

Future Merton
 London Borough of Merton
 12th Floor Civic Centre
 London Road
 Morden SM4 5DX

Our ref: SL/2006/100135/SL-03/SB1

Your ref: Email

Date: August 27, 2013

ldf@merton.gov.uk

Dear Sir/Madam,

Re: London Borough of Merton Local Plan: Merton's Sites and Policies Plan and Policies Map (part of Merton's Local Plan)

Thank you for consulting the Environment Agency on the above document which we received on July 16, 2013. We welcome policy *DMF1-support for Flood Risk Management* and are pleased to note that our comment from the previous consultation: *that all development proposals must have regard to Strategic Flood Risk Assessment (SFRA) and the Local Flood Risk Management Strategy (LFRMS)* has been incorporated.

Most of the allocated sites except for sites 37, 70 in Flood Zone 3a/3b; and site 5 in Flood Zone 2 are outside of the fluvial floodplain. Although we supported the comments inserted on page 124 in regard to Policy DM F1 in our previous representation, the comments have been inserted in the wrong column which may cause some confusion because it would appear to suggest that 'More Vulnerable' development can be permitted in Flood Zone 3b if it supports London Borough of Merton's wider objectives and can be shown to result in an overall reduction in flood risk. Whilst this may be appropriate in largely developed areas like Merton, there has been no precedent for this approach elsewhere and it's contrary to the National Planning Policy Framework, which restricts Flood Zone 3b to Essential Infrastructure/Water Compatible development only.

To avoid any confusion and setting a precedent for development within the functional floodplain, the comments would only fit on Flood Zone 3a column not Flood Zone 3b column which is the functional flood plain.

The web based Planning Practice Guidance to the National Planning Policy Framework Table 1: *Flood zones* and Table 3: *Flood risk vulnerability and flood zone 'compatibility'* explains on *Zone 3a - high probability* that appropriate uses would include the more vulnerable uses and essential infrastructure should only be permitted in this zone if the Exception Test is passed. The inserted text would fit in Flood 3a and be in line with National Planning Policy Framework paragraph 100 which states inter -alia that "*Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere*". This is the case with sites 37 (Wimbledon Greyhound Stadium) and 70 (Haslemere Industrial Estate). It's in our interest for sites such as Wimbledon Greyhound Stadium to be redeveloped if redevelopment can provide an overall reduction in flood risk.



We would advise the council to review the SFRA to re-examine the extent of FZ3b. It may be the case that these sites should never have been designated Flood Zone 3b in the first place – which the SFRA did without consideration of the existing development (businesses/residences on site)

In our initial response (SL/2006/100135/SL-01/PO2), we noted that these sites are not suitable for residential development and that we do not believe that any mitigation measures can address the issues associated with the functional floodplain and the critical drainage areas. We had a meeting with the council planners to map way forward and also pre-application discussions with both the council and consultants concerning the redevelopment of the Wimbledon Greyhound Stadium site for continued sporting/recreation use.

Please do not hesitate to contact me should you wish to discuss this further.

Yours sincerely,

Charles Muriithi MRTPI
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ENVIRONMENT AND REGENERATION DEPARTMENT

Chris Lee - Director



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Date: 09 Sept 2013

Dear Joe and Charles

Re: Environment Agency responses to stage 3 (February 2013) and stage 4 (ugust 2013) of Merton's Sites and Policies Plan and Policies Map (part of Merton's Local Plan)

Many thanks for your response to the pre-submission consultation (stage 4) of Merton's *Sites and Policies Plan* and Policies Maps, which we received last week. I am writing to you to clarify some points raised in your representation and to set out the council's proposed amendments to the document resulting from your response. The clarifications we are seeking are summarised at the end of this letter.

Second paragraph of the EA's 27 August 2013 response: Policy DM. F1 support for flood risk management (page 124 of Merton's plans)

Your recommendations sent to us on 27 February 2013 in response to our Stage 3 consultation appear to differ from the response we received on 27 August (Stage 4).

On 27 February 2013, you stated the following (my underlining for emphasis)

"The table include in this policy currently states in the section for Flood Zone 3b that Developments classed as highly vulnerable will not be permitted without Environment Agency approved mitigation measures.

We believe this may be an error and in fact should be more vulnerable and relates to key sites within the borough which the council wishes to bring forward. We recommend that this section of the table is changed to read

More vulnerable development that is considered key to the delivery of the borough's wider aims may be acceptable provided that it can demonstrate that the wider sustainability benefits outweighs the designation of FZ 3b. The development will only be acceptable if it can demonstrate that it will be safe from and not increase flood risk on site."

