


**West Kensington & Gibbs Green Tenants & Residents Associations  
West Ken & Gibbs Green Community Homes**

Councillor Stephen Greenhalgh  
Leader of LB Hammersmith & Fulham  
Room 225  
Hammersmith Town Hall  
Town Hall  
King Street  
London W6 9JU

12 March 2012

Dear Councillor Greenhalgh

**Response to consultation by Hammersmith & Fulham Council on whether to include the West Kensington and Gibbs Green estates in the Earl's Court redevelopment scheme**

Thank you for your letter of 5 March 2012 encouraging us to have our say in the Council's decision on the future of our estates. We attach 615 responses from residents, living in about half of all the occupied addresses on the estates, who entrusted us to deliver these forms safely to you. 

You asked residents "to spend a few moments to write some comments in the boxes ... this is the time to say what you really think in the boxes provided".

538 residents aged four to 92 have written their personal thoughts and feelings in the boxes and/ or have added pages and pictures. These responses supplement the hundreds you have received directly in writing or online.

538 unattributed responses from residents and 20 from neighbours in the wider area with handwriting in the boxes can be viewed here:

<https://skydrive.live.com/redir.aspx?cid=88f7df2072574748&resid=88F7DF2072574748!107&parid=88F7DF2072574748!103&authkey=!AKy2sFf3j25WIZE>

A huge majority of households on the estates who responded to your consultation has voted no to demolition by several factors to one. Indeed, an absolute majority (in excess of 55%, perhaps 60% or more) of all households has voted to save the estates. Please respect this overwhelming democratic vote and accept the final decision of the majority to exclude the estates from the proposed redevelopment.

Many residents have asked questions and made requests of the Council. We expect you to honour your commitment "to personally ensure" that residents' queries are answered. You, fellow decision-makers and officers must read, and reply to all the responses (including this one), which we would expect you to do anyway before you make any decision on whether to sell off, or grant planning permission to demolish, our homes.

The Council's feedback form encouraged residents to identify particular equality impacts on them to help it correctly identify the potential impacts of the scheme in its draft Equality Impact Analysis. For this reason, we have ordered the forms according to gender, age and tenure

Residents' responses show that the loss of well-loved decent homes, the destruction of their familiar environment, and severe disruption to the essential relationships between

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family members, friends and neighbours, would have a highly negative impact on all protected equality groups:

- Children and young people would be separated from friends, neighbours and family support networks, interfering with their schooling and undermining their confidence;
- Children and their families, including pregnant and young mothers, who are private tenants would be made homeless;
- Disabled people such as those who are blind or have impaired mobility are upset; they would be harmed by removal from familiar environments and comfortable well-adapted homes;
- Vulnerable people and those with mental health challenges are disturbed now by the pressure being exerted from the Council; further pressure could worsen their conditions and symptoms;
- People with dementia, currently being protected by family and neighbours, could suffer fatal consequences from removal;
- Elderly people are deeply worried by the threat of removal from surroundings where they feel safe and secure; they would suffer further deterioration to their mental wellbeing and physical health if they were separated from neighbours they trust;
- Delicate support networks for ethnic minorities would be damaged. Given the obscurity of the Information Pack and other material distributed by the Council, people with good English would be disadvantaged, but people with little or no English would be disadvantaged even more (it would be like translating Double-Dutch into Somali or Polish);
- Loss of gardens would hit the youngest and oldest the hardest. You and the developer may personally enjoy ownership of several properties or tens of acres of land: for many residents, the loss of 10 or 30 square metres of their own outdoor door garden/ yard space would be soul-destroying;
- Loss of off-street parking and garages would sorely harm those, especially the elderly and disabled, who rely on visiting support from family members and other carers.

The thousands of highly negative impacts identified by residents in their responses can only be avoided by excluding the estates from the proposed redevelopment. The Council's continued prosecution of the scheme is already causing widespread anxiety, stress, depression, anger and defiance.

On humanitarian grounds alone, and considering the sheer number of vulnerable people affected adversely now, the Council should decide immediately to exclude the estates from the redevelopment proposal.

You have asked us to tell you what we really think: We say: No! No! No! Your high-handed approach is oppressive and has angered most of our neighbours. It is no wonder that so many residents have accused you of being heartless.

We attach to this letter our review of, and response to the Council's consultation process, Information Pack and other documents that you rely on to decide our fate.

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This proves that there is no evidence or rational basis whatsoever for you deciding to force us out and demolish our homes. Rather, the evidence shows you are just doing this to get rid of us for political purposes (Annex 1 below), to make money for the Council, and to profit your agent of destruction, the developer.

