[redacted]

From: Lina Pio [redacted]
Sent: 02 March 2018 07:37
To: Londonplan
Subject: New Draft London Plan

Follow Up Flag: Follow up
Flag Status: Completed

I strongly object to the new draft london plan on the grounds it weakens and severely compromises protections in place for conservation areas such as Hampstead.

Lina

Begin forwarded message:

From: Jessica Learmond-Criqui [redacted]
Date: 2 March 2018 at 01:52:53 GMT
To: [redacted]
Subject: I Love Hampstead - 1.3.17
Reply-To: Jessica Learmond-Criqui [redacted]

I Love Hampstead - For everyone who loves, lives or works in Hampstead, NW3, London, UK

View this email in your browser

ww.facebook.com/ILoveHampstead - a facebook page BY Hampstead residents, FOR Hampstead residents.
@ILoveHampNW3

Thanks Richard for this lovely photo of Parliament Hill Fields at 7am on Wednesday morning this week.

Apologies for this mid-week email but it contains a matter vital to the interests of conservation areas in NW3, including Hampstead and the deadline for objections is tomorrow, Friday 2 March.

An attack on Conservation areas including Hampstead

Contents

In my previous emails, I have included a note on the Mayor's draft London Plan. It contains many proposed policies which could significantly severely impact on the amenity of conservation areas including our own.

It is important that anyone interested in this matter writes an objection. A pro forma is below. Please use this to object. The number of objections do count in trying to push back against some of the more damaging proposals. **Consultation ends this Friday 2 March at 5pm**. Please send in your objections before then.

Below is a summary prepared by Andrew Parkinson, a planning barrister, who is also the Conservative Councillor candidate for Frognal and Fitjohns. The pro forma follows it.

For a contrasting summary, do see the last note which is from the Church Row and Perrins Walk Neighbourhood Forum.

1. Summary

Sadiq Khan, the Mayor of London, is consulting on a draft for a new London Plan. This is a crucial document that will guide planning decisions across London for the next 25 years. If approved Camden Council will have to confirm to the policies in the London Plan. A copy of the plan can be found here: https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/download-draft-london-plan-0.

As currently drafted the proposed new plan has the potential to

significantly weaken planning policy, with polices that the Mayor openly admits do not comply with national policy. The Mayor is seeking to depart from this because of the scale of his election victory (see page 5).

Local Conservatives have prepared and submitted a detailed critique of the proposals and called for stronger measures to protect local green space and to deal with the traffic and air quality issues, including the school run. Key issues with the draft plan include:

- It imposes a new "presumption in favour" of development for schemes involving less than 25 house that are less than 800 meters form a tube station (page 152-153). This applies even it if it is in the setting of a listed building or in a Conservation Area. This would make it harder to oppose planning applications like 28 Redington Road (recently successful opposed by the local community).

- It is much more in favour of tall buildings (page 126-129), and this means it will be even harder to object to buildings like 100 Avenue Road which are completely out of keeping with our area.

- It weakens protection given to Metropolitan Open Land such as Hampstead Heath (page 305). The Heath has in the past had the same status as the Green belt and this should be maintained.

The more people that object to the draft plan the better. The consultation ends on Friday at 5.00 pm (although responses shortly after this may still be considered). Comments can be emailed to LondonPlan@london.gov.uk with "New Draft London Plan" as the title. Set out below is a pro-forma e-mail that I've written that you can personalise. The full text of the objection that I wrote on behalf of local conservatives is also below. If you would like to discuss the above, feel free to e-mail me at aparkinson@landmarkchambers.co.uk

Andrew Parkinson, Conservative Candidate for Frognal & Fitzjohns and planning barrister.

2. PRO FORMA OBJECTION LETTER BELOW

Sadiq Khan, Mayor of London
The Greater London Council
City Hall
The Queen's Walk
London SE1 2AA

Dear Sir,

Re: The Draft New London Plan

I am writing to object to the Draft New London Plan.

The plan will significantly weaken the planning protection given to Hampstead, with its historic conservation areas, open spaces (including Hampstead Heath) and unique character.

There are three policies in particular that I object to, on the basis that they are inconsistent with national planning policy.

First, Policy H2. This imposes a new “presumption in favour” of small-scale development of between 1 and 25 homes including demolition and rebuild schemes, the upwards extension of flats and residential extensions. This policy should not apply to Conservation Areas. Our area has suffered from numerous planning applications in recent years where developers have tried to demolish existing properties and rebuild them with completely inappropriate new housing within our conservation area [give examples: e.g. 28 Redington Road, 29 New End, 192 Haverstock Hill, 266-270 Finchley Road, and the impact this has had or would have had].

