

## Comment

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<b>Event Name</b>	Proposed Submission Core Strategy
<b>Comment by</b>	Metro Shopping Fund LP ( Metro Shopping Fund LP)
<b>Comment ID</b>	PSubCS15
<b>Response Date</b>	09/12/09 18:04
<b>Consultation Point</b>	Policy CF 5 Location of Business Uses ( <a href="#">View</a> )
<b>Status</b>	Processed
<b>Submission Type</b>	Web
<b>Version</b>	0.2

**Do you consider this part of the core strategy to be Legally compliant?**

**Do you consider this part of the core strategy to be Sound?** . No

**Do you consider this part of the core strategy to be unsound because it is not:** . Justified

**You have selected NO**

Please give details of why you consider this part of the core strategy to be unsound or not legally compliant. Please be as precise as possible when setting out your comments.

Proposing a blanket restriction protecting all large offices in all the town centres is not founded upon a sufficiently robust evidence base. Whilst the Employment Land Study is cited as the evidence base, this restricted stance within the Core Strategy precedes the updated review published in September 2009.

The Employment Land Studies will be before the Inspector, however, it should be noted that Roger Tym & Partners rightly draw attention to the GLA's London Office Policy Review that concludes that at any one time, outstanding planning permissions should equal at least 3.5 years supply. The updated research by Roger Tym finds that there is already an eight year supply of planning permissions.

The revised analysis by Roger Tym published in September 2009 suggests that over the plan period to 2026, a total net addition of 69,000 m<sup>2</sup> of offices will be required. A net addition of 46,000 m<sup>2</sup> is already under construction or has planning permission, which is sufficient to meet office demand until 2017. This supply does not include allocations. Previously analysis undertaken by Roger Tym found that seven allocated sites within the Borough offered the potential for a net addition of a further 30,000 m<sup>2</sup>, bringing the total supply to some 76,000 m<sup>2</sup>, which is considerably more than the 69,000 m<sup>2</sup> required for the whole of the plan period to 2026. In addition, unallocated sites are likely to continue to come forward for office development. A good recent example of this is the Yellow Building off Freston Road, which provided 26,000 m<sup>2</sup>.

Furthermore, the Employment Land Study does not take into account the enormous amount of office development that is being promoted at Earls Court. The draft Core Strategy already suggests that 10,000 m<sup>2</sup> of offices would be acceptable and the plans are for several times this.

As such, it would be appropriate for the Core Strategy to allow some flexibility in the future planning of poor quality existing office space in locations where demand is weak, so that such space would be better able to meet the Borough's other competing needs.

Having regard to this and the fact that the Employment Land Study found that it was the existing main commercial centres of Knightsbridge, Kensington High Street and the Kings Road which were the centres for office development, Policy CF5 needs to be amended to replace the references to "Higher Order Town Centres" with the reference to "the existing commercial centres of Knightsbridge, Kensington High Street and the Kings Road". The Council also has insufficient justification to give additional protection to smaller offices. Indeed, the actual evidence runs entirely contrary to the Council's conclusions on the importance of small offices to the economic base of the Borough. Whilst the Council extols the fact that over three quarters of the businesses in the Borough have fewer than five employees, over 80% of the total number of jobs are actually provided by larger firms.

Part (a) of Policy CF5 should be reworded as follows:

"a. Protect viable offices in the existing commercial centres of Knightsbridge, Kensington High Street and the Kings Road, together with primary commercial mews, except where: ..."

This change to Policy CF5 would enable it to be found sound.

### **Officer's response to comments**

The Council recognises that the outstanding permissions for office floorspace will meet the predicted office need to 2017. Assuming all this floorspace is built out, a further 23,000 sq m will have to be provided within the plan period. Whilst the Council has allocated 20,000 of this floorspace, and does expect other windfall schemes to provide the remainder, these figures are reliant on the retention of the existing office floorspace. The loss of any existing floorspace will mean that additional floorspace must be found from additional windfalls over the plan period. This is by no means certain as there is a finite number of sites available within the Borough, and each will be subject to competition from a number of competing uses. Given the policy presumption in favour of new residential development, and the 'higher value of housing' there is no guarantee that significant additional windfall office sites will come through.

It is, therefore, important that existing office floorspace is protected. This approach is supported by the Employment Land Review Update which does note in para 6.4 that "if forecast demand for offices ...are to be met, the Council needs to control losses of office sites to other uses".

Furthermore para 6.9 is explicit in noting that "...demand can only be met if no existing sites are lost (without being replaced).

The Employment Land Study does not take into account the office development being postulated at Earls' Court. It cannot be given that this space has yet to have been permitted, or allocated by Hammersmith and Fulham Council (the majority of the site and employment floorspace lying in this borough.) The Core Strategy allocates 10,000 sq m of office space within this Borough, although I note that the owners for this site are seeking in their representations to get this figure reduced. The Council will update the ELPS on a regular basis to take changing predictions/ increases in supply into account.

One of the purposes of the Core Strategy is to look across the lifetime of the plan, and to have the policies necessary to ensure that the employment needs of the Borough are met. A long term view is taken. The Council should not plan for the recession, but right up to 2026. If uses are lost as may not be 'needed' in the short term, there is very little chance that the original uses will be regained. Indeed in the case of housing, there will be a policy presumption against the loss of housing to other uses.

However, the Council does recognise that viability is a material consideration, and the Council will have to take into account any evidence which shows that a given premises is not viable/suitable in the longer term.

The Core Strategy recognises that the Council contains locally important concentrations of offices in the wards around Kensington High Street and South Kensington. There are also concentrations within the other higher order centres. The Council wishes to protect all offices in all areas where they exist, whether there is a particular concentration or not. The only exception being for large and medium offices (outside of Employment Zones) where there are not located in accessible areas. Notting Hill Gate is a district centre and an area classified within the TfL PTAL map as having "excellent access to public transport". As such it is considered to be a suitable location for offices. Offices are a 'town centre use' which benefit from high accessibility, both in terms of their desirability, and in terms of trip generation.

There is no contradiction with the Council's desire to protect small offices across the Borough. Large firms may provide the majority of B1 jobs within the Borough, but this does not mean that the majority of B1 premises cannot be small in scale. The 2007 ELPS estimates that only 11 % of units across the Borough have a floor area greater than 300 sq m. This illustrates the importance of protecting both large and small B1 premises across the Borough

### **Officer's Recommendations**

No change.

## Comment

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<b>Event Name</b>	Proposed Submission Core Strategy
<b>Comment by</b>	Metro Shopping Fund LP ( Metro Shopping Fund LP)
<b>Comment ID</b>	PSubCS16
<b>Response Date</b>	09/12/09 18:07
<b>Consultation Point</b>	35.3.10 Paragraph ( <a href="#">View</a> )
<b>Status</b>	Processed
<b>Submission Type</b>	Web
<b>Version</b>	0.4

**Do you consider this part of the core strategy to be Legally compliant?**

**Do you consider this part of the core strategy to be Sound?** . No

**Do you consider this part of the core strategy to be unsound because it is not:** . Justified  
. Effective

**You have selected NO**

Please give details of why you consider this part of the core strategy to be unsound or not legally compliant. Please be as precise as possible when setting out your comments.

