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and examinations

Report on West Finchley Neighbourhood Plan 2020-2035

**An Examination undertaken for the London Borough of Barnet Council
with the support of the West Finchley Neighbourhood Forum, on the
November 2019 submission version of the Plan.**

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Main Findings - Executive Summary

From my examination of the West Finchley Neighbourhood Plan (the Plan/WFNP) and its supporting documentation including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – West Finchley Neighbourhood Forum;
- The Plan has been prepared for an area properly designated – the West Finchley Neighbourhood Plan Area, as illustrated on Figure 1.1 of the Plan;
- The Plan specifies the period to which it is to take effect– 2020-2035; and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to Referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

1. Introduction and Background

West Finchley Neighbourhood Plan 2020-2035

- 1.1 The West Finchley Neighbourhood Plan Area is a predominantly residential suburb within the London Borough of Barnet. Its western boundary is marked by Dollis Brook, and its eastern boundary by the track of the Northern Line underground service. The footpath, Lovers Walk, forms the southern boundary and Argyle Road marks the northern boundary, as is clearly shown on Figure 1.1. Inter-war, semi-detached housing is highly prevalent in the area, providing family housing for a range of age groups. There are also lesser numbers of terraced or detached dwellings and purpose-built flats interspersed with the semi-detached properties.
- 1.2 West Finchley covers some 35 hectares and has a resident population of about 3,000 which has remained fairly stable over the last 10 years, as the 2011 Census and 2016 Office for National Statistics population figures confirm. The area has a diverse ethnic profile, and is also a relatively affluent area, with high levels of economic activity among people of working age. About half of the economically active residents occupy professional or managerial, directorial or senior occupations. There are no formal employment locations of significant size in the Neighbourhood Plan

Area, and most residents travel to work some 10-20kms away in Central London, or nearby towns to the north such as Watford. Transport accessibility is regarded as poor-moderate by Transport for London (TfL), probably because of the distance of West Finchley from Central London. However, the area is served by the underground (West Finchley station) and buses, notably Nos 326 and 221. There is a parade of local shops on Nether Street beside the tube station, as well as Gordon Hall which provides for community events and activities including a day nursery. Public open space is available along Dollis Valley. The former grounds of Brent Lodge, Finchley Lawn Tennis Club and two sets of allotments also provide outdoor space for sport and leisure activity. Schools and health centres are not present within the neighbourhood area, so that residents rely on such services outside West Finchley.

- 1.3 In February 2015, the West Finchley Residents' Association carried out an initial consultation exercise to understand the demographic structure of the area, and to seek opinions as to what people liked or disliked about West Finchley, and what they felt the area needed. Residents were informed about the Residents' Association and pending Neighbourhood Plan and asked whether they wished to become part of the Neighbourhood Forum. The West Finchley Neighbourhood Forum (the Forum) was formed, and meetings were held regularly throughout the period 2016 to 2019, as plan-making progressed. The emergence of the Plan and consultation process is described more fully in section 3 of this report.

The Independent Examiner

- 1.4 As the Plan has now reached the examination stage, I have been appointed as the examiner of the West Finchley Neighbourhood Plan by the London Borough (LB) of Barnet Council, with the agreement of the West Finchley Neighbourhood Forum. I am a chartered town planner and former Government Planning Inspector, with prior experience examining neighbourhood plans in London and elsewhere in England. I am an independent examiner, and do not have an interest in any of the land that may be affected by the draft Plan.

The Scope of the Examination

- 1.5 As the independent examiner I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum without changes; or
 - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
 - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

1.6 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended)('the 1990 Act'). The examiner must consider:

- Whether the Plan meets the Basic Conditions;
- Whether the Plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
 - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
 - it sets out policies in relation to the development and use of land;
 - it specifies the period during which it has effect;
 - it does not include provisions and policies for 'excluded development';
 - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area;
 - whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to referendum; and
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended)('the 2012 Regulations').

1.7 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

The Basic Conditions

1.8 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area;

- Be compatible with and not breach European Union (EU) obligations; and
 - Meet prescribed conditions and comply with prescribed matters.
- 1.9 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.¹

2. Approach to the Examination

Planning Policy Context

- 2.1 The Development Plan for this part of the London Borough of Barnet, not including documents relating to excluded minerals and waste development, includes the London Plan 2016, and Development Plan Documents (DPDs) and Supplementary Planning Documents (SPDs) adopted by the LB of Barnet. The Core Strategy 2012 and Development Management Policies DPD 2012 form the current Local Plan for Barnet.
- 2.2 A new draft London Plan underwent Examination in Public between January and May 2019, with the Inspectors' report sent to the Mayor of London in October 2019. The Mayor wrote to the Secretary of State on 9 December 2019 indicating his intention to publish the new London Plan with a statement as to his reasons for not accepting some of the Inspectors' proposed recommendations for modification. The Secretary of State replied to the Mayor on 13 March 2020 with Directions to be addressed before publication, especially around issues of housing delivery. On 24 April 2020, the Mayor wrote back to the Secretary of State indicating his willingness for conversations to take place between the two parties over the Directions. Whilst the new draft London Plan does not yet form part of the Development Plan for the area, it is relevant to assessing the Basic Conditions in so far as the requirement to have regard to national policies and advice should be met.²
- 2.3 The LB of Barnet is currently preparing a new Local Plan, and consultation on the draft Plan was held between 27 January and 16 March 2020. Publication of a revised draft Local Plan is expected in winter 2020/21 for submission to the Secretary of State in Spring 2021. Again, although I do not test the WFNP against the policies in the emerging Local Plan, the

¹This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

² Planning Practice Guidance (PPG) Ref ID: 61-006-20190723, "Neighbourhood plans are not tested against the policies in an emerging local plan although the reasoning and evidence informing the local plan process may be relevant to the consideration of the basic conditions against which the neighbourhood plan is tested".

reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the Basic Conditions against which the Plan is tested. It is on that basis that I consider the emerging Local Plan.