Weakening the protection given to our conservation areas will led to more of these applications being approved, destroying over time the special character of our area.

Second, Policy D8. This weakens existing policies on tall buildings. Tall buildings are completely inappropriate in Hampstead or the surrounding area. Planning permission has recently been granted for a 24 storey tower at 100 Avenue Road. This development is completely out of keeping with our area, will loom over our conservation areas, and result in an increase in construction traffic on our streets. The London Plan should not be supporting more tall towers [give examples of the problems these cause, e.g. loss of light and overshadowing, construction traffic, wind tunnels, canyon effects, loss of streetscapes with reference to any local development, e.g. 100 Avenue Road].

Given that research has shown that mid-rise development can deliver the same housing density as high-rise development, the London Plan should not be supporting tall buildings.

Third, Policy G3. This applies to Hampstead Heath. It enables the boundaries of Metropolitan Open Land to be amended through

“land swap” deals. Hampstead Heath is one of the most important areas of open space in London and is a “green lung” at the heart of our community [give personal examples of why Hampstead Heath is so important]. The London Plan should not allow Hampstead Heath’s boundaries to be amended.

Overall, the London Plan is inconsistent with national planning policy and should therefore not be approved. I do not agree that the scale of the Mayor’s election victory enables him to depart from national policy. Just as important as the Mayor’s mandate is the role that local communities have been given to shape their own communities (for example, through Neighbourhood Plans). This must be respected. Not only this, but the London Plan lasts until 2041, and should not be shaped by the events of one election.

Yours sincerely,

3. Andrew Parkinson’s full submission to the Mayor in response to the draft London Plan

Camden Conservatives consultation response to the Draft London Plan

LEGAL FRAMEWORK

1. By section 41 of the Greater London Authority Act 1999 (“the 1999 Act”), the London Plan should be consistent with national policy. This is set out in the National Planning Policy Framework (“NPPF”) which is supported by the Planning Practice Guidance (“PPG”). The guidance in the NPPF about plan making generally refers to Local Plans. However, in light of section 41, it is appropriate to apply the soundness tests of paragraph 182 of the NPPF to the Draft London Plan, therefore it should be positively prepared, justified, effective and consistent with national policy. This was the approach taken by the Inspector into the Further Alterations to the London Plan (November 2014): see paragraph 2 of his report. There is no basis for taking a different approach now.

2. Therefore, the statement at paragraph 0.0.20 of the Draft London Plan that: “On some occasions, the Plan deviates from existing national policy and guidance; this is mainly where the Plan is delivering on a specific Mayoral commitment and reflects the particular circumstances of London. The scale of the Mayor’s election victory provides a significant political mandate to use the planning system to deliver his manifesto commitments” is wrong in law, being inconsistent with section 41 of the 1999 Act,

3. Further, the Draft London Plan is intended to set out land use policies over the next 20-25 years. The Mayor's political mandate extends for only 4 years, and therefore is irrelevant as a basis for departing from national planning policy.

HOUSING

SMALL SITES: POLICY H2

4. This policy is inconsistent with the NPPF, and therefore unsound. It provides a "presumption in favour" of small housing development of between 1 and 25 homes for development including conversions, extensions and demolition-and-rebuild schemes within 800m of a tube station, rail station or town centre boundary. As shown by the map at Figure 4.3 of the Draft London Plan, this would include vast swathes of Camden (and indeed, most of Central London).

5. Under the Draft London Plan, such development should be approved if in accordance with a Design Code (see Policy H2(E)). Where there is no such design code, as is the case in Camden, "the presumption means approving small housing development unless it can be demonstrated that the development would give rise to an unacceptable level of harm to residential privacy, designated heritage assets, biodiversity or a safeguarded land use that outweighs the benefits of additional housing provision." The presumption does not apply to statutory listed buildings, but does apply to development within their setting. It applies to development within a conservation area.

6. The policy is inconsistent with national planning policy and legislation for the following reasons:

7. First, section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the 1990 Act") protects not just listed buildings themselves, but also development within the setting of a listed building. It is given effect through paragraphs 128-134 of the NPPF. Where development within the setting of a listed building would cause harm to its significance, "the NPPF creates a strong presumption against the grant of planning permission…requiring particularly strong countervailing factors to be identified before it can be treated as overridden": see R (Lady Hart of Chiltern) v Babergh District Council [2014] EWHC 3261 (Admin). This is

reflected in paragraph 134 of the NPPF which only permits development resulting in harm to a listed building (including through development within its setting) where the public benefits of the proposal outweigh the heritage harm.

