

20 December 2022

The Savills logo consists of the word "savills" in a lowercase, sans-serif font, colored red, set against a solid yellow square background.

Planning Policy
Royal Borough of Kensington and Chelsea
Town Hall
Hornton Street
W8 7NX

Joe Oakden
E: joseph.oakden@savills.com
DL: +44 (0) 7977 030 125

33 Margaret Street W1G 0JD
T: +44 (0) 20 7499 8644
F: +44 (0) 20 7495 3773
savills.com

-sent via email only to planningpolicy@rbkc.gov.uk-

Dear Sir/Madam,

WRITTEN REPRESENTATION FOR CONSULTATION ON THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA'S NEW LOCAL PLAN PUBLICATION POLICIES (OCTOBER 2022) (REGULATION 19 CONSULTATION)

On behalf of our Client, Northcare (Scotland) Limited, we write to make representations on the Royal Borough of Kensington and Chelsea's New Local Plan Publication Policies dated October 2022 which are currently out for Regulation 19 consultation. This letter supports the completed online questionnaire.

Comments on relevant policies within the plan are set out below.

Policy H05

Emerging policy H05 relates to specialist housing, a sub-section of which relates to Housing for Older People. This outlines the following:

- A. *Support the provision of older people's housing including new extra care, sheltered housing and care homes to meet identified local needs.*
- B. *Protect existing older people's housing unless the loss is to improve substandard accommodation or increase the existing provision on the site.*
- C. *With the exception of care homes, extra care, sheltered housing and any other specialist form of older people's housing, development must provide on-site community (affordable) housing as per the requirements set out in Policy HO3.*
- D. *The community housing will be required for occupation by older people in the same form as the specialist housing scheme i.e. community extra care or community sheltered housing at price bands to be agreed with the Council.*
- E. *Older people's accommodation should be of the highest design quality including accessibility, dementia friendly, quality of care to be provided and adequate storage for mobility scooters.*

The supporting text for the policy goes on to discuss the Local Housing Needs Assessment dated January 2022 and states that the number of residents aged 65 or more is projected to increase by 13,911 by 2040 (a 54% increase). The LHNA itself is unclear of what accommodation is being suggested as being required across the sector and the document fails to distinguish between senior living and care/nursing homes in terms of the data. As a result, this document does not identify clear targets which can reliably be delivered across the plan period. Indeed, some of the data used to calculate need has been done so using EAC data who do not keep up to date

Offices and associates throughout the Americas, Europe, Asia Pacific, Africa and the Middle East.

Savills (UK) Limited. Chartered Surveyors. Regulated by RICS.

A subsidiary of Savills plc. Registered in England No. 2605138. Registered office: 33 Margaret Street, London, W1G 0JD



care home records and prefer to focus on retirement/senior living data. Laing Buisson is the more reliable data set in respect of care homes.

The only reference to care home needs is in paragraph 4.31 of the LHNA:

“4.31. As far as we are aware there is no RBKC-specific research undertaken on future care / nursing home requirements. So, based on the proportion of over 75’s that reside in RBKC compared to other London authorities (1.9%) we can suggest that RBKCs contribution to this future requirement should be 16 additional places per annum until 2029 at least.”

This is based on old research dated 2017 by the GLA and demonstrates a lack of accurate data to determine the need for care home provision in the Borough.

Our Client has commissioned their own analysis in respect of need in the Borough (by BNP Paribas Health Care and Senior Living Team) and this has been provided to the Council previously. A copy can be supplied again if required. This report shows that based on the national likelihood by age of those requiring some form of care, either in a care homes or hospital (Laing Buisson, 2020) there is a current statistical need for circa 2,952 long-term care places for older people within the Catchment Area. Therefore, in straightforward terms, based on the 1,928 beds recorded in the A-Z Care Homes Guide database, there is currently an under supply of around 1,024 registered beds or 1,048 bedrooms. However, assuming demand remains constant and no new bedrooms are registered between 2019 and 2037, taking into account the projected growth in the number of older people, by 2037 demand will have increased to an estimated 5,113 long term care places resulting in a potential net need for an additional 3,209 bedrooms.

