

Dear Mr Whitworth,

Reinstatement of three townhouses (Class C3), (part of 23 and 24 Kensington Square); refurbishment of college building (part of 23 Kensington Square) and use as an extra care facility (Class C2). Demolition of all other buildings on site. Erection of deck over adjacent London Underground line and construction of 5 buildings (ranging between 1 and 8 storeys in height) for use as an extra care facility including units, communal facilities and services areas, community hall and on-site affordable housing and associated access parking, servicing and landscaping. (MAJOR DEVELOPMENT)

I am writing for the Kensington Society, and in support of the Victoria Road Area Residents' Association, and in response to the officer's report, to **object** to this application for:

- the loss of a residential tertiary education college, including teaching facilities, a major hall (350sqm) used both by the college and the wider community, a 109-bedroom hall of residence (2,600sqm), a nursery school, and the loss of sports facilities, including tennis courts – as reported will result in the **loss of nearly 10,000sqm of social and community uses;**
- the enlargement of the site through developing a large deck over the Circle/District Line railway; and
- a development consisting of 150 housing units, including 142 units of luxury housing to be marketed as “extra care/retirement” including the amenities needed for the luxury market, renovation of three, over 500sqm each into individual town houses and 5 small (average 100sqm affordable housing units), and a much-reduced small community hall (from 380 to 125sqm).

The Society **objects** to:

- **the large-scale, total loss of educational use from this site, including a 109-unit hall of residence and ancillary sports facilities;**
- **the proposal is completely contrary to development plan policy CK1** that seeks to protect and enhance the supply of land and buildings in social and community uses and specifically seek to retain existing social and community uses and to protect them against the loss to high-value uses, such as residential use;
- **the Council has misconstrued the basis of Policy CK1**, which seeks to protect low-value social and community uses from being developed for high-value residential uses, by failing to understand the basis of policy and encouraging a use – a luxury retirement extra-care housing scheme - which is not the “same or similar use”, not another “social and community use” nor an enabling use;
- **the scheme does not meet any of the key tests for social and community uses required in Policy CK1;**

- **the scale of the scheme:** the development of a major raft over the railway, considerably raises the quantity of development, the scale of the works and the length and impact of the construction project;
- **the housing mix is totally inappropriate:** there is no shortage of luxury housing within RBKC. There is a shortage of affordable housing including housing for older people, especially care homes;
- **there is no housing need to justify this scale of provision of luxury retirement extra care housing,** whilst the proposed development provides no significant contribution of affordable housing nor, what most people would regard, as an affordable care home;
- **the benefits described by the developer are either speculative or miniscule - there are in fact few public benefits. Some of these benefits have no direct link to this scheme to offset the harm,** other than the proposed access to the existing garden;
- **the Construction Traffic Management Plan is unacceptable** and does not address the methods or problems of access for large-scale structural elements; and
- disregard of the **Heythrop SPD.**

Officer's Report

The Society **strongly disagrees** with the officer's report, especially with regard to:

- **the total loss of social and community uses from the site:**

Para 1.3 asserts that that the proposals “would result in the retention of and increase in the social and community floorspace on the site ...” before even establishing whether “extra care housing” is a social and community use.

The proposal would see:

- the total loss of education uses: a tertiary education college with hall of residence for 109 students and a nursery school and with a parsimonious offer for the Dyslexia Teaching Centre;
- the loss of sports facilities, including tennis courts.

- **the interpretation of Policy CK1:**

The Council's reason for adopting Policy CK1 was identified as the “need to protect and promote functions that might otherwise be lost to residential use” (para 30.1.1 of the Local Plan). Para 30.3.2 recognises that “with high residential property values, social and community uses and other local services are being threatened in Kensington and Chelsea as they have a lower land value than other uses, in particular housing.” This policy came

about from the very specific pressure following the loss of the Princess Louise Hospital and Vicarage Gate care home.

Para 30.3.4 defines social and community uses as including: care homes/care facilities and elderly people's homes (as defined by Class C2 of the Town and Country Planning Act (Use Classes Order) 1987). All of these named types of residential institutions are low-value uses, whereas it does not specifically identify "extra care housing" as a social and community use in need of protection under Policy CK1. The definition does not specifically define "extra care housing" as a social and community use.

The current proposal is not a "low-value use" and, because this would be marketed in the high-cost housing range (whether to buy or rent) and would have very high service charges to pay for its range of "communal services", the proposed use is the very type of high-value residential use from which the low-value social and community uses require protection.

Attempting to designate this scheme as a social and community use is a clear abuse of Policy CK1. This scheme is undoubtedly one of the highest value residential uses from which social and community uses, as defined and outlined within CK1, need protection. No reasonable decision maker would accept a high-value use like this "extra-care housing" as an acceptable replacement for low-value social and community uses and is challengeable in court. If high-value uses can be "classified" as substitutes for "low-value", this would undermine the purpose of the policy. The policy is clearly meant to avoid "high value" residential uses displacing low-value social and community uses.