We are more determined and more united than ever to stop demolition. We shall not be moved! With the support of the Prime Minister and the Coalition Government, we shall transfer our estates into the responsible and caring ownership of our community.

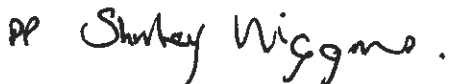
Yours sincerely

PP 

**Sally Taylor, Chair of West Kensington TRA**

PP 

**Diana Belshaw, Chair of Gibbs Green TRA**

PP 

**Shirley Wiggins, Chair of West Ken & Gibbs Green Community Homes**

**REVIEW OF CONSULTATION PROCESS AND INFORMATION RELIED ON BY  
HAMMERSMITH & FULHAM COUNCIL TO DECIDE WHETHER TO INCLUDE THE  
WEST KENSINGTON AND GIBBS GREEN ESTATES IN THE EARL'S COURT  
REDEVELOPMENT SCHEME**

**12 March 2012**

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## SECTION 1. THE CONSULTATION PROCESS

### 1. Summary

Between 30 December and 3 January the Council distributed an 'Information Pack' to residents giving them until 17 February to respond. By way of a letter dated 3 February 2012, the Executive Director of Housing and Regeneration extended this to 12 March.

London Council's advice is that local authority consultation should normally comply with the criteria set out in the Government's Code of Practice on Consultation (2008). <http://www.bis.gov.uk/files/file47158.pdf>

It is apparent from the material set out below, that the consultation process was fundamentally flawed because it was improperly and inclusively served, the duration was too short, the scope and impact of the proposal lacked clarity, and the relevant information was not accessible.

Furthermore, there was a very serious error regarding the Council's powers and secure tenants' rights when seeking possession for redevelopment. And the Council mistakenly asserted residents could pursue stock transfer after it sold the land. (See Section 2: Information Pack below.)

The Council's S105 remedy does not satisfy the requirements for council tenants in the borough; the consultation breaches the Council's own policies. Denying the right to vote does not rise to the bar that is expected from relevant guidance and does not afford a level of involvement that meets with current practices.

### 2. Service

#### **The service of the consultation documents was improper and inconclusive**

The Information Pack states: "For secure tenants on the estates, this consultation process will also satisfy the requirements of section 105 of the Housing Act 1985".

LBHF's Tenancy Agreement states:

- ii) Any notice including a Notice to Quit or Notice of Seeking Possession which the council may serve shall be required under this agreement to serve upon the tenant will be properly and conclusively served if:
  - ii.i) it is delivered to the premises, or
  - ii.ii) it is certified to have been posted to the premises, and in either case
  - ii.iii) it is addressed to the tenant by name or to "the tenant"

[http://www.lbhf.gov.uk/Images/sample%20tenancy%20agreement\\_tcm21-115285.pdf](http://www.lbhf.gov.uk/Images/sample%20tenancy%20agreement_tcm21-115285.pdf)

The Council did not address the consultation to the tenant by name or to "the Tenant". Indeed, it did not address the consultation to anybody! Instead, it simply placed the covering letter on top of the 'Information Pack' so that the words "Dear Resident" showed through a window in the envelope. No address or name was added, either to the envelope or to the covering letter.

This contravenes the terms of service in the Tenancy Agreement. Therefore, the S105 notice is improperly served and inconclusive.

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Some residents said they did not receive the Information Pack. The delivery occurred over several days during the New Year holiday period. The Council should provide evidence to confirm that it actually delivered all the envelopes to secure tenants and to others the Council says it wants to keep informed. Did the Council made direct contact with absentee landlords to ensure they were consulted?

The Council will need to comply with the Tenancy Agreement to achieve proper and conclusive service, re-serving the consultation, addressing it to the tenant by name or to "the Tenant".

### **3. Duration**

The policy of national Government and London Councils is that consultations should last at least 12 weeks and longer for matters of especial impact on the consultees. The Government Code states:

**Criterion 2 Duration of consultation exercises** Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible. (CPC 2008)

However, in his letter of 3 February, the Executive Director of Housing and Regeneration states:

the Council has not explicitly adopted the Government's Code of Practice ... and so ... the Council is not bound by it. What is fair and appropriate depends on all the circumstances.

The six weeks originally set by the Council was plainly an insufficient and unreasonable period for people to consider properly and respond. The Council extended the deadline to 10 weeks. However, given the gravity of the impact on residents, it is plain that the Council should have granted at least 12 weeks if not three or four calendar months. It is difficult to imagine a more important matter affecting people's lives.

