

The overwhelming evidence of bias, omission and misrepresentation fatally undermines the EqIA's validity.

The EqIA's content and conclusions are so profoundly erroneous as to be quite unsafe: they cannot be relied upon as an assessment of the impacts of the Options on vulnerable and disadvantaged people, let alone for concluding that the best outcome in equality or any other terms is the demolition and redevelopment of the West Kensington and Gibbs green Estates.

3. ANALYSIS OF THE IMPACTS

A. Obfuscated methodology leading to biased analysis

The EqIA claims to set out "an analysis of the impact of each of the options on the protected characteristics, outlining whether the option will have a positive/neutral/negative impact and whether it is of low/medium/high relevance to equality".

However, the EqIA repeatedly conflates impacts with rating judgments by including in the impacts it outlines statements such as: "Limited impacts"; "Significant positive impact"; "Very substantial positive impact".

The conflation of impacts with their ratings obfuscates the application of the methodology to the assessment process and biases the scores against Options 1 and 2 and in favour of Options 3(a) and (b) and 4.

B. Key missing option and analysis leading to biased scoring

The EQIA claims (on page 1, para 5) that "it assesses the impact of each of the identified options" in the EOA report. However, it *does not* assess the impact of the 'alternative scenario' identified under Option 1 in the EOA report, which is for the Council to make a stock transfer of the estates to a Registered Provider, even though the EOA report *does* make an, albeit partial, assessment of this option.

Thus the EqIA has not analysed the equalities impact of the vision, supported by the overwhelming majority of residents, which would be realised were the estates to be transferred to a community-based housing association.

The omission of the 'alternative scenario' biases the analysis and scores against Options 1 and 2 and in favour of Options 3 (a) and (b) and 4.

C. Significant positive impacts omitted leading to biased analysis

The EqIA omits all the significant positive impacts that would result from the 'alternative scenario' under Option 1, which is the stock transfer of the estates into democratically accountable community ownership. These include:

- The improvement of the housing and neighbourhood according to the needs and wishes, and under the direction of the local community.
- The much greater and more tailored support for vulnerable individuals that would be provided through a community landlord.
- The comprehensive range of community services that would be provided by the community landlord that would be the most effective means for meeting local

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needs, especially those of younger people who would benefit from the better access educational, training and employment opportunities that a community landlord can deliver.

- The major improvement to health, well-being and happiness that community ownership provides through people being able to influence for the good what happens to their homes and local environment.
- An increase in housing that is environmentally sustainable, meets local needs and does not overload local transport and other infrastructure.

The omission of these significant positive impacts biases the analysis and scores against Options 1 and 2 and in favour of Options 3 (a) and (b) and 4.

D. Significant negative impacts omitted leading to biased analysis

The EqIA omits all but one of the significant negative impacts from demolition, specifically:

- The stress and worry that demolition and forcible rehousing would have on vulnerable people, including the elderly, disabled, pregnant women and young mothers; and the very inadequate proposals to mitigate the disruption to family ties and social networks and the weakening of social cohesion.
- The stress, worry, noise, disturbance, and dust that would be caused to vulnerable people by the redevelopment of their surroundings of a 10-15 year period.
- The loss of around 240 private gardens- especially vital for elderly and disabled people and for families with young children; and the loss of balconies on Gibbs Green.
- The loss of around 200 private garages, many of which are part of the dwellings, the loss of around 150 off-street parking spaces attached to the dwellings, and the loss of over 200 open-air parking spaces within view of dwellings.
- The loss of easily accessible green space and existing community, educational and play facilities that are currently available to everyone on the estates.
- The loss of access to existing employment, recruitment and training in the area that would be destroyed or displaced in favour of uncertain future employment that would not replace existing.
- Disadvantage to minority ethnic residents whose rights are especially challenged because English is not their first language.

The omission of these significant negative impacts biases the analysis and scores against Options 1 and 2 and in favour of Options 3 (a) and (b) and 4.

E. Misconstrued and erroneous impacts leading to biased analysis

It is evident that the impacts the EqIA does identify are misinformed, misplaced, misconstrued and erroneous. Critically:

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- The EqIA rates the impact on residents' access to and integration with the wider area as negative in Options 1,2, and 3(b), and as positive in Options 3(a) and 4. This presupposes that residents' access to and integration with the wider area are low and need significant improvement, which can only be delivered through redevelopment.

In fact, residents already have very high access to and integration with the wider area. In June 2009, the Council reported the results of its own survey of residents, undertaken in December 2008 and January 2009, which found that:

An overwhelming number of residents felt that both estates were very easy to navigate and 85% of respondents found getting around within the estates and 79% externally to be 'very easy'.

