

London Borough of Barnet Local Plan – Examination

Inspectors' Matters, Issues and Questions for Hearing Sessions - Autumn 2022

Matter 5: Climate Change, Environmental Considerations and Green Belt

Issue:

Whether the Plan is positively prepared, justified, effective, consistent with national policy and in general conformity with the London Plan in relation to climate change, environmental considerations and Green Belt?

Questions:

1. Is the approach of Policy ECC01 seeking to mitigate climate change; positively prepared, justified, effective and consistent with national policy, and would it be in general conformity with the London Plan? Responses should specifically address the following:
 - a) To what extent does the policy reflect the expectations of Policies SI2 and SI4 of the London Plan?

The Council confirms that ECC01 is in compliance with national policy and in general conformity with the London Plan, in particular policies SI2, SI3 and SI4. As evidenced by his response to the Reg Local Plan (Core_Gen_27), the Mayor has welcomed Barnet's aim to minimise its contribution to climate change and improve air quality as set out in draft Local Plan Policies ECC01 and ECC02. He also welcomes the reference to London Plan Policies SI2 and SI3.

- b) Is it clear how development proposals should respond to part b) of Policy ECC01 with respect to guidance in SPDs and does the policy wording have sufficient flexibility to account for any updates to guidance in relevant SPDs?

The Council considers that ECC01b as modified (MM241) is sufficiently clear in that the SPDs will provide guidance on how developments can promote environmental standards. SPDs provide a more flexible vehicle, than plan policies, for responding to changing regulations and new design good practice with regards to the management of climate change impact as well as the minimisation of the impacts of development on the environment.

- c) Are each of the energy efficiency requirements of development proposals in parts c) to g) and h) to j) of Policy ECC01, justified and effective?

Yes, they reflect expectations set out in NPPF (para 153) and London Plan policies and guidance.

- d) Is it sufficiently clear as to how any developer contributions arising from the development requirements would be calculated, have they been viability tested and would they otherwise be consistent with national policy?

The method for calculating carbon offset is set out in London Plan para 9.2.8 (Core_Gen_16) and its Energy Assessment Guidance paras 6.4-6.6 [EB_GI_43]. The Barnet Local Plan Viability Assessment [Core_Gen_01] addresses net zero carbon throughout the report and states (page 106) that allowances for zero carbon are incorporated into the appraisals. As low carbon technologies improve over the plan period, the cost of delivering net zero carbon measures on-site will become more cost effective in comparison to carbon offset. Carbon offset is not the Council's preferred option but is a method that is consistent with the national policy expectations of encouraging developers to build more sustainable buildings and with London Plan Policy SI2.

- e) Is the policy approach in part h) of Policy ECC01 insofar as it relates to heritage assets and their settings; consistent with relevant statutory duties and associated national policy seeking to conserve and enhance the historic environment?

Yes, ECC01 h) is consistent with national policy. Proposed modifications [MM238 and MM244] are the result of the Statement of Common Ground with Historic England [EB_SoCG11] and help provide further clarity on the importance of allowing historic buildings to be retrofitted.

- f) Are there any requirements set out in the supporting text and Table 16 that are not reflected in the policy wording, are they justified and if so, should they be added to Policy ECC01 (or other related policies of the Plan) to be effective?

The matter relating to the provision of electrical charging points for car parks is not reflected in Policy ECC01. However this provision is highlighted in Policy TRC03 f). The Council acknowledges that a policy reference to Table 16 setting out requirements for energy use in new buildings is merited and would therefore support this being included as a further proposed modification. The Council will also add a cross-reference to Policy TRC03 at Table 16 for clarity.

- g) Are any modifications required following recent amendments to Building Regulations which came into force on 15 June 2022 regarding the installation of electric vehicle charging points, and buildings standards on overheating, ventilation and energy performance (as also addressed by the related Written Ministerial Statement published on 15 December 2021)?

Building Regulations require that 100% of the car parks provided for in residential development should have an electric charging point installed. There are also requirements for renovated, non-residential and mixed use buildings to make provision for charging points. London Plan energy guidance (EB_GI_43) has been updated to reflect changes to Part L and O of

the Buildings Regulations. These changes all supersede the current London Plan policies and drafted Local Plan policies. The Council would therefore support these changes being reflected in a further proposed modification.