The Council's actions suggest the consultation exercise is being driven by political and commercial considerations and timetables rather than by the need to consult people properly, ensuring everyone, especially those who are hard to reach.

### **4. Clarity and scope of impact**

The Government's Code of Practice states:

**Criterion 3 Clarity of scope and impact** Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals. (CPC 2008)

It is apparent from the information presented in Section 2 (below) that the consultation documents are not at all clear about the process, what is proposed, the scope to influence and the expected costs and benefits.

There are many instances in the tenant and leaseholder/freeholder 'offers' where the questions posed are either not answered at all or contain answers that are misleading, inadequate or contradictory. (See Section 2: Information Pack.)

### **5. Accessibility**

The Government's Consultation Code of Practice states:

**Criterion 4 Accessibility of consultation exercises** Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach. (CPC 2008)

### **Essential documents were not accessible to disadvantaged groups**

The explanation preceding the feedback form in the Information Pack states: "The council has attempted to identify the potential impacts in a 'draft Equality Impact Analysis', which you can find at [www.lbhf.gov.uk/westken](http://www.lbhf.gov.uk/westken). We would welcome any comments you have on whether we have correctly identified the potential impacts in this document."

Given there is substantial evidence that disadvantaged groups have much more limited access to the internet and so large numbers of people would not be able to obtain the information, they would be disadvantaged by the process of consultation itself. The Council should have sent a printed copy of the draft EqIA to everyone.

Despite the Council's emphasis on residents identifying equality impacts, the form itself does not include this as one of the questions.

Likewise, page 14 of the Information Pack refers residents to the same webpage for the Economic Appraisal. A printed copy should have been distributed to all residents as it is the basis for the Council's decision that the estates should be sold to the developer for demolition.

## **6. Changes to the information and geographical extent of the consultation**

During the consultation period, the Council drip-fed confusing snippets of information about the CLSA to residents.

Version 3 states: "The developer must build the new homes before demolishing existing properties on the estate. Only then will the land be passed to the developer."

Version 2 states: "the developer would have a maximum of five years from the date of the Conditional Land Sale Agreement in which to exercise its option to purchase the estate land".

Version 1 states: "the land agreement would grant EC Properties the right, for up to five years, to purchase the land in phases, on satisfaction of a a number of conditions".

Version 2 also states: The Council anticipates that it will have received the full (approximately) £100 million by 2020, although the phases of construction and demolition may take considerably longer than that to complete, assuming that all the phases proceed as both the Council and the developer intend.

Version 1 states: "The Council hopes to make a final decision in Spring 2012".

[Link to Version 3](#)

[Link to Version 2](#)

[Link to Version 1](#)

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The letter of 3 February from the Executive Director of Housing and Regeneration contradicts the assurances of legally binding guarantees to a new home: "the developer will not be legally bound to proceed with each of the subsequent phases".

Midway through the consultation period, the Council widened the geographical extent to cover much of Fulham, provoking a response from the MP for the neighbouring constituency to respond supporting demolition.

**7. Breaches of statutory duties, policies and guidance**

**A. The Council failed to comply with S105 (1) and (5) of the Housing Act 1985 and its remedy does not satisfy requirements in respect of other council tenants**

Housing Act 1985

1985 CHAPTER 68 PART IV  
SECURE TENANCIES AND RIGHTS OF SECURE TENANTS  
*Provision of information and consultation*  
**105 Consultation on matters of housing management.**

(1) A landlord authority shall maintain such arrangements as it considers appropriate to enable those of its secure tenants who are likely to be substantially affected by a matter of housing management to which this section applies—

- (a) to be informed of the authority's proposals in respect of the matter, and
  - (b) to make their views known to the authority within a specified period;
- and the authority shall, before making any decision on the matter, consider any representations made to it in accordance with those arrangements.

(5) A landlord authority shall publish details of the arrangements which it makes under this section, and a copy of the documents published under this subsection shall—

- (a) be made available at the authority's principal office for inspection at all reasonable hours, without charge, by members of the public, and
- (b) be given, on payment of a reasonable fee, to any member of the public who asks for one.

On 14 October 2011, when asked to supply a copy of its arrangements under S105, the Council provided:

[http://www.lbhf.gov.uk/Images/RI%20Strategy.Final%20V.4June09\\_tcm21-123399.pdf](http://www.lbhf.gov.uk/Images/RI%20Strategy.Final%20V.4June09_tcm21-123399.pdf)

[http://www.lbhf.gov.uk/Images/Housing\\_Strategy\\_Final\\_Bookmarked\\_tcm21-80328.pdf](http://www.lbhf.gov.uk/Images/Housing_Strategy_Final_Bookmarked_tcm21-80328.pdf)

Neither of these documents makes any reference whatsoever to S105 or to arrangements for consultation with residents.

