

Barnet Local Plan EIP – Note on Retail

Reason for producing this note

On Day 4 (Tuesday 4th October) of the hearing sessions, during consideration of Matter 4: Planning for the Borough's economy, including employment, retail and other main town centre uses, Inspector Wildgoose requested a note covering a number of issues relating to the Council's consideration of retail and other main town centre uses in the plan.

This note, to include any resultant proposed modifications, should encompass the following matters:

- Table 13 **Barnet's Town Centre Hierarchy** modification and provide an explanation of change in numbers including the addition of Colindale Gardens as a local centre.
- Policy GSS08 supporting text modifications around Class E and removal of third para. Ensure it is covered in supporting text.
- Permeability and design issues regarding GSS08 incorporating cross-reference to Policy CDH03 on Public Realm.
- Impact assessment, sequential assessment and whether a starting point could be established as to how the sequential assessment would be applied.
- Justification for setting the requirement for an impact assessment at 500m2 referring back to DM Policies DPD and reasoning / evidence of effectiveness.
- Local levels of retail and small scales to be defined, including setting out any modifications required to assist applicants and decision makers.
- TOW02 policy and any future potential role of Article 4 Directions with references to retail. Being clearer about Class E uses. Broader criteria and use of retail terminology rather than main town centre uses (falling under Class E) throughout this policy and elsewhere in the Plan.
- Clarification on criteria d and i in policy TOW02 as they seem similar. Need to separate out criteria k, l, m and n from the rest of the policy wording.
- Flip TOW03 to be more positive. Rewording some areas, positive preparation and possibility of use definitions. Extending justification for approaches in TOW03 beyond shisha bars and hot foot takeaways. More focus on clustering and effectiveness for other uses. Extent to which legislation and licensing arrangements exert control, justification for policy approach, including review of similar policies in neighbouring districts.
- TOW04 requires linkage to London Plan policy HC6(B). Double negative in the policy wording needs addressing.
- Plan not being silent on retail needs/ requirements in BSS01 – the Council should set out a defined approach with associated justification for such a modification.
- Add a small additional narrative on the night-time economy.
- Clarity on implications of Class E of the UCO.
- Revisions to the Glossary to set out precise use definitions for TOW policies.

Background

Following submission of the Barnet Local Plan in November 2021 the Council in June 2022 produced a table of proposed modifications (EXAM 4). This document was produced after consideration of the Reg 19 soundness representations received, together with subsequent discussions with parties on the drafting of Statements of Common Ground. EXAM 4 includes proposed modifications to policies and supporting text pertaining to retail and other main town centre uses. These proposed modifications were considered during the examination hearing session where Matter 4 was discussed. However, in the light of that discussion and

the requests made by Inspector Wildgoose for further clarification, explanation and justification of the matters detailed in this note, the Council now proposes a series of additional further modifications as set out below.

The following format has been used in this Note to denote further proposed modifications to the submission version of plan as revised by the proposed modifications listed in EXAM 4.

~~Strikethrough text~~ to indicate text proposed for removal.

Underlined text to indicate additional text.

Consideration

1) Table 13 - Barnet's Town Centre Hierarchy

Two proposed modifications relating to Table 13 (MM186 and MM187) are listed in EXAM 4.

At the EIP hearing session it was highlighted that the list of Local/ Neighbourhood Centres duplicates the number nine and that therefore Barnet's Town Centre hierarchy now has 16 centres within this category. This number has increased by one from the 15 local and neighbourhood centres in the current adopted 2012 Local Plan Core Strategy (para 11.3.1 refers). The addition being the identification of Colindale Gardens as a neighbourhood centre. Since 2012 significant residential led mixed use development is underway within the Colindale Gardens development. This has resulted in the creation of a new local centre providing convenience goods and a range of services.

To correct the typographical numbering error in Table 13 the Council proposes that in table 13 the local / neighbourhood centres be re-numbered as follows:

10.	Great North Road
11.	Hale Lane
12.	Hampden Square
13.	Holders Hill Circus
14.	Market Place
15.	New Southgate
16.	West Hendon

2) Policy GSS08 supporting text modifications

Policy GSS08 relates to Barnet's fourteen District Town Centres identified in Table 13. Four related proposed modifications (MM95 to MM98) are tabled in EXAM 4.