- 2.4 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented. A revised NPPF was published on 19 February 2019, and all references in this report are to the February 2019 NPPF and its accompanying PPG.³

Submitted Documents

- 2.5 I have referenced all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- The West Finchley Neighbourhood Plan: Regulation 16 Draft Neighbourhood Plan, November 2019;
 - Figure 1.1 of the Plan which identifies the boundary for the area to which the proposed Neighbourhood Development Plan relates;
 - the Engagement Report (Evidence Base Document B), November 2019, detailing all public consultation and engagement that has occurred;
 - the Legal and Basic Conditions Statement (Evidence Base Document E), November 2019;
 - Baseline Report (Evidence Base Document C), November 2019;
 - Additional Evidence Base Documents A, D, F & G, all November 2019;
 - Supporting Document B: Design Guide, November 2019;
 - all the representations that have been made in accordance with the Regulation 16 consultation;
 - the Strategic Environmental Assessment Screening Opinion of the LB of Barnet, Appendix E1 to the Legal Compliance and Basic Conditions Statement; and
 - the responses of the LB of Barnet of 22 May 2020 and West Finchley Neighbourhood Forum of 4 May 2020, to the questions annexed to my procedural letter of 7 April 2020.⁴

Site Visit

- 2.6 I made an unaccompanied site visit to the Neighbourhood Plan Area on 14 July 2020 to familiarise myself with it, and visit relevant sites and areas referenced in the Plan and evidential documents.

Written Representations with or without Public Hearing

- 2.7 This examination has been dealt with by written representations.

³See paragraph 214 of the NPPF. The Plan was submitted under Regulation 15 to the local planning authority after 24 January 2019.

⁴ View at: <https://www.barnet.gov.uk/planning-and-building/planning-policies-and-local-plan/neighbourhood-planning>

I considered hearing sessions to be unnecessary as the Regulation 16 consultation responses, together with responses to my questions of 7 April 2020 from the London Borough of Barnet and West Finchley Neighbourhood Forum Executive Committee clearly articulated objections to the Plan and put forward possible modifications. They also presented arguments for and against the Plan's suitability to proceed to a referendum, which I have taken into account.

Modifications

- 2.8 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

3. Procedural Compliance and Human Rights

Qualifying Body and Neighbourhood Plan Area

- 3.1 The WFNP has been prepared and submitted for examination by West Finchley Neighbourhood Forum. The Forum (the qualifying body) and Neighbourhood Plan Area were designated by the LB of Barnet on 26 November 2015.
- 3.2 It is the only Neighbourhood Plan for West Finchley and does not relate to land outside the designated Neighbourhood Plan Area.

Plan Period

- 3.3 The Plan specifies in 1.7 of the Introduction to the WFNP the period to which it is to take effect, which is from 2020 to 2035. However, for the avoidance of doubt, the Plan should specify the period to which it is to take effect on the front cover and I recommend accordingly in **PM1**.

Neighbourhood Plan Preparation and Consultation

- 3.4 In February 2015, the West Finchley Residents' Association carried out an initial consultation exercise comprising two surveys – a) an anonymous demographic survey; and b) a key issues survey, to seek opinions as to what people liked or disliked about West Finchley and what they felt the area needed. Residents were informed about the Residents' Association and pending Neighbourhood Plan and asked whether they wished to become part of the Neighbourhood Forum. 191 responses were received to the demographic survey, 124 to the key issues survey, and 39 people came forward to become members of the Forum. I consider this to represent a significant level of local interest and engagement in the Neighbourhood Plan preparation process. I note that Forum meetings were held three or four times each year 2016 - 2019.

- 3.5 In October-November 2017, the Forum sought views from residents on the emerging content of the WFNP (Vision, Objectives and policy ideas for a series of themes). Door-to-door calls and a leaflet drop, alerting residents to a questionnaire on paper and online, was supported by two engagement events. Between 18 March and 13 May 2019, in accordance with Regulation 14, consultation was carried out on the draft Neighbourhood Plan. The consultation was also reopened to allow some additional statutory bodies to comment between 5 June 2019 and 17 July 2019. Statutory bodies, local community and religious groups, as well as local residents, were notified using a variety of techniques. All were given the opportunity to provide feedback.
- 3.6 The revised submission WFNP was subject to public consultation in accordance with Regulation 16 between 15 January and 26 February 2020, and 24 responses were received, which I have taken into account in my examination of the Plan. Evidence Base Document B – Engagement Report, November 2019, provides a full account of the public consultation process adopted, as well as details of the information provided, and the views expressed by local residents and other parties. I am satisfied that the consultation process has met the legal requirements i.e. procedural compliance and has been fair and inclusive, having regard to the advice in the PPG on plan preparation.

Development and Use of Land

- 3.7 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

Excluded Development

- 3.8 The Plan does not include provisions and policies for 'excluded development'.

Human Rights

- 3.9 Submitted Evidence Base Document E: Legal Compliance Statement (including the Basic Conditions Statement) states in section 5.0 that the Neighbourhood Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights, and complies with the Human Rights Act. The LB of Barnet has not suggested that Human Rights (within the meaning of the Human Rights Act 1998) would be breached by the WFNP, and from my independent assessment I see no reason to disagree.

