

## INDEPENDENT EXAMINATION OF THE FITZROVIA WEST NEIGHBOURHOOD PLAN

EXAMINER: Jill Kingaby BSc(Econ) MSC MRTPI

Nick Bailey  
Fitzrovia West Neighbourhood Forum

Marina Molla' Bolta  
Westminster City Council

Examination Ref: 01/JK/FNP

11 September 2020

Dear Mr Bailey and Ms Molla' Bolta

### FITZROVIA WEST NEIGHBOURHOOD PLAN EXAMINATION

Following the submission of the Fitzrovia West Neighbourhood Plan (the Plan) for examination, I would like to deal with some initial procedural matters and to seek clarification on several matters in the submitted Plan.

#### 1. Examination Documentation

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

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

#### 2. Site Visit

I will write to you separately confirming the date I intend to carry out the site visit. The site visit will assist in my assessment of the draft Plan, including the issues identified in the representations.

The visit will be undertaken unaccompanied. It is very important that I am not approached to discuss any aspects of the Plan or the neighbourhood area, as this may be perceived to prejudice my independence and risk compromising the fairness of the examination process (and further respecting the current COVID-19 distancing arrangements).

#### 3. Written Representations

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

#### 4. Further Clarification

I have a number of initial questions seeking further clarification from the Neighbourhood Forum, set out in the Annex to this letter. I would be grateful if a written response could be provided by **28 September 2020**.

#### 5. Examination Timetable

As you will be aware, the intention is to examine the Plan (including conduct of the site visit) with a view to providing a draft report (for 'fact checking') within 4-6 weeks of submission of the draft Plan.

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

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

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

Thank you in advance for your assistance.

Your sincerely

*Jill Kingaby*

Examiner

## Annex

From my initial reading of the Fitzrovia West Neighbourhood Plan and the supporting evidence, I have some questions for the Neighbourhood Forum. I have requested the submission of a response by **28 September 2020**.

1. Please would the Forum confirm that the Fitzrovia West Neighbourhood Development Plan (FWNDP) has been produced with consideration given to its compatibility with the Human Rights Convention. I must be satisfied that the Plan does not breach Human Rights within the meaning of the Human Rights Act 1998.
2. In section 7 of the FWNDP, references to Figure 3 in Policy GS1 and to Figure 5 in paragraph 7.6 are unclear. A map showing the precise locations of the areas named in Policy GS1 would assist the reader. Can the references be clarified please, and a new map to illustrate Policy GS1 areas be provided?
3. Section 8 Promoting Environmental Quality refers to oxides of nitrogen (NO<sub>2</sub>) and fine particles (PM<sub>2.5</sub>), as major pollutants from road traffic emissions. Figure 9, which illustrates the main sources of pollution, however, refers to NO<sub>x</sub> rather than NO<sub>2</sub>/nitrogen dioxide, and PM<sub>10</sub> rather than PM<sub>2.5</sub>. It would be helpful if the same indicators were used in the text and in the illustration, or the differences explained. Also, is 2013 the most recent data that can be used in Figure 9?
4. Appendix 3 includes a section headed Reviewing the Plan. This suggests that the life of the Plan is for 20 years, although the front page states 2020 to 2035. Should Appendix 3 refer to 15 years rather than 20 years, or should the time period for the Plan be extended?
5. In its response to the Regulation 16 consultation exercise, City of Westminster Council (WCC) raised concerns over:
  - Policy PR2 Housing Provision – clause H, requiring all new built housing to be occupied as a “principal residence”. WCC argued that the policy would be unenforceable, and have a limited impact because it could only apply to new housing stock;
  - Policy B1 Small business units and Policy B2 Small retail units – the requirement to provide smaller units within large office and retail developments could be difficult to implement, and could unduly restrict development; and
  - Recent Government changes to the Use Classes Order which came into effect on 1 September 2020<sup>1</sup> and may necessitate some changes to the Plan.

It would assist my examination if the Forum would look again at these matters and advise whether the Plan should be modified. If modifications are required, how exactly should the policies and text be worded?

6. WCC also included in its Regulation 16 response an Appendix with a significant number of detailed comments beginning with “General drafting” and then focussing on individual policies. As WCC will be determining most of the planning applications submitted for development in Fitzrovia West, it is important that the FWNDP is in general conformity with WCC’s strategic planning policies, and has regard for paragraph 16d) of the NPPF (contain policies that are clearly written and unambiguous).