8. The Draft London Plan is inconsistent with section 66 as it establishes the opposite presumption where development is within the setting of a listed building: requiring the heritage (and other) harm to outweigh the benefits of the proposal. Legislation and national planning policy requires the reverse: for the benefits of the proposal to clearly outweigh the heritage harm. Therefore, as written, the policy is inconsistent with national planning policy. It should be amended to make clear at Policy H2(F)(i) that the presumption does not apply to development within the setting of a listed building.

9. Second, the Policy applies within conservation areas (even where harm is caused to the conservation area). This obviously contrary to legislation and the NPPF for the same reasons. Section 72 of the 1990 imposes the same duty as section 66 but in respect of development within a conservation area. Paragraph 134 imposes the same presumption against development that causes harm to the conservation area, and requires this to be outweighed by the public benefits of the proposal. Again, Policy H2 of the Draft London Plan imposes a reverse presumption in favour of development causing harm to a conservation area, and is therefore inconsistent with National Planning Policy. Policy H2F should be amended to exclude all development within a Conservation Area.

10. Third, there is no requirement for the Design Codes referred to in Policy H2B(2) to be designed to preserve and enhance the character and appearance of conservation areas. This requirement must be expressly written into the policy to ensure that development, causing harm to the Conservation Area, is not automatically presumed to be acceptable under Policy H2(E) once Camden adopts its design codes.

11. For all of these reasons, Policy H2 is unsound.

GREEN INFRASTRUCTURE AND NATURAL ENVIRONMENT

METROPOLITAN OPEN LAND: POLICY G3

12. Metropolitan Open Land (such as Hampstead Heath) should be given the same level of protection as Green Belt, as it is under the existing London Plan.

13. The policy fails to do this. There are three main areas in which the proposed policy significantly dilutes the protection given to MOL

such as Hampstead Heath:

14. First, the policy should make clear that all new development within MOL is in principle inappropriate (unless it falls within the limited exceptions in paragraphs 89 and 90 of the NPPF). The policy, as written, is inconsistent with the protection given in national planning policy to Green Belts. It could enable individual planning applications to achieve planning permission, each acceptable in their own terms (and therefore permitted under Policy G3), but resulting in a death by a thousand cuts to MOL over time through the loss of its openness.

15. Second, the Mayor should make clear that the de-designation of MOL will not be supported (as he has done for Green Belt: see draft Policy G2(B)). The failure to make clear that the London Plan does not support the de-designation of Green Belt would mean that areas such as Hampstead Heath now have less protection than the Green Belt in the new London Plan.

16. Third, the proposal for “land swaps”, enabling land to be taken out of MOL if it is replaced by new land, is fundamentally flawed. The starting point is that MOL has the highest level of protection under national planning policy (commensurate with the Green Belt). Therefore, MOL boundaries should only be altered in exceptional circumstances: see paragraph 83 of the NPPF. Exceptional circumstances must exist both to remove land from MOL and to add land to MOL. Providing alternative MOL land in place of existing MOL is not an exceptional circumstance justifying the removal of existing land; and the fact that the “replacement” MOL would meet one of the four criteria set (e.g. that it is clearly distinguishable from the built up area) is not an exceptional circumstance sufficient to justify adding new land to MOL in its place. This part of the policy is completely inconsistent with paragraph 83 of the NPPF and should be deleted.

17. In any event, even if “land swaps” are acceptable in principle, the policy does not even ensure (i) that the replacement land is of the same quality as the lost MOL land (ii) is adjacent to existing MOL land. It would therefore, for example, enable part of Hampstead Heath to be de-designated, to be replaced by inferior open space some distance from the Heath. It should be deleted for this further reason.

18. For all of these reasons, Policy G3 is unsound.

LOCAL GREEN AND OPEN SPACE: POLICY G4

19. This policy fails to recognise the contribution of private gardens to the extent of green space within London. Significantly, the Draft London Plan fails to carry forward Policy 3.5 of the existing London Plan. This states as follows:

“Boroughs may in their LDFs introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified.”