4. Compliance with the Basic Conditions

EU Obligations

- 4.1 The WFNP was screened for Strategic Environmental Assessment (SEA) by the LB of Barnet, which found that it was unnecessary to undertake SEA. Having read section 5 of the Evidence Base Document E, and Appendix E1: SEA Screening letter (dated 13 May 2019), I support this conclusion.
- 4.2 Evidence Base Document E also records that the need for Habitats Regulations Assessment (HRA) was considered as part of SEA Screening, which concluded that HRA was not triggered by the WFNP. The Plan area is not in close proximity to a European designated nature site. Natural England raised no objections to the Plan in its letter of reply to the Regulation 16 consultation (dated 20 March 2020). From my independent assessment of the need for HRA, I have no reason to disagree.

Main Issues

- 4.3 I have approached the assessment of compliance with the Basic Conditions of the WFNP as two main matters:
- General issues of compliance of the Plan, as a whole; and
 - Specific issues of compliance of the Plan policies.

General Issues of Compliance

- 4.4 Chapter 1.0 Introduction to the Plan is concise and clearly written, and informs the reader as to the WFNP's purpose, its significance in the planning framework, and how it has been produced (led by the Forum and following community engagement). Figure 1.1 on Page 5 clearly shows the extent of the West Finchley area, and the photographs on Page 7 provide readers with views of some main features including the underground station, residential streets, allotments and tennis club. Five key themes: residential development, amenities, streetscape, local environment and transport are identified in Chapter 1, and they are the headings for chapters 5 to 9.
- 4.5 Chapter 2.0 A Portrait of West Finchley provides background information as to the area's location in North London, its demographic profile, housing and employment characteristics. Useful statistical information, notably from the last Census (2011), is given to describe the area's profile and compares it with Barnet and London overall, as well as England. The area's features in terms of retail offer, transport infrastructure, leisure, community facilities and social infrastructure, the environment, heritage and design, are described in a succinct but wide-ranging fashion. Points of interest are raised which are pursued in more detail in later chapters.
- 4.6 Paragraph 2.13 contends that there is little opportunity in West Finchley to contribute to meet the LB of Barnet's housing need figures, as set out in the emerging London Plan. The NPPF sets out the Government's

objective to significantly boost the supply of homes and ensure that a sufficient amount and variety of land can come forward where it is needed. I consider it important, therefore, to consider whether the Plan area should contribute towards the provision of much-needed new housing. Paragraph 2.13 of the Plan notes that the emerging London Plan “currently” expects the LB of Barnet to provide 31,340 new homes over the next 10 years. The LB of Barnet Draft Local Plan’s Policy GSS01: Delivering Sustainable Growth proposes substantial new housing development in growth areas at Brent Cross, Edgware Town Centre, Cricklewood, Colindale and Mill Hill East, as well as in district town centres. There is no reference in the adopted Core Strategy or emerging Draft Local Plan to new housing allocations on sites in West Finchley. I am therefore satisfied that the statement in paragraph 2.13 of the WFNP that “*there is little opportunity to contribute to meeting this need in the WFNP Area*” is reasonable and in line with the emerging Local Plan housing policy for the Borough, having regard to the advice in the PPG.

- 4.7 I note that there is currently uncertainty as to the precise housing requirement figure for the LB of Barnet, as neither the emerging new London Plan nor Draft Local Plan have yet reached the adoption stage. The emerging London Plan (Intend to Publish version December 2019) expects the LB of Barnet to provide nearly 30,000 new homes over the next 10 years (23,640 net housing completions with 4,340 on sites of 0.25 hectares or less), which is different from the figure of 31,340 cited in 2.13 of the WFNP. I recommend that text in the WFNP is modified to reflect the fluidity of the current situation regarding strategic housing policy. Proposed modification **PM2A** should be made to achieve this. Overall, from my site visit and from reading the background evidence to the Plan, I am satisfied that Chapter 2.0 provides a good overview of the area, which should assist readers and users of the WFNP. In my letter to the Forum of 7 April 2020, I requested that a map be added to show the extent of Green Belt land within the WFNP area, and I now recommend, in PM2A, that the map submitted on 4 May 2020 should be included as an illustration to paragraph 2.27. PM2A is necessary having regard for national policy.
- 4.8 A brief overview of Planning Policy Context is given in chapter 3.0, and I consider this to be very helpful for readers, especially those who may not be familiar with all the policy and regulations. Table 1: Development Plan Documents and Material Considerations which describes national, regional, local and neighbourhood level documents provides a useful point of reference. I propose some modification to chapter 3, to update the references to the emerging new London Plan and LB of Barnet Local Plan, and to remove the West Finchley Neighbourhood Plan Design Guide from Table 1 (for reasons given in 4.12-4.13 below). **PM2B** includes revised text so that the Plan will have regard for national planning policy.
- 4.9 Chapter 4.0 Overall Vision “*provides a simple mission statement for the Neighbourhood Plan, supporting positive developments that will improve the Neighbourhood Plan Area through to 2035*”. The key assets of the

area will be retained, and new development will improve the character and sustainability of the area, it is suggested. I am satisfied that this Vision has regard for national and emerging local planning policy and should contribute to the achievement of sustainable development. Chapter 4 identifies the key themes which are the subject of the following five chapters. The Glossary at the end of the Plan is also very helpful for readers.

- 4.10 In my initial questions to the Forum, I asked whether a new section on Implementation should be added, which might address issues of permitted development rights, the potential for Article 4 Directions, and the possible use of Community Infrastructure Levy (CIL) funds in West Finchley. The LB of Barnet pointed out that the Forum's role would end once the Neighbourhood Plan has been adopted. Notwithstanding this, in its response the Forum advised that it is in the process of applying for redesignation (consultation is now taking place and redesignation will be considered at the October LB of Barnet Planning Committee meeting). It is through the Forum, working with the West Finchley Residents' Association, that the Vision and Objectives will be monitored and any proposals concerning CIL monies discussed. I acknowledge that, once made, the Plan will be part of the Development Plan for the area for which the local authority is responsible. So whilst I shall not formally recommend a new chapter on Implementation be added to the Plan, I very much hope (assuming the Forum designation will be renewed) that the LB of Barnet and the Forum will in practice be able to work in partnership to monitor and review the Plan. Having regard for this information, I conclude on the first issue that the WFNP has a succinct and user-friendly structure and adopts a positive vision for future development of the area. As long as PMs 2A and 2B are made, the Basic Conditions for neighbourhood plans are met.

