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Date: 3rd September 2021



FutureMerton Team
London Borough Merton
Civic Centre
London Road
Merton
SM4 5DX

By Email (future.merton@merton.gov.uk)

Dear Sir / Madam,

Consultation on the Merton Local Plan – Stage 3 Draft Local Plan Representations made on behalf of Aviva Life and Pensions UK Limited

These representations are submitted on behalf of Aviva Life and Pensions UK Limited (c/o Aviva Investors) in response to the consultation on the Stage 3 Draft Merton Local Plan.

Aviva Investors are a key stakeholder in the Borough, with longstanding aspirations to redevelop a site at 80-86 Bushey Road, Raynes Park ('the Site'). These representations build upon those submitted during previous consultation on Merton's emerging Local Plan (namely during the consultation of Stage 1, Stage 2, and Stage 2A submitted in January 2018, January 2019, and February 2020 respectively). These representations to the Stage 3 Draft Local Plan should be read alongside these previous submissions.

The Site remains one of the largest underutilised, brownfield, single ownership sites in the London Borough of Merton (LBM) and has significant redevelopment potential – as is recognised in emerging local planning policy with the proposed allocation for development. Aviva Investors continue to be committed to bring forward the Site for development.

To ensure its successful delivery it is essential there is sufficient flexibility in the policy framework to ensure that this allocated site is delivered, and the maximum benefits associated with this are realised.

It is in this context that these representations have been prepared.

1 Raynes Park

Policy N6.1 ('Raynes Park')

This draft policy supports investment in Raynes Park to maintain its position as an attractive and interesting destination that meets the needs of the current and future residents.

We continue to be in support of this overall approach for Raynes Park together with the continued allocation at 80-86 Bushey Road (Site Allocation RP4) for development. We do however believe there





remains an opportunity for greater flexibility in this site's potential and its ability to deliver a wide mix of uses.

Indeed, it is important to recognise that the part of the Site already comprises existing retail floorspace, and LBM has previously granted consent for the redevelopment of the Site for retail purposes¹. Therefore, the Site's potential as a retail destination has long been recognised and accepted by LBM and should be reflected in its proposed allocation.

Despite this, whilst the proposed allocation refers to commercial development as a suitable location, elsewhere the emerging Local Plan (para. 6.1.10) highlights that the Council will not support further significant out-of-centre retail development at Shannon Corner. We believe that as an established retail destination, where LBM has accepted as suitable for retail-led development, retailing in this location should be deemed appropriate (subject to the relevant 'tests' being satisfied).

Likewise, reflecting the fact it comprises a designated Locally Significant Industrial Site (both within the adopted and emerging Local Plan), together with policies elsewhere that seek to meet demand from business and industrial uses, the Site's potential for continued industrial / business uses should also be fully recognised.

Within this context, it is important that full flexibility is provided within the wording of the proposed site allocation to ensure its delivery. Therefore, we would suggest the following revised wording in respect of the Site's allocation (additional text in bold and underlined):

*~~“Site allocation: Residential-led mixed use development with potential for ground and lower floors~~ **Suitable for a mix of uses with the potential for residential, commercial (including retail, subject to the relevant tests being met), business, industrial, services and local community uses appropriate in this area** ~~to a residential area.”~~*

This more flexible approach reflects the existing uses on site and its planning history. It also increases the Site's development potential to ensure that this prominent brownfield site can be comprehensively delivered and can respond to demands, both from the market and local needs.

There also remains a need for recognition that the Site does have the potential to deliver high density development, including the potential for tall buildings. Indeed, planning permission has recently been granted at appeal² for residential-led development at a nearby site within the Raynes Park area (at 265 Burlington Road). The scheme allowed by the Inspector includes two residential blocks of development ranging in height between 7 and 15 storeys.

In granting consent for buildings at this height, the Inspector concluded (para. 44) that:

¹ Planning permission reference 16/P1317 granted on the 4th December 2017

² Appeal reference: APP/T5720/W/20/3250440



“...overall, I consider that the proposed scheme would not adversely affect the character and appearance of the area.”

There are similarities between the appeal site and the Site, and the position reached by the Appeal Inspector that locations elsewhere in the Borough could be suitable for tall buildings needs to be reflected by policies in the new Local Plan.

This is the case in relation to Site Allocation RP3 of the emerging Local Plan, which includes the appeal site, where it is acknowledged that the site, through a master planned approach, could contain taller buildings. Similar recognition to the potential for high density / tall buildings should also be outlined in respect of Site Allocation RP4 (80-86 Bushey Road). This will ensure that its development potential is fully optimised.

In terms of specific comments in respect of the proposed Site Allocation, as set out in our previous representations, we continue to dispute reference to the Site having a Public Transport Accessibility Level (PTAL) rating of 1 (i.e. very poor access to public transport). As previously outlined, the Site has previously been acknowledged³ as having a PTAL rating of up to 3 ('moderate'). We maintain that this needs to be reflected in the site allocation description.