Whilst the Council has commissioned research as its evidence base, the proposed wording is not the most appropriate strategy when considered against reasonable alternatives and nor are these percentages sufficiently flexible to deal with different circumstances, and it should therefore be found unsound.

Whilst the subsequent paragraph (35.3.11) does recognise that it would be unrealistic to expect all housing schemes to satisfy the exact ratio set out in paragraph 35.3.10, and goes on to say that factors such as location and built context will be taken into account, the Core Strategy needs to expressly recognise that central and accessible sites in the urban area, where the London Plan requires densities to be optimised, are less suitable for larger family sized units and that there will need to be considerable flexibility in trying to achieve the overall Borough-wide mix set out.

Such an addition to the supporting text would provide the necessary flexibility and enable the most appropriate strategy to be selected, thereby making this element of the Core Strategy sound.

### **Officer's response to comments**

Para. 35.3.11 already introduces flexibility, expressly. The representation is concerned with policy application and as such the objection should be related to the policy. The relevant policy already afford sufficient flexibility, which is monitored over time, in order to allow developments to align with local need as evidenced through the SHMA. However, it recognises that it would not be reasonable nor desirable to ensure *every* development conforms rigidly to the local need profile.

### **Officer's Recommendations**

No change.

## Comment

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<b>Event Name</b>	Proposed Submission Core Strategy
<b>Comment by</b>	Metro Shopping Fund LP ( Metro Shopping Fund LP)
<b>Comment ID</b>	PSubCS17
<b>Response Date</b>	09/12/09 18:08
<b>Consultation Point</b>	Policy CH 2 Housing Diversity ( <a href="#">View</a> )
<b>Status</b>	Processed
<b>Submission Type</b>	Web
<b>Version</b>	0.4

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**Do you consider this part of the core strategy to be Sound?** . No

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 . Effective  
 . Consistent with national policy

**You have selected NO**

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The requirement for at least 50% affordable housing in the third part of this policy is based solely on the fact that the need for affordable homes exceeds the number that are ever likely to be provided. However, this fails to take into account evidence on viability, including consideration of the Council's own applications, which demonstrate that a requirement of 50% is more than can be borne.

The Mayor has explicitly recognised that whilst the consolidated London Plan sought 50% of all new housing to be affordable, this was not actually achievable. Even during strong economic conditions with rising markets, developments overall were able to deliver only about a third of their total as affordable and as a result, the Mayor has abandoned the 50% requirement.

The Mayor has since agreed a target for the Royal Borough of Kensington & Chelsea of 90 affordable units per annum until 2011, which represents just over 25% of the total housing numbers for the Borough. In the longer term, this requirement increases to some 200 units a year, which represents a third of the total.

Requiring 50% affordable housing will not only substantially reduce the amount of housing overall that is actually delivered within the Borough, contrary to national policies, but it will also result in less affordable housing as a result. A 50% requirement is also inflexible in that it is becoming out of date with the London Plan, the consultation draft of which has dropped the numerical target of 50%.

In order to be consistent with the long term affordable housing levels that have been agreed with the Mayor, the 50% requirement should be amended to "up to a third", in order to make this element of the policy sound.

### **Officer's response to comments**

It is incorrect to state that "the requirement for at least 50% affordable housing in the third part of this policy is based solely on the fact that the need for affordable homes exceeds the number that are ever likely to be provided".

The London Plan Policy 3A.3 sets a London wide strategic target that 50% of all new housing provision should be affordable, on the indicative basis of 70% social housing and 30 % intermediate provision. Policy 3A.11 applies these requirements to sites with a capacity to provide 10 or more homes, subject to the 'viability test' prescribed by Policy 3A.10.

The Council considers that the key elements of any affordable housing policies should be the identification of an appropriate 'threshold' and a site specific 'viability test' to ensure that a housing proposal provides the 'maximum reasonable' amount of affordable housing. The Council therefore considers that any overall 'target/objective', derived from either a percentage or numerical basis, is a secondary factor as this is subordinate to the fundamental site specific viability test. Similarly in respect of any 'indicative' tenurial split, which additionally may be subject to specific site environmental or built form constraints, which may preclude significant social rental housing for households with children.

These considerations and operational experience, together with the imperative of ensuring general conformity with the London Plan, have resulted in the Council's decision to develop Policy CH2 of the Core Strategy as proposed for submission as drafted.

The Core Strategy emphasises that the implementation of Policy CH2 will be dependent upon a 'viability test' as to what would represent the 'maximum reasonable' affordable housing provision on a particular site in accordance with London Plan Policy 3A.10 (see criterion p). This viability test will normally employ the Affordable Housing Toolkit (GLA) methodology or suitable alternatives, however, the Council does not consider it appropriate to specify such detail in the Core Strategy.

The Core Strategy's approach to securing affordable housing provision is predicated on the employment of the relevant London Plan policies, including Policy 3A.10 which emphasises "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".

The Council, in order to ensure that the issue of affordable housing provision viability within the Borough has been properly considered, as advised by PPS 3, commissioned an independent study of the Plan's emerging affordable housing policy, particularly in respect of threshold size and indicative targets, to

the Borough. This 'Affordable Housing Viability Study' undertaken by Fordham Research reported that :

- . 40% affordable housing is generally viable.
- . 50% affordable housing is deliverable in some circumstances; no justification for adopting a lower target
- . Affordable housing threshold of 10 units would be financially viable in most circumstances; limited evidence for a lower threshold
- . Within the Royal Borough, a 10 unit threshold equates, and is comparable with the 800 sq M threshold within the policy.
- . Variable area thresholds and targets are not recommended

The London Plan, as adopted still refers to the 50% target, and the Core Strategy, which will need to be in general conformity with this, should therefore reflect the target. At present, only limited weight can be afforded to the draft London Plan. It is not therefore considered that the policy, as drafted, is not sound.

### **Officer's Recommendations**

No change.

## Comment

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<b>Event Name</b>	Proposed Submission Core Strategy
<b>Comment by</b>	Metro Shopping Fund LP ( Metro Shopping Fund LP)
<b>Comment ID</b>	PSubCS18
<b>Response Date</b>	09/12/09 18:13
<b>Consultation Point</b>	42.0.1 Paragraph ( <a href="#">View</a> )
<b>Status</b>	Processed
<b>Submission Type</b>	Web
<b>Version</b>	0.4

**Do you consider this part of the core strategy to be Legally compliant?**

**Do you consider this part of the core strategy to be Sound?** . No

**Do you consider this part of the core strategy to be unsound because it is not:** . Justified

**You have selected NO**

Please give details of why you consider this part of the core strategy to be unsound or not legally compliant. Please be as precise as possible when setting out your comments.

Re: District Centre Plan for Notting Hill Gate – Page 373

The plan showing the boundary of Notting Hill Gate District Centre contains an error. As drawn currently, it cuts through Newcombe House Tower on the corner of Kensington Church Street and Notting Hill Gate so that only a third of it lies within the defined centre and all the land that services the retail frontage onto Kensington Church Street (and which is used for the Farmer's Market) has been excluded from the town centre.

