

<b>LONDON BOROUGH OF CAMDEN</b>	<b>WARD:</b> Frognal and Fitzjohns
<b>REPORT TITLE</b> Redington Frognal Neighbourhood Plan Decision Statement	
<b>REPORT OF</b> Chief Planning Officer	
<b>FOR SUBMISSION TO</b> Director of Economy, Regeneration and Investment	<b>DATE</b> 26th March 2021
<b>SUMMARY OF REPORT</b>  The Redington Frognal Neighbourhood Plan was submitted to the Council in May 2020 and, following a statutory publicity period, proceeded to Independent Examination. The Council must now consider the recommendations of the Examiner and decide how to proceed.  Neighbourhood planning accords with 'Our Camden Plan' commitments, in particular those relating to safe, strong, and open communities. Preparing a Neighbourhood Plan allows neighbourhood forums to play an active role in planning for their neighbourhood  <b>Local Government Act 1972 – Access to Information</b> No documents that require listing were used in the preparation of this report.  <b>Contact Officer:</b> Andrew Triggs, Principal Planner, Planning Policy, 5 Pancras Square, N1C 4AG. Telephone: 020 7974 8988. Email: <a href="mailto:andrew.triggs@camden.gov.uk">andrew.triggs@camden.gov.uk</a>	
<b>RECOMMENDATIONS</b> That the Director of Economy, Regeneration and Investment agrees: (i) the Examiner's recommendations to make modifications to the Neighbourhood Plan as set out in the Council's Decision Statement (provided in Appendix 2); (ii) that the Plan, as modified in the 'Referendum version' of the Neighbourhood Plan (set out in Appendix 3), proceeds to local referendum in the neighbourhood area.	

Signed:



Dan Pope  
Chief Planning Officer

Date: 26th March 2021

## 1. CONTEXT AND BACKGROUND

- 1.1 Neighbourhood Plans are statutory planning documents which can establish general planning policies for the development and use of land in a neighbourhood. Neighbourhood Plans must be prepared by a designated Neighbourhood Forum made up of members of the community, and once prepared, are subject to public consultation, independent examination and a referendum.
- 1.2 The independent examination of the Redington Frogna! Neighbourhood Plan has ended and the Examiner's report was issued to the Council and Forum on 24 December 2020. Prior to the Examination, three public consultations on the draft Plan were held in accordance with the Neighbourhood Planning Regulations. The third of these consultations (on the 'submission' version) was organised by the Council and took place in June – September 2020.
- 1.3 The Council appointed Mr Tony Burton to carry out the independent examination of the Plan to advise whether it meet various legal requirements known as 'basic conditions'. The basic conditions include that a 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; and
  - not breach and must be otherwise compatible with, European Union (EU) and European convention on Human Rights (ECHR) obligations.
- 1.4 The Examiner can make one of three recommendations on the Plan:
- (i) that it can proceed to referendum with modifications;
  - (ii) that it can proceed to referendum without modifications; or
  - (iii) that the plan cannot be modified in a way that allows it to meet the basic conditions or legal requirements and should not proceed to referendum.
- 1.5 The Examiner's Report has been published on the Council's website and is attached as **Appendix 1** to this report. The Examiner recommends that the Redington Frogna! Neighbourhood Plan can proceed to referendum subject to a number of modifications. The Redington Frogna! Neighbourhood Plan is the seventh neighbourhood plan in Camden to have successfully passed the examination stage, the most of any borough in London.
- 1.6 The regulations require councils to set out the actions they propose to take in response to all of the Examiner's recommendations. Officers have considered the recommendations and the reasons for them and the Council's draft responses are set out in the 'Decision Statement' attached as **Appendix 2** to this report. There is also a requirement for local planning authorities to make decisions on an Examiner's recommendations, including the holding of the referendum, within 5 weeks of the receipt of the Examiner's report (or an alternative timeframe which has been agreed with

the neighbourhood forum)<sup>1</sup>. The Council has been working with the Redington Frognal Neighbourhood Forum to prepare a 'referendum version' of the Plan including the Examiner's recommended modifications – this has taken longer than the 5 week period. Cabinet and full Council will still be asked to formally 'make'/adopt the Plan if it successfully passes the referendum.

