

From:

To: [Future Merton;](#)

Subject: Merton's Local Plan - Response to Inspectors' Proposed Main Modifications

Date: 22 March 2024 15:50:55

Attachments: [WPRa response to MMs Final 15 March 2024.pdf](#)
[WS Local Plan MM response letter 3 24.pdf](#)

Dear Future Merton Team,

The Committee of the Belvedere Estate RA which covers 26 roads in and around Wimbledon Village, have taken a keen interest in the Main Modifications and have had input to the submissions from The Wimbledon Society and the Wimbledon Park RA and we fully endorse both of those documents which are attached hereto for easy reference. BERA covers roads in Hillside and Village Wards and the relevant Councillors are also copied above along with the authors of the submissions and the BERA Committee.

You may also receive submissions from individual BERA members.

With Kind Regards,

Chair
Belvedere Estate RA



To Future Merton, cc Programme Officer

15 March 2024

Merton's Local Plan Main Modification LBM31

This paper responds to Merton's request of 2 February 2024 for views on the latest Main Modifications proposed to their Local Plan. It deals with the new policy N8.1 for Wimbledon Park, and its implications for the rest of the Plan.

For the Wimbledon Park Residents' Association,

, Chairman

, Planning Committee

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1 Proposed Solution

1.1 Site Allocation Wi3 of part of Wimbledon Park having gone, the Local Plan now tries to address "Heritage at Risk" of the whole of Wimbledon Park at considerable length in N8.1. For the reasons discussed in section 2, it is disproportionate and ineffective. We respectfully suggest that it makes the Plan unsound, and so propose a simpler, effective solution.

1.2 Heritage at Risk

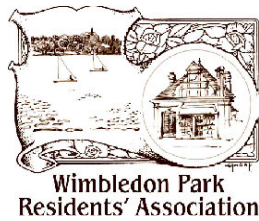
The problem of "Heritage at Risk" can be simply resolved at an appropriate place in the Plan.

1.2.1 Changes requested: *delete N8.1 altogether* and *insert after D12.5 (f)*:

D12.5 (g) Proposals affecting any heritage asset on the "at risk" database must address and resolve the reasons why it is on that database.

1.2.2 Reasons:

1.2.2.1 Policy D12.5 already deals with Heritage but does not currently mention Heritage at Risk. At the end of D12.5 (f) a new Modification now provides: "Proposals should not prejudice the future restoration of designated and non-designated historic parks and gardens." This is not ambitious enough. It does not respect and would not resolve any "at Risk" issues.



1.2.2.2 There are 21 sites within Merton on the Historic England “Heritage at Risk” database.¹ None of the other 20 sites are singled out, even though 5 are in St Mary's Churchyard, Wimbledon, and another 4 in the environs of Merton Priory. The general approach of a Borough-wide policy must be the most appropriate for HaR assets.

1.2.2.3 The HaR database is a living creature. Assets are added and removed all the time as Historic England re-assess them and modify the stated reasons for an asset appearing on the database.² Work may be undertaken to alleviate problems associated with heritage assets, the effect of which must be re-assessed from time to time. The lake at Wimbledon Park is a good example of this, as illustrated in the MM N8.1.29. A 15-year Plan Policy which identifies a single location, at a single point in time, based on inadequate and potentially changing circumstances is disproportionate, uncertain, and unsound.

1.2.2.4 N8.1 does not follow Historic England’s advice.³ It provides merely that a development proposal which includes certain features “will be supported”. This will not secure the objective. Merton’s lack of support through the planning process will not prevent a developer from securing consent in some other way: an Inspector on appeal would not regard “support” to mean “require”, so Merton’s conditions may not be delivered.

1.2.2.5 Merton’s proposed “support” would be promoting development to resolve the Heritage at Risk issue. Resolution should not be contingent on development. It would be a contradiction in terms to rely upon a developer’s offer of funds or other benefits associated with its planning application to protect a site such as Wimbledon Park for which the planning policy barriers to development are so high. The development process cannot fulfil the objective alone, hence our proposal at 1.3 below.

1.3 Landscape Management Plan

We share the general frustration exhibited by Historic England, many local and other national bodies, and the entire community, that the whole of Wimbledon Park deserves much better. We would welcome an initiative comprising all the landowners, interested parties and bodies, and both Merton and Wandsworth Councils, to achieve this.

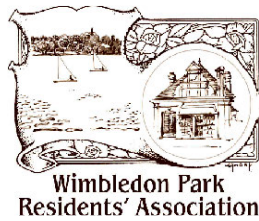
1.3.1 **Change requested:** insert in the Surrounding Neighbourhoods section for Wimbledon:

(r) Wimbledon Park is an important open space, designated MOL, Grade II*, SINC and others, but it has been on the Heritage at Risk register since 2016. To address this Risk, and to ensure that public access and sporting use is perpetuated, we will secure the

¹ <https://historicengland.org.uk/advice/heritage-at-risk/search-register/results/?advsearch=1&Lpa=Merton&searchtype=harsearch> accessed 26 February 2024

² Compare for example the wording of HE’s listing of Wimbledon Park in 2016, 2021 and 2023.

³ “The allocation policy would set a more robust strategy for the conservation and enhancement of the historic environment if the criteria were presented as *requirements rather than guidance.*” (*emphasis added*). Para 2.10 of HE’s Hearing Statement 19 May 2022.



production of a Landscape Management Plan and further designate Wimbledon Park as a Local Green Space.

and further supporting text:

9.1.36 We will complete the Landscape Management Plan for Wimbledon Park within 1 year of the adoption of this Plan with the agreement of London Borough of Wandsworth, all landholders, Ward Councillors, community groups, Civic Societies and Residents' Associations neighbouring, or having an interest in the use of, the Estate. The Plan will address the "at Risk" concerns and be paid for out of Merton Council funds. We will procure the implementation of the Landscape Management Plan within 5 years of the adoption of this Plan.

1.3.2 Reasons:

1.3.2.1 It would be proportionate to include Wimbledon Park in the Surrounding Neighbourhoods section of the Chapter about Wimbledon, and briefly to explain its status.

1.3.2.2 The N8.1 proposals for a Landscape Management Plan give no confidence that this can be legally achieved and that it has the backing of the Council. Perhaps for that reason, the proposal is at best a vague and misleading aspiration.

1.3.2.3 To be effective, the Landscape Management Plan should be more than aspirational, and Merton must be committed to it. Resolution of the Heritage at Risk issue should not be contingent only on development, for the reason mentioned at 1.2.2.5 above.

1.3.2.4 While a Landscape Management Plan might be a useful means to achieve the objective, there is no guidance in N8.1 about its terms of reference or brief, beyond addressing the "Heritage at Risk" problem. Since "divided ownership" is the key issue, it must start with the owners. How will Merton ensure that it will be agreed? See also section 5 below.