All of this land actually forms part of the town centre and within the adopted Unitary Development Plan is identified as a "major development site". This location provides one of the few opportunities to potentially accommodate the provision of a new foodstore sought under Core Strategy paragraphs 16.3.16 and 16.4.8. Unless the plan is amended to encompass this land, such development would be defined as edge of centre and as currently worded, the Core Strategy would give priority to edge of centre locations around Knightsbridge, Kensington Church Street and the Kings Road in favour of this location, despite the fact that in reality, it is located in the centre of Notting Hill Gate.

To correct this error and ensure that the plan is sound, the Inspector should recommend that the District Centre boundary be redrawn to encompass Newcombe House and the land that services the Kensington Church Street frontage.

### **Officer's response to comments**

This change is considered unnecessary at this stage as the designations show the existing centre boundaries. The map on page 114 shows the potential for considerable redevelopment in this area, including appropriate district centre uses in this 'infill site', which is consistent with the vision of the place to repair any gaps in the retail frontage. The boundaries of the centres will be reviewed in the future to reflect any changes to the land uses as and when appropriate.

### **Officer's Recommendations**

No change proposed.

## Comment

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<b>Event Name</b>	Proposed Submission Core Strategy
<b>Comment by</b>	Metro Shopping Fund LP ( Metro Shopping Fund LP)
<b>Comment ID</b>	PSubCS7
<b>Response Date</b>	09/12/09 17:45
<b>Consultation Point</b>	16.3.4 Paragraph ( <a href="#">View</a> )
<b>Status</b>	Processed
<b>Submission Type</b>	Web
<b>Version</b>	0.4

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**Do you consider this part of the core strategy to be Sound?** . No

**Do you consider this part of the core strategy to be unsound because it is not:** . Justified

**You have selected NO**

Please give details of why you consider this part of the core strategy to be unsound or not legally compliant. Please be as precise as possible when setting out your comments.

The first sentence which suggests that the centre has a role as a major office location, providing a range of accommodation is unsound in that it is not justified by a robust evidence base and indeed is factually incorrect. Notting Hill Gate is not a major office location and demand for offices in this location has consistently been weak.

The Council's own Employment Land Study identifies much of the office space within the Borough being concentrated in and around Kensington High Street and further south, and does not identify Notting Hill Gate as a major office location.

There are very few offices within Notting Hill Gate, with most of the space being contained within just one office building; namely Newcombe House, where the space is of poor quality and has persistently been difficult to let and keep occupied. Furthermore, Newcombe House is identified by the Council as an "eye sore", which it would ideally like to redevelop.

The Employment Land Studies will be before the Inspector, however, it should be noted that Roger Tym & Partners rightly draw attention to the GLA's London Office Policy Review that concludes that at any one time, outstanding planning permissions should equal at least 3.5 years supply. The updated research by Roger Tym finds that there is already an eight year supply of planning permissions.

The revised analysis by Roger Tym published in September 2009 suggests that over the plan period to 2026, a total net addition of 69,000 m<sup>2</sup> of offices will be required. A net addition of 46,000 m<sup>2</sup> is already under construction or has planning permission, which is sufficient to meet office demand until 2017. This supply does not include allocations. Previously analysis undertaken by Roger Tym found that seven allocated sites within the Borough offered the potential for a net addition of a further 30,000 m<sup>2</sup>, bringing the total supply to some 76,000 m<sup>2</sup>, which is considerably more than the 69,000 m<sup>2</sup> required for the whole of the plan period to 2026. In addition, unallocated sites are likely to continue to come forward for office development. A good recent example of this is the Yellow Building off Freston Road, which provided 26,000 m<sup>2</sup>.

Furthermore, the Employment Land Study does not take into account the enormous amount of office development that is being promoted at Earls Court. The draft Core Strategy already suggests that 10,000 m<sup>2</sup> of offices would be acceptable and the plans are for several times this.

As such, it would be appropriate for the Core Strategy to allow some flexibility in the future planning of poor quality existing office space in locations where demand is weak, so that such space would be better able to meet the Borough's other competing needs.

The first sentence of paragraph 16.3.4 should be deleted, which would make this element of the Core Strategy sound. The corresponding plan on page 170 which includes Notting Hill Gate as having a concentration of offices should also be amended so that it is excluded.

### **Officer's response to comments**

Notting Hill Gate is considered a major office location due to the good public transport accessibility level and the large amount of flexible office accommodation in Newcombe House, which offers large and small floor plates.

The Council recognises that the outstanding permissions for office floorspace will meet the predicted office need to 2017. Assuming all this floorspace is built out, a further 23,000 sq m will have to be provided within the plan period. Whilst the Council has allocated 20,000 of this floorspace, and does expect other windfall schemes to provide the remainder, these figures are reliant on the retention of the existing office floorspace. The loss of any existing floorspace will mean that additional floorspace must be found from additional windfalls over the plan period. This is by no means certain as there is a finite number of sites available within the Borough, and each will be subject to competition from a number of competing uses. Given the policy presumption in favour of new residential development, and the 'higher value of housing' there is no guarantee that significant additional windfall office sites will come through.

It is, therefore, important that existing office floorspace is protected. This approach is supported by the Employment Land Review Update which does note in para 6.4 that "if forecast demand for offices ...are to be met, the Council needs to control losses of office sites to other uses".

Furthermore para 6.9 is explicit in noting that "...demand can only be met if no existing sites are lost (without being replaced).

The Employment Land Study does not take into account the office development being postulated at Earls' Court. It cannot be given that this space has yet to have been permitted, or allocated by Hammersmith and Fulham Council (the majority of the site and employment floorspace lying in this borough.) The Core Strategy allocates 10,000 sq m of office space within this Borough, although I note that the owners for this site are seeking in their representations to get this figure reduced. The Council will update the ELPS on a regular basis to take changing predictions/ increases in supply into account.

One of the purposes of the Core Strategy is to look across the lifetime of the plan, and to have the policies necessary to ensure that the employment needs of the Borough are met. A long term view is taken. The Council should not plan for the recession, but right up to 2026. If uses are lost as may not be 'needed' in the short term, there is very little chance that the original uses will be regained. Indeed in the case of housing, there will be a policy presumption against the loss of housing to other uses.

However, the Council does recognise that viability is a material consideration, and the Council will have to take into account any evidence which shows that a given premises is not viable/suitable in the longer term.

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There is no contradiction with the Council's desire to protect small offices across the Borough. Large firms may provide the majority of B1 jobs within the Borough, but this does not mean that the majority of B1 premises cannot be small in scale. The 2007 ELPS estimates that only 11 % of units across the Borough have a floor area greater than 300 sq m. This illustrates the importance of protecting both large and small B1 premises across the Borough.

### **Officer's Recommendations**

No change proposed.

## Comment

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<b>Event Name</b>	Proposed Submission Core Strategy
<b>Comment by</b>	Metro Shopping Fund LP ( Metro Shopping Fund LP)
<b>Comment ID</b>	PSubCS8
<b>Response Date</b>	09/12/09 17:48
<b>Consultation Point</b>	16.3.6 Paragraph ( <a href="#">View</a> )
<b>Status</b>	Processed
<b>Submission Type</b>	Web
<b>Version</b>	0.2

**Do you consider this part of the core strategy to be Legally compliant?**

**Do you consider this part of the core strategy to be Sound?** . No

**Do you consider this part of the core strategy to be unsound because it is not:** . Justified  
 . Effective  
 . Consistent with national policy

**You have selected NO**

Please give details of why you consider this part of the core strategy to be unsound or not legally compliant. Please be as precise as possible when setting out your comments.

