

# Royal Borough of Kensington and Chelsea

## Examination of the partial review of the Core Strategy: Policies relating to the protection of public houses and other uses

### Guidance notes for participants

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#### Introduction

1. I am a Planning Inspector appointed by the Secretary of State for Communities and Local Government to independently examine the soundness of the partial review of the Core Strategy relating to the protection of public houses and other uses. I have prepared this guidance note. Its purpose is to explain the procedural and administrative matters relating to the examination.
2. The Programme Officer for the examination is **Chris Banks**. His contact details are given below. He is acting as an independent officer for the examination, under my direction. He will be responsible for organising the programme of hearings, maintaining the examination library, recording and circulating all material received, and assisting me with procedural and administrative matters. He will also advise on any programming and procedural queries. Any matters which the Council or participants wish to raise with me should be addressed to the Programme Officer.
3. Information about the progress of the examination and links to documents are provided on the Council's examination website.

#### Purpose and scope of the examination

4. My role is to consider whether the revisions to the Core Strategy proposed in this partial review meet the requirements of the Planning and Compulsory Purchase Act 2004 and associated Regulations and whether it is sound in accordance with the guidance in the National Planning Policy Framework.
5. To be sound the revisions must be:
  - Positively prepared:** based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
  - Justified:** the most appropriate strategy when considered against the reasonable alternatives and based on proportionate evidence;
  - Effective:** deliverable over the plan period and based on effective joint working on cross-boundary strategic priorities; and
  - Consistent with national policy.**
6. The partial review must satisfy the following legal and procedural requirements: whether it has been prepared in accordance with the Local Development Scheme and in compliance with the Statement of Community Involvement and the relevant Regulations; whether it has been subject to Sustainability Appraisal and Habitats Regulations Assessment; whether it complies with national policy; and whether it has regard to the sustainable community strategy for the area.
7. Section 33A of the Localism Act 2011 introduces a 'Duty to Cooperate' in relation to the preparation of development plans. However, that duty is confined to development plan documents so far as relating to a 'strategic matter' as defined

within the Act. This partial review does not relate to a strategic matter and as such the Duty to Cooperate does not apply to it.

8. The starting point is that the Council has submitted what it considers to be a sound review. The Council should rely on evidence collected while preparing the review to demonstrate that it is sound. Those seeking changes to the review have to demonstrate why it is not sound and how their suggested changes would make it sound. Representations to the review will be considered insofar as they relate to soundness and legal requirements. However, they will not be individually reported on.
9. Some representors have already indicated whether they wish their views to be dealt with solely on the basis of their written representation or if, in addition, they intend to participate in a hearing session. Both methods carry the same weight and I will have equal regard to each.
10. Only those parties seeking specific changes to the review are entitled to participate in the hearing sessions of the examination, and there is no need for those supporting or merely making comments on the plan to attend.  
**Representors who have not already done so should let the Programme Officer know by the end of 22 March 2013 whether or not they wish to be heard at a hearing session.**
11. The Council cannot itself now make any further changes to the review. Consequently, any further changes can only come about through a recommendation made in my report. At this stage any further changes should be limited. However, if the Council considers any minor modifications necessary, these should not affect the substance of the document. If more fundamental, 'main modifications' are proposed to remedy soundness problems, these must meet requirements for public consultation and sustainability appraisal.
12. I have already put some questions to the Council, and a response was provided by letter dated 20 February 2013. This correspondence is available in the examination library and on the Council's website. Among other things, the Council's letter puts forward some main modifications for my consideration, in a schedule. Any further main modifications advanced by the Council will be added to the schedule as the examination progresses.
13. After the examination hearings have closed, I will submit my report to the Council. This will set out my conclusions about the soundness of the review and, where appropriate, will include recommendations on any actions or modifications needed to make the revisions to the Core Strategy sound. I will confirm the likely date for the submission of my report at the end of the hearing sessions.
14. There are several possible outcomes of the examination. The most serious would be a finding of unsoundness in relation to a critically important part of the review, leading to a recommendation that it should be withdrawn. Other possible outcomes are that the review as submitted is unsound but could be made sound by modifications (having regard to any implications for consultation and sustainability appraisal), that additional work needs to be undertaken before the examination can be completed, or that the review is sound as submitted.

### **Examination programme and my 'matters and issues'**

15. The hearing sessions of the examination will commence on **Wednesday 1 May 2013** and may last for up to **2** days. They will be held in Royal Borough of Kensington & Chelsea, Town Hall, Hornton Street, London W8 7NX. Sessions will normally start at 10am and 2pm each day, with a break for lunch at about 1pm,

and a finish at about 5pm. A short break will be taken mid-morning and mid-afternoon.

