



THE ROYAL BOROUGH OF
**KENSINGTON
AND CHELSEA**

Proof of Evidence

**Sarah Jones
Senior Planning Officer**

The Phene Arms, 9 Phene Street, London, SW3 5NY

**Appeal references: APP/K5600/A/12/2175522 and
APP/K5600/A/12/2172028 (non- determination)**

**Council references: PP/11/02421 and
PP/11/03352 (non determination)**

Appeal by Bell Cornwell LLP on behalf of Mr Tadhg Flanagan, RAB Pension Trust against the Royal Borough of Kensington and Chelsea

- i. My name is Sarah Jones. I am a qualified Town Planner and Senior Planning Officer in the Development Management Team at the Royal Borough of Kensington and Chelsea. My evidence deals with the relevance of the publication of the National Planning Policy Framework and the relevance of emerging revisions to the Core Strategy. I will also examine the other material considerations relevant to the appeal schemes.

- ii. Since the appeal schemes were refused, the National Planning Policy Framework (NPPF) has been published. The NPPF recognises the important role public houses can play in facilitating social interaction and creating healthy, inclusive communities. Paragraph 70 of the NPPF requires Local Planning Authorities to guard against the unnecessary loss of valued community facilities and services, particularly where this would reduce the community's ability to meet its own needs.

- iii. The number and nature of representations received from residents to both the appeal proposals and earlier applications for conversion of the public house to a residential use, clearly demonstrate the value of the public house to local residents as a community facility and service. The location of the building, its links with the history of the area, and its accessibility and arrangement over four floors put it at the heart of the community.

- iv. Additionally, the public house contributes to the community's ability to meet its day to day needs. Approximately 58,000 adults live within a one mile radius of the appeal premises and these residents come from a wide range of socio economic backgrounds. The appeal proposals would reduce the community's ability to meet its day to day needs by reducing both the number of community facilities within a densely populated area, but by also reducing the valuable choice of facilities available to residents.

- v. The emerging revisions to the Core Strategy seek to address a deficiency in the existing Core Strategy policies and ensure conformity with the NPPF. The impact of the loss of public houses within the Borough has become increasingly apparent since the Core Strategy was adopted and has now reached a critical level where these losses are unacceptably affecting the vitality, sustainability and character of communities and residential environments.

- vi. The first emerging policy resists the loss of public houses and other drinking establishments (Class A4) throughout the Borough, and resists the loss of restaurants and cafes (Class A3) and financial and professional services (Class A2) outside of Higher Order Town Centres. The supporting text to the policy states that public houses and

other commercial uses can make a valuable contribution to the community and cultural life of the Borough, but at a local level offer a source of identity, distinctiveness, social interaction and coherence – the essential ingredients of a sense of community and place. The appeal schemes would be contrary to this emerging policy.

vii. Consideration and discussion between residents, residents associations, Councillors and officers about the issues surrounding public houses has prompted wider thinking about the value and role of these uses in the local community. This has led to the recognition that these uses, in addition to providing a valuable facility and service to the community, also contribute to the character of the area, particularly when these uses are historic, or relate to the historic buildings in which they are carried out. On this basis, a second policy has been published which along with existing policies, recognises the value and contribution of uses to the character and significance of buildings, areas and places. The relevance of this policy to the appeal schemes will be discussed in more detail in the evidence provided by David McDonald.

viii. The emerging policies are at an advanced stage in preparation, having received no significant objections and are wholly consistent with the relevant policies within the NPPF. On this basis, it is my view that in

accordance with the criteria set out in paragraph 216 of the NPPF, the emerging policies should be given significant weight.

- ix. In the context of the Borough's annual housing targets, the contribution of a single residential unit is considered negligible and should therefore be given very limited weight in the balance of considerations. The Council is on track to meeting its housing targets over the plan period. The contribution of one additional residential unit to the Borough's housing stock is not significant enough to justify a departure from policy or overcome the identified harm.

- x. Based on the limited number and nature of complaints received in the last year, the public house now appears to be operating successfully in its residential environs. This success supports the assertion that if managed appropriately and in accordance with the conditions of the premise licence, public houses can be compatible with residential areas. This point is further illustrated by the fact that other public houses nearby receive little or no complaint from residents. On this basis, I remain of the opinion that the concerns raised by residents in relation to the impact of the existing use are best dealt with through other legislative controls.

- xi. Despite the appellant's intention to submit evidence in relation to the 'economic viability of maintaining the gastro pub in the appeal premises', to date, the local planning authority is not aware of any periods of extended vacancy nor any genuine attempts to market the property for its existing use or other community uses. On this basis alone, any claims relating to lack of viability should be given little weight. It is quite apparent that public houses can operate successfully within this area, and in a similar context, despite current economic conditions. On this basis, and without any evidence to the contrary, the appellant's arguments in relation to viability are considered unfounded. I should add that no such evidence was adduced at application stage.

- xii. There have been a number of applications for change of use of public houses to residential use since the adoption of the Core Strategy, some of which have been approved and one allowed on appeal. The circumstances that applied to these properties do not apply to the appeal premises. Since these decisions were taken, circumstances have changed significantly. The Council has made substantial progress in developing its new draft Core Strategy policies to protect public houses and the character of the Borough and the NPPF has been published.

- xiii. In conclusion, the appeal schemes would cause the loss of a valued community facility, harm the character of the locality and would conflict with emerging policy. On this basis, it is respectfully requested that both appeals are dismissed.

1. QUALIFICATIONS AND EXPERIENCE

- 1.1. My name is Sarah Jones. I have a Masters degree in Spatial Planning (with distinction) from Oxford Brookes University. I am a Senior Planner in the Development Management South Team (the area which includes the appeal site) in the Royal Borough's Planning and Borough Development Department.
- 1.2. I joined the Royal Borough of Kensington and Chelsea in October 2011 having previously worked for four years in development management at the London Borough of Richmond upon Thames. Over the last eight years I have also worked as a planning officer at the London Borough of Hounslow and for a Local Planning Authority in New Zealand.
- 1.3. My work comprises exclusively development management. I assess various planning proposals on a daily basis, applying planning policy to development proposals.
- 1.4. I took over as the case officer considering the first planning application (PP/12/02421) in October 2011 and was also the case officer for the second application (PP/12/03352). I prepared the reports for the consideration of both applications at the Planning Applications Committee on the 6th March 2012. I am familiar with the appeal site and its surroundings.

