GREATER**LONDON**AUTHORITY

Mayor's Office

City Hall
The Queen's Walk
More London
London SE1 2AA
Switchboard: 020 7983 4000
Minicom: 020 7983 4458
Web: www.london.gov.uk
Our ref: PDU/LDF24/LDD04/JF04
Date: 27 February 2013

Tara Butler
Sustainable Communities
Merton Council
Merton Civic Centre
London Road
Morden
SW4 5DX

Dear Tara,

Merton Council Local Development Framework: Pre-submission of the Policies and Sites DPD
Statement of general conformity with the London Plan (Planning and Compulsory Act 2004, Section 24 (4) a)

Thank you for your letter of 16 January 2013 consulting me on the above document and requesting an opinion on general conformity.

On 27 February 2013 I considered a report on this matter; reference PDU/LDF24/LDD04/03. This report constitutes my formal representations to the proposed submission consultation. Please note that this includes representations relating to general conformity with the London Plan as well as other representations to clarify or improve policy.

As you will be aware, all development plan documents must be in general conformity with the London Plan under section 24 (1) (b) of the Planning and Compulsory Purchase Act 2004. However, it is my opinion that the Sites and Policies DPD submission document is not in general conformity with the London Plan in respect to the Council's position on affordable housing, and specifically the new policy DM.H3 which proposes to cap affordable rent levels at 65% of market rent. Further discussion would be welcomed in relation to this point and those issues raised in respect of student housing and the Wimbledon Greyhound Stadium site in order to bring a document forward that is in line with national guidance and the London Plan.

If you would like to discuss any of my representations in more detail, please contact Jonathan Finch (020 7983 4799) who will be happy to discuss and arrange further meetings.

Yours sincerely

Boris Johnson
Mayor of London

cc Richard Tracey, Merton London Assembly Constituency Member
Nicky Gavron, Chair of London Assembly Planning and Housing Committee
Planning Casework (London), DCLG
Colin Lovell, TfL

Direct telephone: 020 7983 4100 Fax: 020 7983 4057 Email: mayor@london.gov.uk

GREATER**LONDON**AUTHORITY

planning report PDU/LDF24/LDD04/03

27 February 2013

Merton Site and Polices Pre Submission , Development Plan Document

(Merton Council Local Development Framework)

Consultation on Pre-Submission Document

Town & Country Planning Act 1990 (as amended) (TCPA); Greater London Authority Acts 1999 and 2007("GLA Act"); Planning and Compulsory Purchase Act 2004 (as amended) ("PCPA"); Town and Country Planning (Local Development) (England) Regulations 2012 ("the Regulations").

Strategic issues

The Development Management Policies Document is still not in general conformity with the London Plan in relation to its affordable housing policy. The report also includes comments on other matters relating to student housing, transport, strategic industrial locations and site proposals.

Recommendation

That the Mayor agrees to submit the comments set out in this report and in the attached appendix to Merton Council as the formal response to the Pre-Submission consultation, and that Merton Council be advised that the proposed Submission Document is not in general conformity with the London Plan in relation to the above strategic issues.

Context

1. On 16 January 2013, Merton Council consulted the Mayor of London on the above Document. This report sets out information for the Mayor's use in deciding what comments to make. The consultation period ends on 27 February 2013.

2. The Local Development Framework together with the Mayor's Spatial Development Strategy,("London Plan") and the National Planning Policy Framework ("NPPF") provides the essential framework for planning at the borough level. The "development plan" in London for the purposes of section 38(6) of the Act is:

- The London Plan (2011), and
- Development plan documents produced by the borough councils ,and
- Neighbourhood Plans as appropriate.

3. There are three types of Local Development Documents ("LDDs"): Development Plan Documents (DPDs); Supplementary Planning Documents ("SPDs"); and Statements of Community Involvement. All of the documents now being consulted on are DPDs with development plan status, which will be subject to an examination to test the 'soundness' of the plan. The NPPF states that a plan is "sound" where it is positively prepared, justified, effective and consistent with national policy.