16. My 'matters and issues' for the examination have been circulated to representors with this note and are also available on the Council's website. A draft timetable is set out on page 2 of the 'matters and issues' paper. Any comments on either the timetable or the scope of my 'matters and issues' should be sent to the Programme Officer by **22 March 2013**. A final draft timetable and agenda for the hearing sessions will be circulated to all those who have made representations as soon as possible before the first hearing session opens.
17. Every effort will be made to keep to the programme, but late changes may be unavoidable. Priority will be given to starting the debate on each matter at the appointed time, and it may be necessary to extend the discussion in the afternoon session. The Programme Officer will inform the participants of any late changes to the timetable, but it is the responsibility of the participants to keep themselves up to date with the arrangements and programme.

### **Procedure at the hearing sessions of the examination**

18. The topics selected for discussion arise from the tests of soundness and the representations made about soundness. The hearing format will provide an informal setting for dealing with these issues, by way of a discussion led by me. Those attending may bring professional advisors with them and although they may participate there will be no formal presentation of evidence, cross-examination or formal submissions.
19. The discussion will focus on the relevant 'matters and issues' I have set out. The emphasis will be on the tests of soundness. I will seek to draw participants into the discussion so I can gain the information necessary to come to a conclusion on the relevant issues. The hearings will be conducted on the basis that everyone taking part has read the relevant documents.

### **Submission of further written statements**

20. If representors participating in the hearing sessions so wish, they may submit further written statements. These should directly address the 'matters and issues' I have identified.
21. Those who wish to proceed solely by written representations (and are not participating in the hearing) can rely on what they have already submitted in writing. However, representors proceeding by this method may also submit a written statement if they feel it necessary to respond to the 'matters and issues' I have identified.
22. Any statements from representors should:
  - relate solely to the matters raised in their representations
  - explain which particular part of the proposed revisions to the Core Strategy are unsound
  - explain why is it unsound, having regard to the National Planning Policy Framework
  - explain how the revisions can be made sound
  - explain the precise change/wording that is being sought
23. From the Council, I need a written statement in response to each of the 'matters and issues'. These should include full and precise references to the evidence base to justify the relevant policies and allocations and to demonstrate that the review is sound. They should also include references to any main modifications the Council considers necessary to make it sound and set out the Council's position on changes sought by other parties, where relevant.

24. Written statements should be succinct, avoiding unnecessary detail and repetition. There is no need for verbatim quotations from the review document, national planning policy or other core documents (references will suffice). Nonetheless, it is vital that the fundamental elements of cases are set out clearly and succinctly, since the hearings are not the place for new points or evidence to be presented for the first time. All statements should clearly indicate the relevant policy/paragraph/page of the review document being referred to.
25. Please note that it is not my role to 'improve' the review document. I can only consider whether or not it is sound.
26. Participants should attempt to reach agreement on factual matters and evidence before the hearings start and I strongly encourage everyone to maintain a dialogue with the Council and other participants in advance of the hearings.  
**Statements of Common Ground can be particularly helpful and are especially welcomed.**
27. **4 paper copies** of each written statement should be sent to the Programme Officer. Where possible, an electronic copy should also be provided. Statements should be no longer than 3,000 words for each matter. Statements which are excessively long or contain irrelevant or repetitious material may be returned. Any technical evidence should be limited to appendices, and should be clearly related to the case. Statements should be on A4 paper and stapled. Plans or diagrams should fold down to A4 size.
28. **All statements should be received by the Programme Officer by 12 noon on 19 April 2013 at the latest.** If material is not received by this deadline, the Programme Officer will assume that written statements are not being provided.
29. Participants should adhere to the timetable for submitting written statements.  
**Late submissions and additional papers are unlikely to be accepted on the day of the relevant session,** since this can cause disruption and result in unfairness, and may lead to the hearing being adjourned.

### **Core documents**

30. The Council has prepared a list of core documents, which are available in the examination library. The list should represent the Council's full evidence base for the examination and will include the documents that participants are likely to need to refer to. The list will be updated from time to time and is available from the Programme Officer and on the Council's website. The Programme Officer will assist anyone wishing to see a document.

### **Site visit arrangements and close of the examination**

31. I may be making unaccompanied site visits during the examination. If there are particular reasons for an accompanied visit, for instance because it might require access to land which is not publicly accessible, participants should discuss this with the Programme Officer as soon as possible.
32. The examination will remain open until my report is submitted to the Council. However, I will not accept any further representations or evidence after the hearing sessions have finished unless I specifically request it. Any late or unsolicited material is likely to be returned.
33. If you have any further questions please contact the Programme Officer, Chris Banks – Tel: 01403 253148; or by email: [bankssolutionsuk@gmail.com](mailto:bankssolutionsuk@gmail.com)

*Simon Berkeley*, Inspector