2. INTRODUCTION

2.1. The scope of this proof is to set out the planning policy context for the appeals and address the relevant planning concerns raised by the appeal schemes as set out in the reasons for refusal. Although it is noted that one of the appeals is for non determination, both parties accept that had the Appellant not lodged an appeal against non determination, the application would have been refused for the three reasons set out in the Executive Director of Planning and Borough Development's recommendation report dated 6th March 2012 to the Planning Applications Committee. The Planning Applications Committee resolved to refuse both applications, before the Local Planning Authority was made aware of the appeal against non determination.

2.2. On that basis, this Proof of Evidence together with that prepared by David McDonald, will amplify and support the first reason for refusal. My evidence will also examine the relevance of the National Planning Policy Framework and emerging revisions to the Core Strategy.

2.3. It is anticipated that the Council will not provide evidence in respect of Reason for Refusal 2 and 3 as the Appellant has indicated that these will be addressed by submission of a Unilateral Undertaking under Section 106 to secure a car parking permit-free development and planning contributions. It is noted that this is yet to be formally agreed

by the parties and therefore the Council reserves the right to adduce more evidence in support of the second and third reasons for refusal should an undertaking not be agreed in good time prior to the inquiry.

2.4. It is noted that the appellant has indicated in its Statement of Case that it intends to submit evidence in relation to the “economic viability of maintaining the gastro pub in the appeal premises” (paragraphs 5.14). No such evidence was provided as part of the application or considered by Councillors. Whilst I will deal with the planning policy in relation to this consideration, David Morgan will deal with this issue in greater detail in his proof.

2.5. The remainder of my proof of evidence will be set out using the following structure:

- 3.0 Description of the Site
- 4.0 Planning History of the Site
- 5.0 Appeal Proposals
- 6.0 Expansion on the first reason for refusal
- 7.0 Relevance of the National Planning Policy Framework and emerging revisions to the Core Strategy, and the weighting of the emerging revisions
- 8.0 Other material considerations
- 8.0 Summary and Conclusion
- 9.0 Appendices

3. DESCRIPTION OF THE SITE

3.1. As set out in the recommendation report and agreed by both parties, the appeal site comprises a four storey (including basement) end of terrace building located on the corner of Phene Street and Margareta Terrace (site location plan included as appendix 1). The building is currently in use as a public house and restaurant within Class A4 (Drinking establishments) at basement, ground and part of first floor level, with ancillary residential accommodation occupying the remaining floor space at first floor level and above.

3.2. The property is within the Cheyne Conservation Area and is partially within flood zone 2. A Tree Preservation Order (TPO) 11/72 applies to the front garden area of the site. The residential houses north of the application site on Margareta Terrace are grade II listed (map showing location of conservation areas and listed buildings included as appendix 2).

3.3. The Phene Arms is identified in the Cheyne Conservation Area Proposals Statement (CAPS) as built between 1850- 51 and forms a “typical example of a Victorian pub, surviving in good order commemorating the eccentric who was responsible for much of the development of the Area [Dr Phene]” (extracts from CAPS included as appendix 3)

4. PLANNING HISTORY OF THE SITE

4.1. There are 17 entries on the Statutory Register in respect of the appeal site. The most relevant are detailed below.

4.2. In April 2001, under Council reference PP/01/0781 and PP/01/0780, applications were received for a change of use of the building from a public house into two residential units, the erection of an additional mansard storey and enlargement of the rear extension with roof terrace above. These applications were subsequently withdrawn following advice from Officers that they were to be refused. 52 representations in objection and two representations in support of the applications were received.

4.3. In June 2007, under Council reference PP/07/1662 and PP/07/1663, applications were received for a change of use from vacant public house to single dwelling house, excavation works and construction of extensions to existing basement and ground floor and minor fenestration alterations. These applications were subsequently withdrawn following advice from Officers that they were to be refused. 120 representations in objection and 6 representations in support of the applications were received.

4.4. In August 2009, under Council reference CA/09/1194, advertisement consent was granted for replacement advertisements and the installation of two awnings to the Phene Street elevation.

4.5. In November 2009, under Council reference PP/09/0746, planning permission was granted for the enclosure of the open courtyard area to the rear ground floor level.

4.6. An application requesting retrospective permission for the retention of parasols in the pub garden was withdrawn on the 10th August 2012 (ref. PP/10/3955).

5. APPEAL PROPOSALS

5.1. Application reference PP/12/02421 was received on the 25th July 2011 and made valid on the 29th July 2011 (hereafter referred to as Scheme 1). The application form described the proposal as 'Change of use to single family dwelling, basement extensions and external alterations'.

5.2. The basement extensions comprise a substantial two storey basement excavation under the existing building and front garden area, including two lightwells to the Margareta Terrace elevation and roof lights in the garden. The external alterations comprise the replacement of the existing first floor rear extension with a slightly larger lift shaft, fenestration alterations, replacement boundary treatment, and the insertion of replacement roof lights in the main roof.

5.3. Application reference PP/12/03352 was received and made valid on the 6th October 2011 (hereafter referred to as Scheme 2). The application form described the proposal as 'Change of use to single family dwelling and provision for waste storage'. No external alterations were proposed under this application.

5.4. Both applications were recommended for refusal and heard by the Planning Applications Committee on the 6th March 2012 (recommendation reports included as appendix 4). The Committee

resolved to refuse both applications in accordance with the recommendations (minutes of the Committee including as appendix 5).

The reasons for refusal on both applications were given as follows:

1. The loss of this historic public house to residential use would be damaging to the value and significance of this heritage asset, and would cause harm to the character, identity and distinctiveness of the conservation area. Therefore, the proposal would fail to meet the requirements of Planning Policy Statement 5, Core Strategy policies C05, CK1, CL1 and CL3 and 'Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment' published by English Heritage (2008).
2. In the absence of a satisfactory s106 agreement to secure necessary planning obligations, the proposal would result in unacceptable pressure on local infrastructure (including education, health and community facilities) and would therefore be contrary to policy C1 of the Core Strategy and the Planning Obligations Supplementary Planning Document.
3. In the absence of a satisfactory s106 agreement to secure ineligibility from obtaining car parking permits, the proposed development would put undue pressure on on-street car parking and would therefore be contrary to policy CT1 (c) of the Core Strategy and the Transport Supplementary Planning Document.

