

RADLETT NEIGHBOURHOOD PLAN 2019-2036

Radlett Neighbourhood Plan Examination
A Report to Hertsmere Borough Council

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Contents

1, Summary

2, Introduction

3, Basic Conditions and Development Plan Status

4, Background Documents and the Radlett Neighbourhood Area

5, Public Consultation

6, The Neighbourhood Plan: Introductory Section

7, The Neighbourhood Plan: Policies

8, The Neighbourhood Plan: Other Matters

9, Referendum

1. Summary

- 1 Subject to the recommendations within this Report, made in respect of enabling the Radlett Neighbourhood Plan to meet the basic conditions, I confirm that:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.
- 2 Taking the above into account, I find that the Radlett Neighbourhood Plan meets the basic conditions¹ and I recommend to Hertsmere Borough Council that, subject to modifications, it should proceed to Referendum.

¹ It is confirmed in Chapter 3 of this Report that the Radlett Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

2. Introduction

The Neighbourhood Plan

- 3 This Report provides the findings of the examination into the Radlett Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by Aldenham Parish Council.
- 4 As above, the Report recommends that the Neighbourhood Plan should go forward to a Referendum. At Referendum, should more than 50% of votes be in favour of the Neighbourhood Plan, then the Plan would be formally *made* by Hertsmere Borough Council. The Neighbourhood Plan would then form part of the development plan and as such, it would be used to help make planning decisions in the Radlett Neighbourhood Area.
- 5 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

"Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can shape, direct and help to deliver sustainable development."

(Paragraph 29, National Planning Policy Framework)

- 6 As confirmed in paragraph 1.2 on page 4 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Aldenham Parish Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan.
- 7 Paragraph 1.3 of the Basic Conditions Statement also confirms that the Neighbourhood Plan relates only to the designated Radlett Neighbourhood Area and that there is no other neighbourhood plan in place in the Radlett Neighbourhood Area.
- 8 The above meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2019²) and Planning Practice Guidance (2014).

² A replacement National Planning Policy Framework was published in July 2018 and amended in 2019. Paragraph 214 of the replacement document establishes that the policies of the previous National Planning Policy Framework apply for the purpose of examining plans, where those plans are submitted on or before the 24th January 2019. The Radlett Neighbourhood Plan was submitted to

Role of the Independent Examiner

- 9 I was appointed by Hertsmere Borough Council, with the consent of the Qualifying Body, to conduct the examination of the Radlett Neighbourhood Plan and to provide this Report.
- 10 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the Local Authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 11 I am a chartered town planner and have seven years' direct experience as an Independent Examiner of Neighbourhood Plans and Orders. I also have thirty years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 12 As the Independent Examiner, I must make one of the following recommendations:
 - that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
 - that the Neighbourhood Plan, as modified, should proceed to Referendum;
 - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 13 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Radlett Neighbourhood Area to which the Plan relates.
- 14 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

Hertsmere Borough Council after this date (during February 2019) and consequently, it is appropriate to examine the policies of the Neighbourhood Plan against the most recent version of the National Planning Policy Framework.

Neighbourhood Plan Period

- 15 A neighbourhood plan must specify the period during which it is to have effect.
- 16 The title of the Neighbourhood Plan provides a clear reference to the plan period, 2019-2036 and the plan period is also referred to in Paragraph 1.20 on page 10 of the Neighbourhood Plan.
- 17 In addition, Paragraph 1.4 of the Basic Conditions Statement submitted alongside the Neighbourhood Plan also makes clear reference to the plan period.
- 18 Taking the above into account, the Neighbourhood Plan meets the requirement in respect of specifying the period during which it is to have effect.

Public Hearing

- 19 According to the legislation, it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 20 However, it is also the case that *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 21 Further to consideration of the information submitted, I determined that it would be helpful to hold a public hearing as part of the examination of the Radlett Neighbourhood Plan, in order to ensure adequate examination of a number of issues.
- 22 To this end, I held a public hearing in Radlett on 16th October 2019. At the public hearing, I heard from representatives of Aldenham Parish Council (the Qualifying Body) and Hertsmere Borough Council. This enabled me to consider the Policies of the Neighbourhood Plan in more detail.
- 23 Whilst my findings from the public hearing have informed this Examiner's Report and the recommendations set out within it, I confirm that *all* representations made – whether written or verbal – have been taken into account as part of the examination of the Neighbourhood Plan.

3. Basic Conditions and Development Plan Status

Basic Conditions

- 24 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “*basic conditions*.” These were *set out in law*³ following the Localism Act 2011. Effectively, the basic conditions provide the rock or foundation upon which neighbourhood plans are created. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
- 25 Regulations 23 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to above. Of these, the following basic condition, brought into effect on 28th December 2018, applies to neighbourhood plans:
- 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.⁴

³ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

⁴ *ibid* (same as above).

- 26 In examining the Plan, I am also required, as set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act), to check whether the neighbourhood plan:
- has been prepared and submitted for examination by a qualifying body;
 - has been prepared for an area that has been properly designated for such plan preparation (under Section 61G of the Localism Act);
 - meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that:
 - its policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004.
- 27 An independent examiner must also consider whether a neighbourhood plan is compatible with the European Convention on Human Rights.⁵
- 28 I note that, in line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

⁵ The Convention rights has the same meaning as in the Human Rights Act 1998.