The last six words of paragraph 16.3.6, which requires major development to provide “affordable shops” where appropriate, is unsound. This is because the requirement for “affordable shops” is not justified by a sufficiently robust and credible evidence base, would not be effective as it would not be sufficiently flexible to deal with changing circumstances, would not be deliverable in achieving its aims, would be out of step with the strategies of the neighbouring authorities and the requirement would not be consistent with national policy, where there is no basis for the concept of “affordable shops”, with Government policy actively supporting a competitive and efficient retail sector, making it clear that it is not the role of the planning system to become involved in competition between retailers.

In addition, the case against “affordable retail” can be summarised as follows:

- Retailers do not require “social support” in the same way as less fortunate members of our community require help with the provision of affordable housing.
- Artificially supporting retailers who are unable to stand on their own two feet (because they do not attract enough shoppers to make them viable concerns) will weaken the vitality and viability of the town centre, not strengthen it.
- If a proportion of new retail units in a development have to be supported, then in effect they will be subsidised by the other retailers in the scheme, which is clearly unfair and puts them at a competitive disadvantage.
- This would simply be an additional tax on retail development, which would reduce the amount of shopping development within town centres, again harming their vitality and viability. What is important is that new retail development is encouraged as this is what will enhance centres.
- Subsidies are not needed. The market already provides a large spectrum of rents within each centre.
- The viability of a retail business is much more about getting the product right, effective merchandising, the ability to respond to demand and good marketing, than it is about rents.
- The Council is not the one best placed to choose what local shoppers want. The customer is.
- The concept of affordable shops is unworkable. It raises numerous questions such as:
  - o How would one identify which retailers would be eligible for a subsidised unit?
  - o What happens when that retailer is shown to be performing well – would they then have to vacate their business premises?
  - o If not, then what would be the mechanism for stopping a subsidy to a strong profitable business?
  - o Who would be responsible for monitoring and judging the performance of the subsidised retailers?

Such interference in the market should not be supported, when it has not been justified with robust and credible evidence, would not be effective and would be inconsistent with national policy.

Concerns regarding the soundness of this element of the Core Strategy would be overcome with the deletion of the last six words of paragraph 16.3.6.

### **Officer's response to comments**

The creation of affordable shops (to be managed under the Council's neighbourhood shopping policy) is one of the few tools in the Council's possession which allows it to take an active role in helping shape the nature of retailers within our town centres. It is a policy position that was initially put forward by the Council's Retail Commission.

It is also a policy position which since has been supported by the Mayor for London, with Policy 4.9 of the Consultation Draft Replacement London Plan (Small shops) stating that "In considering proposals for large retail developments, the Mayor will seek contributions through planning obligations where appropriate, feasible and viable, to support the provision of affordable shop units suitable for small or independent retailers." Although this policy has yet to have been examined it clearly shows intended direction of the London Plan, a document which this Council will have to be in general conformity with, and a document which will form part of this Council's development plan.

As with the requirement to provide a mix of unit sizes, the Council recognises that the provision of affordable shops will not always be appropriate, not where this will jeopardise the viability of the wider scheme. Furthermore, the provision of an affordable unit is one of a series of benefits which could be sought under the s106 system for suitable developments.

### **Officer's Recommendations**

No change proposed.

## Comment

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<b>Address</b>	c/o King Sturge LLP 30 Warwick Street London W1B 5NH
<b>Event Name</b>	Proposed Submission Core Strategy
<b>Comment by</b>	Metro Shopping Fund LP ( Metro Shopping Fund LP)
<b>Comment ID</b>	PSubCS9
<b>Response Date</b>	09/12/09 17:50
<b>Consultation Point</b>	Policy CP 15 Notting Hill Gate ( <a href="#">View</a> )
<b>Status</b>	Processed
<b>Submission Type</b>	Web
<b>Version</b>	0.4

**Do you consider this part of the core strategy to be Legally compliant?**

**Do you consider this part of the core strategy to be Sound?** . No

**Do you consider this part of the core strategy to be unsound because it is not:** . Justified

**You have selected NO**

Please give details of why you consider this part of the core strategy to be unsound or not legally compliant. Please be as precise as possible when setting out your comments.

Draft Policy CP15 is an entirely new policy that has not been the subject of any consultation in either its current or some previous form. There is therefore no evidence of participation by the local community of other stakeholders.

Draft Policy CP15 should therefore be deleted or reworded to make it more consistent with the rest of chapter 16, which has been the subject of extensive consultation by the Council.

The vision for Notting Hill Gate, as set out in CV16 is rightly to strengthen its role as a District shopping centre with improved shops and restaurants that reflect the needs of the local catchment. This should be reflected in the draft policy, but is not.

In addition, the second half of this new additional policy (CP15) gives cause for concern in that Notting Hill Gate is in many ownerships and aspirations held by some for a complete redevelopment are simply not deliverable (and this has been confirmed by the Council's own consultants who have explored a range of options). To secure the much needed improvements to the District Centre, development is going to need to come forward on a site-by-site basis and the Metro Shopping Fund is anxious that the second half of the policy could be used to frustrate improvement projects that might come forward, if the new policy remains in its current form.

In order for this element of the Core Strategy to be found sound, draft Policy CP15 should either be deleted or alternatively be reworded to be consistent with the rest of chapter 16, which has been consulted upon, as follows:

"The Council would ensure Notting Hill Gate's role as a District Centre is strengthened by enhancing its shopping function, so that it is better able to meet the needs of local residents. To assist long term viability, Notting Hill Gate needs to be able to compete in an evolving and competitive marketplace. Development which achieves this and enhances its appearance will be encouraged, providing it would not prejudice the regeneration of other sites in the area."

### **Officer's response to comments**

This policy has been introduced as a result of comments by the Government Office and the Council's legal advice. The purpose of the Policy is ensure that all development in the area contributes to delivering the vision and does not compromise the ability for development to deliver this vision. The various ownerships would result in the vision being delivered incrementally when applications come forward for development. Notting Hill Gate has a high Public Transport Accessibility Level. Policy CT1 requires high trip generating uses to be located in areas of PTAL 4 or higher. However, the wording will be revised to better reflect the vision for the place.

### **Officer's Recommendations**

Propose change to CP15.

## Comment

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<b>Event Name</b>	Proposed Submission Core Strategy
<b>Comment by</b>	Metro Shopping Fund LP ( Metro Shopping Fund LP)
<b>Comment ID</b>	PSubCS10
<b>Response Date</b>	09/12/09 17:52
<b>Consultation Point</b>	16.4.5 Paragraph ( <a href="#">View</a> )
<b>Status</b>	Processed
<b>Submission Type</b>	Web
<b>Version</b>	0.2

**Do you consider this part of the core strategy to be Legally compliant?**

**Do you consider this part of the core strategy to be Sound?** . No

**Do you consider this part of the core strategy to be unsound because it is not:** . Justified  
. Effective  
. Consistent with national policy

**You have selected NO**

Please give details of why you consider this part of the core strategy to be unsound or not legally compliant. Please be as precise as possible when setting out your comments.