Many residents said that access to public transport connections was very easy from both estates as was access to the surrounding areas. Easy access to public transport was voiced by many as one of the most attractive reasons for living in the area.

Perversely, the EqIA rates the preservation of the very high access and integration residents currently enjoy as negative, and its diminution through massive overdevelopment as positive.

- Under 'Age', which relates to older people and children, Options 3 (a) and (b) and 4 outline "very substantial positive impact" through the creation of new social and community facilities, including primary school and nursery provision as well as additional children's play space and new health provision.

But residents already enjoy access to two community centres and two large GP practices housed in new purpose-built premises. There is a purpose-built primary school on Gibbs Green and a purpose-built nursery on West Kensington, both with extensive open areas for play and sports. Also on the estates there are two enclosed playgrounds for younger children; two fenced football and kick about areas for teenagers; and several large green and open areas. Elderly and vulnerable people benefit especially from the support provided by the concierge service in the larger blocks.

Under 'Age', the relevance to equality is assessed as high. However, under 'Disability' and 'Pregnancy and maternity', Options 3 (a) and (b) and 4 outline only "significant positive impact through the provision of new social and community facilities, including new health provision". The EqIA rates this impact as positive, and assesses its relevance to equality as medium. No rationale is supplied to explain this discrepancy.

Inexplicably, therefore, the impact of keeping existing purpose-built functional community facilities, including the concierge service, is not identified or rated under Options 1 and 2. Perversely, their loss under Options 3(a) and (b) and 4 is rated positive. The assessment of relevance to equality is applied inconsistently.

- Under Options 3 (a) and (b) and 4, the EqIA claims "very substantial positive impact" on employment opportunities through the creation of jobs and associated recruitment and training programmes.

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But older and younger people already have high access to jobs, recruitment and training. In the Opportunity Area alone, thousands of direct and indirect jobs are generated by the Earl's Court Exhibition Centres, locally and more widely; TfL employs hundreds of staff at the Lillie Bridge rail depot and in Ashfield House, TfL's central staff training facility; Rootstein's, the world's leading manufacturer of lifelike mannequins, provides dozens of jobs; there are jobs too in the school on Gibbs Green and yet more are generated in other buildings in the Opportunity Area.

Sustaining residents' high access to these existing thousands of jobs and diverse recruitment and training opportunities is not identified or rated under Options 1 and 2. Perversely, under Options 3(a) and (b) and 4, their loss in favour of highly uncertain replacement, which would not even match existing, is rated positive.

- The EqIA identifies providing better access through lifts and level access as a positive impact under Options 3(a) and 4. But residents already enjoy access to the vast majority of homes via lifts in the higher blocks and level access to the houses and ground floor apartments. Indeed many of the new housing association homes have specially designed carports for disabled people, the loss of which is ignored.

The positive impact of retaining the lifts and level access residents enjoy now (including disabled carports) is ignored under Options 1 and 2. Perversely, the loss of this access is rated positive under Options 3(a) and (b) and 4.

- The only impact that is rated negative in Options 3(a) and (b) and 4 is "disruption" for vulnerable people, including the elderly, disabled and pregnant women. The EqIA suggests this can be mitigated through providing "help with packing and rehousing".

The misconstrued impacts irrationally bias or have been skewed to prejudice the scores against Options 1 and 2 and in favour of the preferred Options 3(a) and (b) and 4. The proposed mitigation is inadequate.

F. Perverse assessment leading to biased analysis

Under Options 3(a) and (b) and 4 the EqIA rates 'disruption' from rehousing groups with the protected characteristics of 'age', 'disability' and 'pregnancy and maternity' as negative and assesses their relevance to equality as high, though mitigation is proposed through "help with packing and rehousing".

On any rational expectation, therefore, the impact of 'no disruption' from demolition should be rated positive and its relevance to equality assessed as high. But, under Options 1 and 2 the EqIA rates 'no disruption' as neutral and assesses its relevance to equality as low.

This perverse assessment biases the scores against Options 1 and 2 and in favour of the preferred Options 3(a) and (b) and 4. The proposed mitigation is inadequate.

G. Missing and partial analysis leading to biased analysis

For 'gender reassignment', 'marriage and civil partnership', 'sex' and 'sexual orientation' the EqIA claims that all impacts will be neutral, using 'N/A' to fill all the columns that rate their impacts and assess their relevance to equality.