European Convention on Human Rights (ECHR) Obligations

- 29 I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.
- 30 In the above regard, I also note that information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. Various comments have been received in response to active community engagement during the plan-making process. The Consultation Statement submitted alongside the Neighbourhood Plan provides a summary of responses to comments and to resulting changes to the Neighbourhood Plan.

European Union (EU) Obligations

- 31 In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment. In this regard, national advice states:
- "Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects."*
(Planning Practice Guidance⁶)
- 32 This process is often referred to as "*screening*"⁷. If likely environmental effects are identified, an environmental report must be prepared.

⁶ Planning Guidance, Paragraph 027, Ref: 11-027-20150209,.

⁷ The requirements for a screening assessment are set out in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004.

- 33 Hertsmere Borough Council carried out a screening assessment of the Neighbourhood Plan and this concluded that:

"...the Radlett Neighbourhood Plan would not have a significant effect on the environment in so far as: The RNP at the present time will not play a role in allocating land for housing or development...is unlikely to affect any designated sites in the vicinity or lead to other environmental effects...seeks to align with the adopted Development Plan which has been subject to full SEA and Habitats Regulations Assessment and Sustainability Appraisal. The small spatial extent and the magnitude of the population affected are not considered significant for the purpose of the SEA."

- 34 The statutory bodies, Historic England, Natural England and the Environment Agency were all consulted on the screening assessment. Natural England and the Environment Agency responded and agreed with its conclusions and none of the statutory bodies raised any concerns.
- 35 In addition to SEA, a Habitats Regulations assessment identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans and projects. This assessment must determine whether significant effects on a European site can be ruled out on the basis of objective information⁸. If it is concluded that there is likely to be a significant effect on a European site, then an appropriate assessment of the implications of the plan for the site must be undertaken.
- 36 Hertsmere Borough Council prepared a screening in respect of Habitats Regulations Assessment (HRA) which concluded that the Neighbourhood Plan does not need a full HRA. The statutory bodies were consulted on the outcome of the screening report and none raised any concerns in respect of the Neighbourhood Plan meeting European obligations.
- 37 Further to the above, national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

"It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations (including obligations under the Strategic Environmental Assessment Directive)" (Planning Practice Guidance⁹).

⁸ Planning Guidance Paragraph 047 Reference ID: 11-047-20150209.

⁹ *ibid*, Paragraph 031 Reference ID: 11-031-20150209.

- 38 In carrying out the work that it has and in reaching the conclusions that it has, Hertsmere Borough Council has not raised any concerns in respect of the Neighbourhood Plan's compatibility with EU obligations.
- 39 In addition to all of the above, I note that, in April 2018, in the case *People Over Wind & Sweetman v Coillte Teoranta ("People over Wind")*, the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means if a likely significant effect is identified at the screening stage of a habitats assessment, an *Appropriate Assessment* of those effects must be undertaken.
- 40 In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.
- 41 The changes to regulations allow neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an Appropriate Assessment to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or planning application.
- 42 These changes came into force on 28th December 2018. This pre-dated the submission of the Neighbourhood Plan and the subsequent consultation period. I am mindful that Hertsmere Borough Council has taken all of the above into account and that it considers the Neighbourhood Plan to be compatible with European obligations.
- 43 Taking this, all of the above and the evidence before me into consideration, I am satisfied that the Neighbourhood Plan is compatible with European obligations.

4. Background Documents and the Radlett Neighbourhood Area

Background Documents

- 44 In undertaking this examination, I have considered various information in addition to the Radlett Neighbourhood Plan.
- 45 I draw attention to the fact that a replacement version of the National Planning Policy Framework was published in 2018 and revised in 2019 and it is this replacement document that the Neighbourhood Plan must have regard to.
- 46 Information considered as part of this examination has included (but has not been limited to) the following main documents and information:
- National Planning Policy Framework (referred to in this Report as *"the Framework"*) (2019)
 - Planning Practice Guidance (2014, as updated)
 - Town and Country Planning Act 1990 (as amended)
 - The Localism Act (2011)
 - The Neighbourhood Plan Regulations (2012) (as amended)
 - Hertsmere Core Strategy (2013) (referred to in this Report as the *"Core Strategy"*)
 - Site Allocations and Development Management Policies Plan (2016) (referred to in this Report as the *"SADM"*)
 - Basic Conditions Statement
 - Consultation Statement
 - Representations received
 - Supporting evidence including Character Assessment and Addendum
- 47 In addition, I spent an unaccompanied day visiting the Radlett Neighbourhood Area.

Radlett Neighbourhood Area

- 48 The boundary of the Radlett Neighbourhood Area is clearly identified on Figure 1 provided on page 10 of the Neighbourhood Plan.
- 49 However, the description of the Neighbourhood Area, provided in Paragraph 1.21 on page 10 of the Neighbourhood Plan, appears incorrect, as it suggests that the Neighbourhood Area is limited to the urban area of Radlett, which is not the case. For clarity and precision, I recommend:
- **Page 10, Para 1.21, change to *"It was agreed that the Neighbourhood Area – the area covered by the policies of the Neighbourhood Plan – should be limited to Radlett, the urban centre of Aldenham Parish and to the countryside immediately surrounding it. This takes into account that the development pressures relating to outlying villages and hamlets are different to those of Radlett and that robust Green Belt policies are in place. Figure 1 shows the boundary of the Neighbourhood Area."***
 - **Also, there are two paragraphs numbered 1.21 in the Neighbourhood Plan. Para 1.21 on page 11 should be Para 1.22 (and subsequent paras to follow on)**
- 50 Hertsmere Borough Council initially designated the Radlett Neighbourhood Area on 4th April 2014. Following a small boundary change, the Neighbourhood Area was subsequently re-designated by Hertsmere Borough Council on 8th February 2017. It is to this (re-designated) Neighbourhood Area to which the Neighbourhood Plan relates.
- 51 This satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