There is therefore a serious need to provide suitable housing for the elderly, as outlined in the NPPG which states *“the need to provide housing for older people is critical. People are living longer lives and the proportion of older people in the population is increasing. In mid-2016 there were 1.6 million people aged 85 and over; by mid-2041 this is projected to double to 3.2 million”*. It is considered that the Local Plan has not correctly calculated the needs for this sector of housing and there are no clear targets which can be delivered across the plan period.

Despite the significant need, the new Local Plan allocates just 65 gross affordable extra care units within their draft site allocations (Allocation SA6: Lots Road South) for older persons housing. No care home beds are allocated at all. It is considered that this lack of allocation for such use could lead to further shortfall in delivery against the number of beds which are demonstrably required, as identified within the research. It is therefore considered that additional site allocations for such uses are clearly required.

Conclusion on soundness of policy H05

As a result of the above, the policy and lack of associated site allocations, cannot be found sound.

The policy is not positively prepared because the LHNA (2022) relies on unclear data sets, does not rely on Laing Buisson data and therefore fails to accurately understand the need for care home provision within the Borough. It fails to therefore adequately identify the need for care home provision against an identified significant increase in the elderly population across the plan period.

It also fails to provide the policy framework to enable new build care accommodation to meet an identified need and fails to provide any site allocations for care home needs in the plan. Site allocations are critical to the delivery of effective care home accommodation and they primarily need to be purpose built.

The policy and associated lack of site allocations therefore fails the four tests of soundness.

Site Allocations

Given the critical need for new care home accommodation in the Borough and the Council's demonstrated failure to achieve its housing delivery generally (see HDT 2021 results showing only 43% delivery) it is necessary and correct to review land allocations, so that scarce land that is available for development within the Borough is not unreasonably constrained by the Local Plan.

There are two parts to the representations concerning the land identified at Nursery Lane off Highlever Road. Firstly that the Local Green Space (LGS) designation adopted in the STQW Neighbourhood Plan is no longer sound and secondly that the site is well located to meet part of the need for care home accommodation in the Borough that has not been identified in any other site allocations put forward in the Plan.

a) Local Green Space Designation in the context of policy GB16

Planning Policy Background

The National Planning Policy Framework provides for the designation of LGS and states the following:

101. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.

102. The Local Green Space designation should only be used where the green space is:

- a) in reasonably close proximity to the community it serves;*
- b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- c) local in character and is not an extensive tract of land.*

103. Policies for managing development within a Local Green Space should be consistent with those for Green Belts.

National Planning Practice Guidance sets out guidance on Local Green Space designations and states that "designating any Local Green Space will need to be consistent with local planning for sustainable development in the area" going on to state that "in particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making". The full guidance for LGS designation is available here: <https://www.gov.uk/guidance/open-space-sports-and-recreation-facilities-public-rights-of-way-and-local-green-space>.

Background

The site which is the subject of these comments is located on Nursery Lane, accessed via Highlever Road, located in the north of the Royal Borough of Kensington and Chelsea, and specifically within the Dalgarno ward.



Figure 1- Site Location Plan

The site is broadly rectangular in shape and is relatively flat in topography. A brick wall bounds the site on all sides and delineates the site boundary. The site is currently in use as a landscape gardener’s base- a commercial use- which was verified as the lawful use of the land via a certificate of lawful existing development in July 2017 (LPA ref: CL/17/02322).

The site is accessed via the existing vehicular and private pedestrian entrance and exit to the site via Nursery Lane.

A series of photos of the existing site are shown below. These show that the site has a gated entrance which contains a red sign titled “private property- no access”. The area itself is covered in hard standing and accommodates parked vehicles (x15), palettes, and landscaping materials such as storage containers. The vast majority of the “greening” of the site is actually plants, shrubs and trees placed in containers on the hardstanding.





Figure 2- Images of the existing site

The site is not a public park or public recreation ground and there are no public rights of access or rights of way. For the avoidance of doubt, the site is not publicly accessible. It is a privately owned site accommodating a business.

The surrounding area is predominantly residential in character and the application site is enclosed by surrounding residential properties fronting Highlever Road to the east, Brewster Gardens to the west and Dalgarno Gardens to the north. To the south, an existing two-storey block of assisted living flats are located on the opposite side of Nursery Lane. A selection of commercial uses can be found to the south of the site on North Pole Road, part of which is designated as a Special Neighbourhood Shopping Centre Little Wormwood Scrubs is located to the north of the site, whilst Wormwood Scrubs is located to the west of the site.

