

# INDEPENDENT EXAMINATION OF THE WEST FINCHLEY NEIGHBOURHOOD PLAN

EXAMINER: Jill Kingaby BSc(Econ) MSC MRTPI

Salim Sabri  
West Finchley Neighbourhood Forum

Caroline Stone  
London Borough of Barnet

Examination Ref: 01/JK/WFNP

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Dear Mr Sabri and Ms Stone

## WEST FINCHLEY NEIGHBOURHOOD PLAN EXAMINATION

Following the submission of the West Finchley Neighbourhood Plan (the Plan) for examination, I would like to clarify several initial procedural matters.

### 1. Examination Documentation

I can confirm that I am satisfied that I have received a complete submission of the Plan and accompanying documentation, including the Basic Conditions Statement, the Consultation Statement and the Regulation 16 representations, to enable me to undertake the examination.

Subject to my detailed assessment of the Plan, I have not at this initial stage identified any very significant and obvious flaws in it that might lead me to advise that the examination should not proceed.

### 2. Site Visit

I will aim to carry out a site visit to the neighbourhood plan area once the prevailing government COVID-19 restrictions are lifted. The site visit will assist in my assessment of the draft Plan, including the issues identified in the representations.

The visit will be undertaken unaccompanied. It is very important that I am not approached to discuss any aspects of the Plan or the neighbourhood area, as this may be perceived to prejudice my independence and risk compromising the fairness of the examination process.

### 3. Written Representations

At this stage I consider the examination can be conducted solely by the written representations procedure, without the need for a hearing. Nevertheless, I will reserve the option to convene a hearing should a matter or matters come to light where I consider that a hearing is necessary to ensure the adequate examination of an issue, or to ensure that a person has a fair chance to put a case.

### 4. Further Clarification

I have a number of initial questions seeking further clarification from the Neighbourhood Forum. I have set these questions out in the Annex to this letter. I would be grateful if a written response could be provided within **three weeks** of receipt of this letter.

I may have some further questions which seek clarification on other matters, once I have undertaken my site visit.

#### 5. Examination Timetable

As you will be aware, the intention is to conduct the examination (including the site visit) with a view to providing a draft report (for 'fact checking') within 6 weeks of submission of the Plan.

However, in view of the additional information which I have requested, I must provide the opportunity for you to reply. This, coupled with the uncertainty around the date of the site visit, means the examination timetable will need to be extended. Please be assured that I will seek to mitigate any delay as far as is practicable and possible. The IPe office team will keep you updated on the anticipated site visit date and the delivery date of the draft report.

If you have any process questions related to the conduct of the examination which you would like me to address, please do not hesitate to contact the office team in the first instance.

In the interests of transparency, may I prevail upon you to ensure that a copy of this letter is placed on both the Neighbourhood Forum and Local Authority websites.

Thank you in advance for your assistance.

Your sincerely

*Jill Kingaby*

Examiner

## ANNEX

I have read the submitted Neighbourhood Plan, and the supporting evidence, and look forward to making a site visit to the area in the future. Before I do so, I have a number of questions related to the Plan's compliance with the Basic Conditions for neighbourhood planning. A number of these stem from the responses made by interested parties in the Regulation 16 Consultation exercise. It would assist my examination if the Forum would provide answers to these questions, and suggest new wording to the Plan where they accept that modifications would be necessary. I strongly recommend that the Forum engages with the London Borough of Barnet (LBB) on any possible modifications, before submitting its reply. I have requested the submission of a response within **three weeks** of receipt of this letter, but in the event that more time is required, please let the IPe office team know.

As the LBB states, permitted development rights are a key issue, which a Neighbourhood Plan is unable to withdraw. I note that permitted development rights are mentioned in paragraph 5.5, and included in the Glossary, but the LBB states that the Plan should recognise the reality of these rights throughout the document. I request guidance from the Forum, in liaison with LBB ideally, as to whether more references should be added, or policies adjusted; and if so, where exactly within the Plan.

1. In addition, the Heritage and Character Assessment, prepared as the Neighbourhood Plan was developing, puts forward character design principles in paragraph 5.4. The last principle suggests that an Article 4 direction might be applied to restrict some permitted development rights, and prevent harmful incremental change to the streetscene. Although an Article 4 direction would be a measure for adoption and application by LBB, not West Finchley Neighbourhood Forum, could it be mentioned in the Plan as a potential future mechanism to secure high design standards when properties are altered and/or enlarged? I note that LBB, in its Regulation 16 consultation response, pointed out that the development of driveways was covered by permitted development rights. Without an Article 4 Direction, Policy RD4 would not be effective. It would be helpful to know whether the Forum and LBB would be willing to consider (or have already considered) an investigation into the potential for future use of an Article 4 Direction in West Finchley; and whether such an approach should be referenced in the Plan?
2. At the Regulation 14 stage, LBB suggested that aspirations for funds from the Community Infrastructure Levy (CIL) – how funding might be utilised in West Finchley – should be set out. LBB highlighted schemes in Policies S2 and T3, concerned with improvements sought to the public realm and to the underground station, as having potential for future CIL funding. I consider that reference to CIL in the Neighbourhood Plan would provide clarity, in order to demonstrate that consideration has been given to the manner in which its policies and proposals could be implemented. The West Finchley Heritage and Character Assessment made a similar recommendation.
3. One way to address the above three questions could be the addition of a new section at the end of the Plan on Plan Implementation, which would make a commitment to delivering the Plan's policies and proposals. This could address the matters of future Article 4 Directions, CIL priorities and funds, and Section 106 obligations, and state the need to monitor progress on achieving the Plan's Vision and Objectives.
4. My role is to examine the submitted Neighbourhood Plan, and not the evidential documents which accompany it. Therefore, I shall not be examining the West Finchley Neighbourhood

Plan Design Guide. The Design Guide will not have the same status as adopted neighbourhood plans, or LBB's supplementary planning documents. The latter may carry significant weight in development management decision-making. I agree with LBB that Policy RD1 can only encourage applicants to have due regard for the Design Guide; it cannot require compliance. It would be helpful if the Forum would advise on modifications which might be made to the Neighbourhood Plan, notably Policy RD1, so that the status of the Design Guide is not over-stated, and so that the Plan has regard for national planning policy.