The third para within GSS08 refers to the Use Classes Order (2020). The Council accepts that it is unnecessary for inclusion within the policy itself. Consequently, the Council considers that this para should be transferred from Policy GSS08 to the supporting text (para 4.21.4) as follows :

In order to be successful and thriving Barnet's town centres will have to adapt and take advantage of the increased flexibility provided by the 2020 radical overhaul of the Use Classes Order. The changes to the Use Classes Order (2020) remove restrictions on changes of use and allow greater flexibility for opportunities to change between town centre uses, supporting town centre vitality and viability.

3) Permeability and design issues regarding GSS08 – Barnet’s District Town Centres

Policy GSS08 states in part a) that the Council will ensure that proposals for town centre development achieve a high quality design that enhances the visual amenity of the town centre; and also in part e) to demonstrate suitable access to open space and where appropriate improves availability or access to an open space, as well as ensuring continued maintenance.

Whilst, when making planning decisions or putting together proposals all relevant policies in the Plan need to be considered together, the Council acknowledges the merits of adding a cross reference within GSS08 to Policy CDH03 – Public Realm. This will enable expectations of development proposals, particularly those within District Town Centres, to be highlighted. Therefore, the Council proposes the following modification to GSS08 amending the sentence in the policy immediately before the listed criterion to read:

The Council will ensure that, taking account of Policy CDH03, proposals for town centre development:

4) Impact Assessment and sequential assessment

5) Justification for setting impact assessment at 500m²

Policy TOW01 – Vibrant Town Centres part d) explains that in following a ‘town centres first approach’ the sequential test (as set out in the NPPF) will be applied, and that in addition proposals of more than 500m² of retail, office or leisure development in an edge or out of centre location must be supported by an Impact Assessment.

Inspector Wildgoose has requested more explanatory detail regarding the application of the sequential approach, including clarification on area of search, and in particular whether a starting point could be established as to how the sequential assessment would be applied.

The Council’s existing Local Plan Policy DM11 in the Local Plan - Development Management Policies DPD (Core_Gen_15) adopted in 2012 sets out development principles for Barnet’s town centres. It states that:

Significant new retail and other appropriate town centre uses outside the town centres or any expansion of existing out of centre sites will be strongly resisted unless they can meet the sequential approach and tests set out in the NPPF or are identified in an adopted Area Action Plan. Edge of centre proposals will not normally be appropriate and therefore should demonstrate why they are not locating in a town centre site.

This policy approach with a threshold of 500m² gross for out of centre retail development has successfully operated since adoption of the 2012 Local Plan, and suitably updated to apply to both office and leisure development, is now reflected within Policy TOW01. The Council refers to similar approaches in recently adopted local plans for LB Brent (where Policy BE4: Supporting Strong Centres requires Impact Assessments for proposals involving 500m² or above gross retail or leisure floorspace, which are outside of town centres and do not accord with the Local Plan) and LB Havering (where Policy 13 – Town Centre Development requires an impact assessment for retail, leisure and office developments over 200m² in edge or out of centre locations).

Barnet, as a London borough, has a number of town centres that either extend across, or are in close proximity to, neighbouring London boroughs. Consequently, in defining the area of search it may be necessary for a prospective developer to also take account of potential sites within neighbouring Boroughs. The Council considers that there are merits in adding to the supporting text (para 7.6.7) of TOW01. The Council therefore proposes a further modification stating:

When considering planning applications for main town centre uses (as defined in both the NPPF and the London Plan) in locations that are not within an existing centre nor identified as a proposal in this plan, the Council will apply the sequential test as set out in the NPPF (paragraphs 87 and 88) and Policy SD7 part A1 of the London Plan. In identifying potential sites for main town centre uses it may be necessary for the area of search to extend across into neighbouring local authority areas.

With regards to applications for retail and leisure developments located outside of town centres not in accordance with an up-to-date plan, the NPPF (para 90) allows local planning authorities to set a local gross floorspace threshold for when an impact assessment will be required. In the absence of a local threshold the NPPF sets a default threshold of 2,500m² of gross floorspace.

Policy TOW01 d) sets a threshold of more than 500m². This figure reflects the current threshold that is applied in the Local Plan - Development Management Policies DPD. Para 12.3.2 of supporting text to 'Policy DM11 – Development Principles for Barnet's Town Centres' stipulates that an impact assessment is required for any significant new retail development in the Borough. This requirement is applicable to any development outside the fourteen district town centres and one major town centre. In line with the NPPF, the threshold for a significant new retail development is defined as above 500 m² or a net addition of this amount to an existing unit. The Council considers that carrying this approach forward to the new Local Plan is justified and is consistent with the recently adopted Local Plan of LB Brent (a neighbour of Barnet) and higher than that of the recently adopted Local Plan of LB Havering (a fellow Outer London borough).