Assessment

The key tests for the designation of LGS are set out in NPPF paragraph 102. This states that the LGS designation should only be used where the green space is:

- a) in reasonably close proximity to the community it serves;
- b) demonstrably special to a local community and holds a particular significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- c) local in character and not an extensive tract of land.

Each of these matters is considered in turn below.

a) In reasonably close proximity to the community it serves

The Nursery Lane site is private land and is not publicly accessible by members of the local community. This is shown in images provided at figure 2 above. The site does not therefore serve any community and has not done so for a significant period of time. Whilst the St Quintin and Woodlands Neighbourhood Plan refers back the site's communal use around the time of the second world war, it notes that "*in 1952 the land was offered to the Council by the owners as a public park, but the offer was declined*". The Plan then goes on to note that permission was granted for the use of the site for storage of plant and materials in connection with a garden contractors business for which it has been used for since. The Independent Examiner of the plan noted that the horticultural use had recently ceased however "*could continue with or without designation*".

The site today serves no community purpose and the local community have no right of access over the land. The site does not therefore offer any form of open space for the community, and we note there are two very large areas of high quality green open spaces within the vicinity of the site. Little Wormwood Scrubs is located a 3 minute walk away and Wormwood Scrubs a 15 minute walk away from the site which will be enjoyed by the local residents as they cannot currently access the site at Nursery Lane.

b) Demonstrably special to a local community and holds a particular significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife

The site, as shown in images provided at figure 2, is covered in hard standing and littered with parked vehicles (x15), palettes, landscaping materials and several storage containers and single storey buildings. The vast majority of the "greening" of the site is actually plants, shrubs and trees placed in containers on the hardstanding. There is little tranquillity as built form borders the entire site and there is no evidence of richness of wildlife. The Independent Examiner of the Neighbourhood Plan considered that "*the site contains a number of substantial trees, including beech and weeping willows and dense boundary vegetation*" which contributed to the sites "*general impression of green space*". Our Client has however commissioned their own tree report which shows that these trees are of little significance with the majority of trees on site being Category C or Category U trees of poor quality. Several of the trees are damaged and in need of removal in accordance with proper arboricultural practice.

The Neighbourhood Forum and Independent Examiner's main reasoning for the sites significance was its nature as a backland site. The Examiner's report states that "*I find that backlands have historical significance and have been accepted as a feature of the Conservation Area at least since the original publication of the Conservation Area Proposals Statement (1970's), at the 1982 planning appeal and by Historic England in their recent representations on the plan's policies and proposals*". It should be noted however that since the Conservation Area Proposals Statement publication and the 1982 planning appeal, planning policy in the borough has significantly evolved and the need to plan positively for growth to meet identified needs has recognised the role that backland sites can play. Indeed, the emerging Local Plan discusses backland sites within policy CD1 and notes that these should carefully consider how development of these sites are integrated into the existing urban structure. This policy is considered to adequately protect the type and form of development that would be permissible on this site.

c) Local in character and not an extensive tract of land

The site is local in character and not an extensive tract of land. It should be noted however that the site is not publicly accessible currently cordoned off and in a poor state of repair.

Taking account of the above, regardless of the designation of the site within the Neighbourhood Plan (which was adopted in 2018 based on an examiner's report from 2015), it is not considered that the site meets the tests for designation when reviewed today.

It is considered in light of the above it is correct and necessary for this Local Plan review process to re-consider the site's LGS designation and that the site should be removed from the list of LGS designations. It should be noted that there is no requirement for neighbourhood plans to be reviewed on a regular basis and this plan has not been reviewed since its adoption, nor is one planned.

Section 38(5) of the Planning and Compulsory Purchase Act 2004 states that if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published. The removal of the designation in the Local Plan would therefore supersede the policies outlined within the Neighbourhood Plan.

National Planning Practice Guidance:

In addition to the NPPF, NPPG provides further guidance on the designation of LGS and states that "*designating any Local Green Space will need to be consistent with local planning for sustainable development in the area*" going on to state that "*plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making*".

As the Neighbourhood Plan must be prepared in accordance with the Local Plan and it is the Local Plan that serves to ensure sufficient land is available to meet identified need, the current LGS designation at Nursery Lane undermines the aim of plan making in the way that the NPPG specifically states should be avoided.