- h) Would any further changes to the policy or supporting text, including the proposed modifications already provided by the Council, be necessary to achieve soundness?

No.

2. Is Policy ECC02 which sets out the approach to a range of other environmental considerations; positively prepared, justified, effective and consistent with national policy, and would it be in general conformity with the London Plan? Responses should specifically address the following:

- a) Whether the approach to the Air Quality Management Area and expectations of development proposals with respect to improving air quality, including allowing for off-site mitigation measures in prescribed circumstances; are justified, effective, consistent with national policy and in general conformity with the London Plan?

London Plan para 9.1.19 highlights that all London boroughs have declared an Air Quality Management Area (AQMA) and accordingly are required to produce an Air Quality Action Plan (AQAP) setting out the actions being taken to improve local air quality. The Council produces an annual AQAP [EB_S_18]. The Local Plan states (paras 10.9.1 – 10.9.2) that consistency with the AQAP will be an important material consideration and outlines the circumstances where applications for development need to be accompanied by an air quality assessment. This is in general conformity with the London Plan.

- b) Is it sufficiently clear as to how any developer contributions arising from the approach to air quality would be calculated, whether they have been viability tested and would they otherwise be consistent with national policy?

Developer contributions for air quality or Marginal Abatement Costs, will only be sought as a last resort. ECC02 is clear that the preference is for the developers to resolve air quality issues through mitigation. This was not tested as part of the Local Plan Viability Appraisal as it should be considered an abnormal or exceptional cost. Further detail on calculating Marginal Abatement Costs will be set out in the Sustainable Design and Development Guidance SPD. It is consistent with national policy as explained in para 10.9.3 of the Plan.

- c) Is the approach to avoiding unacceptable noise levels, effective, consistent with national policy and in general conformity with the London Plan?

Yes, the approach is consistent with NPPF para 174 e) and in general conformity with London Plan policies D13 and D14.

- d) Is it clear how development proposals should respond to part b) of Policy ECC02 with respect to guidance in SPDs and does the policy wording have sufficient flexibility to account for any updates to guidance in relevant SPDs?

Yes, part b of Policy ECC02 clearly how development proposals are expected to respond to and comply with policy requirements with regards the generation of noise. The Council refers to its earlier response at Q1b with regards to the merits of using SPDs to outline details for policy implementation. Further details will be set out in the Sustainable Design and Development Guidance SPD.

- e) Is the policy sufficiently clear regarding the circumstances in which development proposals should be supported by air quality and noise assessments, and if so, is the approach both reasonable and proportionate so as to be justified?

Yes, the policy when read together with the supporting reason justification text, provides sufficient clarity for developers to know where their proposals need to be supported by air quality and noise assessments. Such assessments are required to determine if the proposals are policy compliant and able to meet the expectations of the London Plan, NPPF and British Standards.

- f) Are the expectations of development proposals with respect to contaminated land and near to existing notifiable installations, sufficiently clear in terms of where such considerations would apply, justified in terms of the associated development requirements and effective insofar as how a decision maker should react?

Yes, parts d and e of Policy ECC02 when read together with paras 10.10.1 - 10.11.1, provides sufficient detail to enable applicants to assess the locational circumstances and decide whether these requirements are relevant in respect of a proposed development; and accordingly are also sufficient to inform the decision maker on how to appropriately react in determining such applications.

- g) Is the requirement for all developments to comply with a considerate constructors scheme and demolition and construction management plan, justified, reasonable and proportionate?

Yes, this is standard practice for many construction contractors.

- h) Are there any requirements set out in the supporting text, including Tables 17 and 18, that are not reflected in the policy wording, are they justified and if so, should they be added to Policy ECC02 (or other policies of the Plan) to be effective?

No. ECC02 clearly refers to Tables 17 and 18 which set out requirements with regards to odour, dust and plant and machinery noise.

- i) Are there any other environmental considerations that should be addressed in Policy ECC02 to ensure consistency with national policy or general conformity with the London Plan?