6) Local levels of retail

For each part of Barnet's town centre hierarchy Policy TOW01 part a) sets out the Council's support for an appropriate mix of uses. TOW01 makes cross reference to appropriate GSS policies for those town centres that are Growth Areas, as well as those that are not.

In respect of local centres TOW01 states that these centres "will be promoted to provide a local level of retail and community uses and smaller scale residential led mixed use development." Whilst Table 13 in the Plan sets out the sixteen local / neighbourhood centres to which this part of TOW01 applies, the Council accepts that there are merits in defining what is a "local level of retail" and "smaller scale" in this context. The Council therefore proposes the following modifications:

- i) Insert new para 7.6.6A as follows :

The sixteen Local and Neighbourhood centres in the Borough as identified in Table 13 serve their respective local catchment areas with a range of smaller independent shops and services. Local Centres have a key role in supporting '15 minute neighbourhoods' as they generally provide for smaller scale needs i.e. day to day convenience retail, social and community needs. The Council seeks to both protect

these local centres as well as maintaining the vitality and viability of larger district town centres which are more appropriate locations for larger units.

- ii) Adding within the Glossary a definition of this level of centre as follows:

Local and Neighbourhood centres: Typically serving a localised catchment often most accessible by walking and cycling and include local parades serving a local level of retail need, i.e. small clusters of shops, mostly for convenience goods and other services. They may for example include a small supermarket (typically up to around 500m²), sub-post office, pharmacy, laundrette and other useful local services. Together with District centres they can play a key role in addressing areas deficient in local retail and other services.

7) Policy TOW02

Policy TOW02 sets out detailed development principles applying within Barnet's town and local centres as well as parades. A number of proposed modifications relating to this policy and the accompanying supporting text, (MM191 to MM200 refer), are set out in EXAM 4. Inspector Wildgoose has requested more information about use of Article 4 Directions, policy references to retail and clarification about Class E uses in relation to the broader criteria as well as the use of retail terminology rather than main town centre uses (falling under Class E) throughout TOW02 and elsewhere in the Plan.

Introduced in 2013, permitted development rights allow developers to convert certain types of buildings, such as offices and shops, into homes, without receiving full planning permission. With respect to the future potential to use Article 4 Directions to restrict permitted development rights, and thereby seek to protect existing retail uses, the Council is mindful of the Government's view that area-wide Article 4 Directions would not be supported. Most notably in London, after the government introduced Class MA in 2020 to allow conversion from Use Class E to residential. Responding to this, seven central London local authorities sought to issue Article 4 restrictions across their boroughs to block this. However, the Government subsequently refused to grant permission to limit the conversions of offices or shops to homes within a certain area. The local authorities were instructed to reconsider their proposals, including by potentially limiting application of the Article 4 to a smaller geographical area. Recent Article 4 request decision letters sent to Lambeth and Harlow Councils have noted that the NPPF sets out that such measures should be "based on robust evidence, and apply to the smallest geographical area possible". Whilst National Planning Practice Guidance states that the Secretary of State will only intervene in Article 4 Directions "where there are clear reasons for doing so", clearly in many recent cases Ministers have considered there to be an insufficiently targeted approach taken in assessments made of wholly unacceptable adverse impacts of the permitted development and therefore clear reasons to justify intervention in terms of modifying or rejecting a direction.

Given the high bar set in terms of evidence needed to justify the imposition of an Article 4 Direction, the Council recognises that attempts to impose similar directions across Barnet's network of town centres would be unlikely to receive the required support from the Government.

A significant change from the existing Barnet Local Plan adopted in 2012 has been the dropping of secondary frontages as well as percentages of retail uses that should be retained in a frontage. However, with the support of NPPF (para 86b), the Council considers it very important to continue with the existing identification of primary frontages within Major and District town centres.