The Mayor's role

4. All DPDs must be in general conformity with the London Plan, in accordance with Section 24(1)(b) of the PCPA. Section 24(4) of the PCPA requires boroughs prior to submitting it to the Secretary of State to request the opinion in writing of the Mayor of London as to the general conformity of a DPD with the London Plan and advises that they may request the opinion in writing of the Mayor as to the general conformity of any other LDD. The Mayor issues this opinion on DPD general conformity in accordance with Section 24(5) of the PCPA. Further to this Regulation 18 requires general consultation at the pre-submission stage. By virtue of Regulation 21(2) of the Regulations the Mayor has 6 weeks from the date of the request to provide his opinion on whether the DPD is in general conformity with the London Plan.

5. Mayor of London's comments will be made available on the GLA website www.london.gov.uk.

Previous representations

11. The Mayor made representations on the consultation stage of the plan preparation process on 28 August 2012, (planning report PDU/LDF24/LDD05/01), and representations were made by officers under delegated authority to the (Issues and Options) consultation stage on 23 March 2012. A number of the issues that were raised at these stages have been satisfactorily resolved.

Proposed representations

12. The Merton Local Development Framework will replace the adopted 2003 Unitary Development Plan. It will set the Council's approach to the planning of the borough up to 2023 and will consist of the Core Strategy, Proposals Map, Development Control Policies and Site Specific Allocations Documents and a number of supplementary planning documents. Some of the UDP policies have already been superseded by Merton's Core Planning Strategy 2011, the South London Waste Plan and the London Plan 2011. The remaining policies will eventually be superseded by the final version of the Sites and Policies DPD and Proposals Map.

Strategic Issues

Affordable Housing

13. The GLA welcomes Merton's approach that 60% of affordable housing should be for social and affordable rent and 40% for intermediate rent or sale. This reflects SPG on the implementation of the 2011 London Plan and the approach proposed in the Revised Early Minor Alterations in the London Plan (REMA).

14. However, no account has been taken of the GLA comments made at the stage 2a consultation in respect to affordable housing. As detailed in our previous comments, the policy as drafted is not in conformity with the London Plan. The Policy should reflect the London Plan and the NPPF requirement to address the full range of housing need and also acknowledge the unique circumstances of the London Housing Market, which means boroughs should seek to address strategic as well as local need. More specifically, the policy should seek to maximise output, where as the approach adopted in draft policy DM.H3 would constrain output.

15. As stated in our previous response, setting rent caps on affordable rent at 65% of market rent could constrain delivery and prevent the maximisation of affordable housing delivery. The London Plan and the draft Housing Strategy emphasise that the priority for affordable housing is maximising supply, having regard to the availability of resources. The nationally set definition of the affordable

rent product as set out in the NPPF makes clear that it must be available at rents up to 80% of market rent.

16. As the document states, for the 2011-2015 Affordable Homes Programme, the Mayor has agreed a strategic, London wide average rent at 65% of market rent. For this to work, the business plans of the 63 Registered Providers which will deliver the programme, require the flexibility to operate on a scheme by scheme basis which is sensitive to local variations in market rents, and within each scheme. The approach which seeks to impose local, lower rent ceilings through the planning system would compromise the flexibility necessary for the product to deliver affordable housing in different circumstances and in turn will not be compliant with national guidance and would not be in general conformity with the London Plan (Policies 3.11 & 3.12). The Inspector's report on Tower Hamlets affordable housing policy emphasises this point, by trying to limit rent levels as a matter of policy, Merton will inhibit *"overall delivery by adding an undue burden onto the financial viability of many projects, in conflict with national guidance in paragraphs 173 and 174 of the NPPF"* (Tower Hamlets para 15).

17. With regards to paragraph 2.43, the Council should note that the Homes and Communities Agency no longer operates in London and its functions have been taken over by the Mayor.