5. The Design Guide is shown on the Contents page of the Plan after the Proposals Map, and separately from the subsequent "Supporting Documents". Table 1, on Pages 15 and 16, lists relevant development plan documents and "material considerations". Clearly, the NPPF and NPPG are not development plan documents, but they are "material considerations", and Neighbourhood Plans must have regard for national policy. LBB's adopted supplementary planning documents and the emerging Local Plan are appropriately included in the table. However, I am concerned that the West Finchley Neighbourhood Plan Design Guide (neither a neighbourhood plan nor a LBB supplementary planning document) is also shown. I consider that Page 16 of the Plan should be modified to remove the reference to West Finchley Neighbourhood Plan Design Guide.
6. Should Policy RD2 be modified, as minor and household planning applications are not required by national or local planning policy to submit supporting evidence demonstrating resilience to crime?
7. Policy RD5: Basement development - expects applications to be accompanied by a number of studies/assessments/documents which, according to LBB, does not accord with the Council's existing approach and would appear quite onerous. LBB recommends that Policy RD5 should be revised, partly to include considerations of viability. Henry Planning Limited also objected to the requirement for basement impact assessments, and argued that the Building Regulations already ensure that basements are built to required standards. Thames Water requested that the policy be strengthened because of the need to avoid flooding. Would the Forum, ideally in liaison with LBB, consider how the policy can be modified with revised wording in order to meet the Basic Conditions?
8. Policy A1 – Local Parade of Shops states that "The row of shops .... is designated as a Local Parade of Shops." The Barnet Draft Local Plan (Reg 18), January 2020, advises that the Borough contains 50 local parades, and emerging Policy TOW02 aims to protect A1 retail use within all parades and isolated shops, subject to specific criteria. I am unable to see reference to the row of shops on Nether Street as a designated parade in either the Core Strategy or Development Management Policies document. LBB commented that Policy A1 is too restrictive and inflexible, and should have greater consideration for the approach in Policy TOW02. The Forum's views on this would be helpful.
9. Should paragraph 6.10 be extended to include a reference to the impact of development on water and waste water, and give a link to Thames Water's website, as the agency proposed?
10. Transport for London (TfL) was pleased to note that its comments on an earlier version of the Plan had been taken into account. However, it commented that there remains ambiguity about the approach to parking, and TfL seek a much stronger commitment to encourage alternatives to car use, so as to facilitate the efficient movement of people, rather than traffic. Support for measures such as controlled parking zones may be necessary, it was suggested, to enable existing residents to park reliably and safely near their homes. What is the Forum's view, and should parking controls be mentioned as a future way forward?

- 11.** LBB commented that the provision of electric charging points (Policy T1) could only be applied to major developments. Should the policy be modified to clarify this?
- 12.** TfL raised questions around Policy T3, and commented that the Government's intention to ban the sale of petrol and diesel vehicles by 2040 has been brought forward to at least 2035. Should modifications to the Plan therefore be made?
- 13.** The Environment Agency sought a stronger Policy LE1 to improve the biodiversity and water quality of Dollis Brook. The Agency drew attention to the NPPF which now requires planning policies and decisions to provide a biodiversity net gain. The Environment Agency would support the adoption of a stronger approach in West Finchley. Should the policy be modified and, if so, how exactly?
- 14.** The Regulation 16 consultation responses included information from LBB Bye-Laws relating to Pleasure Grounds. It is contended that the bye-laws do not permit cycling along any of Dollis Valley Greenwalk. Is this factually correct and, if so, should the Plan be modified?
- 15.** I note that the most westerly area of land in the Neighbourhood Plan area is designated Green Belt. Section 2.0 A Portrait of West Finchley usefully acknowledges this (in paragraph 2.27). As Green Belt is a nationally important designation, I consider that one of the maps in the Plan should show the extent of Green Belt land in West Finchley. Would the Forum advise how this might be achieved?
- 16.** The designated Green Belt land includes Finchley Lawn Tennis Club which is given protection from any future redevelopment by Policies A2 and A3. Policy A3 would designate the Tennis Club as a Local Green Space, but I have reservations as to whether this would be appropriate, given the existing status of the site in the Green Belt. National Planning Practice Guidance (ID-37-010-20140306) states that consideration should be given as to whether designating sites in the Green Belt would give any additional benefit. I note that Policy A2 would give protection to the Tennis Club in the future. Also, the Club has hard courts (not grass) and the Regulation 14 consultation responses included an expression of support for a "bubble on the lower courts and development of a small gym facility". This raises concern as to whether designation as Local Green Space might be in conflict with plans for the Tennis Club's future development to meet the needs of its users and social wellbeing? It is clearly an important community and social asset. In order to preserve this position and recognising its location in the Green Belt, should it be removed from Policy A3?

Finally, whilst I am not examining the Design Guide, LBB stated that it supports the underlying approach to encouraging good design set out in the Design Guide, but was critical of paragraphs 4.5 (c); 5.3 (g) and 7.2 (e). The Forum may wish to consider amendments to the Design Guide, so that the Neighbourhood Plan is directing its readers and users to robust supporting evidence.