The third bullet point which requires the provision of affordable shops is unsound. This is because the requirement for “affordable shops” is not justified by a sufficiently robust and credible evidence base, would not be effective as it would not be sufficiently flexible to deal with changing circumstances, would not be deliverable in achieving its aims, would be out of step with the strategies of the neighbouring authorities and the requirement would not be consistent with national policy, where there is no basis for the concept of “affordable shops”, with Government policy actively supporting a competitive and efficient retail sector, making it clear that it is not the role of the planning system to become involved in competition between retailers.

In addition, the case against “affordable retail” can be summarised as follows:

- Retailers do not require “social support” in the same way as less fortunate members of our community require help with the provision of affordable housing.
- Artificially supporting retailers who are unable to stand on their own two feet (because they do not attract enough shoppers to make them viable concerns) will weaken the vitality and viability of the town centre, not strengthen it.
- If a proportion of new retail units in a development have to be supported, then in effect they will be subsidised by the other retailers in the scheme, which is clearly unfair and puts them at a competitive disadvantage.
- This would simply be an additional tax on retail development, which would reduce the amount of shopping development within town centres, again harming their vitality and viability. What is important is that new retail development is encouraged as this is what will enhance centres.
- Subsidies are not needed. The market already provides a large spectrum of rents within each centre.
- The viability of a retail business is much more about getting the product right, effective merchandising, the ability to respond to demand and good marketing, than it is about rents.
- The Council is not the one best placed to choose what local shoppers want. The customer is.
- The concept of affordable shops is unworkable. It raises numerous questions such as:
  - o How would one identify which retailers would be eligible for a subsidised unit?
  - o What happens when that retailer is shown to be performing well – would they then have to vacate their business premises?
  - o If not, then what would be the mechanism for stopping a subsidy to a strong profitable business?
  - o Who would be responsible for monitoring and judging the performance of the subsidised retailers?

Such interference in the market should not be supported, when it has not been justified with robust and credible evidence, would not be effective and would be inconsistent with national policy.

The deletion of the third bullet point under paragraph 16.4.5 would make this element of the Core Strategy sound.

### **Officer's response to comments**

The creation of affordable shops (to be managed under the Council's neighbourhood shopping policy) is one of the few tools in the Council's possession which allows it to take an active role in helping shape the nature of retailers within our town centres. It is a policy position that was initially put forward by the Council's Retail Commission.

It is also a policy position which since has been supported by the Mayor for London, with Policy 4.9 of the Consultation Draft Replacement London Plan (Small shops) stating that "In considering proposals for large retail developments, the Mayor will seek contributions through planning obligations where appropriate, feasible and viable, to support the provision of affordable shop units suitable for small or independent retailers." Although this policy has yet to have been examined it clearly shows intended direction of the London Plan, a document which this Council will have to be in general conformity with, and a document which will form part of this Council's development plan.

As with the requirement to provide a mix of unit sizes, the Council recognises that the provision of affordable shops will not always be appropriate, not where this will jeopardise the viability of the wider scheme. Furthermore, the provision of an affordable unit is one of a series of benefits which could be sought under the s106 system for suitable developments.

### **Officer's Recommendations**

No change proposed.

## Comment

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<b>Event Name</b>	Proposed Submission Core Strategy
<b>Comment by</b>	Metro Shopping Fund LP ( Metro Shopping Fund LP)
<b>Comment ID</b>	PSubCS11
<b>Response Date</b>	09/12/09 17:55
<b>Consultation Point</b>	29.2.4 Paragraph ( <a href="#">View</a> )
<b>Status</b>	Processed
<b>Submission Type</b>	Web
<b>Version</b>	0.3

**Do you consider this part of the core strategy to be Legally compliant?**

**Do you consider this part of the core strategy to be Sound?** . No

**Do you consider this part of the core strategy to be unsound because it is not:** . Consistent with national policy

**You have selected NO**

Please give details of why you consider this part of the core strategy to be unsound or not legally compliant. Please be as precise as possible when setting out your comments.

The first sentence under paragraph 29.2.4 correctly explains that planning obligations are intended to make development acceptable, which might otherwise be unacceptable in planning terms.

Whilst much of this sub-section is intended to provide the start of a basic framework for infrastructure planning, upon which the Community Infrastructure Levy (CIL) can subsequently be hung, paragraph 29.2.4 is in respect of planning obligations. Therefore, the Inspector has to look carefully at the list, as many items such as "affordable shops" are not justified by policy, or in the case of health facilities, police and fire infrastructure and other services should be funded by other sources and not the development industry. They should therefore not be included in the list of items to be covered by planning obligations. Even in bringing the CIL forward, the Government continues to make it clear that charging authorities are required to consider other available sources of funding when determining what contribution should be sought from development.

References to services and facilities that should be funded from other sources should be deleted from the section on planning obligations in order for this section to be sound.

### **Officer's response to comments**

Disagree. Circular 05/2005 deals with the use of planning obligations and sets out the relevant tests and circumstances in which they can legally be used. In the Council's view, this includes those matters listed.

Government guidance contained within Circular 05/2005 sets out how planning obligations should be used, and the SPD conforms to these requirements. It sets out the 5 Secretary of State tests, all of which must be adhered to:

A planning obligation must be:

- (i) relevant to planning;
- (ii) necessary to make the proposed development acceptable in planning terms;
- (iii) directly related to the proposed development;
- (iv) fairly and reasonably related in scale and kind to the proposed development; and
- (v) reasonable in all other respects.

Planning obligations are private agreements negotiated, usually in the context of planning applications, between local planning authorities and persons with an interest in a piece of land (or "developers"), and intended to make acceptable development which would otherwise be unacceptable in planning terms. Paragraph B6 of the Circular 05/2005 states that "The use of planning obligations must be governed by the fundamental principle that planning permission may not be bought or sold. It is therefore not legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms (see B5(ii))." Again, these principles are incorporated into the working of policy C1.

A Planning Obligations Supplementary planning Document has also been prepared to assist in formulating the required obligations to secure infrastructure, including the measures contained within the list.

### **Officer's Recommendations**

Insert in paragraph 29.2.4 a reference to Circular 05/2005 which governs the use of planning obligations.

## Comment

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<b>Event Name</b>	Proposed Submission Core Strategy
<b>Comment by</b>	Metro Shopping Fund LP ( Metro Shopping Fund LP)
<b>Comment ID</b>	PSubCS12
<b>Response Date</b>	09/12/09 17:56
<b>Consultation Point</b>	Policy C 1 Infrastructure Delivery and Planning Obligations ( <a href="#">View</a> )
<b>Status</b>	Processed
<b>Submission Type</b>	Web
<b>Version</b>	0.3

**Do you consider this part of the core strategy to be Legally compliant?**

**Do you consider this part of the core strategy to be Sound?** . No

**Do you consider this part of the core strategy to be unsound because it is not:** . Consistent with national policy

**You have selected NO**

Please give details of why you consider this part of the core strategy to be unsound or not legally compliant. Please be as precise as possible when setting out your comments.

