



DWD/8198

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Dear Sirs

LOCAL DEVELOPMENT FRAMEWORK DRAFT SITES AND POLICIES DPD (JANUARY 2012) – CONSULTATION RESPONSE

Following notification of the above consultation, we have been instructed by Cromar White Developments to provide written representations objecting to the draft Sites and Policies DPD, with particular regard to Policies DM R2, DM H2 and DM E3.

Policy DM R2: Out-Of-Centre Commercial Development

It is not clear from the title of Policy DN R2 whether it is a policy to control out-of-centre retail only or other main town centre uses. The actual wording of the policy suggests it is retail focused and therefore the title of the policy should change to 'Out-of-Centre Retail Development'.

The policy does not stimulate and encourage sustainable economic development in line with Planning Policy Statement 4: Planning for Sustainable Economic Growth (2009) (PPS4), particularly in a Borough where there are a number of sustainable businesses parks and employment sites outside of town centres where the requirement for a sequential test and impact assessment, as set in part (b) of the policy, should not apply to B use classes.

It is not possible to suggest how the policy could be amended to address our concerns as it is trying to control retail as well as all other main town centre uses. The policy fails to comply with PPS4, which encourages flexibility and growth of job opportunity developments. Nor does it align with the emerging National Planning Policy Framework, which supports sustainable economic growth, seeks for Local Plans to be flexible and emphasises that "planning must operate to encourage growth and not as an impediment" (paragraph 13). In contrast, this is an overly restrictive, inflexible policy that will stymie growth.

Policy DM H2: Housing Mix

Although the requirement for a policy that provides guidance on housing mix is understood, we consider this policy to be too prescriptive in seeking for 33% one-bedroom, 32% two-bedroom and 35% three or more bedroom units. By setting such targets, the policy fails to clearly recognise or emphasise the wide variety of housing need or deliverability across the Borough, let alone the differences on a site by site basis.

We appreciate and support that paragraph 2.24 makes reference to the consideration of other relevant factors when deciding on an appropriate housing mix, including site specific circumstances, site location, viability and local needs. However, we believe this is a key point



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that presently is tenuously linked to the policy text and comes across as a secondary consideration. The contents of paragraph 2.24 should form an integral part of the main body of the policy and, as such, we recommend the following change:

“Planning permission will be granted for development proposals that contribute to meeting the needs of different households such as families with children, single person households and older people by providing a mix of dwelling sizes taking account of the borough level indicative proportions concerning housing alongside individual site specific circumstances, including site location, viability and local setting.”

Policy DM E1: Employment Areas in Merton

We find the requirements of policy DM E1 acceptable if it is meant to only be in relation to specifically allocated employment sites, otherwise it takes a similar line to and overlaps with policy DM E3, which, as we outline below, is not acceptable.

If the policy is meant only for allocated employment sites (which we sincerely hope is the case) we suggest, for the sake of clarity, that the title of the policy be changed to ‘Designated Employment Sites in Merton’ and the first line of the policy text be amended to the following:

“Proposals relating to allocated employment sites, as shown in the Proposals Map, will only be supported that.”

Policy DM E3: Protection of Scattered Employment Sites

i) Part a)(iii)

We consider the requirements of part a)(iii), which sets out when the loss of a scattered employment site would be acceptable, to be overly onerous.

Although an improvement to the requirements of UDP policy E.6, which required 5 years marketing research, the need to demonstrate 2.5 years of marketing data is considered to still be too long a period and is unrealistic in the vast majority of cases. The policy currently fails to appreciate the negative financial implications for landowners in having vacant units, particularly for such a lengthy period. The Council should therefore give more consideration to the influence of market conditions and viability concerns for landowners. This would be in line with the emerging NPPF, of which one of the core planning principles is for planning policies and decisions to “take into account local circumstances and market signals such as land prices, commercial rents and housing affordability (paragraph 19).

However, our key concern is the requirement to demonstrate the site has been adequately marketed for community uses as well as employment uses, irrespective of the site’s suitability or the local demand for such a use. This is not a flexible approach to generating job growth or for meeting housing needs. This too is contrary to PPS4 and the draft NPPF.