Therefore, could the Forum discuss the detailed comments made by WCC with its Planning Policy staff and reach agreement as to how the points raised should be addressed. If a need for modification is agreed, revised wording of relevant policies and text should be submitted.

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<sup>1</sup> The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (SI 2020 No.757).

7. Simon Birkett, on behalf of Knightsbridge Neighbourhood Forum and Clean Air in London, put forward a number of suggested policy changes to the FWNDP to address air quality, the environment and climate change. Attention was drawn to changes proposed for the emerging WCC City Plan. Should the FWNDP be modified to take account of the comments made?
8. Derwent London identified a number of policies as being too restrictive or over-prescriptive. Having regard for Policies PR1, PR2b, B1, B2, GS2 and EN1, should modifications be made to facilitate development in Fitzrovia West?
9. Transport for London requested changes to the Plan: to add references to Crossrail 2; to embed the Mayor's "Vision Zero" approach to eliminating all road deaths by 2041 into the FWNDP's Vision Statement; and extend Policy T2 to refer to other measures to reduce the impact of freight vehicles in the area. Should modifications be made to secure these aims?
10. The Mayor of London and Greater London Authority (GLA) drew attention to the Intend to Publish version of the new London Plan, and stated that some policy numbers had changed, notably Policy D9 now addresses Tall Buildings (not D8). Tottenham Court Road Opportunity Area extends to the south-east corner on Fitzrovia West. The FWNDP, it is suggested, may wish to set out how it can contribute positively towards growth in the Opportunity Area in line with London Plan Policy SD1 b. Should modifications be made to secure this aim, to include the draft new London Plan's definition of tall buildings and/or any suitable sites for development within Fitzrovia West?
11. The Mayor and GLA also suggested that Policy PR3 would benefit from a reference to the Agent of Change principle; that Policy B1 should adopt the threshold of 2,500 sqm (gross external area) for small and medium businesses, rather than the 1,000 sqm threshold for which it has seen little evidence; and a reference could be added to the Intend to Publish London Plan's Policy S12 – energy hierarchy and reductions in greenhouse gas emissions. What is the Forum's response to these points?
12. Should Policy PR2g) go further and state that occupants of new housing would have no right to residents' parking permits, as the Mayor and GLA suggested?
13. Swift Conservation and Islington Swifts' Group requested added references to biodiversity in Section 7 and put forward modifications to Policy GS2 and paragraphs 7.2 & 7.4. What is the Forum's view on whether these should be made?
14. Berners-Allsopp Estate put forward objections to a number of policies which, it argued, could adversely impact on future development in Fitzrovia. These included the requirement for on-site affordable housing, referenced in paragraph 3.4 and Policy PR13d. Berners-Allsopp stated that this "usually renders schemes unviable" when redevelopment is undertaken in the area. There are additional concerns over PR1 3g. (no loss of daylight or sunlight to adjoining occupants), to Policy PR2 Housing Provision (criteria f, h, j) and Policy B1 which will prevent the development of larger, open plan offices and is seen as inflexible. Should these policies be modified?
15. Berners-Allsopp Estate criticised the Policy B2 expectation that retail units be vacant for 18 months and stated that it was too long for marketing in the area: it should be reduced to below 12 months. What is the Forum's response?
16. Figure 8 – Public Realm Improvements – Should this map include the northern end of Berners Street?
17. Policy T1c – Is it unduly onerous for development to provide off-street space for bicycle storage, deliveries, servicing and refuse collections in Fitzrovia West?

18. Should the text supporting Policy PR2 be extended to encourage developers to liaise with stakeholders including Thames Water to discuss infrastructure requirements before submitting an application?

19. The Crown Estate proposed modifications to objective 4 and paragraph 9.5, arguing that there could be conflict with WCC's Oxford Street District proposals. What is the Forum's response?

20. Shaftesbury PLC made some objections which overlap with those put forward by Berners-Allsopp eg. to Policy PR1 3. and PR2 f, to Policies B1, B2 and T1. In addition, it queried the reference to Central Activities Zone in paragraph 3.1, sought the removal of criteria a, b, c from Policy PR1 2, and argued that Policy PR2 h. (principal residence) may not be a lawful use of a condition or obligation, and would be difficult to monitor or enforce. The need for additional design guidance in Policy PR2 j was queried; Policies PR3 5 is criticised especially with the need to maximise the use of outdoor space during Covid-19. What is the Forum's response?