The second half of the Policy C1 sets out the Council's position in respect of planning obligations, but is not consistent with national planning policy. There is no reference to the need for planning obligations to be directly related to the proposed development, nor for them to be fairly and reasonably related in scale and kind to the proposed development and reasonable in all other respects.

As currently worded, Policy C1 appears to imply that the only test will be whether a development is able to deliver all requirements on the basis of viability.

To make Policy C1 sound, the third paragraph should be amended by adding the words in bold below as follows:

"Planning obligations will be negotiated, taking account of the proposed development and will be directly and fairly related to the development being proposed, and in ..."

### **Officer's response to comments**

Disagree that the policy is unsound. In order to demonstrate that the policy complies with national guidance, set out in Circular 05/2005, it is agreed that clarification could be assisted with a reference to the Circular, but without whole-sale repetition.

### **Officer's Recommendations**

Insert reference to Circular 05/2005.

## Comment

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<b>Event Name</b>	Proposed Submission Core Strategy
<b>Comment by</b>	Metro Shopping Fund LP ( Metro Shopping Fund LP)
<b>Comment ID</b>	PSubCS13
<b>Response Date</b>	09/12/09 18:00
<b>Consultation Point</b>	Policy CF 2 Retail Development within Town Centres ( <a href="#">View</a> )
<b>Status</b>	Processed
<b>Submission Type</b>	Web
<b>Version</b>	0.3

**Do you consider this part of the core strategy to be Legally compliant?**

**Do you consider this part of the core strategy to be Sound?** . No

**Do you consider this part of the core strategy to be unsound because it is not:** . Justified  
. Effective  
. Consistent with national policy

**You have selected NO**

Please give details of why you consider this part of the core strategy to be unsound or not legally compliant. Please be as precise as possible when setting out your comments.

The requirement set out in Policy CF2 for both a range of shop unit sizes and the provision of “affordable shops” is not justified by a robust and credible evidence base, nor is it effective and it is inconsistent with national planning policy.

First, it will not always be appropriate for large-scale development to provide a range of shop unit sizes. What is important is that new retail development meets modern retailer requirements and thereby helps to strengthen the vitality and viability of the centre. To do otherwise in the absence of a robust and credible evidence base would prevent the development complying with other LDF requirements to promote the vitality and viability of town centres and would be inconsistent with national policy, which seeks an efficient and competitive retail sector.

In order for criterion B of this policy to be sound, it should either be deleted or re-worded as follows:

“Require shop units in new major retail development that are able to meet the needs of modern retailers and resist the loss of retail space where it would harm the vitality and viability of the town centre.”

The second objection is that large scale retail development or mixed-use development is required to provide affordable shops. Such a requirement is unsound. This is because the requirement for “affordable shops” is not justified by a sufficiently robust and credible evidence base, would not be effective as it would not be sufficiently flexible to deal with changing circumstances, would not be deliverable in achieving its aims, would be out of step with the strategies of the neighbouring authorities and the requirement would not be consistent with national policy, where there is no basis for the concept of “affordable shops”, with Government policy actively supporting a competitive and efficient retail sector, making it clear that it is not the role of the planning system to become involved in competition between retailers.

In addition, the case against “affordable retail” can be summarised as follows:

- Retailers do not require “social support” in the same way as less fortunate members of our community require help with the provision of affordable housing.
- Artificially supporting retailers who are unable to stand on their own two feet (because they do not attract enough shoppers to make them viable concerns) will weaken the vitality and viability of the town centre, not strengthen it.
- If a proportion of new retail units in a development have to be supported, then in effect they will be subsidised by the other retailers in the scheme, which is clearly unfair and puts them at a competitive disadvantage.
- This would simply be an additional tax on retail development, which would reduce the amount of shopping development within town centres, again harming their vitality and viability. What is important is that new retail development is encouraged as this is what will enhance centres.
- Subsidies are not needed. The market already provides a large spectrum of rents within each centre.
- The viability of a retail business is much more about getting the product right, effective merchandising, the ability to respond to demand and good marketing, than it is about rents.
- The Council is not the one best placed to choose what local shoppers want. The customer is.
- The concept of affordable shops is unworkable. It raises numerous questions such as:
  - o How would one identify which retailers would be eligible for a subsidised unit?
  - o What happens when that retailer is shown to be performing well – would they then have to vacate their business premises?
  - o If not, then what would be the mechanism for stopping a subsidy to a strong profitable business?
  - o Who would be responsible for monitoring and judging the performance of the subsidised retailers?

Such interference in the market should not be supported, when it has not been justified with robust and credible evidence, would not be effective and would be inconsistent with national policy.

In order for Policy CF2 to be sound, criterion C should be deleted. In addition, the eleventh point in the summary table on page 168 (against which representations cannot be made separately), should be deleted.

## **Officer's response to comments**

### *Range of unit sizes*

The Council is concerned about maintaining vibrant, vital and diverse town centres, centres which retain their character and which provide a diverse range of shop types. The Council set up a Retail Commission to examine this issue. This Commission concluded that the provision of small shop units was one way of helping provide for this diversity. Different retailers require different retail units, some larger and some smaller. Therefore, by supporting the provision of a mix of unit sizes the Council can help maintain diversity within centres. This is one of the few tools that LPA have to achieve this aim.

The newly published PPS4 (Planning for Sustainable Economic Growth) supports the Council's approach with Policy EC4.1 explicitly recognising that LPA "should plan to promote competitive town centre environments and provide consumer choice by ... (b) recognising that smaller shops can significantly enhance the character and vibrancy of the centre". The preservation of existing small units may be difficult as planning permission is not normally required for the amalgamation of small units into a smaller number of larger units. The use of s106 agreements or conditions to require the provision of small units therefore may have a role to play in maintaining diversity.

Similarly part (f) of Policy EC4.1 states that LPAs should "take measures to converse and, where appropriate, enhance the established character and diversity of their town centres." As outlined above, the provision of small units is a central part of achieving the diversity required by the Council.

The Council does, however, recognise that the provision of a range of unit sizes within large retail development may not always be appropriate. The supporting text for this policy (para 31.3.18) was amended following the Publication Draft Core Strategy to explicitly recognise that whilst the starting point was that all large scale retail development would provide a mix of unit sizes, they may be cases where this could not be appropriate. Council will only seek the provision of a mix of unit sizes where "the viability of the wider scheme is not jeopardised".

### *Affordable shops*

The creation of affordable shops (to be managed under the Council's neighbourhood shopping policy) is one of the few tools in the Council's possession which allows it to take an active role in helping shape the nature of retailers within our town centres. It is a policy position that was initially put forward by the Council's Retail Commission.

It is also a policy position which since has been supported by the Mayor for London, with Policy 4.9 of the Consultation Draft Replacement London Plan (Small shops) stating that "In considering proposals for large retail developments, the Mayor will seek contributions through planning obligations where appropriate, feasible and viable, to support the provision of affordable shop units suitable for small or independent retailers." Although this policy has yet to have been examined it clearly shows intended direction of the London Plan, a document which this Council will have to be in general conformity with, and a document which will form part of this Council's development plan.