2 Background and Reasons for our Approach

2.1 After a lengthy series of Stages, representations and hearings in the seven-year process for this Plan, we are grateful to the Inspectors for rejecting the extension of development Site Allocation Wi3. Wimbledon Park is "chalk" to the "cheese" of the AELTC's existing private tennis complex. We are also grateful that the Inspectors have rejected the reduction in MOL on the existing AELTC site west of Church Road. We do not see the need to comment further but, if other parties re-visit either of those changes, reserve the right to make further representations.



2.2 Following the Hearings in 2022 there was just one residual concern about Wimbledon Park: it is on the Heritage at Risk register, about which “something must be done”.

2.2 The policies set out generally in the Local Plan already cover the key features of Wimbledon Park, for example, Metropolitan Open Land, Heritage, Site of Importance for Nature Conservation, Conservation Area, Open Space, Green Corridor, Archaeological Priority, Sports, and Recreation. However, MM N8.1 disproportionately draws attention to some only of these features, ignores others, and includes considerable detail of temporary, passing interest but not of 15-year value. It also continues to promote development according to the AELTC planning application for only part of the Estate, which was dismissed by the Inspectors at the Hearings in 2022.

2.4 MM N8.1 occupies 10 entirely new pages in the Plan, while the whole of Wimbledon and surrounding areas is dealt with in text, pictures, maps and further supporting text in just 17 pages. If each of the issues relating to other places around the Borough were treated in the same way as Wimbledon Park, the Plan should run into thousands of pages.

2.5 This Local Plan has been the subject of four Stages of Public Consultation over the last 7 years.⁴ During this process, nothing was proposed about Wimbledon Park except at the instigation of the AELTC for an extension to their existing private tennis complex. Their first representation at Stage 1 concerned only the existing complex west of Church Road, seeking a Site Allocation which became the original Wi3.⁵ In their second, Stage 2 response, they welcomed the inclusion of their existing complex as Wi3 and told Merton that they were about to acquire the golf club.⁶ In their third, at Stage 2A two years later, they explained that they had bought the golf club and were making plans to develop it, and so welcomed the extension of Wi3 to include the golf course as well.⁷ It was the extension of this allocation and the incorporation of AELTC-proposed drafting and requirements which was the subject of our, and other, objections in 2021 and 2022, and the subject of extensive hearings before the Inspectors.

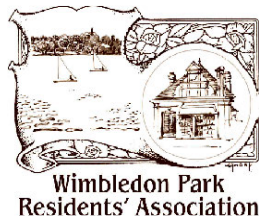
2.6 According to the Local Plan Examination Library (the only materials available to the public) Historic England became involved on the record only when they responded to Inspectors’ questions in relation to Site Allocation Wi3, supplying a Hearing Statement dated 19 May 2022 and, later, a revised Statement of Common Ground in September 2022. Their observations were concerned only with the Heritage status of the golf course, and whether Wi3 was sound. They concluded that it was not.

⁴ Stage 1 2017/18, Stage 2 2018/19, Stage 2A 2020/2, Stage 3 2021.

⁵ Rolfe Judd (on behalf of AELTC) letter 8 January 2018.

⁶ Rolfe Judd letter 20 December 2018.

⁷ Rolfe Judd letter 20 January 2021.



2.7 Merton's reason for their introduction of MM112, the new policy N8.1, is "To achieve an effective and justified policy, which is consistent with national policy relating to the conservation of heritage assets (section 16 of NPPF) and the natural environment (section 15 NPPF), and to secure general conformity with the London Plan in respect of provisions relating to Metropolitan Open Land."⁸

2.8 We understand that in creating MM N8.1, Merton have followed the Inspectors' Post Hearings letter INSP22 paragraph 39. That letter denied a Site Allocation, which would have encouraged development, and explained:

"... This modification should address the reasons why the heritage asset is at risk, nature conservation and access, and landscape management and maintenance, in addition to setting out any requirements to improve the environmental quality and accessibility of the park. In our view, such an approach would provide for the conservation, enhancement and ongoing management of the registered park and garden, whilst also ensuring that clear support is given for continued long-term investment in AELTC's facilities."

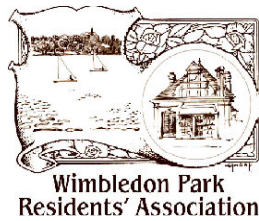
2.9 It seems that Merton have sought to introduce MM N8.1 to satisfy the first requirement ("This modification should address the reasons ... park and garden"). However, the second ("whilst also ... facilities") is provided for in the rest of the Plan which already supports the AELTC, both through the revised Site Allocation Wi3 for their existing facilities west of Church Road, and through Text and Policies at 9.1.27, 13.9.5, IN14.3, and 14.3.38-40.

2.10 Is it possible that Merton have interpreted the second, support for "continued long-term investment in AELTC's facilities", to refer still to the golf course, despite the withdrawal of the site allocation? Wi3 having been restricted, this does not seem correct, appropriate, or fair. If there is any misunderstanding about this, we would welcome clarification. If that is in fact Merton's intention, then a further hearing must be required: it would not be acceptable for the effect of Site Allocation Wi3 to appear in another guise.

2.11 At this very late stage, a year after the post-hearings' letters, detailed changes of the magnitude now proposed by Merton are out of proportion with all other Main Modifications and the expectations of all consultees and of due process. N8.1 now proposed would need far more analysis and scrutiny than this stage permits. We therefore suggest something much simpler to make the Plan sound and effective.

2.12 While we share the Inspectors' desire to avoid any further hearings, it would not be right, or in accordance with due process, for Merton to press ahead with N8.1 without a thorough discussion and analysis of it. We stand ready to appear at any hearing if required. In the meantime, we should be happy to discuss these representations with Merton.

⁸ LBM29 Schedule of Main Modifications to Merton's Draft Local Plan – January 2024 Page 36 of 165.



3 Specific adjustments to the Main Modification now proposed.

3.1 We urge Merton Council and the Inspectors to adopt our preferred, simple approach set out at section 1 above. If despite our concerns, this is not accepted, then we need to propose several changes to N8.1, as follows.

3.2 N8.1

3.2.1 Change requested:

Delete the opening words of this Policy and substitute:

WIMBLEDON PARK – POLICY N8.1

Wimbledon Park is an important open space, designated MOL, Grade II*, SINC in a Conservation Area and an Archaeological Priority Area, but it has been on the Heritage at Risk register since 2016. To address this Risk, and to ensure that public access and sporting use is perpetuated, we will secure the production of a Landscape Management Plan and further designate Wimbledon Park as a Local Green Space.

We will require development proposals for any part of Wimbledon Park to address and resolve the reasons why Wimbledon Park is on the Heritage at Risk Register in accordance with Policy D.12.5(g), and to recognise and preserve its special status as designated protected land. Once Wimbledon Park has been removed from the Heritage at Risk database this requirement will cease.