It also worth noting that the post code for the Site is incorrect and should be SW20 0JQ rather than SW20 0WJ as currently drafted.

2 Housing Provision

Policy H11.1 ('Housing choice')

We welcome the revision to criterion (f) of Policy H11.1 (formerly draft Policy H4.1), which now sets a minimum affordable housing requirement for the development of 10no. dwellings on non-public of up to 50% with a minimum provision of 35%. This represents a decrease from a minimum provision of 40% set out in the Stage 2A Draft Local Plan to the Merton Local Plan and is now consistent with the London Plan.

However, criterion (f) of Policy H11.1 sets the tenure split for affordable housing for development of 10no. dwellings or more. This continues to consist of 70% low-cost rent (i.e. social rent; affordable rent) and 30% immediate rent (i.e. affordable home ownership; intermediate rent). As set out in our earlier submissions, such an approach reduces the ability to meet '*all sectors of the community and at all stages of people's lives*', which remains a key objective of this Policy. The proposed approach towards the tenure split also continues to be inconsistent with the now adopted London Plan (March 2021).

³ As confirmed in written advice from Transport for London dated 13th June 2019



Given this, our previous representations in respect of the affordable housing tenure split remain applicable. Reflecting London Plan policy it is appropriate to amend the table within Policy H11.1 as follows (additional text in bold and underlined):

Threshold	Affordable housing level	Affordable housing tenure split	Required provision
10 or more units	<p>Threshold level to be eligible for the Fast-Track Route as set out in the London Plan provided all provision is on-site without public subsidy:</p> <p>50% for public sector land or on industrial land where redevelopment would result in a loss of industrial capacity.</p> <p>For all other sites up to 50% with a minimum provision of 35%</p>	<p>70% <u>30%</u> low cost rent (i.e. social rent, affordable rent, London Living Rent);</p> <p>30% intermediate</p> <p><u>40% selected on a scheme-by-scheme basis</u></p>	<p>On Site</p> <p>Only in exceptional circumstances will the provision of affordable housing off-site or financial contribution in lieu of provision on-site be considered by the council, and this must be justified and such schemes will be required to provide a detailed viability assessment.</p>

The suggested amendments will ensure a sound and effective Plan and one that assists in meeting the housing needs of all sectors of the community.

Policy H11.3 ('Housing mix')

The wording of this policy is consistent with that outlined in the earlier draft policies (formerly Policy H4.3). As such, our previous concerns remain applicable. It is essential that greater flexibility is provided within the wording of Policy H11.3 and its supporting text.

Within this context, we maintain that the relevant text of Policy H11.3 be amended as follows (additional text in bold and underlined):

*“The **indicative** borough level housing mix will be applied on **a site-by-site basis** having regard to relevant factors, including individual site circumstances, site location, **constraints**, identified local needs, **viability** and economics of provision.”*



The supporting text to draft Policy H11.3 also needs to acknowledge the important role 1-bed properties play in providing housing for concealed households (house shares) and downsizers, which free's up family housing (i.e. with front doors and gardens). The Local Plan also needs to recognise that the provision of a smaller unit mix may be appropriate in suitable locations and / or sites considered suitable for higher densities and / or tall buildings.

Policy H11.7 ('Build to rent')

Many of the changes suggested in our previous representations have been incorporated within revised wording to policy. We welcome this.

However, criterion (g) of draft Policy H11.7 continues to state that the Council's nomination rights to secure nomination of tenants to specified affordable housing units and the management and monitoring arrangements will be secured via the S106 legal agreements. It also states that all affordable housing elements of the scheme must be affordable in perpetuity. Such an approach under this criterion continues to be inconsistent with both the London Plan and the NPPF and should be deleted.

3 Places and spaces in a growing borough

Policy D12.6 ('Tall buildings')

Tall buildings are now dealt with under a specific policy whereas previously such development was considered under a wider placemaking and design policy (draft Policy D5.1).

This Policy continues to identify town centres locations as the most suitable location for tall buildings. However, we welcome the greater flexibility now proposed in acknowledging that tall buildings can also be suitable on other sites elsewhere in the Borough, which will be appraised on a case-by-case basis.

Despite this flexibility, criteria (p) to (r) of Policy D12.6 states that the Council will generally support tall buildings if they are in Wimbledon, Morden, and Colliers Wood. There is no suggestion within the criteria listed under this Policy that tall buildings elsewhere will also be supported by the council.