As with the requirement to provide a mix of unit sizes, the Council recognises that the provision of affordable shops will not always be appropriate, not where this will jeopardise the viability of the wider scheme. Furthermore, the provision of an affordable unit is one of a series of benefits which could be sought under the s106 system for suitable developments.

With regard the specific objections:

*"Retailers do not require "social support" in the same way as less fortunate members of our community require help with the provision of affordable housing."*

One of the purposes of planning is to shape the nature of development and to provide uses which Council and the community consider to be valuable but which the market is not providing. Supporting particular types of retailers is therefore considered to be a useful tool in maintaining the diversity of the Boroughs town centres.

### *Provision of affordable shops will weaken the vitality and viability of the town centre*

It is not correct to suggest that the provision of an 'affordable shop' will necessarily weaken the vitality and viability of a town centre. The 'affordable shop' could diversify the draw of a centre, thereby increasing both its viability and vitality. Furthermore, affordable shops will be of particular value in those centres which are so "vibrant" that high rents price out all but those able to afford high rents. In such centres weakening of viability is unlikely.

Furthermore, the shop provided could be of a type of particular importance in maintaining the character of the centre in which it lies. It is the character of the centres which attracts the visitors that they do and makes the centres the valued places that they are. For example, the antiques trade (and antique arcades) is one of the Portobello Road's retail strengths. However, there is concern that antique dealers are finding it increasingly difficult to compete with other retailers who are more able to afford increasing rents. The provision of an affordable shop, were it occupied as an antique arcade, could therefore play a significant contribution in maintaining the character of the centre and assist in maintaining its diversity and in attracting visitors in to the wider centre.

Alternatively, the affordable use (for example a convenience shop of some type) may simply provide a valued service to local people, which is not being provided by the market. This service may be justified as may be of value in itself but may also attract people into the centre.

*If a proportion of new retail units in a development have to be supported, then in effect they will be subsidised by the other retailers in the scheme, which is clearly unfair and puts them at a competitive disadvantage .*

The principle of subsidising units exists within the planning system, in the form of affordable housing. There is no reason why this principle cannot be extended to retail units as long as the tests in circular 5/05 are met.

*This would simply be an additional tax on retail development, which would reduce the amount of shopping development within town centres, again harming their vitality and viability. What is important is that new retail development is encouraged as this is what will enhance centres.*

The Council has explained that affordable shops will only be sought where the viability of the proposal would not be jeopardised. The provision of an affordable unit would be offset against the provision of alternative s106 contributions, where the provision of the unit is considered of more value than the alternative.

*Subsidies are not needed. The market already provides a large spectrum of rents within each centre.*

Whilst a range of rents may be provided across a centre the Council recognises that the range of shops needed to serve needs of both residents and visitors is not always met.

*The viability of a retail business is much more about getting the product right, effective merchandising, the ability to respond to demand and good marketing, than it is about rents.*

Whilst merchandising etc is important so is the level of rents (and associated rates). This has been established by a number of discussions of retailers within the Borough.

*The Council is not the one best placed to choose what local shoppers want. The customer is.*

The Council's neighbourhood shopping policy has successfully operated for some time, providing a range of the convenience shops needed by local people.

It is not correct to suggest that the market always provides what "local shoppers want". In reality the market tends to provide the occupiers who can afford the highest rents. Whilst this may be the type of occupier wanted by local people this is not necessarily the case.

The market tends to provide shops occupied by retailers which can afford the greatest rents. This is not always the same as the types of retailers which necessarily contribute greatest to the diversity of the centre, which provide for the particular day-to-day needs of local people. With affordable shops, the Council would be in a position to use its knowledge of its centre to let units to occupiers who add to its 'wider attraction'.

*The concept of affordable shops is unworkable. It raises numerous questions such as how would one identify which retailers would be eligible for a subsidised unit?*

Retail units provided would be handed over to the Council who would manage these under the 'Neighbourhood Shopping Scheme'. Under this scheme The Council lets units to types retailers who meet the criteria set out in the scheme. Rents reflect the nature of the occupier.

*Not sufficiently flexible to deal with changing circumstance.*

Affordable shops would be managed over the Neighbourhood Shopping Policy. This is considered to provide the necessary flexibility.

*Out of step with the strategies of the neighbouring authorities*

The lack of a similar policy, at this time, within neighbouring polices is no reason for the Borough not to have a policy. Policies should meet the particular needs and circumstances of an area. There is particular concern in this Borough about the maintenance of the special character of the own centres. Furthermore, the principle of affordable shops now appears within the Consultation Draft Replacement London Plan.

*Requirement would not be consistent with national policy, where there is no basis for the concept of "affordable shops"*

There is nothing within national policy which precludes the provision of affordable shops. Indeed PPS4 actively encourages LPA to take measures to conserve and enhance the established character and diversity of their town centres.

*Government policy actively supporting a competitive and efficient retail sector, making it clear that it is not the role of the planning system to become involved in competition between retailers.*

The principal role of the 'affordable shops' policy is to provide types of retailers not provided by the market, not to support one retailer above another.

### **Officer's Recommendations**

No change

## Comment

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<b>Event Name</b>	Proposed Submission Core Strategy
<b>Comment by</b>	Metro Shopping Fund LP ( Metro Shopping Fund LP)
<b>Comment ID</b>	PSubCS14
<b>Response Date</b>	09/12/09 18:03
<b>Consultation Point</b>	Policy CF 3 Diversity of uses within Town Centres ( <a href="#">View</a> )
<b>Status</b>	Processed
<b>Submission Type</b>	Web
<b>Version</b>	0.3

**Do you consider this part of the core strategy to be Legally compliant?**

**Do you consider this part of the core strategy to be Sound?** . No

**Do you consider this part of the core strategy to be unsound because it is not:** . Justified  
. Effective

**You have selected NO**

Please give details of why you consider this part of the core strategy to be unsound or not legally compliant. Please be as precise as possible when setting out your comments.

Policy CF3 seeks to restrict non-A1 uses to no more than 20% of the units in primary retail frontages and to no more than 34% of the units in secondary retail frontages.

In both cases the policy treats Notting Hill Gate differently to the other centres by virtue of the fact that in addition to the 20% and 34% restrictions, any additional estate agents, bureau-de-change or hot food takeaways are ruled out. However, what is also different about Notting Hill Gate, but which is not mentioned in the policy, is that there is a need for both high quality shops AND restaurants. This need for additional restaurants is recognised in paragraph 16.14 in chapter 16 on Notting Hill Gate and again within the Vision, which seeks to significantly strengthen Notting Hill Gate as a district shopping centre "with improved shops and restaurants that reflect the needs of the local catchment". Restaurants fall within Use Class A3 and would therefore be prevented with the current wording of Policy CF3. This inconsistency between Chapter 16 and draft Policy CF3 has not been justified. Furthermore, Policy CF3 would prevent the vision for Notting Hill Gate being deliverable.

The policy could be made sound by amending the text of a(ii) to read:

"... 80% of the ground floor units in the relevant street frontage will remain in an A1 or A3 (shop or restaurant) use and the non-shop use is not adjacent to another non-A1/ non-A3 use;"

and b(ii) amended to read:

"... 66% of the ground-floor units in the relevant street frontage will remain in an A1 or A3 (shop or restaurant) use and where there are no more than three non-A1/non-A3 uses in a row".

