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Independent Examiner of the Soho Neighbourhood Plan
Examination Ref.: 01/JK/SNP

SENT BY EMAIL TO STEVE CARNABY AT IPE LTD FOR FROWARDING TO YOU
2nd October 2020

Dear Ms Kingaby,

Soho Neighbourhood Plan
Response to Regulation 16 Examiner Questions

1. Thank you for your procedure letter and questions dated 14th September 2020 presenting your initial comments on the Soho Neighbourhood Plan. The Neighbourhood Forum welcomes the opportunity to provide you with our written response. The Neighbourhood Forum's response to each question is set out below.

Examiner's question 1: Please would the Forum confirm that the SNP has been produced with consideration given to its compatibility with the Human Rights Convention. I must be satisfied that the Plan does not breach Human Rights within the meaning of the Human Rights Act 1998.

2. The Human Rights Act 1998 includes a number of articles which are relevant to neighbourhood planning. These are:
 - The right to respect for private and family life
 - Freedom of expression
 - Prohibition of discrimination
3. The Forum did not, in any way, interfere with the exercise of the right to respect for private and family life. A series of consultation events have been undertaken by the Forum, including the formal Reg. 14 as well as the Reg 16. stage undertaken by Westminster City Council, allowing all sections of the local community to express their views on the Neighbourhood Plan's policies, regardless of the individual's sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other such status. In addition, a range of consultation materials were used, including exhibition boards, website, member emails, adverts and flyers, Soho radio, social media campaigns, press coverage and a questionnaire (see the Consultation Statement for more information). These materials helped to reach a wide variety of social groups. The Forum can therefore confirm that the Neighbourhood Plan was prepared in a

manner which respects and represents the views of the whole community. It is therefore considered that the Soho Neighbourhood Plan has complied with the Human Rights Act 1998.

Examiner’s question 2: Figure 1 – Map of Soho Neighbourhood Area informs the reader, at an appropriate early stage, of the boundary of the Neighbourhood Area. However, it would be clearer if some main road names and/or other landmarks were shown so that the location is readily identified.

4. The Neighbourhood Forum would like to highlight that road names and landmarks are included on Figure 1. However, the Neighbourhood Forum does note that these are partially illegible and is therefore happy to make the suggested changes for the referendum version, as long as the Examiner is happy with this approach.

Examiner’s question 3: On Page 13, the first paragraph ends with “most economically active ward, the”. It appears that some text is missing. On Pages 17 and 18, there is repetition of the text beginning “The heritage of Soho is reflective of the waves...” . Can alternative text be put forward please?

5. The Neighbourhood Forum acknowledges that text is missing after the words “most economically active ward, the” on page 13, and that “the heritage of Soho is reflective” is repeated on pages 17 and 18. To address these errors, the Forum is happy to add in missing text on page 13 (which should read “neighbouring St James’s ward”) and delete the following repetition on page 18: ~~“the heritage of Soho is reflective the waves of immigration that have passed through from the Huguenots to the Italians, which is still evident in cafes like Bar Italia, the fashion scene that continues to play a role and the creative industries that are vital to the UK economy. Soho has also always been a place where new attitudes to sexuality have developed and the current LGBTQ+ community reflects this today.”~~

Examiner’s question 4: Policy 2: Proposals for Tall Buildings is followed by Figure 3 which shows the protected/strategic views across Soho. The GLA requested that the source of the views be referenced more clearly. Should Figure 3 also show Golden Square, Soho Square and St Anne’s Gardens to assist readers?

6. The map layers in Figure 3 are sourced from the GLA and should be referenced as “GLA London Plan, London Views Management Strategy, locations 2A.1, 2B.1 and 4A.1”. The Forum is happy to amend Figure 3 to clearly highlight the data source(s).

The Neighbourhood Forum is also happy to amend Figure 3 to include Golden Square, Soho Square and St. Anne's Gardens.