Specific Issues of Compliance of the Plan's Policies

Residential Development

- 4.11 Chapter 5.0 Residential Development confirms that the Plan has not allocated sites specific for housing development, but states, in line with national planning policy, that "*This does not mean that the Neighbourhood Plan restricts development*". The Vision is for new housing developments, or alterations to existing homes, to be high quality, in keeping with the character of the area and not harmful to the amenity of neighbours. Five objectives are set out and these seek in brief: good design; appropriate housing mix; use of sustainable materials and construction methods; no damaging environmental impacts, especially to biodiversity or flood risk; and minimum disruption during construction. The Vision and Objectives, in my view, meet the Basic Conditions for neighbourhood planning, and provide a helpful introduction to the policies for residential development in West Finchley.

- 4.12 Policy RD1 is intended to maintain the distinctive character and appearance of West Finchley’s residential streets, in which the repetitive use of specific materials, roof patterns, details of fenestration and spaces between properties play an important role in defining the streetscene. I fully support the thrust of the policy, which has regard for chapter 12 Achieving well-designed places, in the NPPF. Chapter 12 expects planning policies to give clear guidance to prospective developers as to what is expected from new development, and I recognise that Policy RD1 aims to do this, within the specific context of West Finchley. However, many alterations and extensions to existing properties can be carried out as permitted development, without the requirement for planning permission, and this should be made clear in the Plan. I am concerned that expecting applicants to demonstrate through a “proportionate statement” how they have had regard for the Neighbourhood Plan Design Guide overlooks permitted development rights and has insufficient regard for national policy. As I explained in my letter of 7 April 2020 to the Forum, the WFNP Supporting Document B: Design Guide does not form part of the Neighbourhood Plan, and does not have the same status as a DPD or a local authority’s SPD.
- 4.13 In order to have regard for national planning policy, the WFNP should make clear that its Design Guide is an advisory document and not integral to the WFNP. The requirement to submit a proportionate statement should be removed. However, I accept it is entirely reasonable and proportionate to promote the need to demonstrate that due regard has been had to the Design Guide. Paragraph 5.5 should be retained and should encourage all potential developers requiring planning permission to take account of the Design Guide. However, Policy RD1 should be modified, as in **PM3**, having regard for national planning policy, and for the achievement of sustainable development.
- 4.14 Regarding Policy RD2, and designing out crime, the LB of Barnet commented that it requires proposals to reflect “Secured by Design”. It advised that there is no national or local requirement for minor or household planning applications to provide supporting justification as to how the proposal is resilient to crime. I note that Policy CS12 of the Core Strategy and Policy CDH01 of the emerging Draft Local Plan seek to secure streets and environments that reduce opportunities for crime and help minimise the fear of crime. The WFNP should not replicate the policies in the Local Plan⁵ or place unreasonable requirements on minor applications for planning permission. However, the supporting text to the policy reports that the West Finchley Neighbourhood Plan Area experiences burglaries with some regularity. For this reason, I am satisfied that Policy RD2 should be retained, but propose modifications to the wording, as agreed by the Forum Executive (in its letter to me dated 4 May 2020) and as included in **PM4**. This should ensure that the policy aligns with national policy, is in general conformity with the strategic

⁵ NPPF paragraph 16 f).

approach of the Local Plan and would not prevent the achievement of sustainable development.

- 4.15 Policy RD3 expects redevelopment proposals for existing residential sites to respect the current layout of streets and maintain historic alleyways and verges. I was able to appreciate the character of the street layout at my site visit and confirm that this policy should contribute to the achievement and protection of well-designed places, as expected by the NPPF.
- 4.16 Policy RD4 aims to restrict the use of impermeable materials when new driveways are created and retain planting in front gardens. However, the LB of Barnet pointed out that the development of driveways is covered by permitted development rights and questioned the merits of the policy. The LB is the Highway Authority for Barnet and it adopted a Domestic Vehicle Crossover Policy in April 2019, which provides some control over the provision of access from the highway into front gardens. I appreciate that this does not provide the degree of protection which the Forum seeks but consider that Policy RD4 should be removed and replaced with text which advises a cautionary approach to new driveway development. In reply to my letter of 7 April 2020, the Forum put forward some revised wording. **PM5** has regard for this wording albeit only in supporting text. The modification is necessary, having regard for national planning policy.
- 4.17 Policy RD5 Basement Developments raises a relatively new issue for West Finchley. As mentioned in paragraph 5.15 of the WFNP, the adopted Local Plan for the LB of Barnet does not include a policy for basement development, but in 2016 "*a Finchley home collapsed following the excavation of a basement*". The emerging new London Plan outlines the need for Boroughs to establish local policy to address the negative impacts of basement development where necessary. The Draft Barnet Local Plan includes Policy CDH06 Basements, and guidance as to how developments should be carried out is contained in Barnet's Residential Design Guidance SPD 2013, and Sustainable Design and Construction SPD, October 2016. I have taken account of the case put forward by Henry Planning Limited against Policy RD5, and the argument that building regulations already require adequate standards to be secured. However, Thames Water supported the WFNP policy and requested that it be strengthened to avoid incidents of flooding.
- 4.18 I consider that Policy RD5 should be retained but accept that some modification is needed to reflect the concerns raised. These include that the policy should not require excessive amounts of technical information which could be too onerous for developers and render acceptable schemes unviable, and could place unreasonable demands on the LB of Barnet which would have to scrutinise all impact assessments. The Plan text might helpfully cross-reference the Draft Local Plan Policy CDH06 and existing SPDs, and I consider the requirement for all proposed developments to be supported by detailed Basement Impact Assessment should be removed. In addition, the modified policy should take account

of the concerns of Thames Water. **PM6** should be made to Policy RD5 so that the Plan aligns better with the emerging new London Plan and Draft Barnet Local Plan, having regard to the advice in the PPG and in order to contribute to the achievement of sustainable development.