5.5. The decision notices were issued on the 7th March 2012 (copies of which are provided in appendix 6). The Council received notification of the appeal for non determination in relation to Scheme 2 on the 8th March 2012 – although the Council was unaware of this, it appears that the appeal was lodged the day prior to the Committee meeting on

6th March 2012. It has subsequently been agreed in the statement of common ground, that had the Appellant not lodged an appeal against non determination in relation to Scheme 2, the application would have been refused for the three reasons set out above.

6. EXPANSION ON THE FIRST REASON FOR REFUSAL

6.1. Evidence in respect of the first reason for refusal is dealt with by David McDonald in his proof of evidence. This chapter reviews the relevant planning policy in respect of the first reason for refusal.

6.2. National planning policy and guidance

6.2.1. The National Planning Policy Framework (NPPF) was published on the 27th March 2012 after the applications were refused. Although acknowledged as a material consideration and referred to in the recommendation reports, given the NPPF was in draft form and subject to amendment following consultation, limited weight was given to this document at that time. Given the NPPF has now been published, it carries full weight.

6.2.2. The Core Planning Principles of the NPPF are set out in paragraph 17 (pg. 5, full text of relevant paragraphs included as appendix 7). These are designed to underpin both plan-making and decision-taking and include the need to “conserve heritage assets 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”.

6.2.3. Paragraph 61 (pg. 15) clarifies that although visual appearance and the architecture of buildings are very important factors,

securing high quality and inclusive design goes beyond aesthetic considerations. The NPPF requires planning policies and decisions to address the connections between people and places and the integration of new development in to the natural, built and historic environment, recognising that the quality of a place is not only derived from the physical appearance of a building, but also from the mix of uses and their relationship with the people using them.

6.2.4. Paragraph 64 (pg. 16) states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

6.2.5. The NPPF defines a 'Heritage asset' as:

'a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its historic interest. Heritage assets include designated heritage assets and assets identified by the local planning authority (including local listings)'.

6.2.6. The NPPF defines 'Significance' as:

'The value of a heritage asset to this and future generations because of its heritage interest. That interest may be

archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting'.

6.2.7. Paragraph 132 of the NPPF (pg. 31) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

6.2.8. The NPPF also concludes that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining an application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset (paragraph 135, pp. 31).

6.2.9. Further guidance on identifying heritage assets is set out in the saved Practice Guide to Planning Policy Statement 5 which states that the difference between a heritage asset and other components of the environment is that a heritage asset holds meaning for society over and above its functional utility (relevant extracts included in appendix 8). It is this heritage significance that justifies a degree of protection in planning decisions (paragraph

11, pg. 7). The Practice Guide refers to a supplementary English Heritage publication titled 'Conservation Principles' for details on the reasons why society places a value on heritage assets beyond their mere utility (relevant extracts included at appendix 21).

6.2.10. Paragraph 80 (pg. 26, appendix 8) of the saved Practice Guide to PPS5 sets out those features of an area which should be taken into account in designing successful new development. These include a requirement to take into account, (2) 'the general character and distinctiveness of the local buildings, spaces, public realm and the landscape', and (8) 'the current and historic uses in the area and urban grain'.

6.2.11. Cheyne Conservation Area is by definition, a designated heritage asset and therefore the proposal must be assessed against paragraph 132 of the NPPF as set out above. The appeal property was also identified by the Council during the assessment of the application as a non designated heritage asset and the proposal must therefore also be assessed against paragraph 135 of the NPPF.

6.3. Local policy and guidance

6.3.1. Core Strategy policy C05 'Renewing the Legacy' forms part of the Borough's strategic objectives. This policy states that the objective is not simply to ensure no diminution in the excellence we have inherited, but to pass to the next generation a Borough that is better than today, of the highest quality and inclusive of all. The policy states that this will be achieved by taking great care to maintain, conserve and enhance the glorious built heritage we have inherited and to ensure that where new development take place it enhances the Borough (relevant extracts included at appendix 9).

6.3.2. Policy CL3 of the Core Strategy requires development to preserve and to take opportunities to enhance the character or appearance of conservation areas, historic places, spaces and townscapes, and their settings.

6.3.3. Emerging revisions to the Core Strategy, published since the decisions on the applications were taken, are also relevant (included at appendix 10). The appropriate weight to attach the emerging revisions is discussed in more detail below. With respect to character and use, the emerging policy states the following:

'The Council will resist the change of use of any building where the current use contributes to the character and significance of a building, the surrounding area, and to its sense of place'.

6.3.4. The supporting text to the policy makes clear that the distinctive character of many buildings may come from their use as much as their physical appearance and that their use can contribute to the character of an area and a sense of place. Incidental uses within residential neighbourhoods are recognised as providing variety, punctuating the street scene and adding to the vitality and character of an area. The loss of these uses diminishes the character, cherished local scene and vitality of an area.

6.3.5. The harm to the character, identity and distinctiveness of the Cheyne Conservation Area resulting from the appeal scheme will be set out in the proof of evidence prepared by David McDonald. David McDonald's evidence will also set out the reasoning behind the consideration of the Phene Arms public house as a non designated heritage asset, and assess the damage to the value and significance of this heritage asset resulting from the appeal scheme.

7. RELEVANCE OF THE NATIONAL PLANNING POLICY FRAMEWORK AND EMERGING REVISIONS TO THE CORE STRATEGY

National Planning Policy Framework (NPPF)

7.1. The National Planning Policy Framework (NPPF) was published on the 27th March 2012. Paragraph 69 of the NPPF states that the

planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. To this end, paragraph 70 states that to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments; and
- guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

7.2. Whilst the draft NPPF was acknowledged as a material consideration in the reports to the planning committee, it was given limited weight (paragraph 4.4.2, appendix 4). Planning Policy Statement 4, which was extant at the date of determination of the application, provided some support for the retention of public houses, but this support was confined to public houses within town centres or local centres and villages (policies EC4.1 (c) and EC13.1 respectively) and did not therefore apply to the appeal schemes.

7.3. The latter bullet point under paragraph 70 of the NPPF requires Local Planning Authorities to guard against the unnecessary loss of valued

facilities and services. This does not relate only to proposals where such a loss would reduce the community's ability to meet its day-to-day needs, but to all proposals where a valued facility and service would be lost.