- 1.7 Subject to the Director of Economy, Regeneration and Investment's approval, the Neighbourhood Plan will be amended in line with the draft Decision Statement in **Appendix 2** and will proceed to local referendum. The Council's Election Services team has advised it will be possible to go ahead with a referendum, planned for June 2021.

## **2. PROPOSAL AND REASONS**

- 2.1 The independent Examiner has reviewed the Plan taking into account all of the written representations received during the consultation on the submission draft Plan. 51 representations were received within the consultation period from local residents, statutory bodies and other interested parties.
- 2.2 A majority of representations were received from local residents writing in support of the Plan. Detailed comments were made by a number of landowners, including Camden Council's Asset Strategy & Valuation team. The Council's landholdings in the Redington Frognal area include the Studholme Court housing estate. The Council's Planning service also submitted a representation to the Examiner. The representations can be viewed on the Council's website.
- 2.3 The Examiner decided not to hold a public hearing into the Plan as part of the examination. However, he did ask the Council and Forum to respond to a number of questions (letters of 25th November and 4<sup>th</sup> December 2020), the majority of which were addressed to the Forum. The Council and Forum subsequently responded to these questions and the detailed responses can also be viewed on the website.
- 2.4 The Examiner's final report was issued on 24 December 2020. He recommended that the Plan meets the 'Basic Conditions' (against which neighbourhood plans are tested, as per paragraph 1.3 of this report), subject to recommended changes being made to the Plan, and should proceed to local referendum.
- 2.5 The key findings / modifications suggested by the Examiner are set out below:
- The Plan's maps are of varying quality and do not provide sufficiently accurate boundaries or locations for some policies. This includes providing a clear map showing the neighbourhood area and the Redington Frognal Conservation Area.

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<sup>1</sup> This is set out in The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2017

- The drafting of a majority of policies state what “must” happen – the general use of “must” is in conflict with national planning policy for plans to be “flexible” and “prepared positively” and contribute to the achievement of sustainable development. The Examiner recommended that in most cases the word “must” be replaced by ‘should’.
- A requirement in Policy SD1 for development to have “no adverse impact” goes beyond national planning policy for “minimising impacts” and avoiding “significant harm”.
- A requirement for all front boundary walls to be preserved or reinstated could result in the retention of inappropriate boundaries which make a negative contribution.
- “Neutral” contributors to the Conservation Area will not always contribute to its special character and should not be afforded the same protection as a ‘positive’ contributor.
- There is insufficient evidence in the Plan to support the Forum’s identification of various buildings as ‘Non-Designated Heritage Assets’.
- A local/neighbourhood area approach to ‘car-free development’ risks reducing the clarity already provided by Camden’s Local Plan Policy T2 and is not supported by sufficient evidence.
- The need for development to “reflect” established character (in Policy SD4i) is unduly restrictive and is not consistent with the Forum’s expectation that new development should “complement” the distinctive character of the area.
- A ‘cap’ on building heights (in Policy SD4ii) is restrictive: the policy consideration should be whether proposals are adequately informed by the area’s established character. The Forum’s proposed minimum “gaps” between houses are appropriate and do allow for suitable flexibility.
- The Plan’s definition of what comprises a “significant” loss of light/introduction of shading is unduly restrictive.
- A “very high urban greening score” is not defined in the Plan so reference to this should be removed and the relevant policy should seek to achieve an urban greening score in excess of the London Plan target.
- The copse to the rear of 17 Frognal (LGS6) should not be designated as a ‘Local Green Space’. The Examiner visited the Plan area and considered that this site is largely concealed and there are other significant rear gardens with trees in the neighbourhood area, including nearby, which have not been considered by the Forum for designation. He also noted that the protection of the trees on this site will continue to be subject to Tree Preservation Orders.

- The Examiner was satisfied that all the remaining proposals for Local Green Space designation (i.e. LGS1-5 and LGS7) were demonstrably special to the local community and hold a particular local significance in line with criteria set out in national planning policy. This includes LB Camden's landholdings at Studholme Court housing estate and the Camden Arts Centre, Arkwright Road.
- Policy FR on Finchley Road: Traditional Shopfronts should be accompanied by a map showing the locations where it is intended to be applied.
- The Examiner found that Policy UD1 on Underground Development as drafted would introduce significant constraints on development in cases where there would be no significant adverse impact.
- Specific requirements on the depth of soil to be provided above basements are supported by evidence, including guidance used in a nearby London Borough.
- The map accompanying Policy KR should be replaced to clarify that it only relates to Kidderpore Reservoir.