Amenities

- 4.19 Chapter 6.0 Amenities, has a Vision for shops, open space, leisure and community facilities to operate and improve, supporting the continued development of the local community. Five objectives to realise the Vision are set out which have regard for chapters 7 and 8 of the NPPF, Ensuring the vitality of town centres and Promoting healthy and safe communities. It was clear to me on my site visit that the parade of shops on Nether Street next to the West Finchley underground station provides an important community resource for local people, especially for elderly or mobility-impaired people, being within easy walking distance of many homes. I support the aim of Policy A1 to resist the loss of these units and to encourage the introduction of new facilities such as a pharmacy or post office.
- 4.20 In examining this policy, I have had regard for the Government's proposed changes to town centre use classes, which will come into force on 1 September 2020.⁶ These will introduce a new all-inclusive use class: Class E (Commercial, business and service) which will include shops (A1), financial/professional services (A2), cafes/restaurants (A3), indoor sports/fitness (D2 part), medical health and crèche/nurseries (D1 part) and business (B1). The effect will be that change of use between these uses (eg. from shop to restaurant) will no longer necessitate planning permission to be obtained. The Government's aim is to promote more diversification in town and local centres in a way that can respond to changes in the retail and leisure sectors. However, Policy A1 of the WFNP will need to be modified to have regard for this new national policy, as it seeks to prevent change of use from A class uses.
- 4.21 Prior to the Government's announced changes, the LB of Barnet Council argued that Policy A1 was too restrictive and inflexible and should be more closely aligned with Policy TOW02 in the Draft Barnet Local Plan. I appreciate the Council's concern that Policy A1's requirement for "exceptional circumstances" for a change of use, and the need for new uses to deliver "a greater community benefit" than the existing use, could be controversial and difficult to demonstrate. Emerging Local Plan Policy TOW02 seeks to protect A1 retail uses unless specified criteria can be met, including evidence that there is no viable demand for a use, supported by evidence of continuous marketing over a 12 month period. That draft policy, which would arguably protect the retail units in Nether Street, may also need to be revised in view of the latest Government statement on use classes. However, I consider that the requirement for

⁶ The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

evidence of non-viability based on a marketing exercise could be applied in West Finchley. I recommend that Policy A1 and the supporting text are modified as in **PM7**, to take account of new national policy, whilst maintaining the objective of protecting the parade of shops on Nether Street. In addition, the reference to a “designated” local parade of shops in the first sentence of Policy A1 should be removed, having regard to the evidence in Table 13 of the Draft Local Plan, which sets out the Borough’s hierarchy of shopping centres, and does not name all the smaller parades such as the one in West Finchley.

- 4.22 Policy A2 – Community Facilities seeks to protect two key facilities at Gordon Hall and Finchley Lawn Tennis Club. I saw at my site visit that both are well-used, and fully support their retention through this policy, as well as the encouragement given to the creation of new community facilities.
- 4.23 Policy A3 seeks to designate a number of areas within West Finchley as Local Green Spaces (LGSs), and the supporting text explains that their designation would comply with the criteria set out in paragraph 100 of the NPPF.⁷ Having read the Evidence Base Document D, referenced in paragraph 6.7 of the Plan, and having seen all the green spaces during my site visit, I am generally supportive of the policy. I questioned the need to designate Finchley Lawn Tennis Club in my letter of 7 April to the Forum and LB of Barnet. The Forum, in its response, consulted the Chair of the Tennis Club and provided clarification on court surfacing and plans for future development. On the question as to whether LGS designation would be appropriate, however, the LB of Barnet agreed with my concern that adding LGS designation to the site’s existing and strong designation as Green Belt would give no additional benefit. The Government’s PPG indicates that, where sites are already part of the Green Belt, the matter of additional benefit should be considered when LGS designation is proposed (PPG Reference ID: 37-010-20140306). As the Tennis Club is named in Policy A2 as a key community facility for protection, as well as being in the Green Belt, I am satisfied that its omission from Policy A3 will not lessen the Club’s future protected status and community value. **PM8** to remove Finchley Lawn Tennis Club from Policy A3, and to modify Figure 6.3, should be made having regard for national planning policy.
- 4.24 Figures 6.1, 6.2 and 6.3 illustrate the sites within West Finchley of the facilities which are subject to Policies A1, A2 and A3. I commend the Forum for providing such clear maps. Policy A4 supports improvements which could enhance the role of LGSs, and it meets the Basic Conditions for neighbourhood planning.
- 4.25 Policy A5 supports proposals which result in improvements to local utilities’ infrastructure and expects major development to be accompanied by evidence that there is sufficient capacity within the utilities’ network. Thames Water expressed support for the approach and proposed some

⁷ See also PPG Reference IDs: 37-005-20140306 to 37-022-20140306.

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additional text to encourage developers to make early contact with its pre-planning service. I recommend that paragraph 6.10 is expanded accordingly, as in **PM9**, to contribute to the achievement of sustainable development.