5. Public Consultation

Introduction

- 52 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development management decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 53 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

Radlett Neighbourhood Plan Consultation

- 54 A Consultation Statement was submitted to Hertsmere Borough Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*¹⁰.
- 55 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Radlett Neighbourhood Area, having regard to Paragraph 29 of the National Planning Policy Framework ("*the Framework*").
- 56 Aldenham Parish Council established a Neighbourhood Plan Steering Group to progress the Neighbourhood Plan during 2014. An "Awareness Event" was held at the Parish Council's Winter Fair during that year and at this, more than 80 questionnaires were completed. The questionnaire was made available online and posted out to all households in Radlett and a total of 887 replies were received.

¹⁰ Neighbourhood Planning (General) Regulations 2012.

- 57 The results of the questionnaire helped the Steering Group to formulate the vision for the plan and following an event in March 2015, more than fifty people joined working groups on various themes. Numerous meetings, discussions and presentations took place during 2015 and 2016 and in April 2017, a first draft plan was shared with Hertsmere Borough Council.
- 58 Further to changes to this draft, pre-submission consultation took place during July, August and September 2017. Consultation was supported by a launch event and the distribution of an executive summary to every household in Aldenham Parish. Also, an on-line survey was provided on the dedicated Neighbourhood Plan website and members of the Radlett Youth Council were invited to take part in the launch event.
- 59 Pre-submission consultation generated more than 500 distinct comments. These were duly recorded and considered and informed the submission version of the Neighbourhood Plan. The Neighbourhood Plan was originally submitted in September 2018, but further to a decision to make changes, was re-submitted in February 2019.
- 60 Amongst other things, in addition to the dedicated website, public consultation was supported by the use of social media, posters, flyers and even the distribution of postcards, to ensure high levels of publicity.
- 61 The Consultation Statement provides ample evidence to demonstrate that public consultation formed a fundamental part of the plan-making process. Consultation was exemplary – it was comprehensive, well-publicised and matters raised were duly considered.
- 62 Taking all of the above into account, I am satisfied that the consultation process was robust and that it complied, in full, with the neighbourhood planning regulations referred to above.

6. The Neighbourhood Plan – Introductory Section

63 In the interests of precision and clarity, I recommend the following changes to the Introductory Section of the Neighbourhood Plan:

- Foreword, Page 7, change penultimate paragraph to *“Once made, the Neighbourhood Plan will become part of Hertsmere’s development plan covering Radlett and as such, it will be used to help make planning decisions.”*
- Page 8, Para 1.2, delete first sentence (which is incorrect), and replace with *“The Neighbourhood Plan’s Policies are concerned with land use planning matters.”*
- Para 1.5, last sentence change to *“...area, meeting growing demand places development pressure on in-fill and brownfield sites within the settlement area.”*
- Page 9, Para 1.13, delete *“...until at least 2036.”* (Planning is dynamic and plans are reviewed, altered and replaced over time. The Neighbourhood Plan itself goes on to refer to being reviewed every five years)
- Para 1.16. Delete first sentence, which does not have regard to national policy
- Para 1.16, tenth line, change to *“...once made (or adopted), the Radlett Plan will ensure that...development tax) on development in the Radlett Neighbourhood Area will be allocated to projects in Radlett Neighbourhood Area.”*
- Delete Para 1.18. The paragraph and text box appears as a representation to the Green Belt review process and this is inappropriate for inclusion in the Neighbourhood Plan. Green Belt policy is established in Chapter 13 of the Framework, *“Protecting Green Belt land”* and the Neighbourhood Plan must have regard to this.
- Page 13, delete Para 1.38, which has been overtaken by events
- Page 14, Para 2.3, last sentence, change to *“...include...”*

- **Page 18, Para 2.27 change last word to “office.” Para 2.30, delete gap before comma.**

64 The “*Key Policy Reference*” sections included in each Policy chapter appear as subjective and selective references. Further, these sections are unnecessary as it is for the examination process to determine whether or not Policies have regard to national policy and advice, and/or are in general conformity with local strategic policies. Whilst their inclusion may have been helpful during the consultation stage, their continued inclusion detracts from the clarity and precision of the Neighbourhood Plan.

65 I recommend:

- **Delete all “Key Policy Reference” sections in each Policy chapter**

7. The Neighbourhood Plan – Neighbourhood Plan Policies

Housing and Design

Policy HD1: Housing Choices

- 66 Chapter 5 of the Framework, “Delivering a sufficient supply of homes,” sets out the national objective of:

“...significantly boosting the supply of homes...”

- 67 Core Strategy Policy CS7, “*Housing Mix*,” requires new housing proposals on sites for more than 10 dwellings to provide a mix of housing, in respect of size and type within each tenure.

- 68 As set out, Policy HD1 states that the development of certain types of housing will be “*particularly supported*.” No detail is provided in respect of how a decision maker might “*particularly support*” a proposal, as opposed to “*support*” a proposal and the Policy appears ambiguous in this respect. There is no information in respect of how a decision maker might prioritise levels of support, or how such a thing might work in practice.