No.

- j) Would any further changes to the policy or its supporting text, including the proposed modifications to require masterplans for development proposed on or close to the Strategic Road Network and the others already suggested by the Council, be necessary to achieve soundness?

No.

3. Is Policy ECC02A; positively prepared, justified, effective, consistent with national policy and in general conformity with the London Plan insofar as it relates specifically to water management policy in terms of flood risk, surface water management, water infrastructure and water courses? Responses should specifically address the following:

- a) Whether the approach is consistent with national policy which seeks to avoid inappropriate development in areas at risk of flooding by directing development away from areas at highest risk, and its associated approaches to flood defences, water management, drainage and SuDS?

Yes. Water Management Policy ECC02A is consistent with the NPPF and PPG requirements with regards flood risk, surface water management, water infrastructure, water courses and application of the sequential test to steer new development to areas with the lowest flood risk. Barnet's approach is supported by the Environment Agency. The policy is supported by the Sequential and Exceptions Test (EB_GI_18) which has been agreed by the Environment Agency.

- b) Is there specific justification for any duplication or departure from national policy with respect to the approach to flood risk included in Policy ECC02A, its supporting text and Table 19?

The Borough has tributaries of both the River Brent and the River Lea (Lee) and as such is required by the Environment Agency to take flood risk very seriously, Duplication of national policy has been emphasised by the Environment Agency in getting the requirements on flood risk management across to developers. As drafted the policy goes beyond current requirements of the Environment Agency due to the level of flood risk across the Borough and the need to be proactive, however this is still under discussion with the Environment Agency and should be resolved shortly as part of the signed Statement of Common Ground.

- c) What is the justification for expecting proposals for minor and householder development to incorporate SuDS 'where applicable' and is such an approach reasonable and proportionate to ensure effectiveness?

Yes, with increasingly more frequent and intense rainfall events it is important for all levels of development to contribute to lowering the surface run off rates across the Borough.

- d) Are the expectations of development proposals in Policy ECC02A justified in terms of requirements for additional evidence such as flood risk assessments and management plans and adoption of water efficiency standards, and effective insofar as it is evident how a decision maker should react to planning applications?

Yes, these expectations are justified and in accordance with national and London policy requirements. The Council is a Lead Local Flood Authority and all flood risk assessments and management plans will be assessed by this team to assist and provide advice to the planners responsible for determining relevant applications.

- e) Is it sufficiently clear as to how any developer contributions arising from the policy requirements would be calculated, whether they have been viability tested and would they otherwise be consistent with national policy?

Developer contributions would be calculated on a site by site basis. These contributions would not be standard to all developments across the Borough and are considered by the Barnet Local Plan Viability Assessment (Core_Gen_01) as costs needing to be addressed by the developers. Where flood risk is an issue on a particular site, this would need to be reflected in the price offered to the landowner, in accordance with Planning Practice Guidance para 012.

- f) Are the proposed modifications suggested by the Council in terms of restrictions on connections to the National Highways drainage network, justified and effective and would they have any implications for the soundness of other policies or site allocations in the Plan?

Yes, this proposed modification was inserted following a response to consultation by National Highways [ID097]. The Council has agreed a SoCG with National Highways (EB_SoCG_18).

- g) Are there any requirements set out in the supporting text that are not reflected in the policy wording, are they justified and if so, should they be added to Policy ECC02A (or other related policies of the Plan) to be effective?

No.

- h) The Council refers to support for the requirements of ECC02A from stakeholders as set out in its Initial Response to Reg 19 Representations at EXAM 1K. Would further changes to the policy or its supporting text, including the proposed modifications already provided by the Council, be necessary to achieve soundness?

Further modifications could be required to ECC02A as a result of continued ongoing discussions with the Environment Agency. The Council is progressing a SoCG with the Environment Agency.

4. Is Policy ECC03; positively prepared, justified, effective, consistent with national policy and in general conformity with the London Plan insofar as it sets out the approach to dealing with waste? Responses should specifically address the following:
- a) Whether the policy is consistent with the expectations of Policy SI7 of the London Plan and the North London Waste Plan?

