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Dear Chris,

## **PARTIAL REVIEW OF THE CORE STRATEGY: POLICIES RELATING TO CONSERVATION AND DESIGN-REPRESENTATION ON BEHALF OF NOTTING HILL GATE KCS LIMITED**

We write on behalf of our client, Notting Hill Gate KCS Limited, to set out our response to the specific matters, issues and questions being considered by the Inspector in advance of the Examination in Public (EiP) in September 2014.

### **Introduction**

Notting Hill Gate KCS Limited [hereafter referred to as the owner], owns the properties at Newcombe House and along Kensington Church Street. The owner is currently in the process of preparing an application for the site to include the provision of new public realm, office, residential, retail, and community uses and is investigating the opportunity to deliver step-free access to the underground at Notting Hill Gate station. In the preparation of these plans, the owner has undertaken extensive pre-application consultation with the Royal Borough of Kensington and Chelsea and other key stakeholders (including Ward Councillors, the Greater London Authority, Kensington Society, Ladbroke Association, Campden Hill Residents, Pembridge Association, Norland Conservation Society, the Cherry Tree Residents Amenity Association, and the Notting Hill Gate Improvement Group) over the last two years. The pre-application consultation has also benefited from the input of a series of technical consultants who have delivered specialist advice on the feasibility and viability of a number of options for the Site following an exhaustive site analysis exercise.

The owner has also fully participated in the preparation of the Notting Hill Gate SPD through their membership of the Notting Hill Gate Liaison Group, which has involved regular project meetings with the Council and other key stakeholders to discuss the vision for Notting Hill Gate and the appropriate methods for achieving such aspirations. It is on this basis that the representations have been submitted.

We have previously submitted representations on this policy review by letter dated September 2013 and March 2014, focused on policies CL1 (Context and Character), CL2 (Design quality), CL5 (Living Conditions), CL11 (Views), and CL12 (Building Heights). We will not revisit the content of these letters, but set out below our specific comments on 'matters, issues and questions' that directly relate to these previous representations, on behalf of the owner.

In addition we provide comments on the Recommended Changes submitted to the Secretary of State in April 2014, where relevant to our site and our previous representations.

## Response to specific questions

- **Issue 1.1: Whether the revisions are consistent with national policy and guidance relating to the form and content of local plans**

Q2. *“Do the policies contain an appropriate level of detail such that they will be effective in delivering their objectives?”*

No, policies CL2 and CL11 do not contain an appropriate level of detail to deliver the objectives of the Core Strategy. The proposed Recommended Changes to Policy CL2 remove detail which is vital to ensuring that a key part of the Borough can be regenerated, whilst Policy CL11 is overly restrictive and may prevent opportunities for appropriate development to come forward.

We note that Strategic Objective CO5 of the Core Strategy is to ‘renew the legacy’ of the Borough, that is to “pass to the next generation a Borough that is better than today, of the highest quality and inclusive for all.” Supporting this objective are a number of site specific visions in Section 2, including that for Notting Hill Gate which states that “all development will be of the most exceptional design and architectural quality, creating a ‘wow factor’ that excites and delights residents and visitors.” (CV16, a Vision for Notting Hill Gate). The Council’s objective for the regeneration of the Notting Hill Gate area is clear, with the supporting text stating at Para 16.3.7, that the redevelopment of Notting Hill Gate presents the Council with the opportunity to correct the mistakes of the post-war period, and create a new distinctive identity of lasting value to future generations. The Council recognises that the redevelopment of Newcombe House, a designated eyesore, will act as a catalyst for such regeneration and therefore has previously proposed to adopt flexible planning standards to bring about its redevelopment. The revised policies of Chapter 33 and 34 should be consistent with these objectives and should contain sufficient detail so as to ensure they are achieved.

However, we consider that the removal of Policy CL2 part (c) [relating to the redevelopment of eyesores] set out in the Recommended Changes is not consistent with these objectives. The removal of this detail reduces the flexibility afforded to one of the two designated eyesores in the Borough, Newcombe House, and as such will significantly reduce the opportunity for its redevelopment and the opportunity to regenerate Notting Hill Gate and renew the legacy of the Borough.

The Newcombe House building was designated as an ‘eyesore’ in the Core Strategy (2010), which the Council define as:

“A building that because of its scale, height or massing greatly disfigures the wider townscape, creating a very unpleasant sight.”