Such an approach fails to acknowledge that tall buildings outside of the town centres can be delivered that are of a high quality. Tall buildings can also complement the existing building context and, importantly assist in meeting the Borough's needs. This needs to be clearly recognised by policies within the Local Plan. Tall buildings outside the three town centres in the Borough have a role to play helping Merton accommodate its expected growth. It is essential that such opportunities are fully explored in appropriate locations, particularly for large sites, and that local planning policy provides sufficient flexibility to deliver such development. As recognised by the Inspector in dealing with the recent Burlington Road appeal⁴, current adopted local planning policy provides scope for the decision maker to exercise judgement on the impact of tall buildings on a site-by-site basis. Emerging local

⁴ Paragraph 43, Inspector's Decision



planning policy needs to maintain such an approach given the need to fully optimise the development potential of brownfield sites within the Borough.

To address our continued concerns, we propose that an additional criterion is added to Policy D12.6 that acknowledges that tall buildings can be acceptable outside the three principal town centres in the Borough subject to being of a high quality in design – as has been reflected by the Planning Inspectorate in granting consent for tall buildings outside the three town centres at Burlington Road.

The suggested wording for this additional criterion is provided below:

“Elsewhere in the Borough, they are sited and designed in accordance with a detailed townscape strategy being sympathetic to their surroundings and accord with the policies in the Plan.”

Such an approach will ensure that the Local Plan is planned positively and seeks to meet the area’s needs and maximising the potential of the development opportunities that do exist, as required by the NPPF and the London Plan.

4 Economy and Town Centres

Policy TC13.6 (‘Development of town centre type uses outside town centres’)

This Policy broadly reflects the NPPF and the London Plan in requiring retail development in edge and out-of-centre locations to satisfy the requirements of the sequential approach to site selection, and where necessary, the impact test.

However, the details of the proposed approach of this Policy lacks the necessary clarity. The wording of the Policy states that development of town centre uses will be permitted only where it can be demonstrated that:

“The scope of the sequential test (required over 280sqm net new floorspace) and impact assessment submitted is proportionate to the scale of the development proposed and satisfies the council’s requirements.”

The council’s requirements to be satisfied referred to in this policy are not provided. Clarity is needed to make this policy effective.

Furthermore, the supporting text to this Policy (para. 13.6.5) goes on to state that:

“Impact assessments may be required for any retail proposals located edge-of-centre or out-of-centre where the net floor area exceeds 280sqm. In accordance with the National Planning Policy Framework 2019 (NPPF), impact assessments will be required for leisure and office development above 2,500 sqm located outside town centre and not in accordance with the development plan.”



Again, the council's proposed approach for assessing retail impact lacks clarity. Whilst the policy approach reflects (in part) national and strategic policy in only requiring impact assessments for development above 2,500 square metres, it does state that impact assessments 'may' be required for proposals that exceed 280 square metres. No information is provided as to what circumstances will mean that an impact assessment will be required in support of proposals above 280 square metres.

Likewise, no justification has been provided to support this lower threshold when considering retail impact, other than references to this scale of unit being 'large' or a spurious reference to the changes to the Use Class Order that came into effect in 2020. This fails to provide the robust justification required to support a lower threshold to the default set by both the NPPF and the London Plan.

Indeed, the Planning Practice Guidance (PPG) that supports the NPPF states⁵ that:

"In setting a locally appropriate threshold it will be important to consider the:

- *scale of proposals relative to town centres*
- *the existing viability and vitality of town centres*
- *cumulative effect of recent developments*
- *whether local town centres are vulnerable*
- *likely effects of development on any town centre strategy*
- *impact on any other planned investment"*

No such evidence has been published (or at least in the public domain) to support the lower threshold of 280 square metres.

The Retail and Town Centre Capacity Study published in August 2011, which forms part of the council's evidence base informing the Local Plan, did suggest that the impact on all out-of-centre retail applications over 280 square metres should be assessed. However, this recommendation was not based on any robust justification other than reference to the Sunday Trading Act. Furthermore, this study is also over 10 years old.

In short, no robust and up-to-date evidence has been prepared to support a lower threshold, contrary to the PPG. In the absence of such evidence, Policy TC13.6 and the supporting text is not justified and needs to be amended to clarify that it is only necessary to assess retail impact for proposals outside existing centres above 2,500 square metres.

5 Summary

Aviva Investors, as key investor in Merton, remains committed to the early delivery of one of the largest and most prominent brownfield sites in the Borough at 80-86 Bushey Road, and we support the continued allocation for development in the emerging Local Plan. However, to ensure that its

⁵ Paragraph: 015 Reference ID: 2b-015-20190722



development potential is maximised, the policy amendments identified are required to ensure the Local Plan is positively prepared, justified, and effective. As currently drafted, the emerging Local Plan has the potential to limit the development potential of the strategic allocation at 80-86 Bushey Road, despite this being one of the largest brownfield sites under single ownership in the Borough.

We trust that these representations will be given due consideration by the Council and helpful in progressing the Local Plan. In the meantime, please do not hesitate to contact us if there are any queries.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Tim Rainbird', located below the closing text.

Tim Rainbird
Board Director

cc. Aviva Investors