The North London Waste Plan forms part of Barnet's Local Plan. The Council refers to the North London Waste Plan website (Core_Gen_09). This sets out, amongst other things, the Mayor's letter of March 21st 2021 confirming that the NLWP is in general conformity with the London Plan.

- b) Is there specific justification for any duplication of or departure from the London Plan or North London Waste Plan?

The Council has sought to avoid needless duplication where possible but considers it important to clearly signpost the NLWP. The NLWP was adopted by the Council in March 2022, and finally by all constituent North London boroughs in July 2022. The Council is not aware of any departure from the London Plan and refers to the Mayor's comments (Core_Gen_27) on the Reg 18 Local Plan where he welcomed the proposed Local Plan policies on sustainable waste management and requested a map to show which sites and areas in Barnet are to be safeguarded for waste as identified in the North London Waste Plan. In response the Council has added Map 6A Existing Waste Sites to the Reg 19 Local Plan.

- c) Are the expectations of development proposals in Policy ECC03 sufficiently clear and justified in terms of its requirements and effective insofar as it is evident how a decision maker should react to planning applications?

Yes, the expectations for development proposals set out in Policy ECC03 are sufficiently clear, and in terms of the NPPF (para 35) soundness tests justified and effective.

- d) Is the emphasis upon Scratchwood Quarry in part f) of Policy ECC03 necessary and justified by evidence?

Yes, the allocation of Scratchwood Quarry (Site 29) for continued and more intensive waste use is supported by the Mayor of London. It is reflective of

the potential to use the site more efficiently for waste management. The opportunity to increase the site's potential is supported by the site owner reflecting discussions with the Council in January 2020.

- e) Are any changes to the Plan required for effectiveness to safeguard land and waste sites identified in the North London Waste Plan?

No. The Council refers to its response at 4b and c above.

5. Is Policy ECC05 positively prepared, justified, effective, consistent with national policy and in general conformity with the London Plan?

Policy ECC05 is consistent with, but does not repeat, national policy and is in general conformity with the London Plan. The proposed changes to Green Belt and MOL boundaries have been made in light of a detailed Green Belt and MOL assessment [EB_GI_16]. The assessment was based on a comprehensive and clear understanding of the planning policy context and environmental context, as well as comments received from duty to cooperate partners following consultation on a method statement.

In particular:

- a) Have exceptional circumstances been fully evidenced and justified for the proposed adjustments to the Green Belt and Metropolitan Open Land boundaries and should the associated changes to the Policies Map be reflected in the policy or elsewhere in the Plan?

Yes, exceptional circumstances have been fully evidenced and justified for the proposed minor adjustments to the Green Belt and Metropolitan Open Land (MOL) boundaries. These proposed adjustments are justified by the Barnet Green Belt and Metropolitan Open Land Study [EB_GI_16]. As explained in para 10.25.2 of the Plan, all of the small number of proposed changes to Green Belt and MOL boundaries arise from inconsistencies and errors that have been identified. The changes are not seeking to accommodate development, as the Plan makes clear it does not require Green Belt or MOL for delivering new homes. Rather, the changes are proposed to address historic anomalies in the boundaries (the exceptional circumstances) and to ensure the boundaries are clearly defined and defensible in the long term. This will help to ensure the permanence of the Green Belt and MOL boundaries, which is a key objective of Green Belt and MOL policy. The changes to the Policies Map are explained in the policy justification text. There is no need to reflect the changes in the policy itself, because where land is proposed for inclusion in Green Belt or MOL the relevant policies will apply; where areas are proposed for exclusion, other relevant policies will apply.

As such, the Council considers it appropriate to take this opportunity to make these minor boundary corrections to the Policies Map that accompanies the Local Plan.

- b) What is the justification insofar as setting out that development adjacent to Green Belt should not have a detrimental effect on its openness?

NPPF para 137 together with para 8.2.2 of the London Plan consider the openness to be an essential characteristic of the Green Belt. The shape of Barnet Green Belt land, which includes ‘islands’ of Green Belt within the built up area, means that adjacent development has the potential to impact on the openness, and people’s enjoyment of designated land, if the design is not sympathetic to its surroundings. This has a particular impact as regards visual amenity and not having a significantly detrimental effect on openness.