The Council recognises that it no longer has the full range of necessary powers and ability to ensure that retail functions are safeguarded within the primary frontages of the centres outlined in part a) of the policy. It would therefore be more appropriate to refer to safeguarding main town centre uses but with a strongly expressed preference for the retention of retail uses within the primary frontages that comprise the primary shopping areas. Introducing this greater flexibility of uses (and realism) into TOW02 should help in reducing the likelihood of long-term vacancies as well as making it easier to reuse and repurpose units that have traditionally provided retail uses and where there is now demonstrably no demand for the retention of this use. The Council therefore proposes the following modifications to TOW02:

The Council will seek to ensure that:

- (a) *Within the primary frontage shopping areas of Major and District Town Centres, Local and Neighbourhood Centres (as depicted on the Policies Map) and ~~Parades the retail function is~~ main town centre uses are safeguarded with a strong preference for retail uses as part of the Commercial, Business and Service (Use Class E). This approach is also applicable to Neighbourhood Parades Any proposals*

The Council agrees that TOW02 criteria d) (“loss of active frontage at ground floor level”) and i) (“Properties at ground floor level are expected to retain active frontages”) should be combined as they cover the same matter – now reflected in the proposed further modification to TOW02 in part b(ii) below. Also, that it is necessary within TOW02 to separate out the criteria originally listed in the policy as j, k, l, m and n. Accordingly, the proposed Main Modifications (MM195 to MM200) set out in EXAM8 to this part of the policy are no longer necessary and therefore that the original policy wording text for these parts of the policy should be retained. Therefore, incorporating the proposed modifications MM193 and MM194 to policy TOW02, the Council invites the Inspectors to consider further proposed modifications to this policy so as to read:

- (b) *Where proposals for alternative uses at ground floor level do not meet criteria (a) the Council will take the following into consideration:*
- (i) *Significance of any reduction of retail facilities.*
 - (ii) *Loss of active frontage at ground floor level, which properties are expected to retain.*
 - (iii) *Whether alternative retail facilities are accessible by walking, cycling or public transport to meet the needs of the area.*
 - (iv) *Likelihood ~~Capability~~ of the proposal in attracting visitors to the town centre.*
 - (v) *Contribution of the proposal to the Council’s growth objectives; and*
 - (vi) *Evidence that there is no viable demand for continued existing ~~Use~~ Class E use and that the property has been vacant for over 12 months with the exception of meanwhile uses ~~in accordance with part n~~. Evidence of continuous marketing over a 12 month period will be required unless the 3 month rule applies that came into effect on 1 August 2021.*
- (c) *The use of upper floors for alternative uses including residential, employment or community provision will be strongly encouraged.*
- (d) *In accordance with the Agent of Change*
- (e) *Development that has significant*
- (f) *The use of vacant sites*
- (g) *Markets in town centres*

8) Policy TOW03

Policy TOW03 seeks to resist the proliferation and avoid an over-concentration of a range of uses that are associated with negative impacts on physical and mental wellbeing, as well as on the vitality and viability of town centres. Part a) of TOW03 relates specifically to hot food takeaways and sets out a series of criteria which, if any are not met, would result in proposals not being permitted. Part b) of TOW03 relates to betting shops, adult gaming centres, amusement arcades, pawnbrokers, pay day loan shops and shisha bars and also lists the circumstances where proposals for these uses will not be permitted.

Several proposed modifications relating to TOW03 and supporting text (MM201 to MM205 refer) are set out in EXAM 4. Inspector Wildgoose has requested that consideration be given to making the policy less negative, moving away from a list of certain uses would not be permitted, into a more positively worded policy. The Inspector has also asked for consideration of: rewording of the policy in some areas; referencing positive preparation and the possibility of providing use definitions; extending the justification given for approaches provided in TOW03 beyond shisha bars and hot foot takeaways together with greater focus on clustering and effectiveness for other uses. Finally in relation to TOW03, the Inspector invited the Council to give further consideration regarding the extent to which legislation and licensing arrangements exert control and provide justification for the policy approach; in this respect it was agreed that the Council should review similar policies in neighbouring districts to reflect upon the appropriateness to Barnet of policy approaches being taken elsewhere.