This proposal, if granted, would make a nonsense of Policy CK1 and of the Council's clear intention. In light of the position this council is in following the Grenfell disaster, it is not the direction the council should be taking. The policy is robust – any weakness in its interpretation would be a betrayal. There is an assumption that being a C2 use automatically qualifies "extra care housing" as a protected social and community use. It is not a question of whether "extra-care housing" is C2 or C3, but whether this scheme should be able to claim the protection or the mantle of Policy CK1. This is the equivalent of arguing that black is white.

- **the assessment of the scheme in relation to the sequential approach in Policy CK1**

Para 6.30 and subsequent paragraphs describe the three-step sequential approach in Policy CK1 c.

The proposal fails the first test – we all agree, even the officer, that the proposed uses are not "the same, similar or related uses".

The second test envisages the possibility of a change of use to another social and community use "which predominantly serves or which provides significant

benefits to borough residents and where it is demonstrated that there is a greater benefit to the borough resulting from this change of use”.

Paras 6.34 onwards fail to address these criteria, specifically:

- ⊖ we disagree that the extra care housing scheme predominantly serve or provide significant benefits to borough residents. The marketing of the 55 flats in the Dovehouse Street “care facility” to the luxury market has fallen flat and has been forced to reposition its’ marketing from sales to rental. It even has solicited private financial marketing to encourage the sales. See below – there is insufficient local demand to ensure that this scheme would predominantly serve local residents as CK1 requires.
- We also disagree that there would be greater benefit to the borough resulting from the change of use. Para 6.41 of the report is a circular argument, it asserts that since the proposed use is a social and community use it would greatly increase the borough’s social and community stock.

The third step, which the report does not explore, is whether an exception could be made where this would be enabling development to significantly improve the existing use or help support another social and community use on the site. The proposal, despite greatly increasing the floorspace on the site and promoting a much higher value use, does not act as enabling development for social and community uses on this site or elsewhere in the borough.

This assessment would suggest that the proposed use would not meet the three-step sequential approach.

Nevertheless, the officer’s report asserts (para 6.52) that the proposed development would provide significant benefits to borough residents. Not only is there no substantial proof for such a statement, it does no such thing.

- **the lack of evidence of housing needed to justify this scale of provision of luxury retirement extra care housing**

Strategic Housing Market Assessment (SHMA) 2015 estimated that there was a need for housing for 87 older people per year in RBKC. Of the 87 this scheme’s level of “extra care housing” is estimated at 13 per unit per year. 13 with the majority of the need is to be in the affordable “care home” category.

Since this scheme, together with the same company’s scheme in Dovehouse Street, would deliver 197 units, even assuming that all “extra care housing” would be for the very highest income/high net worth group, these would together produce what amounts to a 15-year supply.

However, since much of that need as defined by SHMA is not for this segment of the market, this scheme would not be supportable by Kensington and Chelsea residents, and would have to be sold to a much larger market in the UK and may most likely abroad. Put directly, SHMA does not justify this amount of “extra care facilities” and the borough residents would be in a minority. The residents would not be receiving “significant benefits” from this scheme – CK1 again. The need is elsewhere.

The planning department and the Council have not demonstrated that this luxury retirement housing with a minor element of care with large service and care charges, would, as required, “predominantly serve or provide significant benefits to borough residents” as required by CK1 c (ii). Therefore the requirements of CK1 are not met.

- **the housing mix, especially the lack of affordable accommodation:**

As is obvious this “housing” is targeted at the very top of the market with the label “care home” the justification for no affordable housing. The developer has called it “the One Hyde Park of retirement housing” and boasted of it being the quality of Claridges'. According the marketing material it would be a highly exclusive scheme. Apart from the 5 small affordable housing units required because of the creation of three large townhouses, none of the housing proposed is affordable to anybody but “ultra-high net worth individuals” – the declared market.

As an indication of the directed market, the development would contain a wide range of services, which are only found in the top end of the housing market – listed in para 6.14 of the officer’s report – “including swimming pool, sauna, exercise rooms, gym, hair room, café/restaurant, library, etc”. The report suggests that “Extra care homes ... commonly provide all of the facilities for day-to-day living that you would expect to see in a common Class 3 residential development and indeed many new large-scale Class C3 residential developments could include these facilities”. It further suggests that “these are all features that could not be considered unique to an extra care development”. We agree that such a wide range of facilities are only “commonly provided” at the top end of the housing market, but not in the community and social care facilities and not all extra care facilities. The all singing/dancing facilities are for the niche market at which this scheme is targeted.

The housing mix for this scheme is exclusively and unashamedly the “ultra-high net worth individuals”, with no provision for what is more commonly considered to be housing for older people needing care as identified by SHMA. With over 150 units this is a highly unbalanced contribution to the need for specialist housing for older people, exclusively for the extreme top end of the market.

In addition, the scheme converts buildings currently in educational use in Kensington Square into three large townhouses, for which five small,

affordable flats are required – resulting in further loss of community and social uses. With all these wonderful homes not one is for affordable extra-care housing.