For 'race' and 'religion/belief (including non-belief)' the EqIA applies the same 'N/A' treatment, with one exception. In Option 4, under 'race', it outlines the impact that "since some race groups are more likely to over-occupy, a needs based allocation would benefit these tenants". It rates this impact as high and assesses its relevance to equality as low. Under 'religion/belief (including non-belief)', it outlines the impact that "opportunities to locate people near a place of worship would be accommodated where possible". It rates this impact as high and assesses its relevance to equality as low.

This is nonsense. The EqIA claims its standard rating and assessment scoring system for analysing equality impacts on the protected characteristics for six groups is not applicable, except randomly and spuriously in two instances, both of which bias the scores against Options 1 and 2 and in favour of Option 4.

4. HUMAN RIGHTS

A. Article 6: Right to a fair trial

No account is taken for the effects of forced repossession on the protected characteristic of 'race'. Tenants and leaseholders, whose first language is not English, will be disadvantaged when seeking a fair hearing.

B. Article 8: Respect for your private and family life, home and correspondence

The EqIA claims that: "any interference with the residents' human rights would be proportionate to the legitimate aim of regenerating the area".

This does not address what the Act stipulates, which is that "there shall be no interference by a public authority with the exercise of this right, except such as is in accordance with the law and is necessary in a democratic society for the economic wellbeing of the country".

It cannot be said that the scheme is in accordance with the law because the exclusivity deal to negotiate the sale of the estates to the developer is currently subject to proceedings under Judicial Review.

The Council has bypassed the official democratic bodies, which represent the overwhelming majority of residents, in favour of a minority group of unelected persons not accountable to the residents.

Far from being necessary for the good of the country, redevelopment would harm economic wellbeing by removing £Billions of income from the London and national economy in favour of the very unsustainable property speculation that has floored so many western economies.

The aim is not legitimate since it is driven by the improper motive to gain political party electoral advantage through altering the make-up of the electorate (Annex 1: Greenhalgh and Moss, Proposals for radical reform of social housing, 11 February 2009, Conservative Home).

'Regeneration' is an Orwellian euphemism for demolition. The homes, the rail depot and the exhibition centres are decent, well-loved, and sustainable assets, easily capable of sensitive improvement.

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There is no justification for demolition, and redevelopment is not necessary, except to provide an incentive for property speculators to help achieve the public authority's unlawful objective to gain party electoral advantage. Redevelopment is patently detrimental to local people, unsustainable for the environment and harmful to the economy.

5. CHILDREN'S RIGHTS

The assessment of the impact on children's rights is invalid as it relies entirely on the faulty methodology, content and conclusions outlined in the main part of the analysis above. It omits the evidence of how community transfer would help protect and enhance children's rights and opportunities, especially through dedicated and expanded educational, training and employment services for younger people.

6. LBHF COMMUNITY STRATEGY

The EqIA does not supply any evidence that demolition and redevelopment would help achieve the objectives of the Council's Community Strategy. It omits evidence that community transfer would help achieve these objectives. It makes no reference to Government policies to empower local communities to take greater ownership and control of their neighbourhoods.

7. LBHF SINGLE EQUALITY SCHEME

The EqIA does not supply any evidence that demolition and redevelopment would help achieve the objectives of the Council's Single Equality Scheme. It omits evidence that community transfer would help achieve these objectives.

8. EQUALITIES DUTIES

The EqIA does not supply any evidence that demolition and redevelopment would help achieve the duties in the Act. It omits evidence that community transfer would help achieve these duties through providing an opportunity for all residents to have a stake in their home and a real influence over the future of their neighbourhood.

9. GENERAL DEMOGRAPHIC INFORMATION

The EqIA stresses that "the information within this section has been taken from the West Kensington and Gibbs Green Estates Profile November 2009".

This same Profile was cited also as the source for social and other occupation data provided by the first draft SPD to justify demolition of the estates. The same information was used in the second draft SPD in the Housing chapter, though this time the Profile was not cited as a source. The Economic Options Appraisal also relies on the Profile, though it does not reference it as the source.

(Additionally: the Statement of Consultation supporting the revised SPD states at 9.4: "The West Kensington and Gibbs Green Estate Profile produced in July 2010 sets out background information on the estates and details the issues arising from the engagement process and conclusions from the process as well as background information on the participants.")

Despite repeated requests for the Profile, and repeated promises that it would be supplied, the Council has failed to provide it. This is suspicious: without being able to

verify the information it contains, this data cannot be relied on to inform the EqlA, the SPD or the EOA.

If the Profile is deficient, is partial, or has been falsified in any way, this could further render unsafe any decisions that depended on it to assess the economic benefits, the equality impacts, and the planning merits that would result from selling off, demolishing and redeveloping the estates.