In London, borough-level local plans need to be in general conformity with the Mayor's published London Plan, which sets much of the strategic context for planning policies. Policy GG3 Creating a healthy city, sets out mental and physical health issues and measures sought to improve Londoners' health and reduce health inequalities. Part I of this good growth policy seeks to create a healthy food environment, increasing the availability of healthy food and restricting unhealthy options. Policy E9 in the London Plan relating to retail and hot food takeaways provides details with regards to what development plans should cover. Of particular relevance :

- i) Part C section 7 of London Plan Policy E9 advises that development plans should "manage clusters of retail and associated uses having regard to their positive and negative impacts on the objectives, policies and priorities of the London Plan including: a) town centre vitality, viability and diversity ... d) community safety or security e) mental and physical health and wellbeing."
- ii) Parts D and E of Policy E9 then give London boroughs specific direction in respect of the consideration that should be given to development proposals containing A5 hot food takeaway uses, stipulating that these uses should not be permitted within 400m walking distance from schools and of the need for boroughs to "carefully manage the over-concentration of A5 hot food takeaway uses within town centres".
- iii) Para 6.9.5 in London Plan states that whilst some retail and related uses when clustered can support town centres to develop niche or specialist roles, over-concentrations of some uses such as betting shops, pawnbrokers, pay-day loan stores, amusement centres and hot food takeaways, can give rise to particular concerns regarding the impact on mental and physical health and wellbeing, amenity, vitality, viability and diversity. Further, that the proliferation and concentration of these uses should be carefully managed through Development Plans and planning decisions, particularly in town centres which tend to have higher numbers of these premises. Also, that Boroughs may require Health Impact Assessments for particular uses.

The Council recognises that, as a matter of good practice, local plan policies should be positively prepared and therefore couched in terms of setting out the circumstances and

criteria needing to be met for a planning application to be approved. Negatively worded policies can impact on the plan-led proactive development management approach that is expected. However, in this specific case, the Council's preference is to retain the more negatively phrased policy that stipulates when proposals will not be permitted. This stance is important given the potentially harmful impacts to physical and / or mental health and wellbeing, together with the possible negative impacts an overconcentration of these uses might have on the vitality and viability of town centres; also reflecting the manner in which the relevant London Plan policy is drafted and to ensure that the related policy in Barnet's plan gives an appropriate, unequivocal and consistent message. Therefore, the Council contends that its approach as set out in Policy TOW03 is positively prepared in that, notwithstanding recent use class order changes curtailing the Council's powers, it seeks to maintain an appropriate mix and balance of uses on the high street. The policy is not a ban on hot food takeaways, shisha bars, adult gaming centres, amusement arcades, betting shops, payday loan shops or pawnbrokers; rather it seeks to stop clusters of these uses from being developed which may harm the vitality and viability of Barnet's town centres. Therefore, for the reasons set out in the evidence and summarised below, the Local Plan's approach in TOW03 is considered to be justified, effective, positively prepared and consistent with national and London Plan Policy and is thus considered to be sound.

All the uses listed in TOW03 are considered to have the potential for negative impacts and therefore, in accordance with London Plan Policy E9 part C section, clusters of these uses need to be carefully managed. It is noted that most of the sui generis uses included in TOW03 are not considered to be main town centre uses in the NPPF glossary and will therefore need to be assessed on a use-by-use basis taking into account recent changes in the Use Class order regarding takeaways, betting shops and pay day loan shops. The Council's Health and Wellbeing Strategy 2021-2025 (EB_S_11) focuses on three key areas, one of which aims to create a healthier place and resilient communities. TOW03 directly helps to deliver the Council's priorities to integrate healthier places in all policies and create a healthier environment. The approach being taken is justified by evidence showing that the clustering of these uses is occurring across Barnet; also, that concentrations of these uses can harm the vitality and viability of centres and have been linked with health and wellbeing impacts.

Hot food takeaways

Part a) of TOW03 relates to hot food takeaways. It is supported by the Council's review of hot food takeaways that examines issues of excess weight and proposes planning approaches to manage the negative health impacts of hot food takeaways (EB_S_13). This report undertaken in 2018 presents evidence for the severity of the threat that being overweight or obese pose to health. It found that there were 205 hot food takeaways in Borough, a high number of which were clustered near schools (within 400m). As a result, students throughout Barnet are tempted to custom the 108 hot food takeaways. them. The Council therefore considers it to be very important, and fully justified by the supporting evidence, to include a policy that proactively manages the location and number of hot food takeaways. Ignoring the role and contribution of unhealthy food to diet and weight-related health issues will compromise efforts to reduce health inequalities and worsen wider population health. Supporting part vii) of the policy is the Council's Healthier Catering Commitment (EB_S_22).

Shisha

In respect of the uses covered by part b) of TOW03, this includes reference to shisha bars. This is supported by evidence (EB_S_12 refers). Shisha smoking is subject to the ban on smoking in public places in the UK alongside all other smoking. The grant of planning permission alone does not imply compliance with the Health Act 2006 (the Act which introduced the strict regulations around smoking). A Shisha business setting up must

therefore satisfy laws around smoking, building planning, health and safety and trading standards.