- 69 In this respect, the Policy does not have regard to planning guidance, which requires planning policies to be unambiguous and precise¹¹:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”

¹¹ Planning Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

- 70 Policy HD1 does not set out any requirements, but rather, it comprises a general statement. Given this and the above, the Policy does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the Framework, which requires plans to:

"...contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals."

- 71 The Policy includes reference to particular support for various things, but does not set these out as requirements supported by evidence in respect of deliverability, having regard to the national policy requirement established in Paragraph 16 of the Framework for planning policies to be deliverable.
- 72 However, the aspirations of the Policy clearly seek to respond in a positive manner to national and local policy and guidance, which support the delivery of housing to meet the needs of a range of users; and the supporting text and evidence base highlight the community's aspirations around new development providing for smaller dwellings.
- 73 Given this and all of the above, I recommend:
- **Change the wording of Policy HD1 to *"All residential development proposals for more than ten dwellings must include smaller dwellings to meet the Neighbourhood Area's identified needs. The provision of accessible and flexible forms of accommodation to meet the needs of disabled and older people will be supported."* Delete rest of Policy**
 - **Para 3.13, change first line to *"...Framework requires local authorities to plan for and deliver.."***

Policy HD2: Development at Starveacres

- 74 SADMP Policy SADMP2, "*Safeguarded Land for Housing*," safeguards land at Starveacres in Radlett for residential development.
- 75 As set out, Policy HD2 effectively limits residential development at the Starveacres site to that which comprises Lifetime Homes for older people. Such an approach is not in general conformity with Policy SADM2, which does not place any such limitation on the type of housing to be provided at the site.
- 76 No substantive evidence has been provided to justify limiting the use of the Starveacres site in the manner that Policy HD2 proposes.
- 77 The Policy goes on to set out detailed requirements predicated on all of the housing at Starveacres comprising elderly housing, as well as "*auxiliary amenities and services*." No justification is provided in the form of evidence to demonstrate deliverability.
- 78 I recommend:
- **Policy HD2, change to "*Residential development at Starveacres will be supported where it provides for a mix of housing types and tenures. Proposals should consider opportunities to provide housing suitable for older people.*" Delete rest of Policy**
 - **Page 31, delete last bullet point under "Policy Intent" which relates to neither Policy HD1 or HD2**

Policy HD3: Respecting and Enhancing Local Townscape and Landscape Character and Patterns

79 National planning policy recognises that:

“Good design is a key aspect of sustainable development, creating better places in which to live and work and helps make development acceptable to communities.”

(Paragraph 124, the Framework)

80 Core Strategy Policy SP1, *“Creating sustainable development,”* requires development to be of a high quality design and to take opportunities to improve the character and quality of an area.

81 Policy HD3 promotes development that responds positively to local character and in this way, it has regard to national policy and is in general conformity with the Core Strategy.

82 As set out, the wording of the opening sentence of Policy HD3 runs the risk of supporting development without taking all relevant factors into account. The Policy then goes on to require all development to enhance townscape and landscape character. Such an onerous requirement goes beyond national or local planning policy requirements, and is even more stringent than controls affecting say, designated heritage assets, such as Conservation Areas or the settings of Listed Buildings.

83 Consequently, in this regard, the Policy does not have regard to national policy and is not in general conformity with the Core Strategy.

84 In considering Policy HD3, I am also mindful that the Neighbourhood Plan's design Policies, when taken together, could be perceived as seeking to raise the status of the Radlett Character Assessment and Design Code to full land use planning policy status. Design Codes and Character Assessments provide helpful guidance, but are not land use planning policies.

85 In this respect, whilst I recognise the significant and to some considerable degree, exemplary nature of the evidence base supporting the Neighbourhood Plan, I am concerned to ensure that the Neighbourhood Plan provides for clarity in respect of Policies and supporting guidance.

- 86 For example, as set out, the supporting text refers to Radlett's prevailing character including a housing density of around 11 dwellings per hectare. Whilst this is the case in some parts of the Neighbourhood Area, densities in other parts are much higher and consequently, a slavish approach, whereby there is a suggestion, whether meant or not, that a low density might be suitable for all development would run counter to, not only the different densities that exist across Radlett, but also the national policy requirement to boost, significantly housing supply and for planning policies to:

"support development that makes efficient use of land..."
(Paragraph 122, the Framework)

- 87 Whilst new developments of low density housing might help maintain the area's prevailing character in lower density parts of the Neighbourhood Area, there is no evidence in the Neighbourhood Plan or its supporting material to demonstrate that adopting a "*Radlett plot*" approach founded upon a density of 11 dwellings per hectare, would makes efficient use of land, or take account of needs, market conditions, viability, or the availability and capacity of infrastructure and services, having regard to national policy.
- 88 The recommendations set out below have regard to this. However, in doing so, they recognise the significant work underpinning the Neighbourhood Plan and the very clear community aim of ensuring that all development in Radlett responds positively to the Neighbourhood Area's special qualities.
- 89 Further to the above, I note that the Radlett Character Assessment clearly provides information in respect of the built-up area of Radlett and that consequently, the reference "*relates to the settlement area...1.1.2019*" within Policy HD3 appears cumbersome and is unnecessary.
- 90 Also, the second paragraph of Policy HD3 contains a statement in respect of planning application requirements. Planning application requirements are determined by statute, with local requirements being the responsibility of the local planning authority, which in this case is Hertsmere Borough Council. It is not within the scope of the Neighbourhood Plan to set out planning application requirements.