- c) Would further changes to the policy or its supporting text, including the proposed modifications already provided by the Council, be necessary to achieve soundness?

No, as explained above, the policy fully reflects NPPF and London Plan Policies and is evidenced by the detailed Green Belt and MOL assessment. It is therefore considered to be ‘sound’.

6. Is Policy ECC06; positively prepared, justified, effective, consistent with national policy and in general conformity with the London Plan insofar as it sets out the approach to biodiversity? Responses should specifically address the following:

- a) Would the Plan overall be effective in promoting the conservation, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity restoration and enhancement of priority habitats?

Yes.

- b) Have components of local wildlife-rich habitats and wider ecological networks been mapped in full as expected by national policy?

Yes, however the information is spread across several data sets and the majority of this is London wide. This is due to the strategic role of the Greater London Authority (GLA). The need for a strategic overview of London is demonstrated by the London Regional Landscape Framework [EB_GI_04] the borough of Barnet is covered by four different categories (referred to in the report as Natural Signatures) Brent River Valley, Barnet Plateau, Finchley Ridge and Hampstead Ridge; each of the reports for these areas notes their habitats environmental assets, and ideas for enhancement. This information is utilised in the All London Green Grid SPG [EB_GI_05] in section GGA11

(pages 119-123) the Natural Signatures relating to Barnet are examined further and links identified as well as opportunities. The Greenspace Information for Greater London (GiGL) has data on habitats and species for across London however while this information is available to officers due to the need to protect the species from harm it is not held on their public interface. Barnet has also mapped the identified Sites of Importance to Nature Conservation on the Policy Map.

- c) Is the approach to biodiversity net gain justified and consistent with national policy and does it include sufficient flexibility to respond to the future implications of the Environment Act 2021?

Yes, the emerging Plan reflected the progress of the Environment Bill. However, with Royal Assent there is now more certainty. Modifications [EXAM 04] MM279-MM285 provide for greater clarity on the expectations of the Environment Act and Biodiversity Net Gain while allowing for the flexibility required in implementation as the Regulations that will provide that detail are yet to be released.

- d) Are the expectations of development proposals in Policy ECC06 sufficiently clear and justified in terms of its requirements and effective insofar as it is evident how a decision maker should react to planning applications?

Yes, these expectations are all consistent with NPPF Chapter 15 and London Plan Policies G5 and G6. Officers will be guided by local, London and national Policy in making decisions on planning applications.

- e) Is it sufficiently clear as to how any developer contributions arising from the policy requirements would be calculated, whether they have been viability tested and would they otherwise be consistent with national policy?

Yes. The Environment Act Schedule 14 9(4) requires that BNG be maintained for 30 years. The Local Authority would be unable to ensure this requirement is met without monitoring. Details on monitoring might be included in the regulations that are required to support the legislation; if this happens then details will be included in the Green Infrastructure SPD when this SPD is updated. Monitoring schedules and fees will be agreed as part of the s106 and will be appropriate and proportionate for the development. The Environment Act Regulations will set the cost of a biodiversity unit, if a developer cannot deliver the 10% BNG on site they will need to factor this additional cost into their development viability, the sum is likely to be non negotiable and as it is a mandatory requirement set out in law it will not be able to impact on the delivery of other policy requirements such as Affordable Housing.

- f) Is it justified and effective insofar as the expected response of development proposals to part b) of Policy ECC06 in terms of guidance in SPDs and does the policy have sufficient flexibility to account for updates to guidance in relevant SPDs?

Yes. The SPD guidance will be flexible and provide detail on matters such as appropriate design for green infrastructure and planting for biodiversity and climate change.

- g) Are there any requirements set out in the supporting text that are not reflected in the policy wording, are they justified and if so, should they be added to Policy ECC06 (or other related policies of the Plan) to be effective?

No. The Council considers that Policy ECC06 is sufficiently clear with regards to requirements for biodiversity.

- h) Would further changes to the policy or its supporting text, including the proposed modifications already provided by the Council, be necessary to achieve soundness?

No. The Council refers to its response to Q6g.