### 3. OPTIONS APPRAISAL

- 3.1 The Council is required to publish a 'Decision Statement' setting out its decision in response to all the recommendations made by the Examiner. The Examiner's recommendations on the Plan are not binding on the Council, which may choose to make a decision which differs from that recommended by the Examiner. However, any significant changes from the Examiner's recommendations would require the Council to publish its reasons and undertake a further period of public consultation. Forums are also able to refer such changes to the Secretary of State. The draft 'Decision Statement' in **Appendix 2** sets out Officers' consideration of the Examiner's suggested changes to the Plan.
- 3.2 The Council's Planning service supported and advised the Forum throughout the preparation of the Plan including providing comments on a number of drafts. These comments resulted in changes to the Plan to more fully address the circumstances and benefits provided by individual proposals and ensure policies will support the delivery of Camden Local Plan's policies in the neighbourhood area. Following an early draft, the Plan was restructured to make it easier for the reader to use and reduce duplication across policies.
- 3.3 Officers consider that the Examiner's report clearly sets out the reasons for making each of the proposed modifications to the Plan and that all the changes to the Plan should be accepted. It is considered that the modifications would further improve the Plan's effectiveness in making planning decisions. The Council has worked with the Forum in preparing a revised set of maps which deal with the Examiner's recommendations about the clarity of some of the maps used in the draft Plan. Officers are satisfied that the Plan, as modified in light of the Examiner's recommendations, meets the Basic Conditions and all other statutory requirements.

- 3.4 The Council is also required to consider whether the Plan should proceed to referendum. The draft Decision Statement set out in **Appendix 2** indicates that with the recommended modifications made, the Plan should proceed to a local referendum. The Examiner considered that the referendum area should be the same as the Plan area.
- 3.5 It is recommended that this amended Plan is taken forward by the Council to a referendum in the neighbourhood area in line with the Examiner's recommendation. The 'Referendum version' of the Plan incorporating the modifications is provided in **Appendix 3**. A referendum on the Plan is being planned for June 2021.

#### **4. WHAT ARE THE KEY IMPACTS / RISKS? HOW WILL THEY BE ADDRESSED?**

- 4.1 Neighbourhood Plans must meet procedural and legal requirements in order to successfully pass examination and reduce the risk of legal challenge. The Council advised the Forum throughout the plan-making process to ensure that all relevant statutory procedures were met. Neighbourhood plans need to be generally consistent with Camden and national planning policy and provide a policy framework that is clear and can be implemented effectively.
- 4.2 Making the proposed modifications set out in the Decision Statement in **Appendix 2** will ensure that the Plan is clear and effective as a framework for making decisions on planning applications in the neighbourhood area.
- 4.3 Officers prepared an Equalities Impact Assessment (EqIA) of the Neighbourhood Plan. The EqIA found that the draft Neighbourhood Plan's focus on green infrastructure, the special character and appearance of the area and local amenities were likely to provide beneficial outcomes for people with protected characteristics. The EqIA recommended that consideration of access (for people with limited mobility) should be referenced in Policy FR which relates to altering shopfronts in Finchley Road. Although the 'submission draft' version of the Plan does not take up this recommendation, this matter can still be addressed in relevant applications by Policy C6 of the adopted Camden Local Plan.
- 4.4 The Council's EqIA identified certain policies in the draft Neighbourhood Plan where negative impacts could arise because the draft Plan would make it more difficult for development to happen: "restrictive policy can prevent existing households from adapting, and extending, their homes as personal circumstances change. Possible consequences of this include people being forced out of the Borough to meet their housing needs". Officers' consider that the Examiner's recommended modifications to the Plan will minimise the possibility of such negative impacts occurring.

#### **5. LINKS TO OUR CAMDEN PLAN**

- 5.1 Neighbourhood planning accords with 'Our Camden Plan' commitments, in particular those relating to safe, strong, and open communities. The Redington Froggnal Neighbourhood Plan shares a range of local and

neighbourhood planning objectives with Our Camden Plan such as safe, strong and open communities; a clean, vibrant and sustainable environment and supporting people to live healthy, independent lives.