Streetscape

- 4.26 Chapter 7.0 Streetscape has a Vision to enhance West Finchley's streetscape over the Plan period, with objectives to promote the use of good design for safety reasons, and to improve street furniture, pavements and other features. Policy S1: Local Character and Heritage refers to the Heritage and Character Assessment (Evidence Base Document A, submitted with the WFNP). This contains a thorough assessment of West Finchley's history, past development and key characteristics. Nationally and locally listed heritage assets are named in paragraphs 7.3 and 7.4 of the Plan, and a fuller description of their character and significance is given in the Heritage and Character Assessment. The Evidence Base Document refers to Policy 7.4 of the London Plan, Consolidated Version, 2016; Policy D1 of the Draft New London Plan 2018; and Policy DM06 of Barnet Core Strategy. I consider that Policy S1 is in general conformity with the adopted strategic policies, and has regard for the NPPF, Chapter 16 Conserving and enhancing the historic environment.
- 4.27 Policy S2 – Public Realm Improvements is described as setting out a number of desirable features that would improve the public realm. I note the LB of Barnet's comment that Policy S2 be amended to set these out as CIL aspirations, with the Forum's response that it does not envisage development of a scale to generate CIL funds.⁸ In general, I support the aspiration to achieve public realm improvements, where possible. It has regard for the NPPF's goal for achieving well-designed places (Chapter 12), and I propose no modifications to Policies S1 and S2.

Local Environment

- 4.28 The Vision in Chapter 8.0, Local Environment, is to maintain and enhance green areas and to reduce flood risk and air pollution. As pointed out by the Environment Agency at the Regulation 14 consultation stage, the NPPF as updated in 2018/19 supports the pursuit of opportunities for net gains for biodiversity (paragraphs 170 and 174). The Forum, in its letter to me dated 4 May 2020, proposed changes to Policy LE1 and the supporting text to have regard for the updated national policy. I support the proposed enhancement of the policy, although I consider that the requirement to identify, map and safeguard habitats and wider ecological networks could be viewed as restrictive and onerous by some developers. It should be a requirement only for major developments, in my view. The Environment Agency pointed out that Dollis Brook is within the functional

⁸ Although not material to this examination, the Government is currently consulting on the abolition of CIL in its green paper, "Planning for the future".

floodplain where water has to flow or be stored in times of flood. Only “water compatible” development is appropriate in the floodplain, and this is made clear in paragraph 8.3 following Policy LE1. Paragraph 8.4 describes improvements to Dollis Brook from the Water Framework Direction within the Thames River Basin Management Plan. I recommend that **PM10** is made to ensure that Policy LE1 will contribute to the achievement of sustainable development and have regard for national planning policy.

- 4.29 Policy LE2 seeks to protect trees and avoid their removal, where possible. In accordance with the Mayor of London’s policy, it supports an increase in tree numbers. The supporting text refers to the LB of Barnet’s Tree Policy 2017 and Green Infrastructure SPD 2017. I note that the Tree Policy aims to increase the number of trees across the Borough and replace trees on a one to one ratio basis when tree removal is necessary. Policy LE2 is in general conformity with Policy DM01 of the adopted Barnet Development Management Policies document 2012 (and aligns the emerging Local Plan Policy ECC04: Barnet’s Parks and Open Spaces, in my opinion).
- 4.30 Policy LE3 aims to protect air quality and support sustainable travel practice, and has regard for the NPPF, notably chapters 9 Promoting sustainable transport and 14 Meeting the challenge of climate change, flooding and coastal change. The supporting text refers to West Finchley forming part of an Air Quality Management Area. Draft London Plan Policy T2 and the London’s Healthy Streets Approach are also mentioned. These are intended to create high quality, pleasant and attractive environments with clean air and enough space for dwelling, walking, cycling and public transport use. The dominance of vehicles should be reduced and measures that improve Londoners’ experience of individual streets, including greening, should be embedded in new development. Policy LE3 supports measures that would reduce the number of car trips and encourage active travel. I consider that Policy LE3 should contribute to the achievement of sustainable development and is in general conformity with the strategic policies for London and the LB of Barnet.

Transport

- 4.31 Chapter 9.0 addresses the issue of Transport in greater detail. Its Vision, to help all residents to travel to and from their homes safely, efficiently and sustainably, is clear. Seven objectives are set out, which address all travel modes and the effect of transport infrastructure (eg. pavement and pathways, and paved front gardens). Transport for London (TfL) supports the references in the WFNP to the Healthy Streets’ Approach, Vision Zero (TfL’s strategy for safety on London’s roads) and the Good Growth initiative. Policy T1 Electric Charging Points is in line with Government policy to ban the sale of petrol and diesel vehicles. Paragraph 9.3 makes clear that a ‘pedestrian clear zone’ must be maintained where charging points are located on a footpath, and the infrastructure made accessible to all. However, paragraph 9.2 indicates that the ban on petrol and diesel vehicles will occur by 2040, whereas the latest intention is by at least

2035. Paragraph 9.2 should be modified, as in **PM11**, to provide the updated timescale and ensure that Policy T1 will have regard for national policy.