20. The failure of the Draft London Plan to carry forward this protection against garden grabbing (or at the very least to continue to enable the discretion that the existing London Plan gives to local authorities to develop their own policies) means that the Draft London Plan is inconsistent with paragraph 55 of the NPPF. This states:

“Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area”

21. Policy G4 should be amended to include the wording of existing London Plan policy 3.5.

22. There is also no definition of “green space”. This needs to be provided and should make clear that it includes private gardens.

23. For all of these reasons, Policy G4 is unsound.

URBAN GREENING: POLICY G5

24. We support this policy, subject to the two important caveats identified below:

25. First, the policy should be amended to make clear that “urban greening” features, such as green walls and ground cover planting) should be provided in addition to the new areas of publicly-accessible green and open space which are supported by Policy G4.

26. Second, the definition of “urban greening” states that “green roofs” and “soft landscaping” are the most appropriate elements of green infrastructure. This is not justified. It suggests that green roofs should be preferred over gardens, notwithstanding that the visual and biodiversity benefits of the latter (and the problems of

maintaining green roofs) are well known. Just as importantly, it is wholly inappropriate to hide away a hierarchy of “urban greening” types in the glossary to the plan. If the Mayor intends to include a policy preference in favour of green roofs over other forms of green infrastructure, he should say so in the policy itself.

27. For all of these reasons, Policy G5 is unsound.

DESIGN

TALL BUILDINGS: POLICY D8

28. This policy provides support for tall buildings and requires local planning authorities to identify appropriate locations for tall buildings in their Local Plans. This support for tall buildings marks a radical departure from the existing London Plan which makes clear that they can have “a significant detrimental impact on local character”; should be “resisted in areas that will be particularly sensitive to their impacts” and, most importantly, “only be considered if they are the most appropriate way to achieve the optimum density in highly accessible locations…”

29. The reasons given for this change do not withstand any scrutiny.

30. First, it is said that “tall buildings have a role to play in helping London accommodate its expected growth”. However, as the plan later acknowledges at supporting text para. 3.8.1, “high density does not need to imply high rise”. Further, as the existing London Plan acknowledges, growth can be accommodated through low and medium rise development; high-rise should only be used where it is the best way to achieve optimum density. Nothing has changed since the existing London Plan was adopted to suggest that this approach is no longer sound.

31. Second, it is said that tall buildings “enable people to navigate to key destinations”. This is a hopelessly inadequate justification for a policy that is likely to have significant social, visual and environmental harm (see below). It is in any event stuck in the 19th Century: people navigate by Google Maps, not by looking for the nearest tall building.

32. Tall buildings bring with them a whole range of negative visual, environmental and social impacts (less affordable housing, loss of light, overshadowing, loss of views etc) that low and medium rise development does not. As such, as under the existing London Plan, they should only be permitted where they are necessary. Policy D8 should be amended to include the requirement that tall buildings should only be permitted if they are the most appropriate way to achieve the optimum density in highly accessible locations, and after the possibility of building low and medium rise development has been ruled out.

33. Policy D8 is therefore unsound as it is not justified.

HERITAGE

HERITAGE CONSERVATION AND GROWTH: POLICY HC1

34. The Draft London Plan recognises the risk of cumulative harm to a heritage asset (such as a Conservation Area), resulting from individual planning applications (each of which is judged to result in no harm, or to result in less than substantial harm which is outweighed by the public benefits of the proposals). However, it simply states that this risk should be “actively managed”. This is a meaningless phrase. Policy HC1 should be amended to state as follows:

“The cumulative impacts of incremental change from development on heritage assets and their settings, should also be actively managed, and taken into full account when harm to heritage assets is being assessed”

TRANSPORT

ASSESSING AND MITIGATING TRANSPORT IMPACTS: POLICY T4

35. Traffic associated with the school run is a significant problem in Camden, particularly in NW3 where there is the highest concentration of schools in Europe. Numbers of children living in Hampstead of school age at the time of the 2011 census was 1,396 but in 2007 there were 9.868 children attended local schools, and by 2017 this number had increased to 12,659 (a 28% increase). This does not just result in congestion, but also has a serious

impact on air quality. In 2017 Camden Air Action carried out a detailed study that reported that at least at least 80% of Camden school children are breathing illegal air.

36. Camden's Local Plan has gone some way towards ensuring that the problem does not worsen, stating that it will "refuse applications for new schools or the expansion of existing schools in these areas, unless it can be demonstrated the number of traffic movements will not increase." However, the London Plan is entirely silent on this important issue. We suggest that the London Plan should adopt the wording used in the Camden Local Plan within Policy T4, with the following additional requirements:

(1) All applications for new or expanded schools should include an Air Quality Assessment demonstrating the impact on air quality (Draft London Plan policy SI1 requires this for "major development". Given the cumulative effect of traffic and air quality impacts arising from school development, this requirement should be extended to school-related applications).