Whether or not suitable development proposals come forward, we will complete a Landscape Management Plan for Wimbledon Park within 1 year of the adoption of this Plan with the agreement of London Borough of Wandsworth, all landholders, Ward Councillors, community groups, Civic Societies and Residents' Associations neighbouring, or having an interest in the use of, the Estate. The plan will address the "at Risk" concerns and be paid for out of Merton Council funds. We will procure the implementation of the Landscape Management Plan within 5 years of the adoption of this Plan.

3.2.2 Reasons:

3.2.2.1 To comply with Historic England's advice (see 1.2.1 above). As it stands, the proposal to "support development" appears to create a policy to support a strategic priority for development, and thus implement section 19 (1B) and (1C) Planning and Compulsory Purchase Act 2004. Site Allocation Wi3 sought to do this and has been rejected: concern over development was the primary reason for removing the golf course from Wi3. Now Policy N8.1 appears to do it instead. It is not acceptable.

3.2.2.2 This will also require the insertion of D12.5(g) as proposed at paragraph 1.2 above.



3.3 N8.1 paragraphs (a) – (j)

3.3.1 Change requested:

Delete paragraphs (c) and (g). Re-order the remaining lettered paragraphs in the sequence of the Supporting Text so that they can be followed logically.

3.3.2 Reasons:

3.3.2.1 The retained paragraphs relate to the Historic England “at Risk” reasons or could be consistent with any landscape management plan for Wimbledon Park. However, (c) and (g) go far wider and deeper than is required to counter the four reasons for Historic England “at Risk”, currently set out in N8.1.12.⁹ These two paragraphs (c) and (g) were introduced in the MM by the words “supporting development proposals that”. This is the promotion of development, not the careful curation of a sensitive, at-risk site. Merton’s “support” for development is not appropriate in N8.1 since this must replace a development Site Allocation. The former golf course is only one part of Wimbledon Park, the subject of a highly contentious application and these two paragraphs repeat, and favour, elements of the existing AELTC proposal 21/P2900, which is not appropriate.

3.3.2.2 A Landscape Management Plan will need to include more than the paragraphs that remain, and this Policy already risks becoming too long. Merton may care to consider just how much detail is necessary in this Policy, lest it overwhelms the entire Plan.

3.4 N8.1 Paragraph 8.1.3

3.4.1 Change requested:

After “... is currently publicly accessible” insert:

The golf course land is held by AELTC on a separate lease which entitles residents of Merton to play at reduced green fees without requiring membership. The AELTC have now closed the golf course.

3.4.2 Reason:

Merton required public access “pay and play” rights when it granted the lease to the golf club company in 1986 in the face of a public outcry against renewal of a lease which contained no such rights and even included the public lake.¹⁰ No doubt Merton were aware

⁹ 8.1.12: “In 2016 the Wimbledon Park Registered Park and Garden was added to Historic England’s Heritage at Risk Register due to the following issues:

- Uncertainty around the future [of the entire historic landscape].
- The impacts of divided ownership on landscape management.
- Obscured views.
- The deterioration of the Lake.”

¹⁰ Merton Recreation and Arts Committee, minute 442, 28 November 1984; Wimbledon News 28 March, 11 April, 18 April, 2 May 1986.



of their obligations as trustees of the public trust under which they held the freehold of the golf course, park, and lake (see section 6 below). The AELTC bought the golf course company in 2018 but kept the 1986 lease alive. That lease continues until 2041, beyond the life of this Plan.

3.5 N8.1 Paragraph 8.1.3

3.5.1 Change requested:

Delete:

The All England Lawn Tennis Club’s main grounds lies [sic] to the west of Wimbledon Park across Church Road and a commercial arrangement with the other owners to provide land for car parking, overnight camping, the Queue and concessions in the whole park has been used for many years to support the successful functioning of the Wimbledon Tennis Championships each summer. Planning application 21/P2900 has been submitted to Merton and Wandsworth Councils relating to the former golf course within Wimbledon Park.

3.5.2 Reasons

3.5.2.1 N8.1.3 deals with land ownerships. The words which we suggest should be deleted add nothing but favour the AELTC to the exclusion of any other interest and contradict the expressed purpose of N8.1.

3.5.2.2 The ownership and use of neighbouring land is irrelevant, just as it would be irrelevant to refer here to St Mary’s Church as a nearby listed religious building.

3.5.2.3 There has been a commercial arrangement between Merton and AELTC, which may well change, to use not the “*whole park*”, but *most of the public park* to support the championships.

3.5.2.4 The subjective comment “successful functioning of the Championships” is inappropriate. Many would challenge this and prefer that the public park should not be used for these purposes now that the AELTC own the heritage golf course, so that the public can continue to enjoy their entire park throughout the whole year.

3.5.2.5 Reference to a specific planning application is inappropriate, for the many reasons already discussed before the Inspectors, and should be deleted. This Plan is to last 15 years and should not be seen to favour any particular application. While Merton Planning Committee passed the application by a majority 6:4, Wandsworth refused it unanimously 7:0, especially because it failed to satisfy the stringent tests for development of Metropolitan Open Land. It is now before the GLA. Its fate is far from certain.



3.6 N8.1 Paragraph 8.1.3

3.6.1 Change requested:

Insert at the end:

Merton holds its part of Wimbledon Park as public open space as trustee under the statutory trust of s164 Public Health Act 1875. The sale of the golf course to the AELTC in 1993 has been disputed and the AELTC may be found to hold it on a similar trust. On their purchase in 1993 the AELTC covenanted with Merton as owner of the public park not to develop the golf course and to use it for restricted sporting purposes. Dealings with the statutory trust landholdings of both parties and by Merton with the benefit of the covenants are restricted by the Local Government Act 1972 (as amended).

3.6.2 Reasons:

3.6.2.1 The Wimbledon Park Estate (except The Wimbledon Club) was transferred from the Wimbledon Corporation to Merton by The London Authorities (Property Etc.) Order 1964 (SI No 1464) and appropriated to the s164 PHA Trust by The London Government Order 1965 (SI No 654). Since 1965 it has been held by Merton on the statutory public trust.

3.6.2.2 If the supporting text of the Policy is to personalise the landholdings, it should explain constraints as severe as the restrictions imposed by the statutory trusts and the 1993 covenants. Merton and AELTC have now been made aware of these issues. There is no dispute about the status of Merton's holding of the public park, and it is desirable to ensure that the corporate memory of Merton and the public retain knowledge of that status.¹¹

3.6.2.3 For more detail about the 1993 Covenants and the Public Trust, please see section 6 below.

3.7 N8.1 Paragraph 8.1.4

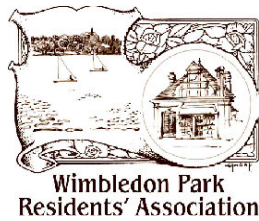
3.7.1 Change requested:

Insert at the end:

It should be noted that the tests for approving development of MOL under the NPPF are even more stringent than those applied to Heritage Assets. "Inappropriate development is, by definition, harmful ... Substantial weight must be given to any harm ... potential harm must be clearly outweighed ..."¹²

¹¹ From the unanimous judgment of the Supreme Court in *Day v Shropshire* 2023 UKSC 8, <https://www.supremecourt.uk/cases/uksc-2021-0031.html> at para 118: "If, as a result of this appeal, other local authorities decide to follow that advice and take stock of how they acquired and now hold the pleasure grounds, public walks and open spaces that they make available to the public to enjoy then that, in my judgment, would be all to the good."