This designation, and the subsequent policy flexibility, was found sound by the Inspector on the basis of supporting evidence prepared by the Council. In addition to the harm caused to local views, the building has come to the end of its economic life, and the existing change in levels across the site creates a barrier to accessibility whilst the podium in front of the building offers very poor quality, unwelcoming public space. Since it was

given this designation, the building, nor its townscape setting, has been materially improved and therefore it remains, by definition, an 'eyesore'. It is important to note that refurbishment of the existing building would not address these issues.

As has been presented in full to the Council during pre-application discussions, the site is also subject to a number of significant constraints that make its redevelopment very unlikely without the flexibility afforded by Policy CL2 part (c), namely the location of London Underground infrastructure beneath the site, and Rights of Light and daylight constraints to the rear of the site. Both factors limit the massing that can be achieved on-site and therefore limit the opportunities for redevelopment, which we consider, in association with the Council's core objective to remove eyesores from the Borough and renew its legacy, sufficient justification for the inclusion of Policy CL2 part (c).

In the drafting proposed by the Recommended Changes, Policy CL2 will be ineffective in delivering the objectives of the Core Strategy and, specifically, the previously identified aspirations for Notting Hill Gate. Whilst the role of a plan led system is to provide certainty to developers, the proposed amendment to remove this part of the policy creates the exact opposite, reducing the ability of the Core Strategy to support viable development that will achieve the Council's objectives. The adoption of the Core Strategy in 2010 offered a firm conclusion on the development potential of the site, for this to be removed in the space of four years does not assist landowners/developers. We therefore consider that part (c) of the policy should be re-inserted.

With regards to Policy CL11 (views) we consider that the level of detail in part (a) is overly burdensome and unnecessary to achieve the Council's aspiration for a renewed legacy. References to 'interrupting' and 'disrupting' views are not required to achieve such objectives and should be replaced by reference only to the harming of strategic and local views. The London Plan supports this approach by promoting development that enhances the experience of living, working or visiting the city, but does not necessarily replicate the scale, mass and detail of the predominant built form (London Plan, Para 7.21). Policy 7.7 of the London Plan states:

*"Tall and large buildings should be part of a plan-led approach to changing or developing an area... [they] should not have an unacceptably harmful impact on their surroundings...[nor] impact on local or strategic views adversely."*

In our view, Policy CS11 is unnecessarily restrictive in its expectations of development in the Borough. The NPPF and the London Plan understand that there are occasions where tall buildings, high quality architecture, contemporary architecture, and innovation are an appropriate response to a specific site where there is a plan-led approach to the redevelopment of an area. Therefore the policy should be amended to resist only development which harms strategic and local views.

*Q4. "Are all policies accompanied by appropriate reasoned justification?"*

No, we consider that the Recommended Change to Policy CL2 is not accompanied by any reasoned justification. The Council received a limited number of comments during consultation in February 2014 stating that, because there is no definition of the term

eyesore, Policy CL2 part (c) should be removed as this could place the Council in a weak bargaining position. Consequently the Council has removed this part of the policy in the Recommended Changes. However we refer the Inspector to Paragraph 34.3.17 of the Core Strategy which states that eyesores will only be identified through Supplementary or Development Planning Documents. The identification of eyesores (of which there are only two in the Borough) is therefore robust and sound, and on this basis the justification for the removal of the policy is inappropriate.

As stated above, the Newcombe House building was designated as an eyesore in 2010 when the Core Strategy was adopted. The glossary of the Core Strategy defines an 'eyesore' as:

"A building that because of its scale, height or massing greatly disfigures the wider townscape, creating a very unpleasant sight."

Since then the owner has maintained the building in a responsible manner and there have been no improvements to the building's physical appearance or its townscape setting. Newcombe House therefore remains, by definition, an "eyesore" and we see no reasoned justification as to why the policy support for its redevelopment has been removed from Policy CL2. We therefore consider that part (c) of the policy should be re-inserted.

With regards to Policy CL11 (views), no evidence has been provided to support the claim that development which 'interrupts' or 'disrupts' strategic and local vistas, views, and gaps and the skyline will be harmful to the Borough. In accordance with the London Plan, Policy CL11 should be amended to resist only development which harms strategic and local views.

• **Issue 1.2: Do the policies set out an approach that is consistent with the presumption in favour of sustainable development?**

Q5. *"Do the policies relating to conservation and design, when read in the context of the core strategy as a whole, reflect the presumption in favour of sustainable development set out in the Framework?"*

No, Policy CL2 does not reflect the NPPF. We note that, Paragraph 14 of the NPPF states that:

- Local planning authorities should positively seek opportunities to meet the development needs of their area; and
- Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.