Examiner's question 5: Westminster City Council (WCC) in its letter of 10 July 2020 commented that the following policies did not satisfy the Basic Conditions for neighbourhood planning and should therefore be modified. WCC drew my attention to paragraph 16 of the NPPF, which states that plans should be clearly written and unambiguous, so it is evident how a decision maker should react to development proposals. I am mindful that WCC will be determining planning applications which are submitted within Soho. Therefore, could the Forum discuss the detailed comments made by WCC with its Planning Policy staff and reach agreement as to how the points raised should be addressed. If a need for modification is agreed, revised wording of relevant policies and text should be submitted. In particular, WCC commented on:

Policy 16: Car Free Residential Developments

Policy 17: Residential Space Standards

Policy 23: Delivery Consolidation Points

Policy 29: Property Numbering and Wayfinding Signage

Policy 31: Waste and Recycling Facilities in New Developments

WCC also submitted more than 100 detailed comments on the SNP, and it would assist me if the Forum would advise as to whether they consider that any of these should trigger modifications to the Plan. Please provide full details of any modifications which are considered necessary.

The Forum will respond in due course but it has been informed by WCC planning officers that they cannot engage with the Forum on these matters until 19th October at the earliest because they are tied up with the work involved with examination of Local Plan 2019-2040 the hearings for which end on 16th October.

Examiner's question 6: A number of respondents to the Regulation 16 consultation exercise highlighted the tensions between supporting Soho's economy, with its live music venues and late night economy, and resident population. Pushing music venues to the edge of Soho will not be helpful, it was argued. Management of venues and customers should be the key to protecting and growing the local economy. The text on Page 34 following Policy 13, refers to "the late-night economy" and "sometimes more based on the consumption of alcohol and illegal drugs and various forms of anti-social behaviour". This was widely criticised as being pejorative and disparaging, and its deletion was requested. Would the Forum support modified wording, and if so, what should be said?

7. The Forum do not agree that Policy 12 (Live Music Venues) will result in music venues being pushed to the edge of Soho. The wording of Policy 1 purposely omits any spatial constraints to the siting of new or existing music venues, to ensure that existing venues are protected, and new venues will be supported (provided that they are low impact).
8. The Forum would like to highlight that the rationale for Policy 12 is that all music venue proposals will be considered on a case-by-case basis and that the preferred siting of larger venues is in locations which will not cause adverse impacts to residential amenity. Furthermore, the Forum consider that Policy 12 aligns with Policy D13 (Agent of Change) of the Intend to Publish London Plan, which places responsibility for mitigating impacts from existing noise and other nuisance-generating activities or uses on the proposed new noise-sensitive development; and paragraph 182 of the NPPF, which provides guidance on the restrictions given to existing businesses and facilities and the mitigation of adverse effects relating to new developments. As discussed in paragraph 3, the Soho Neighbourhood Plan provides a framework which is representative of the whole local community, therefore it is considered that the Neighbourhood Plan addresses the needs and concerns of both businesses and residents through Neighbourhood Plan Policy 12.
9. The Forum would support modification of the following text: “sometimes more based on the consumption of alcohol and illegal drugs and various forms of anti-social behaviour”. The Forum consider an appropriate re-wording as “the activities associated with some customers of the late-night economy does result in increased crime, antisocial behaviour, noise, waste and physical damage to Soho’s built environment”.

Examiner’s question 7: Should other modifications be made to the Plan’s policies to support commercial activity, including the night-time activity, especially post-Covid 19? As was suggested, there will be a need to preserve jobs, get the economy going again, and get back to a new normal daily life. Shaftesbury PLC commented that the Plan was unclear as to what constituted a ‘large’ office floorplate and provided no evidence that such development would harm the character and heritage of the area. Can the Forum provide more information please in support of Policy 7 and respond to Shaftesbury’s argument that it does not conform¹ with the draft WCC Plan and could be overly restrictive? In addition, is the reference to “single occupiers” inappropriate?