91 Taking all of the above into account, I recommend:

- Policy HD3, change opening paragraph to ***“Development proposals are required to reflect and respond positively to local townscape and landscape character. Development within the settlement of Radlett should have regard to the Radlett Character Assessment and the Radlett Design Code. All development must respect local character and residential amenity.”***
- Delete second paragraph of Policy HD3 (“The Plan welcomes...provides further guidance.”)
- Para 3.33, whether or not the Radlett Plan *“recognises”* Permitted Development Rights does not affect the fact that they are a matter of statute. Delete first sentence (“The Radlett...nationally.”)
- Para 3.33, delete bullet point “A density of on average 11 building units per hectare”
- Page 37, change second bullet point under “Policy Intent” to “...of the *village, having regard to context and the Radlett Character Assessment 2016.*” This recommendation also applies to Objective 2, paragraph 3.12 on page 25 of the Neighbourhood Plan.
- Page 37, delete the last bullet point (“To support...downsizers”) which is not a requirement of any of the Policies HD3 - HD7

Policy HD4: Development of Garden Land

- 92 Policy HD4 seeks to afford protection to garden land that is characteristic of the area, having regard to Paragraph 127 of the Framework, which requires development to be sympathetic to local character and maintain a strong sense of place.
- 93 However, the wording of the Policy is such that it results in an ambiguous Policy, to the effect that development that will not be supported will be supported.
- 94 For clarity, I recommend:
- ***Change the wording of Policy HD4 to “All development must respect Radlett’s distinctive green and verdant qualities. The loss of garden land to development that fails to respect the character and prevailing development pattern of the surrounding area will not be supported.”***
 - **Delete rest of Policy**

Policy HD5: The Radlett Design Code

- 95 Policy HD5 seeks to impose the Radlett Design Code on all development outside the Green Belt and Conservation Areas. Effectively, it seeks to afford development plan policy status to the Design Code set out on pages 38 and 39 of the Neighbourhood Plan.
- 96 Parts of the Design Code appear subjective, prescriptive and ambiguous, and are unsupported by appropriate evidence. For example, the Policy seeks to impose rigid requirements for, for example, "*enhancement*," for new boundary spacing standards, for new hard surface standards and for new gate provision standards, without evidence of deliverability or justification in respect of departures from national and/or local planning policy.
- 97 Requirements are also set out that fail to provide for the balanced consideration of a development proposal, taking account of both harm and the scope for benefits to outweigh or mitigate harm.
- 98 The Policy goes on to set out requirements around giving "*preference*" and sets an "*expectation*," without demonstrating how such things might work in practice from a land use planning policy management perspective.
- 99 As set out, I am unable to conclude that Policy HD5 will contribute to the achievement of sustainable development and the Policy does not meet the basic conditions.
- 100 However, I am mindful that much of the content of the Design Code sets out local aspirations aimed at ensuring that development in Radlett respects and where possible enhances, and does not detract from, those qualities that make the Neighbourhood Area special. This in mind, I recommend:
- **Delete Policy HD5 (NB, I recommend earlier that the Radlett Design Code be referenced in Policy HD3)**

- Delete box headed “Radlett Design Code” on page 38 and replace with a new Paragraph of supporting text *“Radlett Design Code. Aldenham Parish Council would like to see all development have regard to the design aspirations of the “Radlett Design Code” set out below. Engagement on these things by landowners and developers will be greatly welcomed and the Parish Council will, where possible, seek to work with parties to achieve the following, all aimed at protecting and enhancing Radlett’s attractive characteristics:”*
- Retain the titles of each topic on pages 38 and 39
- Change a. to *“Achieving plot coverage that respects its surroundings.”*
- Change b. to *“Ensure that development takes account of gradients and restricts ridge heights to a height that respects neighbouring properties.”*
- Delete diagram on page 38
- Change c. to *“Ensuring that gates and entrances requiring planning permission respect local character and do not dominate their surroundings.”*
- Change d. to *“Ensuring that new homes are designed such that spaces in front of them contribute to the verdant character of the area. Ensuring that hard surface coverage within housing plots be limited and that hard surfacing be permeable. Achieving biodiversity gains and actions to prevent flood risk.”*
- Change e. to *“Providing sufficient space between dwellings”*
- Change f. to *“Encouraging the use of durable, high quality local materials that appear in keeping with their surroundings.”*
- Change g. to *“Sensitively integrating parking into the landscape and streetscene.”*

- Change h. to *“Ensuring that boundary treatments reflect the prevailing character of boundaries, with special attention to retaining open character and green hedges, and avoiding boundaries that appear unduly dominant.”*
- Change i. to *“Respecting grass verges and street trees.”*

Policy HD6: Healthy High Quality Trees and Hedges

- 101 Chapter 15 of the Framework, *"Conserving and enhancing the natural environment,"* promotes the protection and enhancement of biodiversity. To a considerable degree, Policy HD6, which seeks to protect trees and hedgerows, has regard to this.
- 102 As worded, the second part of the Policy relates to a situation where *"development is approved."* Once a development has received planning permission, it is not subject to the policies of the Neighbourhood Plan.
- 103 I note that SADM Policy SADM13, *Trees Landscaping and Development,* sets out a clear land use planning policy approach to development affecting trees.
- 104 I recommend:
- **Policy HD6, change wording to: *"Development proposals should retain healthy high quality trees, woodland and hedges in the Neighbourhood Area."* Delete rest of Policy**