On this basis policies should be positively prepared and support the redevelopment of sites in appropriate locations, having regards to the previously identified aspirations and objectives of the Core Strategy.

It is essential that plans are deliverable, and this is enshrined within the NPPF at the heart of the Presumption in Favour of Sustainable Development. Paragraph 173 "ensuring viability and deliverability" states:

*"Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."* (our emphasis)

And paragraph 174 continues:

*"In order to be appropriate, the cumulative impact of these standards and policies should not put implementation of the plan at serious risk, and should facilitate development throughout the economic cycle. Evidence supporting the assessment should be proportionate, using only appropriate available evidence."* (our emphasis)

The Newcombe House site has been identified as an eyesore in the Council's evidence base and subsequently in its adopted development plan, and its redevelopment is expected to act as a catalyst for the Notting Hill Gate area. Located in a town centre above a major transport interchange, the brownfield site is a highly sustainable location for mixed used development, and therefore the Local Plan should support proposals that will create a modern, energy efficient development through appropriate policies. On this basis Policy CL2 part (c) should be retained to provide certainty for developers, to encourage sufficient flexibility for redevelopment and to positively seek opportunities for sustainable redevelopment. In doing so, the Council will be demonstrating support for the redevelopment of a site which has the ability to deliver social, economic and environmental benefits: socially, there is the opportunity to provide a new destination through the provision of new public realm and community offer along with delivering much needed new homes; economically, there is the opportunity to provide higher quality employment space, retail space and new housing, meeting local need and bringing activity to the area; and environmentally, the opportunity to deliver design quality and efficiency compared to the existing situation. Therefore delivering against the plan overall. We therefore consider that part (c) of the policy should be re-inserted.

- Q6. *"Will the policies, when applied with other relevant core strategy policies, allow development needs to be met, an appropriate density of development, and innovation, and optimise development opportunities in a way that is appropriate to the specific character of the Royal Borough?"*

No, the Recommended Changes to Policy CL2 will removed the flexibility required to facilitate the redevelopment of eyesores, which we consider will harm the ability of the site's owner to optimise development opportunities or bring forward innovative proposals which may be more appropriate to the specific character of the Royal Borough.

We are aware from the Council's current consultation on the Notting Hill Gate SPD that the Council is now promoting refurbishment of the existing Newcombe House building as an appropriate option for the site, on the basis that they no longer consider the existing building to be an eyesore, albeit they have prepared no new evidence to support this conclusion and as stated previously, there have been no material alterations to the building or its setting to counter the strong view in 2010 that the building creates a very unpleasant site. We will contest this new conclusion within our representations towards the draft SPD, but note the movement towards the support for the refurbishment of the existing building corresponds with the Council's proposed removal of Policy CL2 part (c).

As we have stated in recent correspondence with the Council regarding the publication of the draft SPD, the refurbishment of the building as proposed within the SPD, and as facilitated by the proposed amendment to Policy CL2, would not viable to deliver the public benefits package that is widely supported by local stakeholders, nor would it achieve an appropriate density for such a highly sustainable site. In contrast to the innovation and site optimisation that is encouraged in the NPPF, the Council are seeking through the publication of this option within the SPD and the removal of part (c) to limit opportunities for the site and remove the owner's ability to deliver a scheme in accordance with the objectives of the Core Strategy. We therefore consider that part (c) of the policy should be re-inserted.

In the same way, Policy CL11 part (a) as drafted, stifles the opportunity for innovation and the optimisation of development opportunities. The focus of this policy should remain on protecting against harm on strategic and local views.

In accordance with the NPPF and the Presumption in Favour of Sustainable Development, it is essential that plans are deliverable and achievable. As currently drafted, Policy CL2 and CL11 are contrary to this aim.

- **Issue 2.1: Policies CL1 and CL2 – Context, Character and Design**

Q7. *“Is the overall approach to development set out in policies CL1 and CL2 justified and based on a proper understanding of the character and architectural qualities of the Borough?”*

As stated above, we consider that the removal of Policy CL2 Part (c) is unjustified and does not reflect the Council's objective to renew the Borough's legacy by improving the townscape, nor does it reflect the Council's aspiration to regenerate the Notting Hill Gate area. The policy was originally introduced following extensive site analysis of the Borough and specifically the Notting Hill Gate area, which has not been materially improved in the interim period. The amended drafting is not supported by evidence and no longer reflects a proper understanding of the character and architectural qualities of the

Borough as set out in detail above. We therefore consider that part (c) of the policy should be re-inserted.

