

	Yes	No
Do you consider the core strategy to be legally compliant?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Do you consider the core strategy to be sound?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**If you have selected YES and you wish to support the legal compliance or soundness of the core strategy, please be as precise as possible when setting out your comments below**

Please make it clear which paragraph number, Vision box number, Policy box number or Objective box number you are commenting on.

N/A

**If you have selected NO do you consider the core strategy to be unsound because it is not**

Justified	Effective	Consistent with national policy
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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**Paragraph 34.2.1**

*Unsound: Not Effective*

In order to reflect the wording in policy CL2 and to ensure consistency across the document in accordance with PPS12, our client proposes the following revised wording:

*“Careful incremental improvement is needed to ensure our conservation areas remain of the highest quality. However, there are a number of small areas in the south and two large areas in the north of the Borough which are not within conservation areas. It is important that these areas are not regarded as ‘second class’ in terms of the future quality and contribution for which we should be striving. We should aspire for these areas to be our future conservation areas and ~~exceptional~~ high architectural and design quality is needed to create a new design legacy for the Borough.”*

Do you consider the core strategy to be legally compliant?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Do you consider the core strategy to be sound?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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Effective

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**Policy CE1: Climate Change**

*Unsound: Not Effective or Consistent with National Policy*

It is considered that the Council should set realistic targets in relation to sustainability and ensure that they are technically feasible and will not impact on the viability of development. Targets proposed should also be in line with London Plan targets and timescales.

Whilst the Council should commit to the principles of sustainability and high standards of energy conservation, special consideration should be given to the impact on listed buildings, conservation area and townscape as potential limiting factors.

The following amendments to the draft policy are requested:

*The Council recognises the Government's targets to reduce national carbon dioxide emissions by 26% against 1990 levels by 2020 in order to meet a 60% reduction by 2050 and will require development to make a significant contribution towards this target.*

*a. require an assessment to demonstrate that all new buildings and extensions defined as major development achieves the following Code for Sustainable Homes / BREEAM standards subject to feasibility and viability:*

*i. Residential Development: Code for Sustainable Homes:*

*Up to 2012: Level Four;*

*2013 to 2015: Level Five;*

*2016 onwards: Level Six.*

*ii. Non Residential Development: Relevant BREEAM  
Assessment*

*Up to 2015: Excellent;*

*2016 onwards: Outstanding;*

*d. require that carbon dioxide and other greenhouse gas emissions, including those from energy, heating and cooling, are reduced to meet the Code for Sustainable Homes and BREEAM standards in accordance with the following hierarchy, subject to feasibility and viability:*

*i. energy efficient building design...*

*e. subject to feasibility and viability, require the provision of a Combined Cooling, Heat and Power plant, or similar, which is of a suitable size to service the planned development and contribute as part of a district heat and energy network for...*

*f. subject to feasibility and viability, require all CCHP plant or similar to connect to, or be able to connect to, other existing or planned CCHP plant or similar to form a district heat and energy network;*

*g. subject to feasibility and viability, require development to connect into any existing district heat and energy network, where the necessary service or utility infrastructure is accessible to that development;*

*h. subject to feasibility and viability, require development to incorporate measures that will contribute to on-site sustainable food production commensurate with the scale of development;*

*i. require, in due course and subject to feasibility and viability, development to further reduce carbon dioxide emissions and mitigate or adapt to climate change, especially from the existing building stock, through financial contributions, planning conditions and extending or raising the Code for Sustainable Homes and BREEAM standards for other types of development.*

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**Policy C1: Infrastructure Delivery and Planning Obligations**

*Unsound: Not consistent with National Policy*

The draft text needs to be clear that the examples of potential section 106 measures to be secured through s106 will need to be tailored to the relevant proposals as appropriate and in accordance with Circular 05/05. The policy should clarify that benefits inherent to the development scheme will be taken in to account in considering appropriate mitigation measures.

The following amended wording is proposed (as underlined and struck through):

*Planning obligations will be negotiated taking account of the proposed development, having regard to the benefits generated by the development and potential implications for the viability of the development project. ~~and~~ In determining which measure receives priority, account will be taken of the individual characteristics of the site, the infrastructure needs of the site and the surrounding area, and the London Plan. Proposals that form part of potentially wider sites will be assessed in terms of the capacity of the site as a whole.*

*The viability of the development will also be taken into account. In the case of an enabling development, or where the development is unable to deliver all the policy requirements for reasons of viability, a viability study will be*

*required to accompany the planning application. s106 contributions and related obligations and commitments will be reviewed in the context of this viability study. The viability study should use the GLA toolkit or an agreed alternative. The applicant will fund the independent assessment of the viability study, or other technical studies requiring independent assessment, prior to the application being determined.*

Furthermore it is not appropriate for the draft GLA Crossrail SPD to be cited given it is not in force, is controversial and is any event a GLA matter. The proposed change as shown below is consistent with national guidance and provides clarity, in accordance with PPS12.