Policy HD7: Tykes Water

- 105 SADM Policy SADM17, "*Watercourses*," recognises that the practical management of watercourses is necessary to provide for water flow, biodiversity and to ensure the maintenance of riparian environments and avoid potential problems in the future.
- 106 Policy HD7 supports the provision of a buffer zone at Tykes Water/Radlett Brook, in general conformity with SADM17.
- 107 Whilst Hertsmere Borough Council indicated that the buffer zone referred to in Policy HD7 might comply with an 8 metre standard, both Policy SADM17 and Hertsmere's Land Drainage Bylaws refer to the requirement for a 9 metre buffer zone, as per Policy HD7.
- 108 Policy HD7 meets the basic conditions. No changes recommended.

Policy HD8: The Radlett Bungalows

- 109 The Radlett Bungalows make a major, positive contribution to Radlett's townscape and distinctive character. Significant evidence has been submitted to demonstrate the importance of Radlett Bungalows to the Neighbourhood Area.
- 110 In general terms, Policy HD8 has regard to Paragraph 127 of the Framework's requirement for development to maintain a strong sense of place and to be sympathetic to local character and history. In addition, the Policy has regard to Chapter 16 of the Framework, "*Conserving and enhancing the historic environment*," which requires heritage assets to:
- "...be conserved in a manner appropriate to their significance, so they can be enjoyed for their contribution to the quality of life of existing and future generations."*
- (Paragraph 184, the Framework)
- 111 Subject to minor textual amendments, the Policy meets the basic conditions.
- 112 The Map on page 43 is of insufficient quality as it does not clearly identify each Radlett Bungalow. Also, the Map relates to Policy 8, not just Policy 8.1.
- 113 I recommend:
- **Policy HD8, add to second line "...identified on Figure X for their individual..." (NB, replace "X" with actual Figure number(s))**
 - **Policy HD8, line three, replace "anand" with "and"**
 - **Replace the Map on page 43 with a numbered Figure or Figures, clearly identifying each Radlett bungalow and replace the untidy Post-It notes with a clear Key**
 - **Delete the unnecessary reference provided in brackets at the end of each paragraph of the Policy**

- **Para 3.38, delete lines 5 to 11, "As with Statutory...statutory protection." (which is not the case)**
- **Page 42, "Policy Intent," delete second and third bullet points which do not relate directly to the Policy and change last bullet point to "...character of the village, *having regard to context and the Radlett Character Assessment 2016.*" This recommendation also relates to Objective 2, paragraph 3.12 on page 25 of the Neighbourhood Plan.**

Policy HD9: Designing with Local Knowledge

114 Paragraph 40 of the Framework states that:

“Local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage. They cannot require that a developer engages with them before submitting a planning application, but they should encourage take-up of any pre-application services they offer. They should also, where they think this would be beneficial, encourage any applicants who are not already required to do so by law to engage with the local community and, where relevant, with statutory and non-statutory consultees, before submitting their applications.”

115 Thus, national policy recognises the importance of community engagement, albeit within the limitations of what can and what cannot be imposed upon developers.

116 Policy HD9 states that a development proposal supported by evidence of early engagement will be *“looked on more favourably.”* This fails to have regard to national planning policy, which does not provide for such an approach and there is no substantive information to clarify how such an approach might work in practice.

117 Planning application validation requirements are a matter of statute and in respect of local requirements, are the responsibility of the local planning authority. Setting out validation requirements is beyond the scope of the Neighbourhood Plan.

118 I recommend:

- **Delete Policy HD9**
- **Delete second half of Para 3.41 (“Therefore we wish...major development”)**
- **Delete Para 3.43**
- **Delete “Policy Intent”**

- Provide new para, below 3.42, *"Aldenham Parish Council would like to have greater and earlier involvement in major planning applications and will seek to encourage developers to engage with the community as early as possible and as much as possible. The Parish Council will encourage developers to set out in Design and Access Statements how the development proposal will contribute to achieving the Vision for Radlett. It might include LIST THE BULLET POINTS FROM THE MIDDLE COLUMN ON PAGE 45 HERE (DO NOT INCLUDE FINAL PARA OF THIS COLUMN "In preparing...process.")*

The provision of this information could be supported through active engagement with Aldenham Parish Council and the local community. We strongly encourage developers to undertake design workshops, to use Design Panel Reviews and to consider the guidance, Building for Life 12.

Active community engagement from the earliest stages will support the provision of a strong and effective Statement of Community Consultation."