Q11. *“Is the approach to the redevelopment of “eyesores” consistent with other policies in the core strategy, and will it be effective in delivering the vision and strategic objectives?”*

As stated above, we consider that the removal of Policy CL2 Part (c) is not consistent with the Council's objective to renew the Borough's legacy by improving the townscape, nor does it reflect the Council's desire to regenerate the Notting Hill Gate area. This has been discussed in detail above, but in summary:

- The removal of the wording 'eyesores' reduces the flexibility afforded to the two designated eyesores in the Borough, including Newcombe House;
- It will significantly reducing the opportunity for its redevelopment, and the opportunity to regenerate Notting Hill Gate and renew the legacy of the Borough; and
- As proposed, Policy CL2 will be ineffective in delivering the objectives and the vision of the Core Strategy and, specifically, the previously identified aspirations for Notting Hill Gate and Newcombe House.

Indeed, the redevelopment of Newcombe House specifically is expected to act as a catalyst for the Notting Hill Gate area. There is no sound basis for the removal of the 'eyesore' designation. Its removal will compromise the delivery of key regeneration objectives of the Core Strategy. We therefore consider that part (c) of the policy should be re-inserted.

- **Issue 2.4: Policy CL11 - Views**

Q15. *“Is the requirement for all development throughout the Borough to “protect and enhance” views and the skyline that contribute to the character and quality of the area justified and consistent with the London Plan?”*

The current drafting of the policy is not consistent with the London Plan which requires development to 'preserve or enhance' views. This should be reflected at local level and Policy CL11 should be amended to require development to 'protect or enhance' development. As stated above, this is in accordance with Paragraph 58 of the NPPF which supports development that responds to the local character and history of a site, whilst not preventing or discouraging appropriate innovation. This is also consistent with the London Plan, which recognises that there are occasions where tall buildings, high quality architecture, contemporary architecture, and innovation are an appropriate response to a specific site where there is a plan-led approach to the redevelopment of an area. Policy CS11 as currently drafted lacks definition, and seeks to apply a broad brush that is at odds with the 'site specific circumstances' approach championed by the NPPF and the London Plan.

Notting Hill Gate and Newcombe House have been explicitly identified as locations where a plan led approach – supported by an evidence base that identifies the current building as an 'eyesore' – may support a “ *tall, slender and elegant corner building*” (the

Council's own wording). The wording of Policy CL11 should not preclude proposals for a tall building coming forward on this site and should be amended to resist only development which harms strategic and local views.

Q16. *"To be effective, should policy CL11 refer to specific views rather than leave such detail to a Supplementary Planning Document?"*

The identification of specific views in Policy CL11 is not required. Views should be prepared on a site by site basis to ensure they are relevant to the scale and location of development.

- **Issue 2.5: Policy CL12 – Building Heights**

Q17. *"Is the approach to the height of new buildings set out in policy CL12 justified and consistent with the London Plan, or is it unduly restrictive?"*

Notwithstanding our view that we consider Policy CL12 to be unduly restrictive in not encouraging the development of tall buildings "other than in exceptionally rare circumstances" we support the flexibility offered by part (b). The removal of an arbitrary height restriction as set out previously in planning policy is supported and considered to be in accordance with the NPPF and the London Plan on the basis that it allows for proposals to be considered on their merits and does not stifle innovation, originality or initiative through unsubstantiated requirements to conform as set out in paragraph 60 of the NPPF.

## Summary

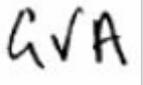
The Partial Review of the Core Strategy seeks representations to comment on soundness and legal compliance of the document. In the context of the above, we consider the proposed policies to be unsound on the basis that, the document is not:

1. positively prepared;
2. effective; and
3. consistent with National Policy

It therefore does not meet the test for 'soundness' as set out in the NPPF, and we seek that these comments are fully considered by the Inspector. The removal of policy CL2 part (c) has not been justified and will result in greater uncertainty for the future of Notting Hill Gate and less flexibility for the owner to bring forward proposals that most appropriately address the site's constraints.

In March 2014 we reserved the right to appear at the Examination, and we formally make this request in advance of the EiP in September. I look forward to hearing from you, and to receiving confirmation that these representations have been received and that we have been granted our request to speak at the EiP. If you have any queries, please do not hesitate to contact Thomas Edmunds (020 7911 2480) or Georgina Church (020 7911 2692) at these offices.

Yours faithfully



**GVA**

For and On Behalf of Notting Hill Gate KCS Limited