Shisha (also referred to as waterpipe, hookah, and narghile smoking) is a method of smoking tobacco (or sometimes a herbal mixture) through a bowl and a pipe/tube. Historically, it has been widely used in the Middle East, and parts of Africa and Asia but has become more popular in the UK. Data from the [2016 Health survey for England](#) reported that 15% of individuals had ever used shisha, and 1% had used it in the last month. Smoking of any kind (including water pipe/shisha smoking) increases the risk of cancer, heart disease and respiratory conditions. This is true whether you smoke cigarettes, bidi (thin cigarettes of tobacco wrapped in brown tendu leaf) or shisha (also known as a water pipe or hookah). Like cigarette smoke, water pipe smoke contains cancer-causing chemicals and toxic gases such as carbon monoxide.

In terms of licensing, the [Licensing Act 2003](#) only covers the [sale of alcohol](#) and certain forms of ["regulated entertainment"](#). Licences are usually issued by local authorities. Properly licensed and located, shisha lounges can provide a good place to meet and relax. However, concerns have been expressed about the impact of noise and anti-social behaviour from some shisha bars, especially in residential areas. Under the Licensing Act 2003 Shisha bars and lounges are not required to have a license unless they are regulated for another reason, such as the sale of alcohol. The Council considers that relying solely on the licensing regime is not sufficient as the bars and lounges are often located in residential areas.

Gambling premises including Betting Shops and Adult Gaming Centres

Under the Gambling Act 2005 the Council has responsibility for licensing premises where gambling activities are to take place by issuing premises licences. Licensing Authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions under the Act. Accordingly, the Council has set out a statement of principles that it will apply when carrying out its functions as a licensing authority in accordance with the Gambling Act 2005 (EB_S_21). A premises licence may authorise the following: the operation of a casino, the provision of facilities for playing bingo, adult gaming centres, licensed family entertainment centres and the provision of facilities for betting. The principles set out in the Local Plan detail matters that the Council generally takes into account when considering applications for permits and licences and when reviewing a licence. These matters include the proximity of the gambling premises to sensitive premises such as schools or centres for vulnerable adults, or to residential areas where there may be a high concentration of families with children, and the likelihood that children or vulnerable adults will enter the premises. In addition, pawnbrokers must have a consumer credit licence.

The Council has considered the extent to which legislation and licensing arrangements exert control. It refers to the recently adopted Local Plan for LB Lambeth (Policy D1- Betting Shops and Payday Loan Shops). Lambeth's approach reflects similar concerns [about the overconcentration of](#) betting shops and payday loan shops in an area having a negative impact on the vitality and viability of a town centre and its overall offer as well as direct and indirect impacts on health and wellbeing. The Council is satisfied that there is sufficient justification for the intended policy approach as set out in TOW03. Accordingly, it does not consider there to be a need to suggest any further modifications to the policy in this respect.

Pay Day Loan Shops

Whilst pay day loan shops are identified as sui generis there is no specific reference to pawnbrokers being a sui generis use and that in terms of the Use Classes Order pawnbrokers now fall within the broad Class E use. Therefore, the Council invites the Inspectors to consider further proposed modifications to this policy so as to delete the

reference made to Sui Generis in part b) of policy TOW03. So, the end of the sentence before the listed criteria amended to read:

..... will not permit proposals for such uses that:

9) Policy TOW04

Policy TOW04 relates to the night time economy and specifically to the circumstances where support will be given to related uses in seven town centres named in the policy. Arising from the discussion of this policy at the hearing session Inspector Wildgoose suggested adding some additional narrative with regards the night-time economy in these centres including an overt reference being made to the linkages to the relevant London Plan Policy HC6 on supporting the night time economy; in particular picking up on part B of that policy that sets out matters that development plans should seek to address.

Having regard to what is already stated in this London Plan policy, on reflection there is scope to make specific reference to this policy in supporting text and also then revise and rationalise content and wording of TOW04. The Council therefore invites the Inspectors to consider further proposed modifications adding to the existing supporting text to Policy TOW04 as follows:

Add a new sentence at end of para 7.9.1 that reads:

As town centres continue to change and evolve, particularly post COVID and the use class order changes, recognising the limitations on the scope and powers the Council will closely monitor the impact of these changes and consider the consequential need for any policy changes.