### **Officer's response to comments**

The treatment of Notting Hill within CF3 concerns the protection of shops uses within the centre. The starting point for all centres is that the Council will only permit the change of use from shops to other town centre uses where a certain proportion of shop units remain. In the Notting Hill Centre there is concern that there are particular concentrations of estate agents, bureaux de change (both Class A2) and hot food takeaways (Class A5), and that the introduction of more such uses is likely to harm the continued vitality of the centre.

This does not preclude the introduction of A3 uses into existing frontages (as long as the criteria are met). Similarly it does not preclude the introduction of additional A3 floorspace as part of large mixed use development within or at the edge of the existing centre, where no existing retail is lost.

As such the Council considers that Policy CF3 is consistent with CV16, the vision for the Notting Hill Gate Place, as a centre with 'premium quality retail' and with 'improved restaurants'.

### **Officer's Recommendations**

No change.

## Comment

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<b>Event Name</b>	Proposed Submission Core Strategy
<b>Comment by</b>	Metro Shopping Fund LP ( Metro Shopping Fund LP)
<b>Comment ID</b>	PSubCS6
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<b>Consultation Point</b>	CV 16 Vision for Notting Hill Gate in 2028 ( <a href="#">View</a> )
<b>Status</b>	Processed
<b>Submission Type</b>	Web
<b>Version</b>	0.2

**Do you consider this part of the core strategy to be Legally compliant?**

**Do you consider this part of the core strategy to be Sound?** . No

**Do you consider this part of the core strategy to be unsound because it is not:** . Justified

**You have selected NO**

Please give details of why you consider this part of the core strategy to be unsound or not legally compliant. Please be as precise as possible when setting out your comments.

The Metro Shopping Fund objects to the final sentence of the first paragraph, which states that the centre will continue to be a major office location. This statement is not founded on robust evidence and it is a matter of fact that Notting Hill Gate is not a major office location.

The Council's Employment Land Study identifies much of the office space within the Borough being concentrated in and around Kensington High Street and further south. Notting Hill Gate is not identified as a major office location within the Borough. That is because there are very few buildings in office use and indeed most office space is contained within just one building; namely Newcombe House, where the space is poor quality and has persistently been difficult to let and keep occupied. Furthermore, Newcombe House is identified by the Council as an "eye sore", which it would ideally like to be redeveloped.

The Employment Land Studies will be before the Inspector, however, it should be noted that Roger Tym & Partners rightly draw attention to the GLA's London Office Policy Review that concludes that at any one time, outstanding planning permissions should equal at least 3.5 years supply. The updated research by Roger Tym finds that there is already an eight year supply of planning permissions.

The revised analysis by Roger Tym published in September 2009 suggests that over the plan period to 2026, a total net addition of 69,000 m<sup>2</sup> of offices will be required. A net addition of 46,000 m<sup>2</sup> is already under construction or has planning permission, which is sufficient to meet office demand until 2017. This supply does not include allocations. Previously analysis undertaken by Roger Tym found that seven allocated sites within the Borough offered the potential for a net addition of a further 30,000 m<sup>2</sup>, bringing the total supply to some 76,000 m<sup>2</sup>, which is considerably more than the 69,000 m<sup>2</sup> required for the whole of the plan period to 2026. In addition, unallocated sites are likely to continue to come forward for office development. A good recent example of this is the Yellow Building off Freston Road, which provided 26,000 m<sup>2</sup>.

Furthermore, the Employment Land Study does not take into account the enormous amount of office development that is being promoted at Earls Court. The draft Core Strategy already suggests that 10,000 m<sup>2</sup> of offices would be acceptable and the plans are for several times this.

As such, it would be appropriate for the Core Strategy to allow some flexibility in the future planning of poor quality existing office space in locations where demand is weak, so that such space would be better able to meet the Borough's other competing needs.

The deletion of the last sentence in the first paragraph of CV16 would enable this element of the Core Strategy to be found sound.

### **Officer's response to comments**

Notting Hill Gate is considered a major office location due to the good public transport accessibility level and the large amount of flexible office accommodation in Newcombe House, which offers large and small floor plates.

The Council recognises that the outstanding permissions for office floorspace will meet the predicted office need to 2017. Assuming all this floorspace is built out, a further 23,000 sq m will have to be provided within the plan period. Whilst the Council has allocated 20,000 of this floorspace, and does expect other windfall schemes to provide the remainder, these figures are reliant on the retention of the existing office floorspace. The loss of any existing floorspace will mean that additional floorspace must be found from additional windfalls over the plan period. This is by no means certain as there is a finite number of sites available within the Borough, and each will be subject to competition from a number of competing uses. Given the policy presumption in favour of new residential development, and the 'higher value of housing' there is no guarantee that significant additional windfall office sites will come through.

It is, therefore, important that existing office floorspace is protected. This approach is supported by the Employment Land Review Update which does note in para 6.4 that "if forecast demand for offices ...are to be met, the Council needs to control losses of office sites to other uses".

Furthermore para 6.9 is explicit in noting that "...demand can only be met if no existing sites are lost (without being replaced).

The Employment Land Study does not take into account the office development being postulated at Earls' Court. It cannot be given that this space has yet to have been permitted, or allocated by Hammersmith and Fulham Council (the majority of the site and employment floorspace lying in this borough.) The Core Strategy allocates 10,000 sq m of office space within this Borough, although I note that the owners for this site are seeking in their representations to get this figure reduced. The Council will update the ELPS on a regular basis to take changing predictions/ increases in supply into account.

One of the purposes of the Core Strategy is to look across the lifetime of the plan, and to have the policies necessary to ensure that the employment needs of the Borough are met. A long term view is taken. The Council should not plan for the recession, but right up to 2026. If uses are lost as may not be 'needed' in the short term, there is very little chance that the original uses will be regained. Indeed in the case of housing, there will be a policy presumption against the loss of housing to other uses.

However, the Council does recognise that viability is a material consideration, and the Council will have to take into account any evidence which shows that a given premises is not viable/suitable in the longer term.

The Core Strategy recognises that the Council contains locally important concentrations of offices in the wards around Kensington High Street and South Kensington. There are also concentrations within the other higher order centres. The Council wishes to protect all offices in all areas where they exist, whether there is a particular concentration or not. The only exception being for large and medium offices (outside of Employment Zones) where there are not located in accessible areas. Notting Hill Gate is a district centre and an area classified within the TfL PTAL map as having "excellent access to public transport". As such it is considered to be a suitable location for offices. Offices are a 'town centre use' which benefit from high accessibility, both in terms of their desirability, and in terms of trip generation.

There is no contradiction with the Council's desire to protect small offices across the Borough. Large firms may provide the majority of B1 jobs within the Borough, but this does not mean that the majority of B1 premises cannot be small in scale. The 2007 ELPS estimates that only 11 % of units across the Borough have a floor area greater than 300 sq m. This illustrates the importance of protecting both large and small B1 premises across the Borough.

### **Officer's Recommendations**

No change proposed.