10. ENGAGEMENT STRATEGY

To say that this section of the EqlA is a partial representation of the facts would be to understate its scale of omission and audacity of misrepresentation: it is a travesty of the truth.

The EqlA states:

“The potential inclusion of the estates within the development proposals has been met, understandably by a mix of views from estate residents some estates residents are very supportive of the inclusion of the estates in the redevelopment proposals, some residents are opposed, whilst others want further information before determining their views”

However, the evidence, which it fails to mention, does not support this conclusion:

- Between September and December 2009 around 1,000 residents living in 80% of the homes signed the petition that called on the Council to:
 1. Withdraw the accusation our neighbourhood is “not decent”;
 2. Abandon the plans to demolish, redevelop or intensify our estates;
 3. Guarantee that nobody will be forced to move;
 4. Leave it to us to determine the future of our homes and community.

16% of households could not be contacted and 4% refused to sign. The TRAs published this information at the time they served the S34A Notice on the Council proposing the transfer of their estates to a community housing association. They showed this petition to the Council's Cabinet on 18 July 2011. However, they have not sent, nor will they send the names and address of the signatories to the Council because they do not trust them and they have been advised by their MP that the Council could misuse this information. The original petition sheets are kept on file and are available only for the purposes of inspection to verify the signatures and the results.

- On 11 February 2010, some 150 residents attended CapCo's consultation session in the Gibbs Green Hall. According to the report in the Fulham Chronicle on 19 February, *'We won't be moved from our estate without a fight'*, one resident explained, “They want to destroy our estates and that's why we're fighting. Believe me, we've got the Dunkirk spirit here”; and another said, “I won't be going anywhere quietly. They can bet on that.” The paper's editor reported:

“Colin, Luke and Jane are three voices among hundreds steeled for a long battle to preserve their communities as they are. Under the banner of the West Ken and Gibbs Green Tenants' and Residents Associations (TRAs) they are urging the secretary of state for housing to allow them to take control of the estate from the council. While they await a legal decision they are planning a long, creative and resilient campaign to block the bulldozers, should they come.”

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- On 28 July, 2011, the TRAs' Solicitor, Winckworth Sherwood, wrote to the Council's Chief Executive:

"My clients are angry about the Council's use of money and resources to orchestrate a divisive minority campaign to lend credence to its claim that most residents favour redevelopment. The associations, who are democratically elected and formally recognised by the borough federation, feel it's a subversion of democracy, which brings the Council into disrepute. Certainly, if true, it is not a proper purpose for an English local authority.

"I have examined the documentation, and I verify that, so far, residents from two thirds of the 763 addresses on the two estates (i.e. all the residential properties bounded by the plan attached to your 18 July Cabinet report) have signed forms applying to join the new association to take over the estates. These forms state: "West Ken & Gibbs Green Community Homes is dedicated to improving the neighbourhood and to saving the estates by transferring them into community ownership under resident control".

It is evident that the overwhelming majority of residents are steadfastly opposed to demolition and are determined to use Section 34A of the 1985 Housing Act to take over their homes.

.... Further to evidence supplied by my clients, and to the intervention of the Financial Services Authority Chairman, Adair, Lord Turner, the Council's developer associate, Capital & Counties recorded: "Inability to reach agreement with adjacent landowners (including risk of section 34A of the Housing Act 1985 in relation to the London Borough of Hammersmith & Fulham (LBHF) land in ECOA)" as one of its principal risks and uncertainties in its Annual Report and Accounts 2010."

West Ken & Gibbs Green Community Homes Limited is incorporated as the community association to take over the estates; over 600 residents are Members; over 100 residents and Members attended the Company's AGM to elect a Board of residents; and the Board has elected Officers and co-opted three experts.

The EqIA states:

"In order to engage effectively with the Council and to counter rumour and misinformation a group of residents formed the West Kensington and Gibbs Green Steering Group. The group has grown and has developed its role in negotiating and working with the Council and CapCo in looking at the potential redevelopment scheme. The Group has advised the Council on how best to engage and communicate with residents, have negotiated Tenant and Leaseholder assurances for all estate residents and act as a point of contact for residents."

The EqIA does not mention the West Kensington & Gibbs Green Tenants & Residents Associations, even though these are the officially registered TRAs. The Council's lack of support for the registered TRAs and its instigation of a compliant client group is contrary to the Council's Participation Compact 2009, which states:

".... all Compact partners will encourage and support T&RAs. These will be representative bodies drawn from the residents of council housing and subject to registration criteria.