- 4.32 On-street parking is permitted throughout West Finchley except on Nether Street and close to the underground station. On-street parking occurs widely in the area, even though many of the predominantly semi-detached properties offer off-street parking. There is also significant incidence of parking in front gardens, which can result in the loss of planting and greenery and detract from the appearance of the streetscene. I appreciate that West Finchley is an Outer London location where the Public Transport Accessibility Level (PTAL) is modest compared with much of the Metropolitan area. Paragraph 2.15 of the Plan explains that some 30% of local employed residents travel by car to work, and most employed people travel some 10-20kms to their workplace. Paragraph 9.4 of the WFNP states that "*a blanket Controlled Parking Zone designation ... would be unpopular ... as demonstrated in our consultation to date*". However, TfL commented that there is ambiguity in the Plan towards parking; it would prefer to see a stronger commitment to encourage alternatives to car use. TfL suggests that this will be necessary to prevent higher congestion as the population grows; in some instances, measures such as controlled parking zones may be needed.
- 4.33 I agree with TfL that a stronger commitment to reduced car use, when the WFNP addresses on-street parking, would be desirable. It would contribute to the achievement of sustainable development. I note the support for a Low Traffic Neighbourhood (LTN) scheme from Barnet Cycling Campaign. However, control of on-street parking and/or the introduction of a LTN would be matters for the LB of Barnet as highway authority. Although it is conservative, I accept that Policy T2, with the reference to Local Plan Policy DM17 in paragraph 9.5, which includes policy to manage parking in new developments, meets the Basic Conditions.
- 4.34 Policy T3 supports proposals to improve West Finchley underground station which should, in my view, increase the attractiveness of public transport and contribute to the achievement of sustainable development. TfL queried the need for improvements to waiting facilities and pointed out that extending the opening hours for step-free access from Wentworth Avenue was unlikely to occur in the immediate future. However, I am satisfied that Policy T3 is supportive of sustainable transport and includes some positive aspirations for improvement to the underground facility. It accords with the Basic Conditions for neighbourhood planning.
- 4.35 I have taken account of the concerns expressed in the Regulation 16 responses to the submitted Plan that the Bye-Laws relating to Pleasure Grounds do not permit cycling along Dollis Valley Greenwalk. The Forum advised that the issue of pedestrian and cycle use along the Greenwalk has been contentious, especially since the LB of Barnet upgraded some of the paths and added new signage. It understands that cycling is

permitted between Fursby Avenue and Lovers Walk from the signposting. The LB of Barnet advised that use by cyclists can be permitted along the Greenwalk just as in other parts of the park, without affecting the status of the public footpath. I shall not recommend modification to the WFNP on this matter.

Glossary

- 4.36 A Glossary of terms is included at the end of the Plan, which should assist all readers to understand planning procedures and use of language. On Page 40, SINC is described. It appears that the full title – Site of Importance for Nature Conservation - has been abbreviated, and I recommend that it is set out in full, as in **PM12**. In addition, the last sentence explaining Development Plan would be clearer if it referred to decisions “on planning applications”, and I propose a minor change to wording, also in PM12. Providing all the above proposed modifications are made, I conclude that the policies in the WFNP will meet the Basic Conditions

5. Conclusions

Summary

- 5.1 The WFNP has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the Neighbourhood Plan, and the evidence documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies and text to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

The Referendum and its Area

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The WFNP as modified has no policy or proposals which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

Overview

- 5.4 I appreciate that the West Finchley Neighbourhood Forum has worked very hard over the past five years to develop its Neighbourhood Plan and

follow all the necessary procedures for consultation with the community, and to produce a Plan which meets the Basic Conditions. I congratulate the Forum on producing such a concise but comprehensive Plan, with a clear and logical structure, and high quality illustrations (maps and photographs). I am most grateful to the Forum Executive Committee and LB of Barnet for responding during May to my initial questions, in spite of the Covid-19 restrictions, so that the examination could progress.

Jill Kingaby

Examiner

Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Front cover	Insert 2020-2035 after the Plan's title.
PM2A	Page 10	<p>2.13 The emerging Draft New London Plan 2018 currently expects <i>gave a ten year housing target for</i> LB of Barnet of to provide 31,340 new homes between 2019/20 and 2028/29, with an annual monitoring target of 3,134, <i>based on the 2017 Strategic Housing Land Availability Assessment. The more recent Intend to Publish version of the emerging London Plan, December 2019, provided a lower figure of 23,640 net housing completions for the same period. There is currently uncertainty as to the housing target for the Borough. However,</i> there is little opportunity.....</p> <p>2.27 The undeveloped land This site is also a Site of Borough Importance <i>for</i> Nature Conservation, <i>as shown in Figure 2.1.</i></p> <p>Add a new Figure 2.1 to illustrate Green Belt, Metropolitan Open Land and the SINC, as well as the site of Special Archaeological Significance.</p>
PM2B	Pages 15-16 and Page 3	<p>Table 1: Development Plan Documents and Material Considerations</p> <p><u>The London Plan (London Plan)</u></p> <p>Third column, second sentence:</p> <p>A New London Plan is being prepared and underwent draft consultation in January-March 2018 <i>an EIP in 2019. The Secretary of State issued a Direction to secure amendments to the Plan in March 2020. It is currently uncertain as to precisely when</i> tThe Mayor <i>will</i> expects to adopt the new London Plan in Autumn 2019.</p>

		<p><u>Emerging LB Barnet Local Plan</u></p> <p>Modify the second column:</p> <p>This will replace both the Core Strategy and the DMPD LB Barnet from 20162021(base year for monitoring) to 20312036.</p> <p>In the third column, replace the second sentence with: <i>A draft of the Local Plan was consulted on between 27th January and 16th March 2020.</i></p> <p>Remove the last entry on Page 16 relating to West Finchley Neighbourhood Plan Design Guide.</p>
PM3	Page 19	<p>Policy RD1 – Utilising the Neighbourhood Plan Design Guide</p> <p>Policy RD1: Proposals involving new, or enlarged or exteriorly altered residential properties, or alterations to the exterior of buildings of a scale which require planning permission, should be designed street scene. All proposals should be formed with due regard seek to demonstrate how regard has been had to the Neighbourhood Plan Design Guide. This should be demonstrated through the submission of a proportionate statement.</p>
PM4	Page 19	<p>Policy RD2 – Secure Homes</p> <p>Policy RD2: Proposals involving(including neighbours). When submitting applications....are resilient to crime.</p> <p>Proposals involving the creation of new secured by design.</p> <p>5.8 Security measures</p> <p>1., 2., 3.,</p> <p>4. Use of</p>
PM5	Page 20	<p>Policy RD4 – Driveways</p> <p>5.11 Most homes in the Neighbourhood</p> <p>Policy RD4: Planning applications including to water run-off.</p> <p>5.12 While the Neighbourhood Plan understands</p>

