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Statement of Common Ground Between

London Borough of Merton and

Environment Agency

March 2022

1. Executive Summary

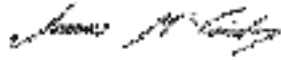
- 1.1. This Statement of Common Ground (SCG) has been prepared to demonstrate that the London Borough of Merton's Local Plan (submission version 2nd Dec 2021) is 'based on effective joint working on cross-boundary strategic matters', in accordance with the requirements of paragraph 35 of the National Planning Policy Framework (NPPF).
- 1.2. This SCG ensures that the requirements set out in the National Planning Policy Framework (NPPF) have been met. The NPPF states, "Local planning authorities and county councils (in two-tier areas) are under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries."
- 1.3. Merton has worked in partnership and collaboratively with the Environment Agency throughout the development of the Local Plan including the supporting evidence base documents such as the Strategic Flood Risk Assessment. Merton has shared proposed modifications to the proposed policy wording, in accordance with comments made by the Environment Agency, following number of consultations.
- 1.4. In addition, the NPPF, states that '*Local Plans must be supported by a Strategic Flood Risk Assessment (SFRA)*' and use its findings in the development of Local Plan. The SFRA assesses the risk from all sources of flooding, this includes fluvial, surface water, groundwater and sewer flooding. Merton's Strategic Flood Risk Assessment (SFRA- Document 15D2 to 15D7, SFRA, level 1, level 2 and maps) has informed policies and site allocation in the Local Plan at each stage of the Plans development.
- 1.5. The Merton Local Plan (Regulation 19) was submitted to the Secretary of State on 2nd December 2021. This SCG will be kept up to date until adoption of Merton's Local Plan. Updates to this document will be agreed as matters progress and agreement is reached on any outstanding issues. This SCG, forms part of the evidence to demonstrate compliance with the 'Duty to Cooperate'.

2. Parties Involved

- 2.1. This SCG has been prepared by Merton Council in agreement with the Environment Agency.

3. Signatories

- 3.1. **London Borough of Merton** agree to matters referred to in this document which directly impact them, as outlined in the 'Strategic Matters' section.



Signed:

Name and position: James McGinlay

Date: 21st March 2022

- 3.2. **The Environment Agency** agree to matters referred to in this document which directly impact them, as outlined in the 'Strategic Matters' section.

Signed: J Togher

Name and position: James Togher, Sustainable Places Team Leader, South London, Environment Agency

Date: 22 March 2022

4. Strategic Geography

Merton

- 4.1. Merton is a southwest outer London borough. Merton's area is 37 square kilometres (3,700 hectares) and is predominately residential in character, playing a transitional role from urban to suburban neighbourhoods, neither bordering Surrey nor central London. [Merton's Green Infrastructure Study](#) identifies that Merton is one of the greenest boroughs in London, with over 1,300 hectares of open spaces, accounting for 35% of the borough, 21% of this is public open space, slightly more than the 18% in London.
- 4.2. The Council as the Lead Local Flood Authority (LLFA) is responsible for managing local flood risk including surface water, groundwater and ordinary watercourses and lead on flood investigations that meet the defined criteria and community recovery.

The Environment Agency

- 4.3. The EA has a duty to cooperate and is a prescribed in the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended): Regulation 4 of the Town and Country Planning (Local Planning) (England) Regulations 2012 identifies the Environment Agency as prescribed bodies with whom all planning authorities should co-operate with.
- 4.4. The Environment Agency is a non-departmental public body with responsibilities relating to the protection and enhancement of the environment in England. Within England the EA responsible for:
 - regulating major industry and waste
 - treatment of contaminated land
 - water quality and resources
 - fisheries
 - inland river, estuary and harbour navigations
 - conservation and ecology
- 4.5. The EA are also responsible for managing the risk of flooding from main rivers, reservoirs, estuaries and the sea.
- 4.6. In Merton, the EA has a strategic overview role for flood risk management associated with main rivers in southwest London (River Wandle, River Graveney, the Beverley Brook and the Pyl Brook) and is a statutory consultee for development proposed within Flood Zone 2 and 3 associated with these watercourses. The EA is continually improving and updating their flood map for main rivers and has permissive powers to carry out flood defence works,

maintenance and operational activities for these main rivers. However, overall responsibility for maintenance lies with the riparian owner.