¹² NPPF 152 and 153.



3.7.2 Reason:

For balance. Applications to develop Metropolitan Open Land must clear a hurdle even higher than that for heritage assets.

3.8 N8.1 Sports, recreation, and play Paragraph 8.1.7

3.8.1 Change requested:

Delete the sentence comprising:

“NPPF paragraph 98 states ... climate change.”

Insert in its place:

Merton Council will safeguard the open space and uses of the Wimbledon Park Estate in accordance with NPPF Chapter 8 Promoting healthy and safe communities, paragraphs 96 to 107. Merton Council hereby designates that part of Wimbledon Park which is in Merton as a Local Green Space and will urge Wandsworth Council to designate that part in Wandsworth also as Local Green Space. Merton Council will also require and enforce Community Use Agreements in accordance with 14.3.44 and 14.3.45 of this Plan.

3.8.2 Reasons:

3.8.2.1 The Plan already deals with sports generally in Chapter 14, Infrastructure, which applies to facilities required for people in the Borough. Through this Policy Merton wish to single out Wimbledon Park, to “recognise and support its sporting, recreation, ecological and amenity functions”. It would therefore be most appropriate and meaningful to attribute a further designation, and the criteria for Local Green Space fit perfectly.¹³

3.8.2.2 Sports use will not itself mitigate the problems of Heritage at Risk, the primary justification for N8.1. It is simply incidental to and descriptive of the current use of Wimbledon Park, and to save the heritage asset it must also comply with other planning policy restrictions.

3.8.2.3 For more detail about this reason, please see section 4 below.

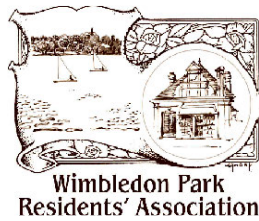
3.9 N8.1 Paragraph 8.1.8

3.9.1 Change requested:

Insert at the end:

In 1986 Merton Council renewed the lease of the golf course on terms that 75% of membership should comprise residents of Merton and that any residents could play golf at

¹³ NPPF 105-107. See also The Open Spaces Society: <https://www.oss.org.uk/need-to-know-more/information-hub/local-green-space-designation/#criteria>



substantially reduced green fees without becoming members. This public access continued when Merton sold the freehold reversion to the lease to the AELTC in 1993. The AELTC bought the golf club company in 2018 but have since denied public access. Merton will take steps to reinstate access for the public to the whole of the golf course.

3.9.2 Reason:

The golf course is 40% of Wimbledon Park, and a critical part of the sports facilities available. Since its closure in 2022, public access has been prevented and should be reinstated throughout, whether for golf or an alternative public sport.

3.10 N8.1 Paragraph 8.1.11

3.10.1 Change requested:

Insert at the end:

Wimbledon Park is just one of many sites in Merton currently (2024) on the Historic England “Heritage at Risk” database. We will monitor this database regularly and ensure that any changes that may affect Wimbledon Park are considered in the context of the Landscape Management Plan anticipated by this Policy. When Wimbledon Park leaves the “At Risk” database, this Policy will cease.

3.10.2 Reason:

The database will constantly change. The purpose of this Policy is to resolve the current status of Wimbledon Park. Is there any reason to continue it when that purpose is satisfied?

3.11 N8.1 Addressing the future of the historic landscape and landscape management Paragraph 8.1.17

3.11.1 Change requested:

Insert at the end:

Whether or not suitable development proposals come forward, we will complete the Landscape Management Plan for Wimbledon Park within 1 year of the adoption of this Plan with the agreement of London Borough of Wandsworth, all landholders, Ward Councillors, community groups, Civic Societies and Residents' Associations neighbouring, or having an interest in the use of, the Estate. The plan will address the “at Risk” concerns and be paid for out of Merton Council funds. We will procure the implementation of the Landscape Management Plan within 5 years of the adoption of this Plan.

3.12.2 Reasons:

3.12.1 To meet the requirements of the Policy as amended. For further details please see section 5 below.



3.12.2 According to Merton's Planning Officer's report to committee on 21/P2900, the AELTC's s106 proposals include a landscape management plan. This Policy should not be contingent on that application. If a Landscape Management Plan is contingent on any development proposals, it may never happen. If the Heritage at Risk problem is so important, its resolution should not be treated as a sweetener or bargaining chip in any particular application.

3.12.3 The whole community is concerned about the future of Wimbledon Park and regard it as a public asset. Merton is trustee for the community and this amendment seeks to ensure that Merton complies with its obligations as trustee.

3.13 N8.1 Addressing obscured views Paragraphs 8.1.22 and 8.1.23

3.13.1 Changes requested:

Delete from 8.1.22 (a): "and on the former golf course".

Delete the whole of 8.1.23 (a).

3.13.2 Reason:

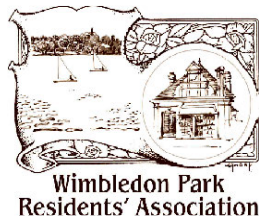
Removal of the golf course planting is a specific requirement of the AELTC application 21/P2900 to make space for their comprehensive development. It is not justified for any other purpose and would cause harm to protected wildlife and the loss of carbon captured. It should not be part of this policy, but considered, if at all, in the context of any specific planning application and an overall landscape management plan.

3.14 N8.1 Addressing the deterioration of the Lake Paragraph 8.1.29

3.14.1 Change requested:

Insert at the end:

The process of desilting of the lake needs further justification and research in view of the harm which it will cause. We will commission further reports to update that already obtained by us from Salix Ecology in 2018 (<https://www.merton.gov.uk/system/files?file=preliminary20ecological20appraisal.pdf>) and take further advice before considering any measures to deal with silt in the lake. We will not proceed with any de-silting without ensuring on the best advice available that it is necessary and if so, that it is undertaken in the least harmful way possible. If there is any doubt about this advice, we will take no action to de-silt the lake. In any event we will require that silt traps are installed on the drains and tributaries feeding the lake to prevent any further silting.



3.14.2 Reasons:

3.14.2.1 The Salix report commissioned by Merton in 2018 has not been disclosed. Merton will be aware that it cast considerable doubt on the need for and method of achieving de-silting and recommended further investigations.

3.14.2.2 A long time has passed since the 2014 inspection report mentioned in N8.1.29, and much work has since been undertaken. This needs to be evaluated and assessed in the light of the latest data and technical knowledge before potentially great harm is done to the environment.

