

Kensington and Chelsea Core Strategy Partial Review: Miscellaneous Matters

Examination of the Partial Review of the Kensington and Chelsea

Core Strategy: Miscellaneous Matters

Matters, Issues and Questions for Examination

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Core Strategy:

Miscellaneous Matters

Matter 1: Purpose and nature of the miscellaneous changes to the Core Strategy

Issue 1.1: Whether the miscellaneous changes are consistent with national policy and guidance relating to the form and content of local plans.

1. Do the miscellaneous changes bring the core strategy up to date and in line with the objectives of national policy and guidance in terms of setting the scene (chapter 1) and providing a practical and flexible framework for decision making?

The 'Miscellaneous Matters' policy review includes a general updating exercise of the Core Strategy to ensure that the text reflects the latest Government guidance in the National Planning Policy Framework (NPPF) and other evidence based documents.

It also deals with other Unitary Development Plan policies being incorporated into the Core Strategy, such as servicing, temporary sleeping accommodation and embassy location within the Borough. The relevant Core Strategy replacement to the current EcoHomes Very Good standard in terms of BREEAM for refurbishment is also dealt with.

Plans and decisions need to take local circumstances into account (para 10, NPPF). Paragraph 1.1.6 of MISC01 states that "The policies in the Local Plan follow the approach of the presumption in favour of sustainable development and show how it is expressed locally. The Council will ensure that planning applications that accord with policies in the Local Plan and the London Plan (and where relevant with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise". This is directly linked to the objectives contained within paragraph 15 of the NPPF. Additionally, paragraph 1.3.2 of MISC01 is directly related to paragraph 154 of the NPPF in that local Plans should be aspirational but realistic (which is also repeated in National Planning Practice Guidance (NPPG) on Local Plans – paragraph 002).

The submission Miscellaneous Matters policies take account of local circumstances in terms of setting the scene, and are bespoke in that they reflect the particular circumstances of the Royal Borough. Flexibility is offered by the policies as material considerations regarding each particular case will be taken into consideration, depending on the individual circumstances. The policies contain clear criteria that indicate what would be considered acceptable/unacceptable.

2. Do the miscellaneous changes properly reflect the Framework's presumption in favour of sustainable development as stated in paragraph 1.1.6?

Yes the changes bring the Miscellaneous Matters policy into line with the NPPF. Sustainable development is broadly concerned with ensuring the needs of the present are met without compromising the ability of future generations to meet their own needs. There are three dimensions to sustainable development: economic, social and environmental. When read within the context of the Core Strategy policies as a whole, the Miscellaneous Matters review forms part of a broader framework of policies that

comprehensively address the three dimensions of sustainable development. Particularly at paragraph 1.3.2 of MISC01 where it states "Local Plans should be aspirational but realistic. They should address the spatial implications of economic, social and environmental change."

Some additional wording has been added to the Core Strategy adopted policies to incorporate the content of former UDP Transportation Policies TR16 to TR21 inclusive which dealt with seeking improvements at public transport interchanges and the provision of interchange facilities, encouraging coach parking facilities and resisting the loss of off street coach parking. Otherwise the content and thrust of the relevant policies have not changed, but have been included in this review for the sake of completeness. To further substantiate this, an addendum SA (MISC13) has been carried out and the results are supportive for the inclusion of the policies, as recommended in MISC01.

The Miscellaneous Matters policies contain clear criteria that indicate what would be considered sustainable development. Proposals that meet the policy criteria will be granted without delay.

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Matter 2: Climate Change

Issue 2.1: Is the revised policy CE1 adequately justified by proportionate evidence?

3. What is the up to date evidence upon which revised policy CE1 is based, and does this provide a reasonable justification for the policy?

Paragraph 95 of the NPPF expects local planning authorities “when setting any local requirement for a building’s sustainability to do so in a way consistent with the Government’s zero carbon buildings policy and adopt nationally described standards”. The NPPG on Climate Change goes on to state that, in this respect, “planning authorities will need to take account of Government decisions on the Housing Standards Review” (<https://www.gov.uk/government/consultations/housing-standards-review-consultation>).

The Housing Standards Review Consultation document (August 2013) states “The government considers that the right approach is that carbon and energy targets are only set in National Building Regulations...” (Q51). The Housing Standards Review clarifies that the existing 2013 Part L Building Regulations are set between Code for Sustainable Homes levels 3 and 4 which represents a 44% improvement from 2006 Part L Building Regulations with an “end point” for zero carbon standard (equivalent of Code level 5) and further strengthening anticipated in 2016 (paragraph 222).