Add a new para 7.9.2A that reads:

Each night-time economy area will have its own character which should be recognised and supported. London Plan Policy HC6 Supporting the night-time economy, part B sets out matters for consideration in Local Plans, town centre strategies and planning decision makings. Key considerations are need to improve access, inclusion and safety, and make the public realm welcoming for all night-time economy users and workers and protecting and supporting evening and night-time cultural venues such as pubs, night clubs, theatres, cinemas, music and other arts venues. A number of policies in the Plan address these matters, including in particular TOW2 setting out development principles for town centres, CDH03 relating to the public realm, CHW03 that seek to make Barnet a safer place and CHW04 that gives specific policy protection to public houses.

Add to the end of the first sentence of existing para 7.9.2 the following:

“..... but for most of Barnet’s town centres where the night-time economy is important it is primarily the local area that is served.”

The Council considers that there are merits in redrafting Policy TOW04 in order to better set out its policy intentions. This includes making specific reference to, and requiring compliance with, London Plan Policy HC6 – Supporting the Night Time Economy. As a result there is scope to make TOW04 clearer. The Council therefore proposes to amend TOW04 as follows:

Policy TOW04 Night-Time Economy

In accordance with London Plan policy HC6, ~~the Council will support proposals for evening and night-time economy uses in Barnet's Town Centres in particular Chipping Barnet, Cricklewood, North Finchley and Whetstone as well as Brent Cross, Edgware and Golders Green, where:~~

- a) The scale and type of use reflects the role and function of the centre.*
- b) There is no conflict with other policies in the Plan.~~Policy TOW03~~*
- c) There is no significant negative impact on the amenity of adjoining or adjacent residential accommodation and non-residential uses, such as noise disturbance, cooking smells, anti-social behaviour, or highway safety.*
- d) There is no significant negative impact resulting from cumulative development in relation to the number, capacity and location of other night-time economy uses in the area.*
- e) There is no significant detrimental impact on the historic distinctiveness of Barnet's town centres.*
- f) Development ~~that~~ preserves or enhances existing night time economy activities or creates new ones that will reinforce the role and significance of the town centre.~~Chipping Barnet, Cricklewood, North Finchley and Whetstone as well as Brent Cross, Edgware and Golders Green in an inclusive and accessible way will be supported, whilst that which would undermine it will be refused.~~*

10) BSS01 overarching spatial strategy policy

Inspector Wildgoose has highlighted that, with exception of reference to new retail space at Brent Cross, BSS01 is silent on expressing any future retail needs and requirements. He therefore requested that the Council reflect on this and either provide details covering this matter or explain the justification for not doing so.

The Council has reflected on the absence of a reference to retail needs and requirements with Policy BSS01. The long term need for retail space is not the same as the long term needs for industrial and office space. The Council has proposed further modifications to Policy BSS01 with regards to industrial and office space.

As part of delivering a positively prepared Plan the Council needs to be pragmatic. There is a broad consensus that expectations of retail growth from before COVID19 have changed. However, within Barnet a key component of future growth is the delivery of a new Metropolitan Town Centre at Brent Cross.

The London Plan in Policy SD 8 Town Centre Network highlights that Metropolitan town centres should be the focus for the majority of higher order comparison goods retailing, whilst securing opportunities for higher density employment, leisure and residential development in a high quality environment. With Annex 1 – Town Centre Network the London Plan states that Metropolitan Town Centres should contain at least 100,000m² of retail, leisure and service floorspace with a significant proportion of high-order comparison goods relative to convenience goods. Within the London Plan Figure A1.1 - Future Potential Changes to the Town Centre Network shows the future classification of Brent Cross as a Metropolitan Town Centre. Unlike Wembley, Lewisham and Woolwich town centres which the London Plan elevates from Major to Metropolitan, Brent Cross is a new Metropolitan Town Centre. Brent Cross, as Row 226 of London Plan Table A1.1 - Town Centre Network shows, will subject to the realisation of the Local Plan's regeneration ambitions, potentially rise from its present status as unclassified to be the only new Metropolitan Town Centre in London.

The Council's premise is that Brent Cross will be the realisation of any future retail growth in Barnet. If in response to market signals retail growth is not realised at Brent Cross it is unlikely to be realised elsewhere within the Borough. Therefore the Local Plan at BSS01 will propose a further modification to highlight the new Metropolitan Town Centre at Brent Cross rather than reference to retail needs and requirements.