- **the impact of the project is a function of the scale of the scheme as a result of decking over the railway.**

There is very limited public benefits and the nature of those identified:

- 1. The commitment of £4,000,000 towards funding a scheme of step-free access at Kensington High Street station, would:**
 - be highly speculative – there is no firm proposal, merely an aspiration, is highly unlikely to be required within 5 years and if not use the developer could then reclaim the money.
 - £4m will not pay the total cost of the step free access and unless the additional finance required would be paid by TfL or the Council, the total cost would not be raised. This scheme is not a priority project, is not on TfL's priority list and there is a high probability that it may never happen, certainly not within the 5 year requirement period.
 - be unrelated to the project in terms of being directly related and not proportionate
 - not be justified by the development itself, because the change of use from a community and social use to homes for the super wealthy would result in a huge reduction in passengers using the underground, not an increase.

The weight to be given to this proposed “donation” is easily viewed as a bribe and **should be heavily discounted.**

- 2. The potential future route across the deck to the western side of the railway lines is highly speculative and should be given limited weight.** If this route was possible it would be part of this development proposal. It certainly would make the construction easier which is why the developer tried very hard to agree access. However. The adjoining owners have refused the access and there is nothing to suggest their position will change in the future.
- 3. The small of 125sqm community hall is the replacement the existing 380sqm hall – a loss of 255 sqm – 3 times smaller! It is not a benefit but a loss.**
- 4. The payment of £100,000 to assist the relocation of the Dyslexia Teaching Centre is not a benefit.** The centre which is well functioning and provides highly qualified, specialist support for children and adults. The location is a calm environment for assessment and learning in the facility of 154sqm. The minimal offer of £100,000, will most likely force the relocation either outside the borough or in an area with poor transport. £100,000 will not buy a garage in RBKC and, if it could find a place, a change of use would be certainly required and resisted. This too is a loss to the borough, not a benefit.

This only leaves the increased access to the open space and a pedestrian route through the site – a route to nowhere. We fear as with other such open spaces, the public will quickly be discouraged from entering as with Thormwood Lodge and the right of way discourage as with St Mary's Gate.

The previous scheme offered a doctor within the site. It is no longer offered. Even with this high luxury clientele there will be the increase pressure of the existing community services including the existing NHS surgeries.

Contrary to Heythrop SPD resulting in the loss of community and social use

The current proposal is the total reverse of what the Heythrop SPD proposed. In formulating the SPD extra care housing in C2 use was to (3.16) “complement other uses on the site”, not to be the entire site use. “The main use of the site is as a residential institution (Class C2 in the Use Class Order). This use class comprises residential care homes and sheltered housing where there is an element of care, hospitals, nursing homes, boarding schools, residential colleges and training centres”. What care facility that was contemplated was a care facility as complement to the community use. It never intended for more than a modest amount of housing as enabling development to support and protect social and community uses.

The SPD requires justification for any change of use “to satisfy CK1 which protects social and community uses”. The applicant has not provided nor has the planning department assessed evidence of any “sequential test and lists the circumstances by which land can be converted, or in extreme cases lost, to provide alternative uses. In all cases, this must be to the overall benefit to social and community provision within the borough”. There is even an opportunity where if the requirements of CK1 and the results of the sequential test justify, “a modest amount of enabling residential development may be acceptable on the site where this provides a greater benefit to social and community provision in the borough. Residential use on part of the site would be appropriate in the respect, including affordable housing unless it could be demonstrated that this was not possible for viability reasons”. There have been no viability reasons presented to justify the loss of the social and community use.

Summary

The Kensington Society **strongly objects** to this application, because of:

- the large-scale loss of low-value social and community uses from this site – a residential college, a nursery school an ancillary, meeting hall and sports facilities, the Dyslexia Teaching Training Centre;
- their replacement by a luxury retirement housing development for a restricted market with minimal care facilities. Even if it were a C2 use – which we argue it is not - is not one that should benefit from the protection and status of a social and community use within CK1. It is at the top of the range housing scheme for an exclusive market of the over 55s – the very type of use from which CK1 seeks to protect low-value social and community uses;

- the mix – targeted to providing exclusively for “ultra-high net worth” people over the age of 55 – is by its own marketing, aimed entirely at very small niche national and/or international market – not London or the RBKC market;
- the scale of the scheme, when taken together with the company’s scheme in Chelsea, would provide 197 of these luxury housing units, much more than what is needed in this borough over the next ten years for the over 55s– which means if the restrictions are not varied due to market/economic conditions, it will need to sell/rent them to a much wider catchment area;
- the size of the scheme has been increased by the proposal to build a deck over the railway – this increases the scale, duration and impact of the construction project on the surrounding area;
- the benefits are either imaginary or parsimonious. The offer of £4 million toward the vague possibility of the provision of step-free access at Kensington High Street station, lacks any direct relationship with development, cannot be justified by additional use of the underground and has little or no prospect of being implemented. The link to the other side of the track is a hope without a prayer and thus not a benefit. The £100,000 for the Dylexia Teaching Centre is a sham –it is not a benefit but an attempt but by offering £100,000 a means to soothe the loss.

We ask that the planning department justify the reasons within the report for recommending approval, for not properly assessing the loss of the social and community use, produce a viability report which justifies this loss and now apply properly the RBKC planning policies.

Yours sincerely

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Chairman
The Kensington Society