¹ Note: the generally conformity requirement applies only in relation to the adopted strategic development plan policies. However, see also PPG Reference ID: 41-009-20190509.

10. The Forum appreciates that Covid-19 has brought about unprecedented changes to the way we work, shop and live. Covid-19 and its impact has severely affected the economy and, on a smaller scale, the number of transactions and footfall within the Central Activities Zone. In recognition of the future challenges the pandemic may bring, the Forum is supportive of proposals which seek to kickstart the economy. Despite this, the Forum considers that modifications which support commercial activity are not appropriate, as the pandemic remains unpredictable and therefore it would be unwise to implement policies over the duration of the Plan period (up to 2040) which may or may not be considered a short to mid-term measure.

11. With regard to Shaftesbury PLC's comment relating to 'large' office floorplates, the Forum do not support the modification of Policy 7. The Forum would like to highlight that the emerging City Plan justifies why larger floorplates may not be acceptable, as "Soho has a distinctive scale of uses, typically smaller than elsewhere in the West End, typified by the small scale of its individual commercial units at street level. The dense nature of the urban fabric lends itself to smaller floorplates, which typically support tenants from specialist and smaller scale industries, particularly the cultural, creative and visitor sectors and for SMEs. Smaller units and flexible workspaces to encourage this type of use will be supported (supporting text for Policy 21)". Linked to the above (paragraph 8), it is important to iterate that the Covid-19 pandemic has prompted shifts to working patterns, with many employers adopting a work from home policy. This, in turn, may result in a diminished requirement for large office floorplate development. The Forum therefore suggests that the need for larger office floorplates should be monitored over time.

12. As stated above, Soho is an area which is typified by diverse, smaller commercial units. This is in part reflective of the area's historic urban street grid, which typically does not support larger units. To this end, the Forum does not consider Policy 7 to be overly restrictive, as, on the contrary, the Neighbourhood Plan is supportive of flexible workspaces which are suitable for a wider range of businesses. Furthermore, the Forum is happy to amend the wording "single occupiers" to 'single occupier of the building', as its inclusion emphasises the point that the Forum is supportive of a diverse mix of occupiers occupying shared and/or smaller floorplates; and that sole occupiers operating on large floorspaces is not an aspiration of the Neighbourhood Plan.

Examiner's question 8: Shaftesbury PLC also commented on Policy 12, Policy 13, Policy 27 and Policy 31. Other respondents also made similar objections to these policies. Please would the Forum advise whether modifications should be made?

13. Shaftesbury PLC raised concerns over the use of Policy 12, which seeks to protect existing music venues and is supportive of new music venue developments provided they are low impact. Shaftesbury PLC were concerned with the justification text for

Policy 12, which states that “this use should be promoted as being primarily viable as an evening activity rather than a late-night activity because it is recognized that the late-night economy in general adds a degree of pressure to local services and can have adverse impacts on residential amenity”.

