough justified, consistent with national policy and in general conformity with the London Plan? Would the proposed modification to paragraph 31.2.48b (MINOR/049) materially affect the consideration of changes of use of warehouses? Should it be considered as a 'main modification'?**

The protection of warehousing is justified, because there is a need for warehouse space within the Borough and that it is a low-value use that needs protection. The proposed modification to paragraph 31.2.48b (MINOR/049) is the reasoned justification for the policy.

In addition, the proposal has been prompted by "gaming" by an applicant to achieve change of use from offices to housing via warehousing, on the basis that through permitted development rights it is possible, through a two-step move, to bypass the Council's protection of offices.

With regard to general conformity with both the NPPF (para 51) and the draft London Plan, Policy E4: Land for industry, logistics and services to support London's economic function, the proposed text is consistent with both documents.

The NPPF (para 51) proposes that applications to change use to residential use, unless there are strong economic reasons why such development would be inappropriate. The proposed approach is to retain existing warehouse space, but also to avoid the perverse outcome of offices moving to warehousing merely to avoid the offices policy of resisting offices being converted to housing.

The draft London Plan policy mainly deals with strategic issues, but recognises in section G that boroughs need to retain sufficient industrial and logistics capacity and advocates, where appropriate, the use of Article 4 Directions to ensure that this capacity is not undermined by permitted development rights.

### **Arts and Cultural Uses (Policy CF7)**

**9. Is Policy CF7 and the changes to the reasoned justification justified in allowing ancillary A class uses within cultural institutions to be exempt from retail impact assessments and enabling development in former arts and cultural buildings? Is this consistent with national policy?**

**Yes:** The Society would distinguish between ancillary shops (A1) and cafes, cafeterias and restaurants (A3) which are both services to museum-goers. We are concerned that these ancillary uses should be limited to museum opening hours. Museum facilities geared to income generation from the general public outside opening hours, can cause a nuisance to the neighbouring residents. Such proposals need to be subject to limitations on the size and frequency of events and hours of operation. This means having an impact assessment and an agreed management

plan to control the impact. This needs to be legally binding and part of the planning consent.

The Society **supports** the South Kensington Museums being encouraged to provide catering for their visitors as this takes some of the pressure off South Kensington District Centre, where already too much of the centre has been taken over by “food and beverage” outlets at the expense of convenience shopping for local residents. These ancillary uses should, however, be subject to controls on opening hours that coincide the museums’ opening hours.

With regard to new retail uses within the museums, retail impact assessments should only be required above a threshold that would be proportionate to the nature of the use. The locally-set floorspace threshold of a net increase of more than 400sqm would seem an appropriate trigger for a retail impact assessment, as set out in paragraph 31.3.8 of the Local Plan.

### **Hotels (Policy CF8)**

#### **Q.10. Is Policy CF8 justified in protecting hotels from conversion to other uses and is this in general conformity with the London Plan in respect of the location of hotels?**

**Yes:** Kensington and Chelsea has been a major tourist destination and a provider hotel accommodation for over a 100 years. The 1971 Government hotel grant scheme resulted in several very large new hotels, such as the 29-storey Penta/Forum Hotel in Cromwell Road. The impact of these hotels led to a long-term resistance to further new hotels from the mid 1970s until the UDP (2002).

In the last 10 years, the importance of the visitor economy and the Borough’s strategic role in providing hotel accommodation, has become firmly established and the policy has changed to protecting hotels from conversion to housing. This is essential, because without this policy the stock of smaller, more affordable hotels would be quickly lost. These hotels are an essential part of the supply of hotel accommodation, especially at the affordable end of the market.

With regard to the London Plan, the existing London Plan (2016) Policy 4.5: Visitor Infrastructure, sets out in section A the need to achieve 40,000 net additional bedrooms by 2036 and, in Section C, says that “LDFs should promote and facilitate development of a range of visitor accommodation, such as hotels..”

**The Draft London Plan (2017)** likewise sets Town Centre policies in relation to hotels in Policies SD6 and SD8.

#### **Q. 11. Is the proposed modification to Policy CF8 set out in the Council’s Response to the Inspector’s Initial Questions (CED001) justified in support of the Council’s preferred strategy of enabling the development of new hotels and bed spaces across the borough? Would it materially alter the Plan? Should it be treated as a ‘main modification’?**

**Yes:** Policy CF8 (b) is very clear and the Society **supports** this policy of requiring new hotels to be located within, or immediately adjoining the Borough's higher-order town centres. This conforms with the NPPF, which identifies hotels as a main town centre use (NPPF Glossary) which constitutes support for the location of hotels in town centres.

In Kensington and Chelsea, however, hotels are spread across certain parts of the Borough often in "clusters". The scope for additional hotels is perhaps limited by the demand for housing. Recent additions have included new hotels on the upper floors above shops in Kensington High Street. Policy CF8(b) would be less rigid if "require" were replaced by "encourage".

The modification is minor.