This has recently been made clearer by the Government response and summary of responses to the consultation: Next steps to zero carbon homes – Allowable Solutions (July 2014 <https://www.gov.uk/government/consultations/next-steps-to-zero-carbon-homes-allowable-solutions>) which states “We intend to set an on-site energy performance requirement at a level equivalent to level 4 for energy standards...” (paragraph 4) and “we will be implementing zero carbon homes from 2016” (paragraph 1). It should also be noted that the Government announced, at paragraph 11 “We will set out a national design framework for allowable solutions, for which there was strong support in the consultation, rather than require local authorities to set up their own local arrangements. This approach will provide for greater efficiency in delivery and total coverage of the country, better ensure consistency, and maximise the opportunities to use allowable solutions to support strategic carbon abatement schemes.”

The revised policy CE 1 therefore provides a clear policy position in line with national policy in advance of the actual implementation of the Housing Standards Review and future more stringent Building Regulations. It should be noted that the Government response on Allowable Solutions (July 2014) states “This report is an analysis of the formal consultation responses received by DCLG. It does not set out how we intend to take these proposals forward. Decisions on the implementation of proposals will be the subject of separate statements” (paragraph 34). It is understood that a Ministerial Statement on the Housing Standards Review / Allowable Solutions is expected in coming months. This helps provide a reasonable justification for the policy.

The London Plan policy 5.2 and the Mayor’s Sustainable Design and Construction SPG also provide an evidence base from which any future offsetting arrangements will be based. Policy 5.2: Minimising Carbon Dioxide Emissions states a requirement for a 40% improvement on 2010 Building Regulations from 2013-2016 and zero carbon from 2016-2031.

It should also be noted that the inspector's report from the Core Strategy examination (2010) sets out how he considered that policy CE1 required amendments (which are reflected in the current adopted policy) to ensure that the achievement of levels in advance of those set out nationally are *sought* ("seek to achieve") rather than *required*. This therefore provides further justification for the approach being taken now.

Eight Associates' report 'Evidence Base for Basements and Policy CE1: Climate Change', available as document BAS39 forms further up to date local evidence for this policy; this is referenced in footnote 16 of the MISC01 and has been provided as MISC22 on agreement with the programme officer. This is the technical evidence which justifies the changes to the revised Code for Sustainable Homes and BREEAM standards as set out in policy CE1. Within this report, further justification is set out through the use of 3 case study types whereby the categories of buildings to be tested as part of this evidence base are provided and applied to the corresponding relevant case study, which the Council considers reasonable.

The Code for Sustainable Homes Level 4 requirement for all new developments is demonstrably in line with London Plan guidance and is now a standard requirement for the following London Boroughs: Southwark, Havering, Redbridge, Lewisham, Islington, Camden and Westminster. The department of Communities and Local Government has also released case study documentation (Code for sustainable homes: case studies volume 4, 2013), which demonstrates how Level 4 dwellings have been designed, planned and built.

The requirement of Level 4 is therefore considered to be in keeping with observed practice in London and proportionate in its ambition.

4. Is the evidence adequately reflected in the reasoned justification?

Yes, it is based on the local evidence within the Eight Associates report which reflects the recommended changes to the supporting text. It is referenced in footnote 16 of the MISC01 and MISC22. The evidence is set out in the above response to question 3, however we do not consider that this all needs to be in the reasoned justification, because we take it as read and it is continuously being updated.

Issue 2.2: Is revised policy CE1 consistent with national policy?

5. Are the Code for Sustainable Homes and BREEAM targets for new buildings and extensions (policy CE1 part a) and for conversions and refurbishments (policy CE1 part b) aspirational but realistic?

The revised policy is aspirational, for example, achieving the requisite standards in the case of new and converted/refurbished properties within conservation areas and particularly listed buildings is ambitious. However, as highlighted under Issue 2.1, to achieve the policy targets there are different possible routes and approaches that can be followed to meet the needs of conservation in specific buildings. The policy is written to be applied comprehensively across the borough. Code for Sustainable Homes is realistic as it has been achieved on sites throughout the borough, for example, 205 Holland Park Avenue (PP/10/03130). Therefore the update to reflect national policy and guidance is not considered unfeasible. As with any policy, there may be circumstances where there are sufficient material considerations that may justify an exemption from the strict policy requirements, (only where it can be

demonstrated to the Council's satisfaction that there are mitigating factors). However these will be the exception. To this end, the policy is aspirational but realistic.

In any case, as reflected in the Government's Housing Standards Review, the legislation being brought forward will provide powers to enable on-site energy standards and the framework for allowable solutions to be established through the Building Regulations. Therefore it is anticipated that this function will fall away from planning and move to building control.

It should be noted that the SEA showed a positive impact and the changes to the policy are considered to be in conformity with paragraphs 94 and 95 of the NPPF which deal with mitigating the effects of climate change.

6. Is revised policy CE1 consistent with the Government's zero carbon buildings policy as required by paragraph 95 of the Framework?