		<p>the desire to create New front driveways can be constructed under permitted development rights, it but the Neighbourhood Plan supports well-designed driveways that do not increase run-off, and thereby reduce flood risk, through use of permeable materials (such as gravel or permeable paving) and retain an element of planting. This reduces surface-water run-off rates in the Neighbourhood Plan Area. Planting has an additional benefit of reducing the impact of new driveways on the character of the Neighbourhood Plan Area. The Neighbourhood Plan Design Guide provides further detail on the layout of new residential development, including for driveways and planting. It is recommended reading for all those proposing alterations to front driveways.</p>
PM6	Pages 20-22	<p>Policy RD5 – Basement Developments</p> <p>5.15 In 2016 a Finchleycontrols basement development. The Barnet Draft New Local Plan, however, contains Policy CDH06 which sets out design principles for proposals for basements. It refers to the LB Barnet Residential Design Guidance and Sustainable Design and Construction SPDs, which should also be followed when basement development is proposed.</p> <p>5.16 The Neighbourhooddwellings at risk.</p> <p>New 5.17Thames Water advises that basement developments should incorporate devices to prevent sewage backflows and flooding. This is because the wastewater network may surcharge to ground level during storm conditions. Such measures are required to comply with the NPPF, which highlights the need to avoid flooding, and also in the interests of good planning practice, as recognised in Part H of the Building Regulations.</p> <p>Policy RD5: Basement development should be ...</p> <ul style="list-style-type: none"> a. should be limited ... b. should not result

		<p>c. should be mostly invisible.....</p> <p>Proposals for basement developments must:</p> <p>a.....</p> <p>b.....</p> <p>c. Be supported by a Basement Impact Assessment (BIA) comprising</p> <p>i. ii. iii. iv. completion. appropriate evidence that there would be no adverse effect on neighbouring ground water or local ground conditions. All basement development should incorporate a positive pumped device or other suitable flood prevention device to avoid the risk of sewage backflows which can cause sewer flooding.</p> <p>d. Include proportionate</p> <p>e. Provide details to neighbours.</p>
PM7	Page 25	<p>Policy A1: The row of shops on Nether Street, as shown on Figure 6.1, is designated as a Local Parade of Shops an important local community asset. Change of use to non AE Class uses in the retail units along the parade would only be acceptable in exceptional circumstances, where the new existing use. will be resisted unless evidence of no viable demand for the unit, based on continuous marketing over a 12 month period, can be demonstrated.</p> <p>In the units</p> <p>6.3 From 1st September 2020, Government changes to the Use Classes Order come into effect. A new Class E (Commercial, business and service) will combine the following use classes: shops (A1); financial/professional (A2); cafes/restaurants (A3); indoor sport/fitness (D2 part); medical health facilities and crèche/nurseries (D1 part) and office/business use (B1). Policy TOW02 of</p>

		<i>the emerging Barnet Draft Local Plan which aims to protect retail uses unless specific criteria are met is also relevant to the future of the shopping parade.</i> Many of the current
PM8	Pages 28-29	Policy A3 – Local Green Spaces LGS2 Finchley Lawn Tennis Club should be removed from the list of LGSs in Policy A3. Figure 6.3 should be modified to remove LGS2 Finchley Lawn Tennis Club.
PM9	Page 28	Policy A5 – Utilities Infrastructure 6.10 Good utilities ... adversely impacted. <i>For example, developers need to consider the net increase in water and waste water demand to serve their developments, and also any impact the development may have off-site further down the network, if no/low water pressure and internal/external flooding of property is to be avoided. Thames Water encourages developers to use its free pre-planning service. https://www.thameswater.co.uk/preplanning This service will tell developers at an early stage if there will be capacity in the water and/or wastewater networks to serve their development, and what can be done if not. This enables Thames Water to serve new development at the point of need and speed up the delivery of new development.</i>
PM10	Page 32	Policy LE1 – Dollis Valley Greenwalk Flood Risk Policy LE1: Proposals that would reduce the amount of flood risk in the Dollis Valley Greenwalk would be supported provided there would be no significant damage to biodiversity or the enjoyment of the Dollis Valley Greenwalk. Proposals that seek encouraged and supported. <i>Proposals for development should contribute to, and enhance, the natural and local environment by minimising impacts on, and providing net gains for biodiversity, including by establishing coherent ecological</i>

		<p>networks that are more resilient to current and future pressures; and preventing the unacceptable risk or occurrence of soil, air, water or noise pollution, or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.</p> <p>Where major development is proposed, in order to protect and enhance biodiversity and geodiversity, plans should identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks; wildlife corridors and stepping-stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and promote the conservation, restoration and enhancement of priority habitats, ecological networks and priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.</p> <p>Add the following text after paragraph 8.4:</p> <p>The National Planning Policy Framework states that planning policies and decisions should protect and enhance valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the most versatile agricultural land, and of trees and woodland.</p>
PM11	Page 36	<p>Policy T1 – Electric charging points</p> <p>9.2 Electric vehicle ownership sale of petrol</p>

		and diesel vehicles by 2040 at least 2035
PM12	Pages 37-42	<p>Glossary</p> <p>Development Plan</p> <p>The Development Plan isreplace existing documents.</p> <p>Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on <i>planning applications</i> made should be made in accordance</p> <p>Site of Importance for Nature Conservation (SINC)</p>