7.4. The number and nature of representations received from residents to the proposals clearly demonstrates the value of the public house as a local facility and service. Almost all residents who made representations in objection to the appeal proposals make reference to the impact of the proposal on the community and describe the value and contribution the public house makes, or has made, to their lives. As set out in more detail in David McDonald's evidence, residents derive a sense of identity from the presence of the public house within their community and appreciate the connection between the public house and the historic development of the area. The public house is well known within the community and currently advertises itself as available for catering a number of events including 'corporate functions, product launches, large family dinners, engagement parties or glamorous garden wedding receptions' (extract from website included at appendix 18).

7.5. Even residents who made representations in support of the change of use recognised the value of the public house, albeit not under the

current management, lamenting the loss of the 'quiet residential local pub' which provided an 'amenity for local residents'.

7.6. Local residents have successively sought to resist the loss of the public house use in earlier applications for conversion of the public house to residential with 120 and 52 representations in objection to proposals for conversion to residential received in 2007 and 2001 respectively.

7.7. Although the existing operators have chosen to operate the public house in a manner that is not particularly conducive to receiving all local residents or local community events, a future operator, as previous operators have done, may choose to operate the premises differently and in a way that would make a more significant contribution to the local community providing a more valuable facility and service to local residents. The location of the building, its links with the history of the area, and its accessibility and arrangement over four floors put it at the heart of the community. The current operator's choice about the specific nature of the current business should not weigh against the appeal property's ability to provide a valuable facility and service for local residents. In the same way a vacant community facility or service should not be considered invaluable just because it is vacant.

7.8. Additionally, the Council considers that the loss of the public house would reduce the community's ability to meet its day-to-day needs. Approximately 58,000 adults live within a one mile radius of the appeal premises (GLA Ward-Level Population Projections 2010 Round). Whilst it is noted that there are other facilities nearby, given the density of the population living in this area, all existing facilities are considered necessary to meet the day-to-day needs of local residents. Given the size of the Borough and the density of population it contains, the distance to other nearby facilities is not an appropriate measure of necessity.

7.9. Further, the existing public house contributes to the choice available for residents, and is markedly different in its character from other establishments nearby, by virtue its size, its outdoor amenity space and location. Although the population within the immediate vicinity is relatively affluent, the wider area is also home to a broader range of residents, from differing socio-economic backgrounds (as demonstrated in the map included as appendix 11). The wide variety of residents within the area increases the importance of variety within the community facilities and services on offer. Although at present the appeal premises does not appeal to all local residents, it does provide a valuable service to others and contributes to the variety of premises within the community. The loss of one of these local facilities would reduce not only the number of community facilities available but also the choice of facilities on offer to residents. Although resisting this

application does not guarantee the tenant will provide a service or facility to local residents, or even guarantee retention of a public house (as it could change to an alternative use through permitted development), it does guarantee that the choice of commercial premises will remain.

7.10. It should also be noted that recent appeals for conversions of public houses to residential uses have made evident the significance of the NPPF. In one such example, an Inspector dismissed an appeal on the basis of the requirements of the NPPF despite the Local Planning Authority having no local policy to resist such a proposal. In reaching this decision, the Inspector makes the following points of relevance:

“The National Planning Policy Framework (the Framework) has recently come into force. The Framework at paragraph 70 advises that planning decisions should enhance the sustainability of communities by planning positively for community facilities such as public houses, and guard against their unnecessary loss. However, Local Plan policy 5/11, which seeks to prevent the loss of community facilities, fails to identify public houses as such a facility. The Local Plan is in conflict with the Framework. However, as the Framework is an important material consideration and a more recent publication than the Local Plan, I attach significant weight to it“ (appeal decision appended at 12 (a)).

7.11. Although the Core Strategy is considered generally consistent with the NPPF, Officers accept that in relation to public houses, the Core Strategy is in conflict with the objectives of paragraph 70. The Core Strategy is not providing sufficient protection for existing public houses that provide valuable facilities and services for the Borough's residents. The recognition at the national level of the important function of public houses and their value in the community, reflects and reinforces the Council's own thinking in revisiting the Core Strategy as set out in more detail below.

Emerging revisions to the Core Strategy

7.12. Core Strategy policy CK1 seeks to protect and enhance social and community uses and supports the provision of new facilities throughout the Borough. Public houses, although not included in the definition, are recognised within the supporting text to this policy as social and community facilities and the recent concern over their loss is noted. The text goes on to note however, that 'at the present time there is too little evidence to resist their loss', but notes that the situation will be kept under review (paragraph 30.3.7).

7.13. Since the adoption of the Core Strategy in 2010, there has been growing concern amongst residents, residents associations, Councillors and officers about the loss of public houses and the

detrimental impact such changes of use have on communities and the character of conservation areas.

7.14. Although upon adoption of the Core Strategy officers believed that the strategic level objectives set out in policies CO1 (keeping life local) and CO2 (fostering vitality) would be sufficient to protect against the loss of these facilities where necessary, the appeal decision relating to the Prince of Wales public house illustrated this not to be the case. A further proliferation of applications for the conversion of public houses to residential uses (four applications and four pre application requests received over a 12 month period), including a number of high profile applications relating to well known public houses, has heightened concerns and illustrated that existing Core Strategy policy is not acting as sufficient deterrent for conversion of public houses to residential use.

7.15. In general the Core Strategy is more restrictive and robust in its protection of non residential uses than earlier policy documents, reflecting recognition that if left unchecked, the high residential properties prices in the Borough will continue to out-compete other 'local' borough functions which are essential for a successful residential neighbourhood. Public houses, which do not benefit from the same level of protection (being excluded from policy CK1 and its accompanying text), have as a result come under increased pressure

for redevelopment, and have almost been 'targeted' as a use available for redevelopment to residential.

7.16. As with any policy, there is always delay between the preparation of evidence, adoption, and the policy taking effect and manifesting itself in planning applications and decisions. However, based on the number of applications received for the conversion of public houses to residential uses following adoption of the Core Strategy, the rate of loss of public houses is clearly increasing. The Council considers the situation to have reached a critical point, where these losses are now unacceptably affecting the overall objectives of strategic level policies, in particular the desire to 'keep life local' and 'foster vitality'.

7.17. The growing concern amongst Councillors culminated in the following motion being unanimously agreed at full Council meeting on the 7th December 2011:

"That this Council is greatly concerned at the loss of community Public Houses which afford great amenity to local residents. We urge this Council to carry out a review of LDF policy to protect community Public Houses, especially historic pubs in conservation areas".