14. The Forum is of the view that residential amenity is most adversely impacted during the night-time when compared to in the evening. This is part of a wider problem which centres upon noise and anti-social behaviour. With this in mind, the Forum does not consider it necessary to modify Policy 12 of the Soho Neighbourhood Plan on the basis that it aligns with Policy 39C of the emerging City Plan. Policy 39C states that “all development will place people at the heart of design [...] introducing measures that reduce the opportunity for crime and anti-social behaviour [...] and ensuring a good standard of amenity for new and existing occupiers”. To this end, Policy 12 is considered to uphold the values and needs of both residents and local businesses through promoting sensitive management of music venues in Soho.
15. With regard to Shaftesbury PLC’s comments on Policy 13 (Food and Beverage Developments to Protect Existing Residential Amenity), the Forum is happy to amend the text to remove reference to ‘cafes’ on the grounds that a planning applicant is not required to state the proposed use other than its class use (i.e. ‘A1’). However, it should be noted that pre-existing Use Class Orders have been superseded and therefore Use Class E now covers ‘Food and Drink Establishments’. The Forum is happy to amend the policy wording. The Forum considers it important to include Policy 13 in the Plan, as there have been cases where mitigation for (formerly) A1 cafes, A3, A4, A5 and D2 (now considered Use Class E) uses has not been fully implemented and therefore adverse impacts to residential amenity have occurred. Furthermore, as stated in Para 9 the Forum is happy to amend the justification text highlighted (“whilst there is no cut off [...]”) to be more constructive.
16. With regard to Policy 27, the Forum is happy to amend the policy wording to exclude “being impeded by other uses such as the provision of tables and chairs”. The Forum acknowledges that planning applications which include street furniture should be assessed on a case-by-case basis. However, for clarity, the Forum is happy to provide an additional bullet point under Policy 27, which should read “prevent tables and chairs on the pavement or highway impeding pedestrian movement.” This broadly aligns with Policy KBR14 of the Knightsbridge Neighbourhood Plan and is therefore considered to be robust, though we are happy to be guided by the Examiner.
17. The Forum is happy to modify Part B of Policy 31 on the basis that in some cases it may not be possible to provide extra waste and storage capacity (within the development) for designated neighbouring small commercial units within a 100-metre radius (within the City of Westminster boundary). The Forum is happy to modify the policy wording as stated above.

Examiner’s question 9: The Mayor of London and GLA referenced the LGBTQ+ community’s importance in Soho and encouraged the SNP to

promote the Mayor's LGBTQ+ Venues Charter. They also recommended that reference to Policy S6 of the Intend to Publish version of the London Plan, regarding provision of public toilets, should be made. In addition, the Glossary to the SNP should use the Mayor's definition of affordable housing. Should the Plan be modified to take account of these points?

18. The Forum supports the Mayor of London and the GLA's comments in relation to the LGBTQ+ community's importance in Soho and the desire to make reference to the Mayor's LGBTQ+ Venues Charter within the Neighbourhood Plan. The Forum is happy to make any necessary amendments to ensure the Forum are respectful of and fully address the needs of Soho's LGBTQ+ community.
19. In relation to Policy S6 (Public Toilets) of the Intend to Publish London Plan, the Forum is supportive of making reference to this Policy within the Neighbourhood Plan. However, the Forum questions how Policy S6 should be interpreted i.e. that free publicly accessible toilets "should be available during opening hours, or 24 hours a day where accessed from areas of public realm". In recognition of Soho's thriving night-time economy, it may be the case that regular maintenance and monitoring of public toilets is necessary to prevent anti-social behaviour in these locations, particularly at night. As such, the Forum is happy to make reference to Policy S6, on the condition that additional supporting text stipulates that residential amenity in areas adjacent to public toilets must be protected 24/7. On this basis, the Forum is happy to add the following sentence "new large venues should also take account of Policy S6 of the Intend to Publish London Plan in relation to the provision of public toilets".
20. The Forum is happy to use the Mayor's definition of affordable housing in the Glossary of the Soho Neighbourhood Plan.

Examiner's question 10: Thames Water requested that Policy 31 Part C should refer to the disposal of fats, oils and greases. Should a modification be made?

21. Yes. The Forum acknowledges the issues relating to fats, oils and greases and the threat they pose to Soho's sewerage system i.e. blockages, fatbergs. Given the high proportion of food and beverage outlets within the Soho Neighbourhood Area, the Forum considers it appropriate to include a reference to fats, oils and greases in Policy 31 Part C. This amendment will be reflective of best practice management in the safe disposal of lipids.

Examiner's question 11: Transport for London stated that it does not support car clubs in the CAZ and requested that the text on Page 38 should be modified to make this clear. Should this modification be made?