**Paragraph 29.2.4**

*Planning Obligations are intended to make acceptable development which would otherwise be unacceptable in planning terms. They might be used to prescribe the nature of a development; to secure a contribution from a developer to compensate for loss or damage created by a development; or to mitigate a development's impact. Such measures may (as appropriate and applicable to the relevant proposals) include.....*

- ~~5. provision of transportation facilities - including public transport and highway improvements to cater for the impact of the development., -and- towards Crossrail where development within the CAZ (48) would require this as a result of London Plan Supplementary Planning Guidance (SPG), and permit free development.~~*

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**Policy CH2: Housing Diversity**

*Unsound: Not consistent with National Policy*

Revisions to the mechanisms by which affordable housing is calculated are considered necessary to provide consistency with PPS3: Housing (2006) and the London Plan (as amended 2008).

Paragraph 29 of PPS3 states that Local Planning Authorities (LPAs) should set overall targets for affordable housing which should reflect an assessment ‘...of the likely economic viability of land for housing..., taking account of risks to delivery and drawing on informed assessment of the likely finance levels available...’.

Policy 3A.9 of the London Plan seeks a target of 50% of all new housing provisions throughout London to be affordable. The Plan provides for flexibility on the quantum of affordable housing through the provisions of Policy 3A.10 which states the following:

*“Boroughs should seek the maximum reasonable amount of affordable housing when negotiating on individual private residential and mixed use schemes, having regard to their affordable housing targets adopted in line with Policy 3A.9, the need to encourage rather than restrain residential development and the individual circumstances of the site. Targets should be applied flexibly, taking account of individual site costs, the availability*

*of public subsidy and other scheme requirements'*

Paragraph 3.52 of the supporting text to the policy notes that in estimating provision from private residential or mixed-use developments, Boroughs should take account of economic viability and that the '*...development control toolkit developed by the Three Dragons and Nottingham Trent University is one mechanism that will help*'. On this basis the paragraph states that Boroughs should '*...take account of the individual circumstances in which the site lies, the availability of public subsidy and other scheme requirements*'. Furthermore, the London Plan is clear in stating that determining the affordable housing requirements for a specific site should be approached in the context of Policy 3A.9 (referenced above).

Paragraph 3.57 states that in exceptional cases, that the required affordable houses may be provided off site, for example, where there are demonstrable benefits to be gained by providing the units in a different location.

The Core Strategy should therefore reflect the national and London planning policy framework:

- Affordable housing provision on site should be based upon scheme viability and other considerations in line with the London Plan rather than seek to impose the strategic "target" of 50% on all schemes regardless of individual site circumstances.
- The proportions of social rented and intermediate should be considered on a site by site basis and should as advocated by Policy 3A.9 of the London Plan should be based on a robust viability assessment.
- The Core Strategy, in line with the London Plan policy, should recognize the exceptional circumstances when off site or no affordable provision would be acceptable.

The following wording is requested:

*The Council's will ensure new housing development is provided so as to further refine the grain of the mix of housing across the Borough key housing priority is the delivery of new homes both market and affordable which meet needs and contribute towards providing a broad mix of housing for a wide variety of households in the area.*

*To deliver this the Council will, in relation to:*

- a. require new residential developments to include a mix of types, tenures and sizes of homes ~~to reflect the~~ which contribute to meeting the varying needs of the Borough...;*
- i. on schemes which have the capacity to provide 10 homes or more, require the maximum reasonable amount of affordable housing with the presumption being up to ~~at least~~ 50% provision ~~on gross residential~~*

floor space in excess of 800m<sup>2</sup> of either habitable room numbers or unit numbers as affordable housing provision taking into account contributions towards the Borough target from other sources of supply, the need to promote rather than restrain residential development, the viability of the proposals and site specific circumstances including the availability of public subsidy. Where an applicant identifies that a 50% affordable contribution cannot be viably supported by a development the council will require a viability assessment, using the GLA toolkit or an agreed alternative, to be submitted as part of the planning application documentation;

~~n. require that where provided within a scheme affordable housing and market housing are delivered so as to achieve an integrated tenure blind design which does not prejudice the creation of mixed and balanced communities are integrated in any development and have the same external appearance;~~

~~o. require the affordable and market housing to have equivalent acceptable levels of amenity in relation to factors including ~~views~~, daylight, noise and proximity to open space, playspace, community facilities, and shops;~~

~~p. require a viability assessment, using the GLA toolkit or an agreed alternative, to be submitted where schemes fail to provide 50% affordable housing on floorspace in excess of 800m<sup>2</sup>;~~

~~q. require that affordable housing includes a minimum of 15% intermediate housing in Golborne, St. Charles, Notting Barns, Norland, Colville, Earl's Court and Cremorne wards. In all other wards a minimum of 85% social rented housing should be provided;~~

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Justified

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**Policy CH3: Protection of Residential Uses**

*Unsound: Not consistent with National Policy*

It is considered that this policy is unduly restrictive and that the draft Core Strategy should return to the policy presumption of residential development on all sites and recognise the exceptional circumstances where small or medium business use across the borough can be developed for housing.