7.18. A timetable for review of the Core Strategy policies was agreed by the Leader and Cabinet on the 2nd February 2012. A report which

outlined the same was presented to the Public Realm Scrutiny Committee for comment on the 12th March 2012 (included as appendix 13).

7.19. The reports to the Planning Applications Committee recognised the Council's intention to review the Core Strategy policy in relation to public houses, however concluded that the review was too early on in the process to be given any weight. However, it was noted in the reports, that the Council's direction of travel in relation to protecting public houses, particularly in conservation areas, added weight to the concerns about the impact of the appeal proposals on the character and significance of the building and conservation area (as set out in paragraphs 4.4.6 and 4.4.7 of the reports, included as appendix 4).

7.20. The publication of the NPPF on the 27th March 2012, and the recognition of public houses as valuable community facilities (within paragraph 70), endorsed the Council's decision to review the policy and augmented the need to change the policy to ensure conformity.

7.21. Since then, the Council has carried out public consultation on an issues and options paper (appendix 14) and a draft policy document (appendix 15), with both consultation exercises receiving majority support (84% and 74% respectively). The publication version of the policies was published on the 4th September, with the final public consultation period due to close on the 16th October (appendix 10).

The Council intends to submit the policy to the Planning Inspectorate for examination toward the end of the year and it is expected that the policies will be adopted early in 2013.

7.22. The emerging policy resists the loss of public houses and other drinking establishments (Class A4) throughout the Borough, and resists the loss of restaurants and cafes (Class A3) and financial and professional services (Class A2) outside of Higher Order Town Centres.

7.23. The supporting text to the policy states that public houses and other commercial uses can make a valuable contribution to the community and cultural life of the Borough, but at a local level offer a source of identity and distinctiveness, provide opportunities for social interaction and provide places to meet which support community cohesion – in short the essential ingredients of a sense of community and place. They are part of that fine grain mix of uses, which provide not only historical continuity, but contribute economically and to the vitality of our residential communities and the character of an area. They are an essential ingredient for promoting healthy communities and maintaining diverse, strong, secure and accessible neighbourhoods.

7.24. The appeal premises makes a valuable contribution to the community and cultural life of the Borough, and contributes to the identity, distinctiveness, social interaction and coherence of Chelsea as set out in paragraphs 7.4 - 7.10 above. The use provides historical continuity with the development of the area as set out in David McDonald's evidence.

7.25. The supporting text also recognises the contribution and social value of other uses. In this regard, the policy seeks to protect, not only drinking establishments (Class A4), but restaurants and cafes (Class A3) and financial and professional services (Class A2) outside of Higher Order Town Centres (as such facilities within Higher Order Town Centres are managed through other policies). Such uses are also valued, for both the service that they provide and their wider social role. This essential mix of uses in the Borough's predominately residential area, not only makes these areas highly desirable places in which to live, helping to provide services locally for the community and beyond, but adds to the character and distinctiveness of the Borough as a whole.

7.26. Both appeal schemes are clearly contrary to the emerging policy and its supporting text.

7.27. Consideration and discussion between residents, residents associations, Councillors and officers about the issues surrounding

public houses has prompted wider thinking about the value and role of these uses in the local community. This has led to the recognition that these uses, in addition to providing a valuable facility and service to the community, also contribute to the character of the area, particularly when these uses are historic, or relate to the historic buildings in which they are carried out. On this basis, a second policy has been published which along with existing policies, recognises the value and contribution of uses to the character and significance of buildings, areas and places (publication version of the policy included at appendix 10). The new draft Core Strategy policy seeks to resist the change of use of any building where the current use contributes to the character of the surrounding area and to its sense of place. The new policy supplements existing policies and reflects the direction of strategic policy and guidance set out in section 6 and as further detailed in David McDonald's proof of evidence.

Weight of emerging policy

7.28. Paragraph 216 (pg. 48, appendix 7) of the NPPF deals with emerging policy and states that decision-takers may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

7.29. Given the Council's clear direction of travel with respect to protection of public houses, that the first two stages of public consultation are now complete (with 84% and 75% support for a policy), and the Council has published a finalised version of the policy, with respect to the first criterion of paragraph 216, it is my view that the emerging policies are at an advanced stage in preparation and should therefore be given significant weight in the decision making process. By the date of the inquiry the Council will be one month into the final public consultation stage, with two weeks remaining. Although the wording of the policy may be subject to slight alteration before adoption, the aims and objectives of the policy, which are clearly consistent with the aims and objectives of national planning policy, are unlikely to be affected.

7.30. With respect to unresolved objections, eight objections were received to the first round of consultation and four objections received to the second round of consultation. The Council's response to the

objections is included as appendix 16, which concludes that the objections raised are not significant and do not affect the soundness of the emerging policies. These parties object to the principle of the policy, and the Council's intention to protect public houses. These objections could be equally levelled at the aims and objectives of the NPPF. Given the conflict between the nature of the objections and the objectives of the NPPF, it is unlikely that these objections will ever be fully resolved by the Local Planning Authority. However, given the emerging policy is wholly consistent with the NPPF, that responses have been provided to all objections and the greater majority of respondents support the policy, it is my view that the emerging policy should be given significant weight in accordance with the second criterion of paragraph 216.

7.31. The NPPF provides a clear mandate for resisting the unnecessary loss of public houses which provide a valued local service, particularly where these contribute toward the community's ability to meet its day-to-day needs. The emerging policy in relation to public house uses is entirely consistent with these aims and objectives and more consistent than existing Core Strategy policies which are not providing adequate protection for public houses. In relation to the third criterion of paragraph 216, the emerging policy in relation to public houses and other uses that provide a wider social role, should be given significant weight in decision making.

7.32. With respect to the policy relating to character, paragraph 61 of the NPPF recognises that high quality and inclusive design goes beyond the aesthetics, and requires policy and decisions to address connections between people and places. Further, paragraph 64 also instructs permission to be refused for development of a poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. On this basis, it is considered that the emerging policy in relation to character and use is wholly consistent with the aims and objectives of paragraphs 61 and 64 of the NPPF and would allow these objectives to be translated into decision making. On this basis, both emerging policies should be given significant weight.