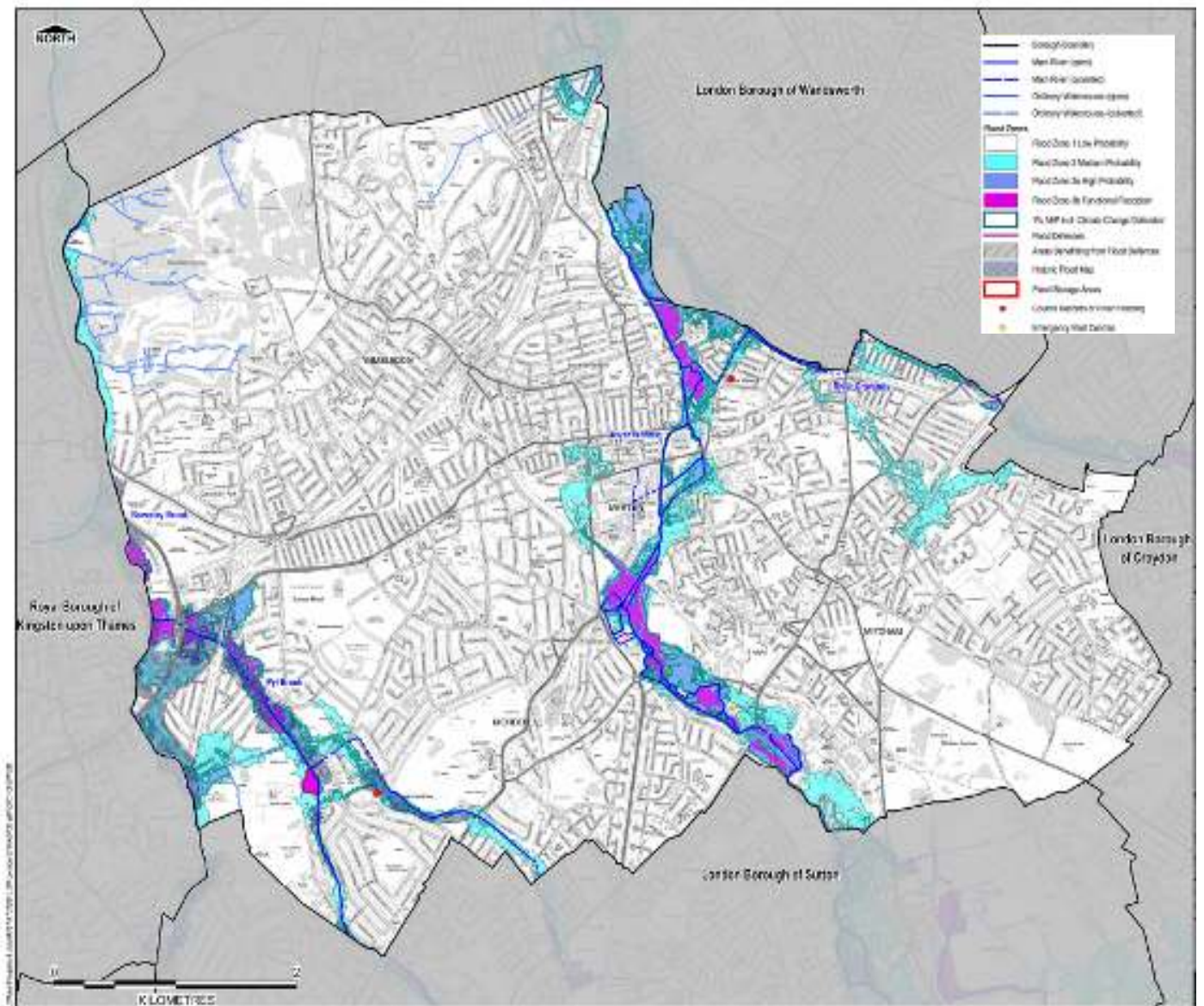
5. Partnership Working

- 5.1. Through Merton's ongoing partnership working with the Environment Agency, the Council were able to include several elements of our policies on flood risk which were supported by the EA. The Council made appropriate updates to the Draft Local Plan based on the EA advice letters received after each consultation and these are outlined in Appendix two below.
- 5.2. The Parties have engaged during the preparation of the Local Plan and in the publication and update of the Council's SFRA. The Environment Agency (EA) are a prescribed body under the Duty Cooperate. The EA submitted comments at each consultation stage and most recently to the draft Merton Local Plan at Regulation 19 stage. The EA are also a statutory consultee on relevant planning applications. They are also, together with Merton Council, other London Boroughs, Network Rail and Thames Water are part of the Thames Regional Flood and Coastal Committee and the London Drainage Engineers Group (LoDEG).
- 5.3. Furthermore, as part of partnership working, Merton's Flood Risk Officers meet the Environment Agency, Thames Water and other boroughs at quarterly Strategic Partnership Flood Group meetings, which form part of the reporting mechanism for the Thames Regional Flood and Coastal Committee. These meetings assist in collaborative working and provide a platform for sharing knowledge and common issues in flood risk management in the South West London Strategic Flood Partnership.
- 5.4. The Environment Agency encourages early pre application discussions on proposed development in high risk flood zones and encourage councils to direct applicants for pre application advice and promote links to our flood risk standing advice and pre application service. [Preparing a flood risk assessment: standing advice - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/guidance/preparing-a-flood-risk-assessment-standing-advice)
- 5.5. The Environment Agency recommends this information and links are added to the LB of Merton website to encourage early discussions and encourage ongoing partnership working. Through partnership working we can ensure flood risk is addressed early in the planning process and development directed towards the lowest flood risk zones through applying the sequential and exception tests as required. It is essential development is designed to high standards and informed by the latest flood risk and climate change evidence and data and this can be delivered through early engagement and partnership working. [Pre-planning application enquiry form \(preliminary opinion\) - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/guidance/pre-planning-application-enquiry-form-preliminary-opinion)

6. Managing flood risk in Merton