As a result, the statement in **paragraph 2.118** of the Local plan which states: "*The designation of LGSs will be considered in the Borough through neighbourhood plans or other development plan*

Documents" is not a sound approach as it has the ability to remove suitable sites that will meet an identified need and would undermine the aim of plan making at the Borough level.

Figure 2.3 should be amended to remove the LGS designation shown for the site and the reasoned justification for this is set out above.

b) Chapter 10- Site Allocations

As set out in the comments provided against policy HO5, despite the significant need, the new Local Plan allocates just 65 gross affordable extra care units within their draft site allocations (Allocation SA6: Lots Road South) for older persons housing.

No care home beds are allocated at all.

It is considered that this lack of allocation for such use could lead to further shortfall in delivery against the number of beds which are demonstrably required, as identified within the research. It is therefore considered that additional site allocations for such uses are clearly required.

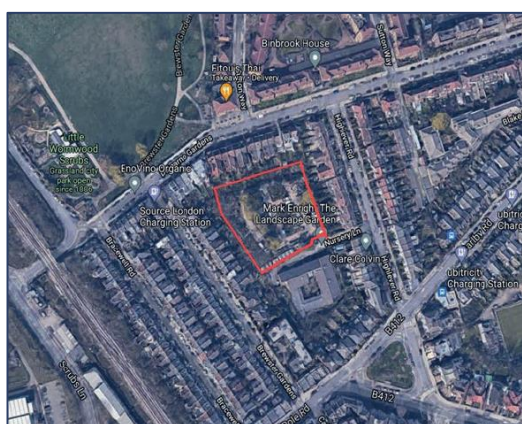
The site at Nursery Lane has been identified as being suitable for a care home, with the ability to provide up to 75 care home beds. The site is located within an area where even when all existing and forthcoming developments within the catchment area are considered, there is still an identified shortfall of 459 beds. In addition, the research commissioned by our Client shows that some of those existing spaces within the vicinity

of the site are not fit for purpose given that they lack en-suite facilities. The site is considered therefore to be suitable for such use in an area where there is significant identified need.

The site is close to existing residential areas, a local park, close to public transport, local shops, medical centre and an hospital. Residents of a care home will be high-acuity and/or relatively frail it would be highly unusual for them to be accessing the local amenities, nor using public transport. It will be the staff and visitors to the care home who will utilise public transport and the local amenities such as convenience stores for lunch and gifts/supplies respectively who are mobile and capable of walking.

It is therefore proposed that a new Small Sites Allocation is made for this site as “SA.17” within Chapter 10 as follows:

Site: SA17 Nursery Lane, Highlever Road



Address: Land at Nursery Lane, Highlever Road, Kensington

Size: 0.48ha

Current Use: Landscape gardener’s base and for the storage of goods and materials in connection with the business of garden centre operators and landscape contractors (Sui Generis use).

Site Allocation: Care Home (use class C2) providing a minimum of 75 beds and new public open space

Relevant planning history/planning constraints: The site lies within the Oxford Gardens Conservation Area, Kensington Critical Drainage Area.

Ownership: Private ownership.

Conclusion

This letter of representation has been prepared by Savills on behalf of our Client, Northcare (Scotland) Ltd, in response to the Regulation 19 consultation on the emerging Royal Borough of Kensington and Chelsea Local Plan.

This letter should be read in conjunction with the completed questionnaire submitted alongside this letter.

It is our view that policy H05 has not been positively prepared, fails to provide the policy framework to enable new build care accommodation to meet an identified need and fails to provide any site allocations for care home needs in the plan. Site allocations are critical to the delivery of effective care home accommodation and they primarily need to be purpose built.

The policy and associated lack of site allocations therefore fails the four tests of soundness.

This letter puts forward a site (Nursery Lane, Highlever Road) which is considered to be suitable for care home provision and it is recommended that this should be included as a site allocation at Policy SA17.

I trust this is clear, however should you have any queries please do not hesitate to contact me at any time using the details at the head of this letter.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Joe Oakden". The signature is fluid and cursive, written over a light grey rectangular background.

Joe Oakden MPLAN MRTPI
Savills (UK) Ltd