The Council subsequently, on the same date, provided a copy of 'The Participation Compact 2009'. This document makes no reference to Section 105, nor does it set out any arrangements for appropriate consultation (with one exception, which it has breached - see below), or specify a time period within which secure tenants can make their views known.

The Council subsequently published its arrangements for consultation with West Kensington & Gibbs Green residents under S105 here

[http://www.lbhf.gov.uk/Images/Earls\\_Court\\_Consultation\\_S105\\_of\\_housing\\_act\\_tcm21-167444.pdf](http://www.lbhf.gov.uk/Images/Earls_Court_Consultation_S105_of_housing_act_tcm21-167444.pdf)



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However, its remedy in respect of West Kensington & Gibbs Green is not a remedy for failing to publish arrangements and not specifying a consultation time period for its many thousands of secure tenants under S105, especially given how many other council estates are threatened with demolition and sale.

**B. The Council has breached its own 'Compact' by not consulting with the TRAs**

The Council's Participation Compact 2009 states:

On major issues that affect all residents – for example changes in the way residents' homes are managed or to the tenancy agreement, residents will be informed and consulted on an individual level and given the opportunity to express their views in addition to the consultation carried out formally with resident representatives.

However, the Council has not carried out any formal consultation with resident representatives.

Instead, it has set up a 'Steering Group' at a cost of more than £38,000 that was designed to bypass the existing democratic process and is unelected.

The Council's 'Response to representations, Proposed Core Strategy 2010', dated around March 2011, states:

The Council has set up a Residents Steering Group to co-ordinate ongoing discussions with residents around key issues such as the Supplementary Planning Document, the design of new homes, the phasing plans, and the provision of new social infrastructure. This group will continue to operate as a primary point of contact for the Council. (pages 5&6)

In late January 2012, two of the three founding members of the Steering Group resigned, primarily because it had become apparent to them, and was later confirmed to all residents by the Executive Director of Housing and Regeneration, that there was no legally binding guarantee on the developer in the CLSA to build subsequent phases of the development.

The Steering Group is obviously a stooge operation and has no legitimate basis.

**C. Statutory Guidance**

Given the nature of what is proposed, the Council should have applied the same level of consultation as laid down in the Housing Act 1985: Schedule 3A – consultation before disposal to private sector landlord, Statutory guidance – paragraph 3: requirements as to consultation.

<http://www.communities.gov.uk/documents/housing/pdf/1293538.pdf>

The Guidance is explicit about the need to present a clear choice to people on which they can make a decision, something this consultation utterly fails to do.

The Council should follow the second as well as the first part of statutory guidance above and pose a clear choice in an independently run ballot on whether the estates should be sold to the developer for redevelopment or whether they should be transferred to a community-based housing association.

## **SECTION 2. THE INFORMATION PACK**

### **1. Background**

The Council distributed an Information Pack to residents at the beginning of January 2012. The pack contained:

- A covering letter from the Director of Housing and Regeneration
- Notice of drop in sessions
- Tenant offer
- Leaseholder/ Freeholder offer
- West Kensington & Gibbs Green Information Pack
- Feedback form and envelope

### **2. Summary**

The Information Pack:

- Asks residents whether the Council should sign a land sale agreement which neither the residents, nor their Member of Parliament are allowed to see;
- Poses many questions that it does not answer;
- Contains answers so hedged by conditions, unknowns, and obscure and unwritten policies as to make them impossible to evaluate;
- Disguises what residents would lose, hides their lack of choice, and obscures the increased costs they would face;
- Mistakenly advises tenants it would use CPO powers to force them out, and fails to inform tenants about the legal grounds it could use to seek possession of their homes;
- Mistakenly asserts that residents could use S34A to take over their estates after the land has been sold to the developer;
- Contains so many errors, contradictions and deficiencies as to invalidate the consultation.

The LBHF 'offer' falls far short of what a landlord who was genuinely interested in the welfare of residents would offer. The promises are murky at best, mistaken, contradictory or just not explained at worst. Even if they were properly explained without all the caveats and unknowns, nearly all of them are measures that the Council is legally obliged to take and which would apply to any landlord, including ourselves if we took over the estates.

The remainder of the promises, such as offering to throw away household appliances because it's cheaper for the developer to mass supply and fit, are designed to meet the convenience of the Council and the developer, rather than the interests of the residents.

The Council has not compared this 'offer' with that made to residents of other regeneration schemes. Therefore, it has no evidence to support its extravagant claims