18. Overall, it should be noted that the affordable housing policies as drafted are not in general conformity with the London Plan or National Planning Policy. Officers welcome further discussion regarding these non-conformity issues with the Council prior to it's Examination in Public.

Student Housing

19. With regards to Policy DM. H5 Student Housing, the GLA welcomes Merton's approach to linking the provision of student accommodation to existing educational establishments as described in paragraph a)vii. However, the borough should not constrain student housing provision which meets strategic as well as local need and any pre-examination revisions to the document should recognise the contribution of student housing in the borough to London's strategic need and not be restricted to *"establishments within Merton or adjoining boroughs."*

20. Officers also consider that it is unreasonable to ask that student housing developments *"provide purpose built, dedicated floorspace that is managed for cultural or arts studios or activities"* as stated in paragraph viii of this policy.

21. Overall, it should be noted that the above comments should be taken into consideration in order for the student housing policies to be considered in general conformity with the London Plan.

Strategic Industrial Locations

22. With regards to the Draft Proposal Map revisions, the GLA accept in principle that the Strategic Industrial Land designation can be changed to 'Locally Significant Industrial Area' in relation to the Rayners Park sites highlighted. However, this is subject to the re-designation going through the London Plan Review process which is approximately scheduled for 2013-14. Officers note that this is highlighted on the Policies Map for Proposed Designated Industrial Areas and is accepted in principle.

Transport

23. TfL do not currently have any intention of providing an additional tram stop at Willow Lane as identified in Part 1, paragraph 9.58 and in 07TN. As such, this reference should be removed.

Site Proposals

Site 37 – Wimbledon Greyhound Stadium

24. The suggested use of the site for substantial out of centre retail causes strategic policy concern and would not be in conformity with London Plan policy. The loss of the greyhound stadium use would also raise strategic policy concerns.

Legal considerations

25. All LDDs must be in general conformity with the London Plan in accordance with Section 24(1)(b) of the Act. This is a key test of the soundness of plans. The Mayor's representations made at this stage will go forward to the examination in public and must include an opinion regarding general conformity with the London Plan.

26. The fact that a development plan document is inconsistent with one or more policies in the London Plan, either directly or through the omission of a policy or proposal, does not, by itself, mean that the document is not in general conformity. Rather, the test is how significant the inconsistency is from the point of view of delivery of the London Plan.

27. Any expression of opinion from the Mayor that the DPD is not in general conformity will be treated as a representation to be dealt with by the Inspector at the examination. The Planning Inspectorate has stated that the view of the Mayor's opinion *"will be given considerable weight"*[1] and that a lack of general conformity with the London Plan will need to be fully justified on the basis of local circumstances, based on relevant evidence.

28. The Mayor must also state why the policy is not in general conformity and his reasoning behind that opinion. The Inspector will determine whether he or she supports the opinion and recommend accordingly. The Mayor should provide the Inspector conducting the examination with any necessary additional information as appropriate, either through a representative or in writing according to the requirements of the Inspector. At the time of writing the date of the examination is not known.

Conclusion

29. The Development Management Policies document submission version contains many positive aspects. The document is however, not in general conformity with the London Plan in relation to the Council's position on affordable housing, and specifically the new policy DM.H3, which proposes to cap affordable rent levels at 65% of market rent. Further discussion would be welcomed in relation to this point and those issues raised in respect of student housing and site proposals in order to bring a document forward that is in line with national guidance and the London Plan.

For further information, contact the Planning Decisions Unit
Colin Wilson, Senior Manager – Planning Decisions
020 7983 4783 email colin.wilson@london.gov.uk
Christine McGoldrick, Strategic Planning Manager (Development Plans)
020 7983 4309 email christine.mcgoldrick@london.gov.uk
Jonathan Finch, case officer
020 7983 4799 email jonathan.finch@london.gov.uk

[1] Development Plans Examination – A Guide to the Process of Assessing the Soundness of Development Plan Documents (The Planning Inspectorate, 2005), paragraph 1.2.6