3.14.2.3 To ensure that harmful interventions are not made unless clearly necessary.

3.14.2.4 To ensure that adjoining landowners recognise their responsibility to mitigate any problems of silting.

3.15 N8.1 Addressing the deterioration of the lake Paragraph 8.1.30

3.15.1 Change requested:

Insert at the end:

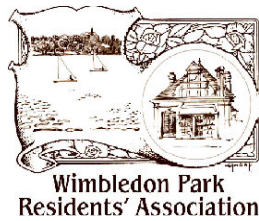
We will ensure that within 5 years of the adoption of this Plan the public will enjoy dedicated perpetual rights of access on a hard-surfaced walk and cycleway at least 3 metres wide on land around the lake at a distance from the edge sufficient to protect wildlife in the lake. These rights will be exercisable at all times when the public park is open and will be under the control of no person except Merton Council as trustee of the public park. We will acquire any rights over the land of others needed to implement this commitment, for which we will make the necessary resources available.

3.15.2 Reasons:

3.15.1 The 1993 covenants included an obligation on AELTC to *dedicate a walkway around the lake*. We are glad to see a nod in the direction of this covenant at N8.1.d. “Improve public access *around the whole lake*”. However, N8.1.30 as it stands is weak and will not achieve the objective.

3.15.2 Merton have long held the ambition to create such a walkway. It was the first requirement of their committees when contemplating the freehold sale in March 1993.¹⁴ A dedicated route around the lake was promised by the AELTC in the 1993 covenants “as soon as golf ceases”. Golf ceased in December 2022, but the AELTC are resting on the specious argument that the lease, which they also own but have not yet merged with the freehold, must come to an end before the obligation arises.

¹⁴ Leisure Services Committee 31 March 1993 and Administration and Land Sub-committee 6 April 1993.



3.15.3 The “dedication” expected by the 1993 covenant and repeated here has a technical meaning that it will be permanently available to the public like a public footpath or highway. The current AELTC proposal is that the walkway they offer will be “permissive” only, and under their control.

4 Sport and Recreation: further Comments

4.1 These topics are already dealt with under Chapter 14, Infrastructure, a general heading for facilities required for people in the Borough. Instead of opening with a cross-reference to that policy, N8.1 mentions only NPPF 98 (now 102) but no more: it fails to mention NPPF 107.¹⁵

4.2 N8.1 is not appropriate because it singles out one site in a disproportionate way, but then so does part of Chapter 14. Is it intended that N8.1 should prevail over the provisions of Chapter 14, Infrastructure, where Merton promotes policies for sport and recreation:

“Policy IN14.3 Sport and Recreation: We are committed to helping our residents lead healthy and active lifestyles and improve mental well-being, through sport and recreation. We will:”

or is it intended that Chapter 14 should prevail over N8.1, suggested by:

“IN14.3e. Recognise the All England Lawn Tennis Club as being an internationally significant sporting venue.”

4.3 Much is made of the AELTC tennis complex as a jewel in Merton’s crown, which no-one denies. But that complex is for entertainment, charging visitors to watch professionals, which brings economic benefits to Merton. It does not satisfy the requirements of the London Plan 8.3.1 and does not provide sports or recreation facilities for the people of Merton.

4.4 This confusion must be resolved. We appreciate that at this very late stage we must deal only with recent Main Modifications, but as it stands the Plan is unsound. The retention of N8.1 must require the modification of Chapter 14. Even if N8.1 goes, which we would prefer, we respectfully submit that N8.1 shows why Chapter 14 is the wrong place to promote the AELTC tennis complex. It sits naturally in Chapter 13 (“Economy and Town Centres”), at 13.8.18-21, currently headed “Protection of leisure and entertainment facilities”, which should then be headed “Protection and Promotion of leisure and entertainment facilities”.

4.5 Either way, whether N8.1 remains or goes, the effect of the change in the Site Allocation Wi3 should be reflected in Chapter 14 where the emphasis must be on what the *existing*

¹⁵ 107. “Policies for managing development within a Local Green Space should be consistent with those for Green Belts.”



complex (not the complex which might result from a contested and undecided planning application), and indeed all other stadia in the Borough, can deliver for the benefit of all people in the Borough, consistent with the purpose of Chapter 14.

4.6 The problem is that the current Chapter 14 goes on to develop the promotion of the AELTC including:

“14.3.39 Policy S5 of the London Plan recognises that specialist sporting venues and stadiums, such as the AELTC venue, have a vital role to play in enabling wider access to sport, as well as having an important cultural value.”

4.7 This is based on an incorrect premise: the London Plan’s concept of sport and recreation is not public entertainment but participatory sport and recreation. Without actual public activity on their sites, specialist stadia cannot “widen access”. For example (London Plan, Pages 230-1):

“5.5.1 Sport and recreation facilities are important components of social infrastructure. Both formal and informal facilities should be provided, to encourage physical activity and deliver a range of social, health and wellbeing benefits to communities.

5.5.5 Specialist sporting venues and stadiums also have a role to play in providing facilities and enabling wider access to sport, as well as having an important cultural value.”

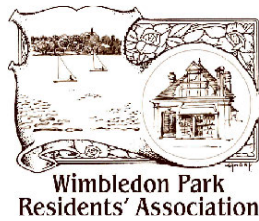
4.8 This acknowledges specialist venues and stadia, but also requires that they must provide facilities for public use and wider access. **It would be more accurate to rephrase 14.3.39 as follows:**

“14.3.39 Pursuant to policy S5 of the London Plan, specialist sporting venues and stadiums will be required to play a role in providing facilities to enable wider access to sport.”

4.9 If N8.1 had been raised at an earlier stage in the Local Plan process, such that this confusion over sporting facilities in the Borough could have been resolved more broadly, we would have pressed for more detail about what this “role” entails. At the minimum, faced with the disproportionality of N8.1, this is the least that could be done.

5 Can a Landscape Management Plan be effective?

5.1 At the heart of the Historic England concerns is “The impacts of divided ownership on landscape management”. N8.1 suggests that the solution is to “... support development proposals that ... b. Prepare a landscape management plan, in collaboration with all landowners, to coordinate the long-term management and maintenance of Wimbledon Park”.



5.2 As mentioned at 1.2.2.2 above, the MM is not saying that a development proposal *must* include anything, not even the preparation of a landscape management plan, simply that a development proposal which includes it will be supported.

5.3 Part of the Registered Park and Garden is within the London Borough of Wandsworth. A Statement of Common Ground between Merton and Wandsworth refers to the AELTC planning application and is based on the Stage 2A Site Allocation Wi3.¹⁶ Merton have not, apparently, consulted with Wandsworth on the Modifications now under consideration, but rely on the SCG paragraph 5.52:

“Whilst there are a number of shared assets of heritage and conservation importance between Merton and Wandsworth (see section 4 above and section 5 reference to the AELTC planning application at Wimbledon Park), this has not been identified as a strategic or cross-boundary issue.”

