

Knightsbridge Neighbourhood Plan

Preliminary Healthcheck Note on (1) Hyde Park Barracks & (2) SEA

Hyde Park Barracks

1. The KNP proposals for HPB are, in their amended form, in proposed Policy KBR16. In essence, the policy seeks to preserve the tranquillity of the Neighbourhood Area's MOL, to resist the loss of the barracks use (save for restoration to parkland) and urge removal of the existing buildings, especially the Peninsular Tower. There are other more detailed criteria in the policies (including general resistance to non-residential uses).
2. The position of Westminster City Council (WCC) is as follows. The letter dated 18 August 2016 from Lisa Fairmaner was directed to a previous version of the proposed policies, and therefore is not wholly reliable in relation to the revised proposals. However, it is claimed that there is a "strategic designation" for housing. It is stated that this is a "strategic policy": paragraph 6.1. Their position is elaborated in paragraph 6.4. Paragraph 6.21 suggests that the Neighbourhood Plan should:
 - “(i) clarify that the preference is for the barracks to remain on the site for all of the reasons set out in the draft Plan, and*
 - (ii) clearly define what development the community wish to see on the site, should the barracks ever leave, within the context of the existing designation in the City Plan. This could include the rearrangement of the massing of buildings on site to reduce the height of the existing Tower, creation of new routes and vistas across the site, the architectural relationship to the surrounding sites, relationship to the Royal Park and neighbouring heritage assets, as well as the character and heritage value of the two conservation areas”.*

It is apparent that the latest version of the KNP is already a positive response to these suggestions.

3. The October 2016 response by Barry Smith (Appendix 1) states in paragraph 3.9 that HPB "...is designated as a strategic housing site in Westminster's City Plan. This means that the site is of strategic importance to the delivery of the development plan over the plan period to 2026/7. The site is included in the Council's 6-15 year list of future developable sites referred to in the final paragraph of policy S14".
4. Turning to the City Plan, it seems that the only non-conformity issue taken relates to Policy S14. There is no claim (thus far) that KNP Policy 16 (or its previous version as Policies 16a and 16b) is in conflict with other strategic policies. Indeed, it must be plain that it is wholly in accord with Policy S11 Royal Parks, and Policy S27, Buildings and Uses of International and National Importance. The limited extent of the alleged non-conformity, and the compliance with other directly relevant strategic policies, are important factors in the debate.
5. The relevant parts of Policy S14, Optimising Housing Delivery, are as follows:

"The Council will work to achieve and exceed its borough housing target set out in the London Plan.

Residential use is the priority across Westminster except where specifically stated.

The number of residential units on development sites will be optimised.

The Council will maintain a publicly available list of deliverable sites for housing development to ensure a continuous five year supply of deliverable sites with a 5% buffer, and 6-15 year lists of future developable sites".

The introductory text to Appendix 1 states:

"The sites set out in this Appendix are of strategic importance to the delivery of Westminster City Plan. It includes sites necessary for the delivery of major infrastructure projects, or for the regeneration of an area. It also includes major housing sites located within Flood Zone 3 and housing sites with the capacity for over 100 units, of which a failure to deliver within the plan period would have implications for the housing target and the housing trajectory".

Site 34 is part of HPB, the preferred use is Residential, and the Notes state:

“Change of use from barracks to residential, including full on-site provision of affordable housing and the full range of housing sizes”.

Westminster’s January 2016 schedule of housing supply provides for no residential yield in relation to HPB over the full 0-15 year periods.

6. It appears, from section 7 of the Knightsbridge and Other Crown Lands Act 1879, that the site of HPB is part of the Royal Parks and cannot be sold, without primary legislation. There are also severe practical restrictions on the potential for relocation of the barracks. I am not aware whether these restrictions, particularly the former, were known at the time of the processing of the City Plan. On the face of it, the preferred use of residential is not deliverable, and hence this part of the Plan should not have been found to be “sound”. This may be why the language is simply of “preferred use”, as opposed to there being a specific policy or allocation for a given number of dwellings on the site. In any event, the question of delivery must be highly relevant in the present context.
7. The relevant legal test for the KNP is whether it is “in general conformity with the strategic policies” of the City Plan. One notes the term “general”, and the reference to “strategic policies” which must denote all strategic policies relevant to the point at issue. As noted above, it seems that the only claim of non-conformity relates to Policy S14, and this matter must be considered in the wider context of accordance with Policies S11 and S27..
8. Returning to the relevant parts of Policy S14, it would be difficult for Westminster to assert a conflict with the first paragraph, especially where the current supply schedule does not specify any housing number for the site, and also bearing in mind that proposed Policy 16 would not rule out residential use. Conflict with the second paragraph would also be difficult to assert, particularly in the light of policies S11 and S27. Further, it would be difficult for Westminster to show clear conflict with paragraphs 3 and 4, for the reasons given in relation to the first paragraph.

9. The apparent inability for residential development to take place on the site, at least in the foreseeable future, is plainly a significant factor.
10. In conclusion, it is clear that convincing an Examiner that Policy 16 complies with the basic conditions will have its challenges. In my view, however, the Forum would be justified in retaining it in the Plan, while taking account of any further relevant points made in due course by Westminster.

SEA

11. WCC have asserted that it is the duty of the Forum to undertake a screening exercise. Under paragraph 6(3) of Schedule 4B, WCC must consider whether the draft plan complies with section 38A, sub-section (6) of which relates to compliance with any EU obligation, i.e. including SEA. Whilst accepting that this duty specifically relates to the later stage of the local planning authority making the Plan, it indicates that they have the ultimate responsibility for compliance with the SEA duties.
12. This is why, no doubt, PPG advises (as part of the revisions on 11 February 2015) as follows:

“The local planning authority, as part of its duty to advise or assist, should consider putting in place processes to determine whether the proposed Neighbourhood Plan will require a strategic environmental assessment. The qualifying body should work with the local planning authority to be sure that the authority has the information it needs”.
13. This also no doubt reflects the greatly superior resources, financial and in terms of expertise, available to a planning authority as opposed to a neighbourhood forum.
14. Whoever ultimately undertakes the screening exercise in the present case, it is hard to see how the Plan could reasonably be considered to have significant environmental effects. Crucially, it proposes no allocation(s). As appears from its Vision, Values and Objectives its purpose is essentially to seek preservation and enhancement of the environment rather than change.

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