Residential development has historically been the priority land use in the Royal Borough. Indeed policy H2 of the UDP confirms that vacant sites should be brought forward for residential development wherever possible.

The Core Strategy should refer to other important London Plan and national policy considerations which set out the agenda for a sustainable approach including the promotion of “more efficient use of land through higher density, mixed use development and the use of suitably located previously developed land and buildings.

The support for a mix of uses should be focussed on existing centres and should, where appropriate include residential use. The wider priority for the borough should remain in favour of residential use. Indeed, this priority for the borough should remain in favour of residential use. Indeed, this priority is requested under London Plan policies.

The Core Strategy should reflect that residential use is the priority land use in the Borough. The following amendments to the draft policy are requested:

*Residential use is the priority land use in the Borough, and the Council will ensure a net increase in residential accommodation in residential accommodation...*

*c) ... permit new residential use and floorspace everywhere except unless exceptional circumstances can be demonstrated:*

- i. at ground floor level of all town centres,*
- ii. where replacing existing retail uses across the borough,*
- iii. where replacing an existing light industrial use across the Borough,*
- iv. within the Kensal, Latimer Road and Lots Road Employment Zones,*
- ~~v. where replacing an arts and cultural use~~*
- vi. where replacing a social and community use, which predominantly serves, or provide significant benefits to, borough residents (unless as part of an enabling development); or*
- vii. where replacing offices within a higher order town centre; ~~a large or medium office in a highly accessible area (PTAL 4 or above); or a very small or small office use across the Borough.~~*

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**Policy CL1: Context and Character**

*Unsound: Not Effective*

The Core Strategy at Policy CL1 should make specific reference to the London Plan 2008 ‘density matrix’ (Table 3A.2) in order to determine the appropriate density of new development. Allowances are already made within London Plan Policy 3A.3 to ensure new development is compatible with the local context and the design principles of Policy 4B.1, and does not need to be outlined within the supporting text to the policy at 34.3.7

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**Policy CL2: New Buildings, Extensions and Modifications to Existing Buildings**

*Unsound: Not effective*

It is considered that this policy must be less prescriptive and allow scope for taller buildings on appropriate sites, where appropriately designed. There is no policy at the national or strategic level supporting an acceptable height ratio or cap of 4 times the context height of a building. As drafted, the Council’s approach is highly restrictive and the suitability of a site for a high or tall building should be considered on a site by site basis.

Furthermore, the policy should take account of London Plan 2008 policy which states that the Mayor will work with Boroughs to identify suitable locations for tall buildings and promotes the development of tall buildings where they would create attractive landmarks, act as a catalyst for regeneration and are acceptable in terms of design (Policy 4B.9). For these reasons it is considered that points (h) to (m) of this policy are unsound.

In addition client submits that the proposed wording regarding high buildings is unduly restrictive and therefore suggests the following rewording:

*“h.-ensure that proposals for new tall buildings ~~proposal~~ that exceeds the prevailing building height within the context, except where the proposal is:*  
*i. of a slender profile and proportion; and*

~~ii. not within any identified linear views; and~~  
~~iii. are of the highest exceptional design quality;”~~

	Yes	No
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**Policy CL3: Historic Environment**

*Unsound: Not consistent with National Policy*

The proposed drafting of the Policy and the supportive text is too restrictive and goes beyond the assessment in PPG15 which states that the desirability of preserving or enhancing a conservation area is a material consideration where development proposals would be seen in views in to or out of the area. The visibility of a new building could have a neutral or positive impact on the setting of a conservation area or listed building or in other sensitive views. For these reasons the policy is considered to be unsound.

	Yes	No
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**Policy CL5: Amenity**

*Unsound: Not effective*

It is considered that the Policy should specifically make reference to the recognised standards for assessing the items referred to within the policy or to a future RBKC document that would outline what is considered to be an acceptable standard. For example, as currently drafted the Policy provides no guidance as how to measure privacy or the sense of enclosure. For these reasons it is considered that the policy as drafted is unsound and is not effective.