In order to address these concerns, we suggest the following:

- Reducing the period for marketing data from 2.5 years to a more achievable and deliverable target of 12-18 months.
- Requiring the marketing data to illustrate the non-viability of employment space only;

ii) Viability Issues and 'Enabling' Uses

Paragraph 4.32 of the draft DPD acknowledges that business developments, particularly for warehousing and industry, have low levels of viability within the Borough. This point is reinforced in the Council's 'Community Infrastructure Levy Viability Assessment' (January 2012), where tables 6.1 and 7.1 illustrate that current rents for office, warehouse and industrial space are generally not high enough to viably support new development in the Borough. In addition, LB Merton's 'Employment and Economic Land Study' (September 2010) recognises the significant barriers that landowners need to overcome in order to maintain and redevelop industrial premises, including the low rents, difficulties in securing financing for small developments and the multiple ownerships of sites in some cases, which can make it difficult to secure a plot of sufficient size to justify redevelopment (paragraph 10.5).

These viability issues and barriers to development have resulted in a number of the Borough's scattered employment sites becoming outdated and rundown; offering poor quality business spaces that are experiencing slow uptake. The extent of this problem is made clear in the Employment and Economic Land Study (2010), which, having analysed 133 scattered employment sites, found only 22% as good quality. 18% are rated as poor quality and not suitable for occupation and the remaining 60% are classed within varying degrees of average quality. Policy DM E3 fails to adequately address this situation, but in fact exacerbates the problem by applying additional fiscal burdens on landowners and developers and strictly limiting the options available for viably refurbishing or redeveloping sites. Such sites will therefore remain and continue to provide inadequate employment space whilst also occupying valuable land that could be otherwise utilised in a way that would maximise the site's potential.

The designation and protection of employment sites, particularly to the detriment of viability and economic growth as well as the ignorance of marketing circumstances and the need for flexibility, is contrary to the emerging NPPF, which is set to be adopted imminently. Paragraph 75 of the document states "*planning policies should avoid the long term protection of employment land or floorspace, and applications for alternative uses of designated land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses*".

We therefore suggest that the main focus of policy DM E3 should be the enhancement of the Borough's scattered employment sites by recognising the benefits and opportunities of allowing higher value, 'enabling' uses, such as residential or retail, on-site as part of a mixed-use scheme where appropriate. In being more open to such schemes, the policy will better allow for existing business sites to be upgraded, extended and given a new lease of life, whilst also remaining viable and therefore deliverable.

This policy approach would better comply with PPS4 and Planning Policy Statement 1: Delivering Sustainable Development (2005) (PPS1), as well as the emerging NPPF. PPS4 policy EC2.1 requires development plans "*seek to make the most efficient and effective use of land, prioritising previously development land which is suitable for re-use*" and support existing business sectors whilst remaining "*flexible*" to account for changes in economic circumstances. PPS1 similarly promotes mixed use developments, particularly if they enable the more efficient use of land (paragraph 27, (ii) (viii))

ii) Part b)

Consistent with the shortcomings of the policy outlined above, part (b) of policy DM E3 is, again, inflexible and sets yet another unviable financial requirement by seeking

compensatory payments in lieu of loss of employment space. The Council is placing too many financial burdens on the re-use of previously developed land, contrary to PPS1, PPS4 and the draft NPPF, which require LPA's to do exactly the opposite by stimulating economic growth and housing provision.

The draft NPPF encourages the consideration of viability when setting policy requirements, with paragraph 39 stating *"to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, local standards, infrastructure contributions or other requirements should, when taken account of the normal cost of development and on-site mitigation, provide acceptable returns to a willing land owner and willing developer to enable the development to be deliverable"*. By setting compensation payments for the loss of employment space, combined with the other onerous requirements of Policy DM E3, the draft DPD ignores and exacerbates the current viability and marketing barriers industrial and business landowners are currently subject to, thereby making the majority of redevelopment schemes for scattered employment sites within the Borough undeliverable.

Policy DM E4: Local Employment Opportunities

Although an attempt is made in paragraph 4.51 to justify the reasoning behind the 'Major Development' thresholds for which contributions towards employment opportunities are required, we take the view that the thresholds, as set in 4.53, are too low and result again in the Council applying unviable financial requirements on smaller scaled developments. This would exacerbate existing viability issues within the Borough and further discourage small scale development and stymie economic growth, which is in conflict with PPS4 and the draft NPPF.

The London Plan seeks for strategic developments of over 15,000 sqm commercial use or 150 residential units to support local employment through financial contributions. We consider the Council is not justified in applying a threshold as low as 1,000sqm commercial and 10 residential units, but instead take the view that 5,000sqm and 50 residential units, or something similar, would be more acceptable thresholds

We will continue to monitor the emerging Sites and Policies DPD for the London Borough of Merton with interest and would welcome the opportunity to comment on future draft documents and to be kept informed of its progress.

Should you have any queries regarding any of the above representations, please feel free to contact Mary Power or Freya Turtle at this office.

Yours faithfully

Dalton Warner Davis LLP

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