The Council also considers that there are limited policy merits of re-stating (within BSS01) figures for retail and office space within the S73 Permission for Brent Cross Cricklewood (F/04687/13 dated 23 July 2014).

Following MM19 the Council will propose a further modification to BSS01a) ii as follows:

~~395,000m² of new office space and 56,600 m² of new retail space at Brent Cross Growth Area North and~~ A new Metropolitan Town Centre at Brent Cross Growth Area.

11) Clarity on implications of Class E of the UCO

Changes to the Use Classes Order (UCO) under the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into effect on 1 September 2020, amending the Town and Country Planning (Use Classes) Order 1987.

These UCO changes can be summarised as follows:

- Revocation of current uses classes A1 (Shops), A2 (Financial and professional services), A3 (Restaurants and cafes), A4 (Drinking establishments), A5 (Hot food take-away), B1 (Business), D1 (Non residential institutions) and D2 (Assembly and leisure).
- Creation of new use classes E (Commercial, business and service), F1 (Learning and non-residential institutions) and F2 (Local community).
- Redistribution of the uses within the former classes A, B1 and D across these new classes, with some uses in the old classes (A4, A5, part of D2) now identified as sui generis (i.e. outside a specified use class).
- The residential (C classes), General industrial (B2) and Storage and distribution (B8) use classes remain unchanged.

The Council recognises the Government's intention behind making these changes, with the newly created Class E in particular having been introduced primarily to support town centres and high streets. So, allowing centres to better adapt to changing circumstances, reflect changing retail and business models, provide a wider range of facilities and services - including new emerging uses - to attract people. Also allowing businesses greater flexibility to adapt and diversify to meet changing customer demands. The accompanying memorandum [The Town and Country Planning \(Use Classes\) \(Amendment\) \(England\) Regulations 2020 \(legislation.gov.uk\)](#) acknowledged that for drinking establishments and hot food take-aways, changes to or from these uses can give rise to important local considerations, so these uses become sui generis with the implication that changes of use can be managed through development plan policy. The Council recognises the overall stated intention behind the changes, as it relates to town centres and high streets. A number of town centres and high streets have been increasingly challenged for some time by changing consumer habits (particularly the rise of internet shopping) and the demise of a number of multiple retail and restaurant chains. This trend accelerated as a result of the dramatic impact of the Covid-19 and the associated lock-down periods. Town centres and high streets are needing to adapt rapidly, both in the short term and in the medium to longer term as working patterns, shopping habits and social inter-action are re-establish during this post-Covid recovery, often doing so in different ways to before. Appropriate flexibility in planning uses within town centres can complement other strategies for high street

recovery and is supported in principle. However, the Council is of the view that circumstances can vary considerably from one town centre to the next depending on factors such as proximity to residential neighbourhoods or to office and transport nodes. The Council is also of the view that there is the potential for unintended consequences arising from the introduction of Class E, some of which could prove harmful to town centres.

Betting shops and payday loan shops remain sui generis uses, which allows for local plan policies to manage these uses. However, as A2 uses now fall within Class E it may prove too difficult to try to manage concentrations of pawnbrokers specifically given this change.

Mindful of the length of the Barnet Local Plan, and the Council's concern that it does not date quickly, the Council is not minded to include within it any of the above additional explanation and clarification on the Use Class Order changes. However, the Council will closely monitor the impacts going forward and as required make any necessary changes to policies in the next iteration of the Local Plan. This will be one of the key factors likely to influence the timing of an early local plan review.

12) Revisions to the Glossary to set out precise use definitions for TOW policies

Having reflected upon the desirability of making revisions to the Local Plan glossary to provide the precise use definitions that apply to the suite of TOW policies, the Council is not convinced of either the need or desirability for doing so. This is because the Council is relying on the use definitions as set out in the Use Class Order.

More widely, the definitions proved in the NPPF (annex 2) and in the London Plan glossary (annex 3) are also adopted by the Council. Therefore the view has been previously taken not to replicate these in the Barnet Local Plan glossary. This is particularly because there is a degree of duplication already (e.g. main town centre uses, major development etc) in definitions between the NPPF and the London Plan. If, however, for the sake of completeness and avoidance of doubt the Inspectors advise that all terms relied upon should appear together in the Barnet Local Plan glossary the Council would be content to make these additions.

Conclusion

The Council invites the Inspectors to consider and recommend that the Council makes the additional further modifications set out in this paper recognising that those considered to be Main Modifications will need to be formally consulted upon following the examination hearing sessions.