Paragraph 95 of the NPPF is as follows:

To support the move to a low carbon future, local planning authorities should:

- *plan for new development in locations and ways which reduce greenhouse gas emissions;*
- *actively support energy efficiency improvements to existing buildings; and*
- *when setting any local requirement for a building's sustainability, do so in a way consistent with the Government's zero carbon buildings policy and adopt nationally described standards.*

The revised CE1 policy should be read in conjunction with the remainder of the Core Strategy, particularly the strategic objective of respecting environmental limits. The supporting text has been updated with regard to using BREEAM methodology, with a view to achieving the Government's aim for all new homes to be zero carbon by 2016. It should be noted that the changes relate to the Code for Sustainable Homes and BREEAM standards which are nationally set. BREEAM for refurbishment was published in the summer of 2012 by the Building Research Establishment (BRE). However, further work has had to be undertaken to establish what the comparable standard might be. This is in the form of a consultant's report which forms part of the evidence base. In view of the reservations expressed by the Inspector at the 2010 Core Strategy examination when the requirement for Level 5 and carbon neutral Level 6 was changed to a 'to seek' policy, it is acknowledged by the Council that the technological advances necessary to accommodate new development in a very high quality townscape have not kept abreast with the Code. The existing Core Strategy policy CE1 itself is already adopted and being applied to planning applications.

It should be noted that in 2007 the Government introduced a policy for all new homes to be constructed to meet a zero carbon standard from 2016. This was expected to be implemented through progressive tightening of the Building Regulations (Part L). As reflected in the Government's Housing Standards Review, the legislation being brought forward will provide powers to enable on-site energy standards and the framework for allowable solutions to be established through the Building Regulations.

Issue 2.3: Will revised policy CE1 be effective in ensuring that development makes an appropriate contribution to meeting national targets to reduce carbon dioxide emissions?

7. To be effective, should the policy include more challenging targets for later parts of the plan period which runs to 2028?

This is not considered necessary, particularly considering that the building regulations are likely to be reviewed with a view to them becoming the mechanism

by which the Government's zero carbon target will be achieved. Policy CE1 is considered appropriately ambitious as proposed. In order for the targets to remain realistic and effective, the policy will only be reviewed as and when this is needed, particularly to keep it in line with national policy, responding to local policy shifts and in response to the London Plan requirements. Any further review will also be dependent upon the trends which will emerge from the monitoring indicators. As emphasised throughout these responses, this must be seen within the national context for which the Government has proposed that energy performance standards should only be set in Building Regulations and has made a commitment to implementing zero carbon homes from 2016. The latest Government response on Allowable Solutions also highlighted legislation being brought forward, as announced in the Queen's Speech, which will:

- Enable the framework for allowable solutions.
- Set an onsite energy performance requirement at a level equivalent to level 4 energy standards of the Code for Sustainable Homes
- Consult on an exemption for small sites
- Set the design principles for allowable solutions
- Set out a national design framework for allowable solutions
- Set a price cap for allowable solutions

The report written by Eight Associates states that the aim of the analysis is to implement targets that are proportional to the heritage significance and the size of the scheme (including basements). The targets have been set at a level where they achievable without potential detriment to the dwelling's historic character. For example the targets were designed and tested so not to necessitate measures such as internal wall insulation which can require the removal of heritage assets such as plaster moulding and joinery. The current targets are therefore considered to be the right balance of conservation and energy efficiency for the foreseeable future.

8. Will the proposed monitoring indicators and triggers for review provide an effective mechanism to ensure that development achieves the highest possible standards of sustainability throughout the plan period?

Yes-we have specific and quantifiable monitoring indicators which will measure the number of applications granted where the necessary standard has not been met, the number of refusals allowed on an appeal when failing to meet appropriate standards is a reason. These will provide clear triggers for review and will provide a robust base for justifying re-examining the policy.

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Matter 3: Noise and Vibration

Issue 3.1: Will policy CE6 be effective in controlling the impact of noise and vibration both during the construction and operational phases of development?

9. Should policy CE6 define what is meant by “local noise and vibration standards” and “unacceptable noise and vibration impacts”?

It is not considered that this would be necessary. The NPPG says that it is acceptable to have local standards set. It states “local planning authorities working with local communities and business may decide to develop and include in their Local Plans specific standards to apply to various forms of proposed development and locations in their area. Care should be taken, however, to avoid these being implemented as fixed thresholds as specific circumstances may justify some variation being allowed” (paragraph 10).

Where noise generating development is proposed, a noise report is required to be submitted setting out the site specific circumstances. This would continue to be assessed by the environmental health team who would then recommend appropriate conditions to set appropriate limits based on the individual circumstances of the case.

The proposed changes include only minor wording changes to bring the policy into line with updated guidance. The existing policies work well, with limits set, monitored and enforced by condition and in conjunction/liaison with the Council’s environmental health and planning enforcement teams.

The standards referred to can be found in the Council’s adopted Noise SPD (May 2009) which goes into more detail regarding noise and vibration limits; this has been included as Appendix 2 for reference.

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APPENDICES

1. Government response and summary of responses to the consultation: Next steps to zero carbon homes – Allowable Solutions Communities and Local Government July 2014
2. RBKC Noise SPD