8. OTHER MATERIAL CONSIDERATIONS

8.1. In order to come to a balanced judgement in relation to the appeal scheme, any potential benefits associated with the appeal proposals must also be assessed and weighed against the harm identified above. Based on the assertions by the appellant, these are twofold and relate to the contribution of the residential unit to the Borough's housing supply and what the appellant describes as 'taking the opportunity to improve the existing situation with regard to the compelling other material consideration of residential amenity' (paragraph 5.12 Appellants Statement of Case).

Provision of an additional residential unit

8.2. With respect to the former, both appeal schemes would provide one additional residential unit. Appeal Scheme 1 would provide a four bedroom residential unit and Scheme 2 would provide a five bedroom residential unit. Both proposals would provide a suitable standard of residential accommodation in terms of room sizes, amenity space and access to natural light and ventilation. When assessed independently of the loss of the public house use, the provision of an additional residential unit would comply with the aims and objectives of housing policies and would make a contribution to the Borough's housing stock. However this contribution is considered negligible and is not significant enough to justify a departure from policy or overcome the harm identified above.

8.3. Core Strategy policy CH1 seeks to provision for a minimum of 600 net additional dwellings a year (from adoption of the London Plan). The Core Strategy housing targets are based on evidence of housing capacity in the Borough and, recognises that the vast majority of the housing capacity (in excess of 90%) is expected to be delivered through the development of the Borough's strategic sites. The evidence base acknowledges that a small supply of housing will continue to be delivered from windfall sites. Whilst windfall sites will form a supply of housing in the Borough, based on monitoring of past trends, there is not an over-reliance on this source in order for annual

targets to be achieved and instead will allow for these to be exceeded. On this basis, the appeal proposals' contribution of a single residential unit is not expected to affect the Borough's ability to achieve its housing targets. In the event that monitoring identifies potential risks to delivery, the Council has a strategy to address this risk. None of the contingency plans involve a relaxation of policies protecting social and community facilities or services.

8.4. Monitoring data set out in the most recent Annual Monitoring Review (AMR, published December 2011), concludes that the Borough is on course to deliver the housing targets set out in the Core Strategy over the plan period. The AMR shows that permissions in the 2010/11 period provided for a net gain of nearly 800 new residential units, clearly exceeding the 600 unit annual target set out in the policy.

8.5. The 'Housing Trajectory' monitors the supply of housing against Core Strategy targets and demonstrates that, despite a lower than expected number of completions in recent years, the Borough remains on target to deliver the target number of residential units through the lifetime of the Core Strategy.

8.6. In recent years the number of units granted planning permission has not translated into completions. Whilst the Core Strategy can influence the number of properties permitted, it has little influence over the number of units that are actually built. Given the housing targets are

largely derived from the estimated capacity of strategic sites, where the Borough is falling short of annual targets, this is largely due to the timing and phasing of strategic site developments coming forward. However, such delays will not affect the overall delivery of housing over the plan period. In this context, it is concluded that the Borough is on course to delivering its housing targets and therefore the contribution of a single residential unit is considered negligible and should therefore be given very limited weight in the balance of considerations.

Residential amenity

8.7. The appellant's Statement of Case and Grounds for Appeal makes much of the impact of the existing use on the amenity of neighbouring residents, and states that this "unique and disproportionately greater adverse impact" should be considered an "other material consideration".

8.8. It is noted that both applications have received some support from local residents who are concerned about the noise and disturbance generated by the existing use. Whilst this impact was considered in the assessment of the application, the Council contends that these concerns can (and should) be dealt with through other legislative controls, including the Licensing Act 2003 and the Environmental Protection Act 1990.

8.9. Although the full record of the complaints register has not been appended given its size, the complaints register finds the following:

Year	Number of complaints received
2003	1
2004	21
2005	7
2006	10
2007	0 (closed)
2008	0 (closed)
2009	1 (closed)
2010	34 (reopened in June 2010)
2011	67 (last complaint received 20/08/2011)
2012	2 (relating to amplified noise coming through wall)

8.10. The Council does not dispute that at times residents may experience disturbance as a result of the public house use. However, review of the Council's record of complaints reveals that these are usually only received when alleged breaches of the conditions of the premise licence have occurred. Complaints generally relate to the use of the garden out of hours, amplified music, alarms going off in the early morning, the noise of people leaving the public house in the late evening and the collection of rubbish in the early hours of the morning. Conditions on the premises licence (attached at appendix 17) are designed to control all these issues.

8.11. It is noted that following receipt of these complaints, and site visits carried out by Noise and Nuisance officers, the Council is currently prosecuting the operators of the premises under the Licensing Act 2003, for breaches of Licence conditions. The case is

due to be determined in court on the 2nd and 3rd of October 2012. The pending prosecution demonstrates that appropriate action can and will be taken by the Council when conditions of the premise licence are breached. The corollary point is that where the pub can be operated within its conditions (as it must by law), it gives rise to very much less complaint from the community. The proper context for understanding its impact on amenity as presently operated is to look at it when operating in a way that is compliant with its conditions. It is hardly surprising that where those conditions are breached, it gives rise to complaints of nuisance.

8.12. It is also relevant to note that since the Council instigated formal legal proceedings against the operator of the premises (and indeed since August 2011) only two complaints have been received. Both complaints have been received from the same resident and both relate to disturbance from amplified music. The use of amplified music is clearly a matter that can be controlled by the conditions of the licence and where necessary by Environmental Health Officers under the Environmental Protection Act. In the last year and under the threat of prosecution, the operator has managed to significantly reduce the number of complaints received indicating that the present operation of the premises is not having the 'unique and disproportionately adverse effect' described by the appellant.

8.13. The complaints register also documents that licensing enforcement officers have clearly indicated to residents on numerous occasions that in order for the Council to take enforcement action against the breach of the conditions of the licence, residents must call the noise call-out/out of hours service, so that noise and nuisance officers can visit the premises and document the breaches. It is noted that a large majority of the complaints received, are received the morning after the event by email. The Council cannot take action against these alleged breaches as the evidence must be gathered by an impartial third party (i.e. noise and nuisance officers).

8.14. The complaints register also documents licensing officers repeatedly advised residents that they can request a review of the licence and its conditions if they feel this is necessary. To date, residents have not chosen not to pursue this course of action. Should residents feel that the existing licence conditions are not adequately controlling the impacts of the use on the amenity of neighbouring residents, there is considered sufficient scope for the conditions to be modified.