22. We acknowledge that the Soho Neighbourhood Area is entirely covered by PTAL zone 6b. This is the highest score possible and therefore illustrates that Soho is a well-connected location. However, it is also recognised that it may be essential for some limited journeys to be made by modes other than walking, cycling or public transport, e.g.: a hospital visit. In this event the Forum would be happy to consider provision of a small number of spaces for car clubs within the plan area, but that emphasis should be given in the first instance to sustainable and active modes of travel.

Examiner's question 12: Brunel Planning on behalf of Q-Park objected to Policy 23 and noted that both the WCC's saved Unitary Development Plan Policy Trans 25 and the emerging City Plan support the redevelopment of existing car parks for a range of alternative uses. What is the Forum's view of the objection and should Policy 23 be modified?

23. Policy 23 states that development proposals for the Brewer Street and Poland Street public car parks must demonstrate consideration and evaluation of the potential for adaptation and reuse as micro-consolidation centres. This conforms with Policy 28G of the emerging City Plan which support proposals for the redevelopment of existing car parks for alternative uses and Policy S42 of the Westminster Unitary Development Plan, which stipulates that the provision of off-site consolidation centres is appropriate for developments. This is to ensure that developments adequately demonstrate that the freight, servicing and deliveries will be managed in a way which minimises adverse impacts. Furthermore, Policy SD4 of the Intend to Publish London Plan states that sufficient capacity for industry and logistics should be identified and protected (including last mile distribution and freight consolidation) within or close to the CAZ to support the needs of business and activities within these areas.
24. With the above in mind, the Forum considers it wholly appropriate to support the adaptive redevelopment of both the Poland Street and Brewer Street car parks for reuse as micro-consolidation centres on the basis that higher-level policies are supportive of managing freight via off-site uses. It should also be noted that this policy is reflective of the needs of both residents and businesses, who seek to reduce congestion and its impact on residential amenity and the public realm within Soho. As such, the Forum are happy to modify the policy wording to iterate that micro-consolidation centres are the preferred use for these sites, however, alternative uses will be considered if proposals for micro-consolidation centres do not come forward.

Examiner's question 13: Knightsbridge Neighbourhood Forum requested that the SNP should point more explicitly to the need to achieve zero air emissions from buildings. It provided details of its representations for the emerging WCC City Plan. Clean Air in London put forward amendments to the SNP's Policies 20, 21 and 22 on Air

Quality and Climate Change. Does the Forum seek modifications to the SNP in the light of these representations?

25. Taking into account matters raised in both Knightsbridge Neighbourhood Forum's and Clean Air in London's representations, the Forum supports the amended policy wording which includes reference to the need to achieve zero air emissions from buildings. As raised by Knightsbridge Neighbourhood Forum, Westminster City Council declared a climate emergency on the 18th September 2019 and is set to become carbon neutral by 2040. The Forum supports this aim and is happy to make amendments to reflect this position.

Examiner's question 14: Government changes to the Use Classes Order came into effect on 1st September 2020. It would be helpful if the Forum would advise me as to whether this should lead to any modifications to the SNP.

26. Yes. The Forum considers that a number of minor modifications to the Soho Neighbourhood Plan will be required to ensure that policy wording aligns with the updated Use Classes Order. It is considered that these changes will not materially change the Soho Neighbourhood Plan. In particular, the following policies will need to be amended:
- Policy 12 (Live Music Venues)
 - Policy 13 (Food and Beverage Developments to Protect Existing Residential Amenity)
27. In addition, supplementary text (including the "Summary of Policies 3" section and Glossary definitions for the term "Entertainment Uses" and "Affordable Housing") will need to be amended.
28. We hope that you feel that we have properly addressed the representations and objections to the Soho Neighbourhood Plan you referred to in the annex to your letter of 14th September. We are happy to answer any further questions and provide information as necessary.

Yours sincerely,

Matthew Bennett, chair

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On behalf of the Soho Neighbourhood Forum