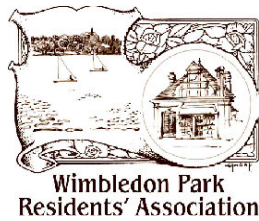
5.4 A lot has happened since January 2022 when that SCG was signed. The future of the Wimbledon Park Estate is clearly strategic and has become a cross-boundary issue. Wandsworth refused the AELTC planning application in November 2023 especially on the ground that no “very special circumstances” exist to allow development of this Metropolitan Open Land. While the Registered Park is in both Boroughs, Merton’s Local Plan cannot apply to the section in Wandsworth. Not only is there divided ownership, but also divided jurisdiction, and a divided approach to development decisions. Merton’s Local Plan cannot resolve the at-risk issues alone. **There appears to have been no effort since January 2022 to involve Wandsworth, and without their involvement, the MM is unfortunately unsound.**

5.5 Owners of land not part of any development proposal would be under no compulsion to assist another’s application. This was raised, and we thought dealt with at the Inspectors’ Hearings. Merton have confirmed that no other parties have been involved in the preparation of N8.1, so nobody knows if the other landowners would make a legal commitment at this stage.¹⁷ There is no legal process by which all three landowners could be so compelled. Unless Merton can demonstrate that all landowners have legally committed to it now, the promise is illusory. It must be for Merton to take the initiative to resolve this problem.

5.6 A “Memorandum of Understanding” about Wimbledon Park has existed between the three landowners for several years, but no action at all has been taken. In any event, during the 15-year life of this Local Plan, circumstances may change, and, as lack of progress on even the MOU illustrates, no landowner would be interested in tying its hands for so long. Merton should also be aware of, but the MM does not mention, its own initiative which

¹⁶ SCG Merton and Wandsworth 25 January 2022 paragraphs 4.36, 4.37, 4.39, 4.40, 5.48, 5.49, 5.52.

¹⁷ Email Butler to Coombe 20 February 2024.



appears to have come to nothing. Merton themselves commissioned a masterplan for the park and lake in 2018, costed at about £20m.¹⁸ This does not appear to have been pursued.

5.7 There remains a deep feeling of frustration and sadness among the local community that the three landowners are not able to come together, but instead that one pursues its own ends. Unfortunately, without a pre-existing commitment, this policy would not appear to be the appropriate means to bring all interested parties together; it is unsound and would be ineffective. This Association would welcome an active and purposeful dialogue.

5.8 The topic of a combined management plan was raised at the Hearings. There has been no discussion about it in the intervening 18 months, during which a consensual Modification could have been discussed. It appears again now but still fails to address the key concerns then raised.

6 The 1993 Covenants and the Public Trust

6.1 The 1993 Covenants.

6.1.1 We explained in previous submissions on this Plan that the former golf course land is bound by restrictive covenants to which the AELTC committed when it acquired the freehold from Merton in 1993, and those covenants prevent development and restrict use. Those covenants were imposed for public benefit and are held by Merton as trustees for the public. Unlike private restrictive covenants (which are generally not material considerations) they are a public right which places a block on development and is a material consideration in the creation of this Plan.¹⁹

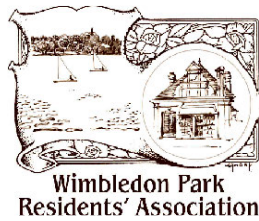
6.1.2 The argument was based on the Holocaust Memorial case and discussed at the Inspectors' Hearings in 2022 when Merton and the AELTC tried to argue that the 1993 covenants were irrelevant or could be set aside. Since then, the Court of Appeal has refused the Government leave to appeal the first instance decision in the Holocaust Memorial case.²⁰ The Government has announced that it would be pursuing primary legislation, a clear admission that the restriction on development of the land in question was a material consideration.²¹

¹⁸ https://www.merton.gov.uk/system/files?file=4872_wimbledon_report_20dec18.pdf

¹⁹ WPRA submission 18 May 2022.

²⁰ In the words of Lady Justice Andrews in the Court of Appeal on 20 July 2022, when dismissing the Government's attempt to appeal the Holocaust Memorial case, a block on development (held to be a material consideration) cannot be "wished away".

²¹ <https://www.gov.uk/government/publications/dluhc-accounting-officer-assessments/uk-holocaust-memorial-and-learning-centre-revised-accounting-officer-assessment>



6.1.3 Immediately after their planning committee passed that application, the leader of Merton Council wrote to AELTC to remind them of the 1993 covenants and ask how they will be satisfied. We gather that no substantive answer was received.²²

6.1.4 In view of these more recent developments, we maintain our legal position that the 1993 covenants are material considerations in the deliverability of the Plan relating to Wimbledon Park. There are two reasons: the AELTC golf course land is bound by the 1993 covenants, and the benefit of the covenants is vested in Merton as trustee for the public of the park and lake.

6.2 The Public Trust of Wimbledon Park

6.2.1 The public trust under which the Park is held has a significant bearing on the ownerships of both Merton and the AELTC and the Plan would be incomplete without an acknowledgement of that fact. Since the Inspectors' Hearings closed, the unanimous Supreme Court decision in *Day v Shropshire* (2023) has clarified the law about local authority powers over public trust land.

6.2.2 The Wimbledon Park Estate was acquired by the Wimbledon Corporation in 1915 and on local government reorganisation in 1965 transferred to Merton by Article 16(2) and Schedule 4 of the London Authorities (Property etc.) Order 1964. Once transferred to Merton, it was specifically "appropriated" by Article 44 and Schedule 5 Part II of the London Government Order 1965 to be held under section 164 of the Public Health Act 1875. This applied the statutory trust, meaning that Merton have held and continue to hold Wimbledon Park on trust.

6.2.3 The Wimbledon Park Estate had been held by the Wimbledon Corporation as a "local and public advantage" for the people within its area, the people of Wimbledon.²³ There is no evidence that the beneficiaries of the statutory trust were to be any different after 1965: it must be inferred that the trust continued for the benefit of the people of Wimbledon.

6.2.4 This is a technical topic, and if the Inspectors require, we should be happy to advance further legal arguments in support of it. Merton and the AELTC are aware of the arguments which have been discussed in submissions from this Association, the Wimbledon Society and the AELTC in relation to planning application 21/P2900, including Opinions of various Leading Counsel.

6.2.5 The effect of this public trust issue is twofold. First, and this is not disputed by Merton or the AELTC, Merton hold the park and lake on trust for the public. Their powers to deal

²² Letter Merton to AELTC 27 October 2023 <https://news.merton.gov.uk/2023/10/27/council-leader-seeks-clarity-from-all-england-club-on-how-it-intends-to-adhere-to-covenants-on-wimbledon-park-golf-course/>

²³ The Wimbledon Corporation Act 1914



with land are severely limited by the Local Government Act 1972 as amended. This should be acknowledged if N8.1 is to remain. Day v Shropshire established that failure to comply with such legislation is a material consideration in the planning process relating to the land. Since the LGA 1972 provides very few powers to the local authority as statutory trustee, the limit of those powers is material. The trustee duties include the enforcement of the 1993 covenants.