- 6.1. The National Planning Policy Framework (NPPF) and associated national Planning Practice Guidance for Flood Risk and Coastal Change (PPG (Planning Policy Guidance)) sets out the active role for Local Planning Authorities (LPAs). The NPPF, advises local authorities on how to manage flood risk effectively and sustainably. It says that '*Local Plans must be supported by a Strategic Flood Risk Assessment (SFRA)*' and use its findings in the development of Local Plan.
- 6.2. The SFRA (Documents 15D2 to 15D7, SFRA, level 1, level 2 and maps) assess the risk from all sources of flooding, this includes fluvial, surface water and foul water sources. Merton's Strategic Flood Risk Assessment (SFRA) has informed policies and site allocation (SFRA level in the Local Plan at each stage of the Plans development).
- 6.3. The risk of flooding from surface water was assessed in Merton's Surface Water Management Plan (SWMP), where areas at significant risk of flooding are identified and are labelled as Critical Drainage Areas (CDAs). In 2020, we carried out further refined surface water modelling in West Merton. This is being used to update the surface water flood map in the Environment Agency's national updates later in 2022.
- 6.4. Each council is statutorily required to produce a Local Flood Risk Management Strategy (LFRMS) for their respective borough, which details how they assess and will manage Local Flood Risk within their administrative boundary. It requires, cross boundary partnership working achieving the ultimate outcome of reducing local flood risk. Merton's LFRMS is published on the Council's website along with all supporting information. The Council will be updating the LFRMS later in 2022 in consultation with the Environment and other stakeholders.
- 6.5. The main fluvial flood zones as defined by the Environment Agency (EA) are Flood Zone 1, 2 and 3a and 3b. These areas have been defined following a national scale modelling project for the EA and are regularly updated using recorded flood extents and local detailed modelling. The flood zones are based on the likelihood of an area flooding, with Flood Zone 1 areas least likely to flood and Flood Zone 3 areas more likely to flood. The latest Flood Zones are published online and are freely accessible to view.
- 6.6. Merton's SFRA has defined the Functional Floodplain, also known as flood zone 3b, in discussion with the Environment Agency. Modelled outlines for the 5% AEP event for the River Wandle, River Graveney, Beverley Brook and Pyl Brook have been used by London Borough of Merton to define Functional Floodplain associated with these watercourses. Shown in the maps below.
- 6.7. The SFRA and flood risk evidence base will be regularly reviewed and updated as required e.g. new data and flood maps released, updated climate change allowances, following a major flooding event and through ongoing discussions between the LB of Merton and the Environment Agency. This ensures planning

policies and land use planning decisions are based on a sound flood risk evidence base and the latest data and guidance.