- Delete Key Policy Reference section on page 44 (NB, earlier recommendation in this Report recommends deletion of all Key Policy Reference sections)
- Change Heading at top of page 44 to *"Housing and Design – Designing with Local Knowledge"*

Policy RV1: A Vibrant Village Centre

- 119 As worded, it is difficult to understand precisely what the focus of Policy RV1 is.
- 120 Whilst the title would suggest that the Policy is aimed at ensuring the vibrancy of Radlett's centre, the Policy is worded in such a way that, as set out, it would likely prevent any form of development, contrary to the community's aspirations. There is no evidence to demonstrate that a development proposal could achieve the criteria set out.
- 121 Drawing out the main aims of the Policy, it suggests support for the provision of new retail, community and cultural uses, subject to such uses respecting local character; to support public realm improvements; and improvements to Radlett Station.
- 122 Such support has regard to national policy requirement for planning policies to:
- "...support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation."*
(Paragraph 85, the Framework)
- 123 Above the Policy and following its supporting text, there appear a set of *"Recommendations."* These vary in content from statements of intent to wording as though they comprise Policy requirements. The Recommendations have no Policy status and appear without context or explanation. As a consequence, they appear confusing and detract from the clarity of the Neighbourhood Plan.
- 124 I recommend:
- **Policy RV1, change to: *"The provision of a wider range of retail (A1), entertainment (A3, A4, A5), community and cultural (D1 and D2) uses in the Village Centre, as defined on Figure 17, will be supported subject to such uses respecting local character and conserving or enhancing the Conservation Area and its setting. Improvements to the Village Centre's public realm, pedestrian and cycling facilities will be supported. The improvement of facilities at Radlett Station, including enhanced access, cycle parking, electric vehicle charging points, and development to include other uses such as office/residential/hotel, will be supported."* Delete rest of Policy**

- Delete Recommendations on page 54
- Delete last three bullet points on page 53 ("To ensure APC...(Objective 5)")
- Change title of Figure 19a to "*Pedestrian and Cycle Opportunities*"
- Remove "*Key Locations for Change*" and "*Getting Around Policies*" notations and text from Figure 17 (which do not relate directly to any Policies)

Policy RV2: Medical Services

- 125 Chapter 8 of the Framework, "*Promoting healthy and safe communities*," promotes healthy lifestyles and requires planning policies to:

"...plan positively for the provision and use of shared spaces, community facilities...and other local services to enhance the sustainability of communities and residential environments."

(Paragraph 92, the Framework)

- 126 Generally, Policy RV2 promotes the creation and retention of community services and has regard to national policy.
- 127 As set out, the Policy could give rise to inappropriate forms of development by supporting any development so long as it enhances medical services.
- 128 Also, whilst the most sustainable location for new medical facilities would comprise the Village Centre, there is currently no viable or deliverable land allocation for such. Consequently, limiting any such use to the Village Centre, rather than Radlett-wide could simply prevent the provision of new medical services in Radlett, particularly if there are other options in other settlements.

- 129 I recommend:

- **Policy RV2, change wording to "*The retention or enhancement of the range of medical services in Radlett will be supported. Any such use should be located in the Village Centre unless it can be demonstrated that there are no viable and deliverable sites, in which case provision elsewhere in the settlement will be supported.*"**
- **Add to end of Para 3.57 "*The Parish Council strongly encourage the provision of a new medical service in the Village Centre – where it can be accessed by all – and will seek to work with parties to support any such proposal.*"**

Policy RV3: Car and Bicycle Parking

130 The wording of Policy RV3 is ambiguous and unclear. There is no evidence to demonstrate what demonstrable peak hour shortfalls might comprise, or what “addressing” these might entail. Further, it is not clear why any type of development would be supported, so long as it “addresses” these things. In the absence of substantive evidence, it is not possible to conclude that the Policy would contribute to the achievement of sustainable development.

131 Notwithstanding the above, appropriate new car and cycle parking may support the vitality of Radlett Village Centre and I recommend:

- ***Change wording of Policy RV3 to “The provision of new car parking and/or cycle parking facilities in Radlett Village Centre that respect local character and which conserve or enhance the Conservation Area will be supported.”***

Policy RV4: Outdoor Market

132 The title to Policy RV4 is missing. I also note that the Outdoor Market no longer operates and consequently, cannot be *"retained."*

133 Taking this and previous recommendations into account, I recommend:

- **Provide new title "RV4: Outdoor Market" above Policy RV4**
- **Change Policy RV4 to *"The provision of an Outdoor Market along Watling Street will be supported."***

Policy RV5: Oakway Parade

134 In general terms, Policy RV5 promotes good design that respects local character and promotes local distinctiveness, having regard to Paragraph 127 of the Framework.

135 In the absence of any justification, it is not clear why Policy RV5 requires development to provide enhancement. Such a requirement would go beyond national policy requirements for designated heritage assets, as set out in Chapter 16 of the Framework and Oakway Parade is undesignated.

136 I recommend:

- ***Policy RV5, change to “Improvements to the appearance and/or vitality of Oakway Parade will be supported. Development should conserve important architectural features including scale, systematic repetition, use of local materials and architectural detail.”***

Policy RV6: Digital Infrastructure

- 137 Chapter 5 of the Framework, "*Supporting high quality communications infrastructure*," recognises the vital role that high quality communications infrastructure plays in respect of sustainable economic growth and enhancement of the provision of community facilities and services.
- 138 Policy RV6 is generally supportive of the provision of communications infrastructure and in this respect, it has regard to national policy.
- 139 In the absence of detailed information, it is not clear why the Policy seeks to support any development proposal that provides public broadband, rather than focus on the provision of the communications infrastructure itself.
- 140 In making the recommendation below, I am mindful that national policy considers the provision of high quality and reliable communications infrastructure as essential. It contains provisions for shared masts, sympathetic design and camouflage, as appropriate (Paragraph 113, the Framework)
- 141 I recommend:
- **Change wording of Policy RV6 to "*The development of high quality communications infrastructure, including public broadband and fibre connections, will be supported.*"**
 - **Change title of Policy to "*RV6: Communications Infrastructure*" (having regard to national policy)**

Policy GA1: Walking and Cycling Networks

142 Paragraph 98 of the Framework states that:

"Planning policies...should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users..."