We recommend this modification as it is important that development within the functional floodplain does not set a precedent that allows other schemes to be approved. We feel it is also important as it is a departure from national policy"

On 27 August 2013 you stated

"Although we supported the comments inserted on page 124 in regard to Policy DM.F1 in our previous representation, the comments have been inserted into the wrong column which may cause some confusion because it would appear to suggest that more vulnerable developments can be permitted in Flood Zone 3b if it supports London Borough of Merton's wider sustainability objectives and can be shown to result in an overall reduction in flood risk. While this may be appropriate in largely developed areas like Merton, there has been no precedent for this approach elsewhere and it's contrary to the National Planning Policy Framework which restricts Flood Zone 3b to Essential Infrastructure / Water Compatible development only."

The council agreed with the Environment Agency's comments of 27 February 2013 and amended its plans accordingly, but the most recent comments appear to be contradicting this situation stating

- that the text has been inserted into the wrong column although the 27 February 2013 letter clearly states that it should replace text in the section for Flood Zone 3b.
- that developments that can be shown to result in an overall reduction in flood risk and meet the council's wider sustainability objectives should not be permitted in Flood Zone 3b, contrary to your earlier statement which recognises the necessity of this approach and to national policy (the Exceptions test)

As you will know from our discussions, apart from the commons, parks and open spaces that make up approximately 30% of the borough, Merton is a densely developed part of London. Fluvial flood risk in Merton is from the Wandle, the Graveney (a Wandle tributary) the Pyl and Beverley Brooks. A significant part of the centre of Merton, including Colliers Wood town centre, most of the Wandle Valley Regional Park and Wimbledon Greyhound Stadium is located in flood zones 2 and 3 according to Merton's Strategic Flood Risk Assessment, and most of this area has been built up since the 1930's.

Reducing flood risk from all sources is a priority for the council, while meeting all of our other national policy obligations under the National Planning Policy Framework such as significantly increasing the supply of homes, supporting thriving town centres, businesses and associated infrastructure such as healthcare and schools. All of these objectives are clearly set out in the council's Core Planning Strategy 2011.

The council strongly agreed with the Environment Agency's comments of 27 February 2013, and amended its draft plans accordingly to conclude that development that reduces flood risk on site, is safe from flood risk and meets the council's wider sustainability objectives should be welcomed.

The council's and the Environment Agency's approach here is consistent with the National Planning Policy Framework, in particular paragraph 102. This states that if it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, development may be allocated or permitted as long as it can be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, the development is informed by a Strategic Flood Risk Assessment and a site-specific flood risk assessment must demonstrate will be safe from flood risk, won't increase flood risk elsewhere, and where possible, will reduce flood risk overall (also known as the Exceptions Test).

NPPF paragraph 100, quoted in your correspondence of 27 August 2013, which states *Inappropriate development in "areas at risk of flooding" should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere*. NPPF Technical Guidance paragraph 2 defines "*areas at risk of flooding*" means land within Flood Zones 2 and 3"... It is therefore our view that the council's current approach of reducing or at least not increasing flood risk, providing a safe development and meeting the council's wider

sustainability objectives (as suggested by the Environment Agency on 27 February 2013) is in conformity with the NPPF.

Your response of 27 August 2013 (end of third paragraph) states "*It's in our interest for sites such as Wimbledon Greyhound Stadium to be redeveloped if redevelopment can provide an overall reduction in flood risk*". We would agree with this approach; however it appears to be contrary to your recommendations in the previous paragraph.

As you are aware, Merton's SFRA demonstrates that part of the Wimbledon Greyhound Stadium site is in Zone 3b. By making the amendments proposed in paragraph 2 of your letter of 27 August 2013, this would give the impression that no development is permitted in Flood Zone 3b except for essential infrastructure / water compatible development only, whereas the NPPF states that necessary, safe development may be permitted where it meets wider sustainability objectives and does not increase flood risk elsewhere.

Fifth paragraph of the EA's 27 August 2013 response: Strategic Flood Risk Assessment

The council notes that the Environment Agency is recommending a review of the SFRA as "*it may be that these sites should never have been designated Flood Zone 3b in the first place - which the SFRA did without consideration of the existing development (businesses / residences)*

As you will know, the Wandle SFRA was prepared jointly by Croydon, Merton, Sutton and Wandsworth Councils (the councils covering the Wandle Valley) in partnership and with guidance from the Environment Agency, using EA approved methodology, modelling, and signed off by the Environment Agency.

Please could you provide us with any up-to-date scenarios for the sites mentioned, for example, from the Wandsworth Flood Alleviation Scheme that was being explored?

Sixth paragraph of the EA's 27 August 2013 response:

In this paragraph, you state "*In our initial response (SL/2006/100135/sl-01/p02) we noted that these sites are not suitable for residential development and that we do not believe that any mitigation measures can address the issues associated with the functional floodplain and the critical drainage areas*".

As you will know from our subsequent discussions, this original statement was problematic as it was apparent that Exceptions tests at least one of these sites had already been submitted to and approved by another department of the Environment Agency, thus demonstrating that mitigation measures were not only possible but appropriate. You did not provide us with any evidence to support your original statement that you did not believe that any mitigation measures would be able to address the level of flood risk. In the absence of such evidence, these sites, like all other sites, would have to conform to national policy such as the sequential and exceptions tests (including site-specific FRAs) before it could be concluded that no mitigation measures would be able to address flood risk issues.