Flood Zones and Main River map

7. Strategic Matters

- 7.1. In September 2021, the EA welcomed the updated Local Plan policies on flood risk management (Strategic Policy F15.7 Flood Risk Management and Sustainable Drainage and Policy F15.8 Managing Local Flooding) and welcome the addition of the rivers to the overview map (Figure 1, page 1), Local Plan (OD1) and the following:
- How the local plan explains how Biodiversity Net Gain (BNG) will be applied.
 - The EA recommended updating this to specify that Biodiversity Net Gain must include an improved river corridor if there is a river on / adjacent to the site.
 - The inclusion of a 10-metre buffer where this is possible and restoring natural banks and processes to the watercourse where this is feasible.
 - Policy references the need to refer to the latest guidance and legislation regarding BNG.

Agreement: Both the EA and Merton Council agree that the delivery of the new local plan policies requires ongoing cross boundary and catchment working to deliver environmental improvement across the Wandle catchment.

To adapt the urban environment requires ongoing multi agency and community liaison to identify issues and opportunities to make Merton resilient to extreme events such as summer heatwaves, poor air quality and extreme storm events.

8. Governance arrangements

- 8.1. Requirements for signing documents differ between Local Authorities depending on their structure. It will be for each body to decide who the appropriate person to sign the statement is.

9. Timetable for agreement, review, and update

- 9.1. This statement has been informed by on-going engagement between the parties and has been informed by various evidence base documents
- 9.2. This SCG is a live document and will be reviewed on a regular basis, informed by continued communication between the parties through meetings, statutory consultation at key plan making stages and electronic communication.
- 9.3. As this statement focuses on issues of relevance to Merton's Draft Local Plan, post examination will only need further updating once work commences on any future revisions to the Local Plan. Ongoing collaboration between partners will continue through regular meetings on a one-to-one basis and through attendance at group meetings where cross boundary issues are discussed.

Appendix One: Agreements made between LB Merton and the Environment Agency in the signed bi-lateral Statement of Common Ground 2022

Flood risk	
1	Both parties agree to have regard to each other's flood risk policies and evidence
2	Both parties agree to work collaboratively to reduce the risk of flooding within Critical Drainage Areas.

Appendix 2: Schedule of representations received from the Environment Agency in the Regulation 18 Merton Local Plan

The Environment Agency provided advice and comments on the draft Merton Local Plan during each consultation period. The table below outlines the points made by the Environment Agency, and the council's response prior to the publication of the Regulation 19 Plan in June 2021.

Policy	EA Comments/Recommendation	Council Response
F8.8 Flood Risk management	Request to include adding the new National Flood and Coastal Erosion Risk Management Strategy for England (2020) to promote the holistic view of climate change, environment and water based problems.	We updated the Draft local plan in accordance with the advice received
F8.9	<ul style="list-style-type: none"> a. We recommend Policy F8.9 is updated to include a policy objective to incorporate an 8 metre buffer zone adjacent to rivers across Merton. b. Full support for paragraph 1.1.137. SUDs will be implemented in all developments. The requirement to utilise SUDS including those in low risk areas, is because surface water from one area of a catchment may contribute towards enhanced flood risk in another area of that catchment. c. Request to strengthen the wording within the table in this section regarding Flood Zone 3b to be in line with NPPF 	<ul style="list-style-type: none"> a. We updated this policy in the submitted local plan in accordance with the advice received. b. Agree c. We updated the table to say that only water compatible development and essential utility infrastructure is acceptable in this very high risk area
		Agree and updated paragraph

P8.11 Air quality and pollution prevention	Request to include additional text to the introductory paragraph to ensure water pollution is also included as a key issue to manage across the borough	
CC8.15 Site Allocations	We recommend site allocations are assessed using the latest environmental mapping data and informed by the SFRA and follow the Flood risk sequential test and sequential approach	This assessment was carried out again and there were no changes required.