143 The Framework goes on to require planning policies to:

"...provide for high quality walking and cycling networks and supporting facilities..."

(Paragraph 104, the Framework)

144 Subject to a slight wording amendment, Policy GA1 promotes a high quality walking and cycling network and has regard to national policy.

145 There is no substantive evidence to support the contention that Figures 19a and 19b comprise deliverable *"priorities"*, as suggested by the Policy.

146 I recommend:

- **Policy GA1, change wording to *"Development of a well maintained, safe and attractive local walking and cycle network and the enhancement of such, will be supported. Development that reduces the quantity, functionality and/or quality of walking and cycle networks would not be supported."***
- **Delete para 3.82**
- **Page 59, "Policy Intent" delete 2nd, 5th, 6th and 7th bullet points which do not relate directly to the Policies**

Policy GA2: Digital Connectivity

147 It is not clear why “*digital connectivity*” is a “*Getting Around*” matter. Notwithstanding this, Policy RV6, subject to recommendations, sets out the Neighbourhood Plan’s land use planning policy approach to communications infrastructure across the whole of the Neighbourhood Area. There is no need for repetition.

148 I recommend:

- **Delete Policy GA2**

Policy OS1: Protection of Open Space

149 National policy establishes that existing open space should not be built on, except for the reasons set out in Paragraph 97 of the Framework (and taken into account in the recommendations below). Whilst this is slightly different from Policy OS1's approach of protecting open space because it makes a positive contribution to the Neighbourhood Area, the overall intent of affording protection to important areas of open space is similar.

150 Taking this into account, I recommend:

- **Policy OS1, change wording to *"The nine open spaces identified in Figure 20 should not be built on unless: an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use."***
- **Figure 20, delete "OS" reference, leaving just the number, to avoid confusion with OS Policies**
- **Page 63, "Policy Intent" change first bullet point to "To protect open space in the village..." Also, change "local green spaces" to "open spaces" in Para 3.12 on page 25 of the Neighbourhood Plan.**

Policy OS2: Public Open Space Improvements

151 Taking earlier comments into account, Policy OS2 supports the provision of open space and has regard to Paragraph 96 of the Framework, which recognises that the provision of open space:

"...is important for the health and well-being of communities."

152 I recommend:

- **Policy OS2, change wording to *"The provision of new and/or enhanced public open space, including...pollution shall be supported."***

Policy OS3: Development Adjacent to Open Space

- 153 Whilst the general intent of Policy OS3 is to ensure that development adjacent to the open spaces identified in Policy OS1 does not detract from the appearance of those open spaces, the wording of the Policy appears somewhat vague and imprecise.
- 154 In the absence of information, the “*calming character*” of open spaces appears subjective and there no substantive evidence is provided in respect of the biodiversity function of the identified spaces. Also, the only evidence in the Neighbourhood Plan relating to the recreational function of the identified open spaces relates to their names.
- 155 However, the clear intention of the Policy is to afford protection to the appearance of areas that make an important, positive contribution to the special character of Radlett and I recommend:
- **Policy OS3, change wording to “*Development adjacent to the nine open spaces identified in Policy OS1 should not appear visually intrusive or overbearing when seen from a designated open space.*”**

Policy OS4: Local Play Areas

156 Taking earlier comments into account, I recommend:

- **Policy OS4, change wording to “*The development of new play areas in the Neighbourhood Area east of Watling Street will be supported.*”**

Policy OS5: Public Recreational Spaces

157 Policy OS5 seeks to support any form of development so long as it contributes to the maintenance and “*continuity*” of public recreational spaces. In the absence of any evidence to the contrary, I consider that such an approach could give rise to support for inappropriate forms of development and place an obstacle in the way of the Neighbourhood Plan contributing to the achievement of sustainable development.

158 “*Maintenance and continuity*” appear to be matters that rely on funding and there is no information to demonstrate that such funding is available, or that development will provide for such. The Policy does not have regard to Paragraph 56 of the Framework in respect of planning obligations, which must only be sought when they meet all of the following tests

- “*a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.*”

159 Taking into account this and the evidence that there is strong community support for the maintenance of public recreational spaces, I recommend:

- **Delete Policy OS5**
- **Add a new Para below Para 3.87 “*Aldenham Parish Council will seek to work with parties to seek contributions towards the maintenance and continuity of public recreational spaces, including at Phillimore Recreation Ground and King George V Playing Fields.*”**
- **Change reference in Para 3.85 to “Phillimore Recreation Ground.”**

8. The Neighbourhood Plan: Other Matters

160 The recommendations made in this Report will also have a subsequent impact on Contents, including Policy, Figure, paragraph and page numbering.

161 I recommend:

- **Update the Contents and where necessary, Policy, Figure, paragraph and page numbering, to take into account the recommendations contained in this Report**

9. Referendum

- 162 I recommend to Hertsmere Borough Council that, subject to the recommended modifications, **the Radlett Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

- 163 I am required to consider whether the Referendum Area should be extended beyond the Radlett Neighbourhood Area.
- 164 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.
- 165 Consequently, I recommend that the Plan should proceed to a Referendum based on the Radlett Neighbourhood Area approved by Hertsmere Borough Council on the 8th February 2017.

Nigel McGurk, December 2019
Erimax – Land, Planning and Communities