In summary the council would like clarification on the following:

- Can the council continue to take forward the Environment Agency's recommendations of 27 February 2013?
- Does flood risk modelling for Strategic Flood Risk Assessments now take account of existing development? If so, is there an alternative to

- Does the Agency have any additional information to support the possibility that any of these sites might no longer be in Flood Zone 3b?
- Is it still the Agency's opinion that *In our initial response (SL/2006/100135/sl-01/p02) we noted that these sites are not suitable for residential development and that we do not believe that any mitigation measures can address the issues associated with the functional floodplain and the critical drainage areas*? If so, please could you provide us with details confirming what work has been undertaken to come to this conclusion?

Please do not hesitate to contact me if you have any questions or comments.

The council is committed to submitting Merton's *Sites and Policies Plan and Policies Maps* on 27 September 2013; I would really appreciate an early response on the issues raised.

Yours sincerely

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Our ref: SL/2006/100135/SL-04/SB1

Your ref: Email

Date: 18 September, 2013

Dear Tara,

Re: Environment Agency responses to stage 3 (February 2013) and stage 4 (August 2013) of Merton's *Sites and Policies Plan and Policies Map* (part of Merton's Local Plan)

Thank you for your email of 9 September 2013 on the above. Our representation of 27 August 2013 was in support of the Merton's Local Plan to ensure consistency with the National Planning Policy Framework. We have no further comments to make on the latest Sustainability Appraisal (SA) of the Sites and Policies Plan.

We would wish to provide clarification as follows:

- Can the council continue to take forward the Environment Agency's recommendations of 27 February 2013?**

We only comment on planning policies -we do not decide them. As you remember we met with the council to discuss our initial response where it was indicated that the development of the football stadium was a key aspiration of the borough. The council also stated that to enable this, residential development would need be included as part of the scheme. It was also indicated that the housing was needed to meet demand/requirements within the borough. We advised the council against this based on fact it was in functional floodplain 3b.

We advised that we would have to highlight this in any formal response. We agreed that as the Flood Risk designation (3b) was the council's and they felt that the need to develop the site had wider benefits which outweighed the Flood Zone designation we would not object in principle to an application but would review an accompanying FRA to see if the site was safe.

The council had stated in the second version that 'highly vulnerable' may be appropriate in Flood Zone 3b subject to Environment Agency approved mitigation measures. We pointed out that the council may have meant 'more vulnerable' (residential). The key issue is that we are not supporting residential development in Flood Zone 3b; we are simply taking the lead from the council and letting it decide if it should be there or not. We merely advise and paint the picture to allow the local planning authority to make an informed decision.

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- Does flood risk modelling for Strategic Flood Risk Assessments now take account of existing development? If so, is there an alternative

The Web based NPPF Practice Guidance states that the identification of functional floodplain should take account of local circumstances and not be defined solely on rigid probability parameters.

The functional floodplain is to be defined locally by Local Planning Authorities. Some authorities have taken into account their highly developed nature by not specifying existing developed sites as Functional Floodplain (3b) where they fall within the 1 in 20 flood outline, instead designating them as Flood Zone 3a. In these instances, Functional Floodplain (3b) as a designation is used to define open spaces (including green spaces and urban open space like car parks) as 'functional floodplain', not existing residential and commercial buildings. There is no standard approach to this, however, reflecting the differences in local planning authorities areas, development pressures and flood risks.

It would be in the council's interest to seek an addendum to the SFRA to revise the extent of FZ3b, rather than leave the subsequent development open to the challenge of being non-compliant with the NPPF

- Does the Agency have any additional information to support the possibility that any of these sites might no longer be in Flood Zone 3b?

The suggestion that some of these sites could have previously been designated as Flood Zone 3a instead of 3b was based not on modelling (i.e. the risks have not changed) but designation, i.e. whether it was appropriate or in the spirit of the planning policy to assign existing development (residences and businesses) as 'functional floodplain'. The NPPF does not allow the Exception Test to be applied in Functional Floodplain, as it is to be designated where development is to be prevented unless Water Compatible/Essential Infrastructure.

- Is it still the Agency's opinion that *In our initial response (SL/2006/100135/sl-01/p02) we noted that these sites are not suitable for residential development and that we do not believe that any mitigation measures can address the issues associated with the functional floodplain and the critical drainage areas*.? If so, please could you provide us with details confirming what work has been undertaken to come to this conclusion?

No. After a number of meetings and discussions in regard to this matter, we are of the view that it's in both the council and the Environment Agency interest for sites such as Wimbledon Greyhound Stadium to be redeveloped if redevelopment can provide an overall reduction in flood risk.

Please do not hesitate to contact Joe Martyn or the undersigned should you wish to discuss this further.

Yours sincerely,

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