.... Registered T&RAs are the focus of the formal resident and involvement processes in Hammersmith and Fulham. They are also the main focus for local consultation at estate level for both HFH and the Council."

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What rumour and misinformation? Where is the evidence for this assertion? The information circulating on the estates was that the council wanted to sell the estates to the developer for demolition and redevelopment and that the Leader of the Council had said residents would be moved to Seagrave Road.

The EqIA claims "a group of residents formed" the Steering Group. But, the Council's own statements provide overwhelming evidence to the contrary:

"We want to set up a steering group." (Council newsletter Summer 2010)

"The Council will set up a steering group". (Council newsletter November 2010)

"The Council has made a commitment ... by establishing a residents Steering Group. Harry Audley, who some of you may know has successfully worked with residents and the Council for a number of years as Chair of the White City Tenants and Residents Association amongst other roles, has volunteered to act as an independent Chair for this meeting." (18 January 2011, letter from Council to selected residents)

"The Council has set up a residents' steering group." (H&F Cllr Harry Phibbs, 11 February 2011, Conservative Home)

"Residents Steering Group: The Council has set up a residents group." (Officer briefing for H&F Councillors, February 2011)

"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." (Council's response to comments from TRAs on Proposed Core Strategy 2010)

In March 2010, without the knowledge of, and absent any authorisation from the TRA Committees, the Chair and Secretary of West Kensington and the Chair of Gibbs Green TRAs accepted an invitation to meet with the Council. At this meeting, they agreed to go along with the Council's plans and to negotiate 'assurances' for residents. The Council then wrote confirming this arrangement to those three individuals in their TRA capacities, even though they had been acting alone, without authorisation, and against the TRAs' policies. The letter was not sent to any Committee Member other than the three individuals concerned.

At subsequent TRA Committee meetings, these three TRA Committee Members tried to impose the arrangement they had agreed with the Council on the associations. However, the majority of Committee Members were not prepared to betray the petition, signed by so many residents, and were determined not to break the many resolutions agreed unanimously at General Meetings to oppose demolition and to seek community transfer.

The three Committee Members lost several votes in Committee; at the beginning of May 2010, they resigned from the TRA Committees. It is these three residents who were subsequently used by the Council to form the core of the Steering group. Since then, the Council has spent at least £38,000 on supporting and organising the Steering Group. The developer also supports the Steering Group, attending and hosting its meetings.

The Steering Group was born out of a breach of trust by the Council and by these three former Committee Members. The Steering Group is unregistered, is unelected, and is unaccountable to residents. How many Members does it have? How does it choose its

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Board? Who are its paymasters? It has no authority to negotiate contracts on behalf all residents or to act as a point of contact for estate residents.

In January 2012, two of the three founding members of the Steering Group resigned once it became apparent there was no legally binding guarantee on the developer to build the subsequent phases.

The EqIA claims:

"The Council has a dedicated West Kensington and Gibbs Green website which is updated with all recent information and documents relating to the potential development of the project."

At 12 December 2011, the position on this 'dedicated website' was:

- Newsletters post March 2011: Not available.
- Cabinet decision to enter an Exclusivity Agreement (18 July 2011): Not available.
- Cabinet report on decision to accept the EOA report and this EqIA (7 November 2011): Not available.
- Page last updated: 22 August 2011.

11. KEY MESSAGES FROM RESIDENTS

The EQIA states:

"There is a clear mix of views, opinions and aspirations amongst the West Kensington and Gibbs Green estates residents about the future of their estates, with some residents being supportive of regeneration and the possible benefits it could bring, whilst other believe that regeneration of the estates is unnecessary".

This is a gross misrepresentation of the facts, which are that the overwhelming majority of residents, backed by their registered Tenants & Residents Associations are opposed to demolition and have formed a company to take over their estates.

The EqIA's key messages from residents disproportionately reflect the views of a small minority and barely reflect the views of the majority. Their content is obviously partial, and designed to support an analysis that favours demolition.

12. REDUCING ANY ADVERSE IMPACTS

The EqIA ignores seven significant negative impacts (set out above). Thus, it makes no attempt to mitigate these, and so it fails to reduce their adverse impacts.

The 'offer-document' containing the so-called 'assurances' the Council claims to have negotiated does not offer any significant advantages to residents. On 23 May 2011, the TRAs' Solicitor, Winckworth Sherwood advised:

"The contract does not guarantee that you will be better off. Most of its commitments are only undertakings to consider following policies that they may decide in the future, and are limited to what the Council can afford at the time. The contract offers less compared to standard offers made by other councils in similar circumstances. It tells you nothing about where you would go and what choice of offers you might get