8.15. The premises licence for the appeal premises is subject to similar conditions and indeed in some instances, more conditions, than other public houses operating nearby. The Henry J Beans public house at 195-197 Kings Road has a significantly larger beer garden than the appeal property and is bounded on all sides by residential

properties (including Oakley Street to the west, Margaretta Terrace to the south and Kings Court to the east). The premise licence relating to this property restricts the use of the garden to the same hours as the appeal premises, but is not subject to nearly as many conditions (including no condition requiring customers to be seated in the garden when consuming food and drink, and no condition requiring the chairs and tables to be stacked up outside operating hours). Despite the less restrictive conditions, the significantly larger beer garden, and the proximity of the beer garden to residential properties, the Council's complaints register indicates that this property has received only 21 complaints relating to the use of the beer garden over the last ten years and no complaints since October last year. This shows that it is possible to operate a busy pub with a beer garden in close proximity to residential properties in this area.

8.16. Further, other premises nearby including the Pigs Ear on Old Church Street, The Surprise on Christchurch Street and the Coopers Arms on Flood Street all seem to be operating without causing nuisance to neighbours (The Cooper Arms and The Surprise have received no complaints since July 2011 and The Pigs Ear received one complaint in May 2012, but before that had received none since 2007). All three of these public houses are positioned on residential streets and are of a similar size to the appeal premises. Based on the seemingly compatible relationship these public houses have with their residential neighbours, there is considered no reason why, if operated

in accordance with the premises licence and managed effectively, the appeal premises could not also, continue operating without disturbing residents.

8.17. It is also relevant to note that many of the residents, who wrote in support of the applications, make a clear distinction between the way the establishment is currently run, and the way it was run in the past. The following comments taken from the representations received in support of the applications, demonstrate this point:

‘The nature of the former Phene Arms has changed irrevocably since it re-opened. It is not longer an amenity for local residents. The vast majority of customers come from outside the local area, by car and taxi, causing considerable noise, congestion and parking problems all day and night in a narrow no-through-way street. In addition there has been a noticeable increase in incidents of damage to residents cars parked in Phene Street and neighbouring streets...the operation of the pub is no longer a suitable activity for this quiet residential area’ (resident of Phene Street, 01/09/2011).

‘The Phene has turned into a “destination” venue similar to the many existing establishments in the Kings Road. This is the aspect that has generated the complaints by neighbours around noise, traffic, parking, smoking etc’ (resident of Phene Street, 01/09/2011).

‘I have lived in Margaretta Terrace since 1987, and have seen the change from a quiet residential local pub to the noisy

establishment frequented by young Hooray Henrys of today. In those days it was unusual for more than 20 people to be in the garden out front, and then only in high summer, today with smoking laws as they are, and modern outside heating equipment these days are entirely at odds with the interests of the local residents' (resident of Margareta Terrace, 26/08/2011).

'I have lived here for 41 years and the original landlord run the pub more or less solely for the neighbourhood residents. It was a families pub and he never allowed any disturbance whatsoever. When he left the pub became a place to go and drink in the garden, with people coming from far and wide. We, the residents, who were affected, have had serious problems ever since...the management do not appear to be keeping to the agreements made at a [licensing] hearing at the town hall' (resident of Oakley Gardens, 09/11/2011)

8.18. Although the Council cannot control the specific nature of the use, what these comments illustrate is that it is not in truth the 'public house use' that is the issue here, but rather the particular way in which the current operator is operating that use. This shows it is really a matter to be controlled under the Licensing Act 2003, rather than a land use issue to be controlled by the planning regime. It also shows that the appeal premises, if run in a different way, and possibly in a similar way to the way it was run in the past, could overcome the concerns raised by neighbouring residents.

8.19. It should also be noted that not all local residents object to the proposal and a number of residents who live in the immediate vicinity

have indeed written in objection to the proposals including residents of Margareta Terrace (no. 36) and Oakley Street (no. 34). Given the limited number of complaints that have been received over the last year, the length of time that has elapsed since any complaints have been received, and the points I make above, the existing use is not considered incompatible with its residential environs. Given the density of population and built up nature of the Borough where commercial uses often sit directly adjacent to residential uses, it is not uncommon for occasional complaints to be received. The fact that a resident may complain about the noise or disturbance associated with a use at one particular time, does not necessary indicate that the same resident does not value the use or wishes that use to cease – or indeed that the use is inappropriate or incompatible.

8.20. Such a point was noted in the report on the Decisions of the Licensing Sub-Committee (including as appendix 17), where it is stated:

The Committee took into account that the Phene Arms had existed for approximately 158 years. Indeed many of the Interested Parties [all opposed to the premises licence application] acknowledged both in their written representations and at the hearing that they were not against the existence of the pub, but rather considered that the new licence should ensure that limitations and controls are put in place to protect the neighbourhood.

8.21. Based on the limited number and nature of complaints received in the last year, the public house now appears to be operating successfully in its residential environs. This success supports the assertion that if managed appropriately and in accordance with the conditions of the premise licence, public houses can be compatible with residential areas (and indeed this public house can). This point is further illustrated by the fact that other public houses nearby (including one with a large beer garden bounded by residential properties) receive little or no complaint from residents. On this basis, I remain of the opinion that the concerns raised by residents in relation to the impact of the existing use are best dealt with through other legislative controls. On this basis, such concerns should be given little weight in the balance of considerations.

Viability

8.22. Although not highlighted as an issue during the consideration of the application, it is noted that the appellant has indicated in its Statement of Case that it intends to submit evidence in relation to the 'economic viability of maintaining the gastro pub in the appeal premises'. Although no information has been submitted in support of this claim to date, the relevant policy relating to this matter will be considered in more detail below. David Morgan will deal with the specifics of the viability of the property in more detail in his evidence.

8.23. Paragraph 131 of the NPPF states that in determining planning applications, Local Planning Authorities should take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Paragraph 134 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

8.24. Whilst it is expected that the appellant will produce some form of viability study in advance of the Inquiry, as has been established in policy documents and various appeal decisions, the only way to adequately demonstrate redundancy of use is through robust marketing. In particular, the saved practice guide to PPS5 states that the aim of marketing to demonstrate redundancy is “to reach all potential buyers who may be willing to find a use for the site that still provides for its conservation to some degree. If such a purchaser comes forward there is no need to sell to them, but redundancy will not have been demonstrated” (pg. 29) (appendix 8).