- 5.2 The Neighbourhood Plan has been written by the local community with support from Council Officers and there has been effective joint working between the Council and Forum. The Plan has ensured that people who live and work in the Redington Frognaal area have a voice in the development of plans and projects for their local area.

## **6. CONSULTATION / ENGAGEMENT**

- 6.1 Consultation on the submission draft Plan was undertaken in June to September 2020 in accordance with the statutory requirements. Advertisements were placed in the Camden New Journal and Ham & High and site notices were put up across the neighbourhood area. An e-mail was sent out to all parties on the Council's planning policy contact list, which includes people and organisations within the area and the wider borough, and to Councillors. The Forum also publicised the consultation on its own website. Due to the covid-19 pandemic, the Council additionally publicised this consultation using letters sent to households and businesses within the Plan area with paper copies supplied on request.
- 6.2 The Neighbourhood Forum prepared a 'Consultation Statement' included with the documents submitted alongside the Neighbourhood Plan. This explains who was consulted and the methods used by the Forum to draw the Plan to the attention of people living, working or with an interest in the area.
- 6.3 51 representations were made to the submission draft Plan including the comments made by the Council's Asset Strategy & Valuation team and Planning service. These were considered alongside the Plan during the independent examination.
- 6.4 The Council is responsible for organising the local referendum. The referendum date has to be at least 28 clear working days after the information statement and Plan have been published. Subject to the approval to proceed to referendum, it is expected that this will take place in June 2021. The exact timing will be confirmed by the Council's Election Services team.

## **7. LEGAL COMMENTS OF THE BOROUGH SOLICITOR**

- 7.1 The Borough Solicitor's comments have been incorporated into this report.

## **8. FINANCIAL COMMENTS OF THE EXECUTIVE DIRECTOR, CORPORATE SERVICES**

- 8.1 This report seeks approval to implement the Examiner's recommendations and make modifications to the Neighbourhood Plan and proceed to referendum with the modified version.
- 8.2 Finance has been consulted and there are no significant financial implications resulting from this report.

## **9. ENVIRONMENTAL IMPLICATIONS**

- 9.1 A Strategic Environmental Assessment (SEA) screening opinion was carried out as part of the preparation of the Neighbourhood Plan. An SEA helps to ensure that a plan's social, environmental and economic impacts are assessed and taken into account in the decision making process.
- 9.2 The Council was satisfied that the Plan was unlikely to give rise to significant effects because it does not include site allocations and the policies generally support Camden's Local Plan, which itself was subject to a full SEA. A screening opinion was also undertaken for Habitats Regulations Assessment which concluded the Plan was unlikely to adversely affect any European protected sites.
- 9.3 The Examiner's recommended modifications and the Council's response are also not considered to produce significant changes to the overall policy and strategy of the Neighbourhood Plan and therefore an SEA is not required. It is also considered that the proposed modifications do not raise any substantial issues in relation to habitats impacts.

## **10. TIMETABLE FOR IMPLEMENTATION**

- 10.1 This report seeks the Director of Economy, Regeneration and Investment's approval of the 'Decision Statement' set out in **Appendix 2** and agreement that the Plan proceeds to referendum. Subject to this approval, the Council must then publish and publicise the Decision Statement in accordance with the regulations. This would include publishing it on the Council's website and notifying individuals and bodies that made representations, as well as consultees listed on the Council's planning policy and the Neighbourhood Forum contact databases, and ward Councillors.
- 10.2 The Plan will then be subject to a local referendum, likely to be in June 2021. The Council is responsible for organising the referendum. In order for a neighbourhood plan to pass referendum more than 50% of the votes cast must support the use of the plan. Once a neighbourhood plan is approved at referendum, it automatically becomes part of the statutory development plan for the area and must be given full material weight by the Council when making planning decisions.
- 10.3 If the Plan passes the referendum the Council is also required to 'make' (that is, adopt) the Plan and apply its policies where relevant in determining planning applications in the area, alongside other planning policies. Therefore, subject to the Plan passing the referendum, it will be reported to Cabinet and full Council for adoption.

## **11. APPENDICES**

Appendix 1 - Redington Froggnal Neighbourhood Plan - Report of the Independent Examiner



Appendix 2 - Decision Statement, showing the Council's proposed modifications to the Plan and the Council's reason for changes  
Appendix 3 - Redington Froggnal Neighbourhood Plan Referendum version

**REPORT ENDS**