6.2.6 The second point is that Merton sold the freehold of the golf course in 1993 to the AELTC ignorant of the statutory trust basis on which they held it. That, also, has not been disputed by Merton or the AELTC. Day v Shropshire further established that failure to comply with the statutory requirements on such a sale means that the buyer takes and holds the land on the public trust. This aspect is in legal dispute with Merton and the AELTC and may well be pursued in litigation if it cannot be resolved.

.....

19 March 2024

Dear Future Merton Team

MERTON'S LOCAL PLAN: RESPONSE TO THE INSPECTORS' PROPOSED MAIN MODIFICATIONS

The Society has considered the proposed Main Modifications to the Local Plan, and our responses are set out below, **for consideration by the Inspectors.**

We have deliberately omitted referring to the proposed new Policy N8.1 which relates to the future management of Wimbledon Park. That is because we have co-operated with the Wimbledon Park Residents Association in the preparation of their very detailed submission to you on this specific aspect (c.f. their letter dated 15 March 2024). We wish to make it clear that The Wimbledon Society fully supports that submission. In summary, we contend that it was correct to remove the Park from the Wi3 allocation, and that it is appropriate to establish a plan for its future management. However, we join with the WPRA in asserting that the proposed new Policy N8.1 is misguided and inappropriate, rendering the Local Plan unsound in this regard. There are numerous policies already set out in the Local Plan which cover key features of the Park (in common with other sites in Merton listed as "Heritage at Risk"). The express linkage of the Policy N8.1 to the AELTC planning application is unacceptable and should be struck out.

We have of course only commented on the "**Red**" changes that have been incorporated into the LBM 31 document, and either support what is being proposed by the Inspectors (**in Blue**), or suggest a change/objection in **Bold**.

In the latter case we give short reasons.

In the time available we have not been able to undertake any meaningful checks on the accuracy or completeness of any of the Appendices, except for the comment on Locally Listed Buildings on page 742.

The references are to the page numbers as set out in document LBM 31, and our responses are as follows.

Page 19 Ideally, the small key **BOROUGH MAP WOULD GAIN FROM UPDATING** please, for clarity:
eg :

- Railways being shown as a solid line:
- Adding in the lines of main roads outside the Borough boundary, to aid understanding:
- Site allocations need to be shown as a symbol (eg star) so that the basic underlying land use allocation remains clear eg Wimbledon Park should be shown as MOL green, not as a yellow site:
- Arrows should follow river flows.

1.2.50 **Note** that references to Crossrail 2 have generally been removed, being presumed to come later, after the Plan period: although there are still references to it in the later text (eg 9.1.12: page 607). It is not clear whether the safeguarding of certain 'riparian' Crossrail sites is still in operation.

Chapter 1C p35: ADD COMMA to aid clarity: "protected, (**comma**) and improved access to MOL....."

Reason: to make clear that the protection of MOL open-ness is a clear major national and regional Policy.

Chapter 2 p45 on Climate Change: Amend: the table proposing a significant reduction in the minimum carbon reduction targets is not agreed:

THE FIGURES SHOULD STAY AS IN THE ORIGINAL DRAFT:

Reason: That the London Plan specifies these lower figures does not mean that the Local Plan has to slavishly follow.

Achieving the higher (Borough) figures still ensures that the values set out in the London Plan will be met, by definition, and the higher local plan figures are therefore considered to be compliant/sound. The London Plan does not say that the Boroughs' Plans cannot set higher targets, only that they must (at least) achieve the levels set in the London Plan.

That an individual Borough can aim to "beat" the "specified from above" target should be a given – see for example the admirable "Merton Rule" energy target adopted by the Borough some 20 years ago, which was adopted by many other authorities, and was a ground-breaker nationally at the time.

P45 CC2.2Eii: **OFF-SITE ADDITIONALITY IS NOT AGREED:** (where a project is not (supposedly) feasible if carbon offsets are not allowed):

Omit: ITEM (ii) SHOULD THEREFORE BE REMOVED IN ITS ENTIRETY:

Reason: Recent independent studies have shown that the off-site carbon offset system world-wide has seemingly very significant flaws, is inherently liable to be unsound, and lacks credibility.

2.4.14 p63: **Support** the new paragraph on Heat Pumps.

CC2 5c p66: **Add:** "Reducing embodied carbon emissions bymaterials, **RE-USING EXISTING BUILDINGS**, and designing buildings shapes and forms":
(Alternatively, this could be given its own paragraph eg 5cc).

Reason: To follow the current approach advocated by the RTPi, the RIBA, and LETI amongst many others, in order to reduce carbon footprint, in accordance with national energy & sustainability policy.

Chapter 3	Colliers Wood:	no comment:	but for p82	see comment on p300 Site Allocations
Chapter 4	Mitcham:	no comment:	but for p116	see comment on p300 Site Allocations
Chapter 5	Morden:	no comment:	but for p197	see comment on p300 Site Allocations
Chapter 6	Raynes Park:		but for p232	see comment on p300 Site Allocations

Site RP3 Tesco: item 5 p240: **Support** "public access along the Pyl Brook for pedestrians and cycles":

Site RP3 Tesco: infrastructure: **Add** "and ensure that infrastructure requirements **INCLUDING RESOLVING THE LEVEL CROSSING OBSTRUCTIONS TO RAIL AND ROAD TRAFFIC** have been addressed":

Reason: Although Crossrail 2 is currently not likely to come about in the time frame of this Plan, this rail line is an important feeder route, and the Crossrail promoters were investigating how the road could be taken under the rail line. This would remove a significant time constraint.

For this to work, their drawings showed that land within the Tesco site would be needed.

So it would be prudent in planning terms to limit permanent development in that corner of the site.

p240 **Support** the restoration of the Pyl Brook Habitat.

p241. **Remove:** The Reference to 52m high buildings is not accepted:

Add: "THE SITE COULD INCLUDE TALLER BUILDINGS OF NO MORE THAN 6 STOREYS".

Reason: Such a high structure would be wholly visually intrusive in what is a low storey height suburban area.

It would also be contrary to the stated Objective (p223) of "respecting local character and amenity".

Also be contrary to Policy N6.1M "resecting local character ... and amenity in surrounding residential neighbourhoods: Also Para 6.1.13.

Site RP4 p243: site allocations: **OMIT:** the suggested **short term use** for commercial/retail/industry is not accepted, and **SHOULD BE REMOVED.**

Instead the site should continue to be **ALLOCATED TO RESIDENTIAL-LED MIXED USE**, with the **INCORPORATION OF A NEW PEDESTRIAN AND CYCLE PATH THROUGH THE SITE** linking Bodnant Gardens to the SW site corner:

Reason: any proposals for short term use can then be considered in that context.