(2) There is a concern that applications may be submitted which demonstrate that traffic movements will not increase, but that this will be based on travel plans and mitigation measures which are either not carried out or result in the actual levels of traffic movements being underestimated at the planning application stage. Policy T4 should therefore state that where planning permission is granted for new school development, on the basis that the number of traffic movements will not increase, a planning condition should be imposed limiting the number of movements to those specified in the application. If this is exceeded, the local authority will be able to take enforcement action. The condition should include a self-reporting requirement, requiring schools to report to the local authority specifying the number of children who travel to school by car.

Andrew Parkinson
27th February 2018

4. 10 point summary of the main parts of the draft London Plan by the Church Row and Perrins Walk Neighbourhood Forum

The Church Row and Perrins Walk Neighbourhood Forum has submitted detailed comments on the Draft New London Plan and set out why the draft plan is in contravention of planning legislation and policy. Set out below is a ten-point summary:

1. The document states that Mayor accepts that the draft plan does not comply with National Policy, but that he believes the "scale of his victory" is sufficient for him to ignore that the Greater London Authority Act 1999 and The National Planning Policy Framework of 2012. Legislation requires the London Plan to be consistent with national policy and guidance.

2. The draft plan seeks to build 65,000 new houses each year, 32,500 of which must be affordable. No finances are given for the affordable housing, but the cost over ten years is estimated to be circa £80 billion, i.e. more than twice the budgeted cost of HS2. The Mayor accepts that there are inadequate finances for the draft plans to be delivered.

3. To facilitate the housing targets, there is to be presumption in favour of small housing schemes (between 1 and 25 homes) on sites that are within 800 meters of a Tube Station (i.e. more than half of London) regardless of whether the proposal involves the demolition of a building making a positive contribution in a Conservation Area. There is an exemption for listed buildings, but the exemption doesn't apply to a listed building's setting.

4. The current plan is cautious about tall buildings and warns they can have "*significant detrimental impact on local character".* The new plan triumphantly announces that "*Tall buildings have a role to play in helping London accommodate its expected growth"* and seeks to justify their use because they help people navigate to key destinations. People use maps and phones to navigate, and it is a myth that super-towers can make a significant contribution to London's affordable housing needs. Mid-sized buildings often have a higher density and more affordable housing than taller buildings. London has spent the last thirty years trying to understand and correct the mistakes of post-war development, and London should learn from its past.

5. To prevent development of sites without sufficient density all applications with sub optimal density are to be refused. This appears to mean that any house not converted to flats would be automatically refused planning permission regardless of the application's significance, merit, desirability or public benefits and effectively puts a hold on any changes to a large percentage of London's housing stock.

6. The draft plan seeks to maintain the status quo with air quality. For example, whilst gas boilers produce roughly half the NOx pollution, and their emission can be reduced with new gas boiler technology, the draft plan does not promote the change over which left to its own devices will take more than 25 years. This is not consistent with Mr Justice Graham's recent findings against the Mayor and Others at the Royal Courts of Justice who stated that the state needs to bring air quality into compliance "*as soon as possible"*, and that "*cost is not a determining consideration in choosing the method*".

7. The draft plan states that 80% of all trips in London should be made by foot, cycle or public transport by 2041. Excluding public transport, in central London the bulk of the traffic is delivery trucks, how does the Draft Plan envisage deliveries will be made? In terms

of personal travel, it is not possible for all the very young, old and disabled, to travel by foot, cycle or public transport. The target needs to be realistic and expressed in a more inclusive way.

8. The draft plan lists an impressive set of transport projects. Whilst it acknowledges there is insufficient funding the draft plan doesn't try to do more with existing infrastructure. Modernising signalling and rolling stock can increase train frequency (and thus capacity) without the huge capital investment associated with new track.

9. The Draft Plan states that the principles of national Green Belt policy should apply to Metropolitan Open Land but then proceeds to not give it the same status.

10. In conclusion the key objective of increasing affordable housing is laudable, but the targets are unrealistic, unfunded, and unstainable. Further in the attempt to achieve this key objective the draft plan is seeking to set aside much of the existing planning framework, in a way that is detrimental to London and not in accordance with legislation and National Planning Policy. The draft plans should be rejected.

That's all.

Jessica