8.25. To date, the local planning authority is not aware of any periods of extended vacancy nor any genuine attempts to market the property for its existing use or other community uses. On this basis alone, any

claims relating to lack of viability should be given little weight. Should the premises be marketed robustly and appropriately (in accordance with the criteria set out in the saved practice guide to PPS5 paragraph 96, pg. 30, appendix 8), and it be adequately demonstrated that the property is no longer attractive as a public house or any other valuable community facility/service providing public benefits, then an application could be reassessed on this basis. However, in the absence of such evidence or justification, this argument should be given little weight.

8.26. Such a position has been supported in numerous appeal decisions, albeit for sites outside the Borough, where Inspectors have made the following comments of relevance:

“Firstly, even accepting that previous occupiers struggled to operate a viable business, there is limited evidence of whether or not the public house use could be rendered financially viable under new ownership or different arrangements. The most obvious way of testing the demand for the premises would be to place it on the open market and analyse the results, but this has not been done...Secondly, the policy also deals with the need to demonstrate that the facility is not required for other community uses. The appellant has stated that the building is not suited for commercial use due to its location, scale and condition, but there has not been any detailed exploration of the potential for other community use. Again, the premises have not been marketed for this purpose. There is considerable local support for the continuation of the use of the premises as a public house and, although I fully appreciate that this might not resolve itself

into a feasible community use, the potential does not appear to have been explored (appeal decision included at appendix 12(b)).

“The appellants have not tested the market, on the ground that there is no requirement in Policy L11(i) to do so, and have referred extensively to the CAMRA Public House Viability Test without addressing the section posing questions about “The Sale”. In the circumstances that arise here, it seems to me that the least that is needed to demonstrate that this facility is no longer financially viable is a genuine and thorough marketing exercise, with conclusions supported by a report from an expert in the licensing trade” (appeal decision included at appendix 12 (c)).

“Although the appellant indicated in his appeal statement that he would demonstrate that the building was no longer in appropriate or economically viable use, no evidence to provide this point was submitted. Since I saw that the hotel/public house is still operating more than a year after the application was made, I cannot be sure that this is the case. There is no clear evidence to show that the change of use is necessary to secure the survival of the listed building so I have to conclude that the proposal is contrary to the aims of policy and that there is no justification for the loss of the historic use” (appeal decision included at appendix 12(d)).

“Whilst I find the appellant’s evidence indicative that a continued pub use would be unsustainable I do not find it conclusive. The lack of an active marketing exercise is clearly in conflict with [policy] and the fact that the proposal would result in the loss of the pub, but without convincing justification for such loss, adds to my concerns” (appeal decision included at appendix 12(e)).

8.27. Concerns about the validity of viability arguments are also raised in relation to the success of other public houses within Chelsea. The Pigs Ear public house on the corner of Old Church Street and Paultons Street and the Surprise public house on Christchurch Street to the west of the appeal property are both of similar size and design, are both in similar locations (off main roads and outside of town centres) and both appear to be operating very successfully as set out in more detail in David Morgan's evidence. The Surprise public house in particular, was closed for many years but reopened in 2011 and continues to make a significant contribution to the community and the character of that part of the conservation area.

8.28. It is quite apparent that public houses can operate successfully within this area, and in a similar context, despite current economic conditions. On this basis, and without any evidence to the contrary, the appellant's arguments in relation to viability are considered unfounded. It is noted that Inspectors have made similar decisions in relation to viability, where other comparable premises nearby appear to be operating successfully. Extracts from a relevant appeal decision where such matters have been considered are included below:

"The success of this type of enterprise may well be precarious; it depends on multiple factors, including location, client catchment and the style of the management. Despite current economic pressures, I am aware that there remain numerous examples of successful public houses, many in historic premises similar to

the appeal building. I am, therefore, unconvinced on the basis of the information before me that the only viable future use of the ground floor of this listed public house is residential” (appeal decision included as appendix 12(f)).

8.29. Notwithstanding the Council's position that redundancy cannot be demonstrated without appropriate marketing, the Council also cannot accept that the public house is not, or could not make a profit. For these reasons, the Council has instructed David Morgan to provide market commentary and a professional assessment of the current financial performance of the public house. He has prepared a Proof of Evidence to this Inquiry.

Other decisions in relation to public houses

8.30. The Appellant's Statement of Case also argues that the Council has been inconsistent in its decision making in that three public houses have been granted planning permission for changes of use to residential dwellings (paragraph 5.3). In particular, reference is made to an appeal decision relating to the Prince of Wales public house on Princedale Road, and decisions relating to the Cowshed public house, 355 Ladbrooke Grove (ref. PP/10/00271), Crescent House, 41 Tavistock Crescent (PP/09/00599) and the Kensington Arms, 41 Abingdon Road (PP/10/04063).

8.31. Notwithstanding the obvious differences between these applications and the appeal schemes, all of these decisions were

taken prior to the publication of the NPPF and more importantly, prior to the Council's decision to review the Core Strategy policies relating to public houses. Since the full Council decision to review the Core Strategy policy in relation to public houses, the Council has been entirely consistent in its decision making and all applications involving the loss of public houses to residential use have been resisted.

9. SUMMARY AND CONCLUSIONS

9.1. Since the appeal schemes were refused, the National Planning Policy Framework has been published. This document recognises the important role public houses can play in facilitating social interaction and creating healthy, inclusive communities. The appeal schemes would result in the unnecessary loss of a valuable community facility contrary to the aims and objectives of the NPPF, in particular paragraph 70. The appeal schemes would also reduce the community's ability to meet its day to day needs by reducing both the number of community facilities within a densely populated area, but by also reducing the valuable choice of facilities available to residents.

9.2. The emerging revisions to the Core Strategy seek to address a deficiency in the existing Core Strategy policies and ensure conformity with the NPPF. The impact of the loss of public houses within the Borough has become increasingly apparent since the Core Strategy was adopted and has now reached a critical level where these losses are unacceptably affecting the vitality, sustainability and character of communities and residential environments.

9.3. The emerging policies are at an advanced stage in preparation, having received no significant objections and are wholly consistent with the relevant policies within the NPPF. On this basis, the emerging policies

should be given significant weight. The appeal schemes would be contrary to the emerging revisions to the Core Strategy.

9.4. In conclusion, the appeal schemes would cause the loss of a valued community facility, harm the character of the locality and would conflict with emerging policy. On this basis, it is respectfully requested that both appeals are dismissed.