The proposed public pathway through the site would provide a better and safer route, avoiding the severe gradients and traffic danger that now exist over the current bridge.

It would also give better, safer, and more over-looking to the access routes to the Primary and Secondary schools nearby.

p244 Infrastructure should **"INCLUDE A PUBLIC PEDESTRIAN & CYCLE ROUTE THROUGH THE SITE"**.

Reason: as above.

Chapter 7 South Wimbledon:

N7.1c **Support** the addition of "Respect Heritage Assets":

Reason: This is an area that has links to Nelson, and to the early development of the Borough.

p270 Site Wi8 South Wimbledon Station:

Comment: As it is now proposed that South Wimbledon is to be set up independently of Wimbledon, with its own Chapter, should not the Site allocation identification be **"SW1"** rather than **"Wi8"**?

Chapter 8 Wimbledon Park

"Policy" N8.1 p274: See also the separate letter from the Wimbledon Park Residents' Association dated 15 March.

Chapter 9 Wimbledon

P289 **Omit:** The proposed new reference to "supporting tall buildings within Wimbledon Town Centre" **IS NOT ACCEPTED AND SHOULD BE REMOVED.**

Reason: Local people have consistently said over many years that the limit should be around 6 storeys, which is sufficient to provide additional floorspace, encourage controlled development, yet respect and reflect local character.

Also, this is in direct contravention to the stated Objective (p286) to "maintain the unique character of the area, (and) supporting development that is commensurate with the scale".

*Also, authoritative studies by LETI and others are showing that higher buildings use more energy, and are sustainably less efficient. **Croydonisation should not be a model.***

N9.1E **Support** the removal of Hartfield Road and Broadway East from the areas identified as suitable for tall buildings:

N9.1E Omit reference to St George's Road:

Reason: "away from the historic core and located around the station" is sufficient (see also 9.1 8).

N9.1J **Add:** **The removal** of the long-standing Plan Policy to "reduce severance with new bridges over the railway" **IS NOT ACCEPTED, AND IT SHOULD BE RE-INSTATED.**

Reason: The single rail bridge makes the continued safe operation of the town centre highly vulnerable, and the safeguarding of an additional bridge route (at the northern end of the "Centre Court/Wimbledon Quarter" site) has been a long-standing and integral part of previous Borough Plans.

Indeed the service vehicle ramp of the Centre Court project was specifically designed in the 1980's to lead to a future new bridge over the tracks, linking Queen's Road and Alexandra Road.

The current traffic domination of the centre is unpleasant, adversely affects local character, and not in the best interests of the future town. An additional bridge could provide options for traffic, and also for improving the pedestrian environment. What can be lost by continuing this safeguarding?

Safeguarding that route and bridge location should therefore still be included in the Local Plan.

N9.1J **Add:** Whilst supporting the new Policy of reducing traffic dominance in the Town Centre, the wording should include a specific mention of pedestrianisation , eg “by reducing traffic dominance, **ENCOURAGING PEDESTRIANISATION**, and managing **DELIVERY**” .

Reason: as above.

N9.1q p291: **Support** the removal of the “either side of Church Road” AELTC reference: see also the separate letter from the Wimbledon Park Residents' Association dated 15 March.

N9.1.33 p297 **Support** the environmental improvements for Wimbledon Chase:
But the use of the word “lobby” is not considered suitable for a formal Borough Plan, and should instead be replaced by “press for” or “**promote**” or similar.

N9.1.35 p298 **Add:** “..... international significance, **SUBJECT TO THE POLICY ON MOL**, to maintain....”

Reason: Any upgrading of the AELTC facilities must be tempered by the primacy of, for example the maintenance of open-ness, & the continuing prevention of buildings on designated MOL, all in accord with NPPF & London Plan Policy. See also the separate letter from the Wimbledon Park Residents' Association dated 15 March.

p300 Site Allocations diagram: **Support** that the Wimbledon Park land is now not included in the site allocation.

Reason: The MOL and several other designations clearly set the Historic Parkland well apart from the existing commercial, and intensively developed, AELTC site.

p300 **Support** the **OMISSION OF THE PHRASE**“...Site allocations are planning policies....”.

Reason: Planning Policies cover & are applied to the whole Borough, or one of the Town centres. Site allocations are just that – they relate only to the specific site, and are not, and cannot ever be, “Policies”.

Additionally, to be consistent, this omission should also apply to its (in our view incorrect) use in:

- *Colliers Wood p82 N3.1.23*
- *Mitcham. p116 N4.1.17*
- *Morden p197 5.1.64*
- *Raynes Park p232 (6.1.16)*

p300 **Amend:** The proposed removal of the remainder of the two paragraph **IS NOT ACCEPTED AND SHOULD BE REINSTATED**; ie retain “Site Allocations apply to key potential development sites of strategic importance and are needed to ensure that when a strategic site the London Plan”.

DELETE the substituted wording inserted “Identifying sites for a specific land use.....contained in the development plan as site allocations”.

Reason: No justification is offered for using different explanatory wording for all Site Allocations in Wimbledon, as compared with those in the other areas listed above.

There should be consistency.

Also the new wording fails to mention that the Sites are “key potential development sites of strategic importance”, and need to be “integrating well into (their) surroundings”.

p305 **Add:** The **removal** of the proposed reference to **public open space being provided via public realm improvements** is not accepted and **SHOULD BE RETAINED**:

Reason: as the Council document says, this is an area that is deficient in public access to open space. Given that the Theatre Car Park site is in Council ownership, and is currently unbuilt, any future development should be able to incorporate a modicum of public sitting/planting space.

p307 The AELTC section – please see also the separate letter from the Wimbledon Park Residents' Association dated 15 March.

p315 Site Wi6: **Add:** The **removal** of the proposed reference to public open space being provided via public realm improvements **is not accepted** and **SHOULD BE RETAINED:**

Reason: as the Council document says, this is an area that is deficient in public access to open space: any future development should be able to provide a modicum of sitting/planting space for the public, given that the present structure is well set back from the public highway.

p341 Site Wi 16: Centre Court Shopping Centre (now re-named as the Wimbledon Quarter):
item 1: **Support** the introduction of the word “repurposing”:

Regret that the addition did not allow the removal of the somewhat bizarre description of the site as “brownfield”:

Reason: the renovation and re-purposing of the site is proceeding.

Chapter 10: Health and Wellbeing: No Comment

Chapter 11: Housing Provision

General comment: there are a number of references to “we”, as in eg 11.1.20 where the suggested text reads....”following the adoption of this Plan **WE** will publish guidance”. It is suggested that instead, the Plan wording throughout should generally be impersonal: eg along the lines that”following the adoption of the Plan, **published guidance will**”. See for example the correction at para 14.1.15.

p370 11.1.18 **Omit:** The introduction of the phrase “other policy requirements may need to be reduced to compensate for these costs” into the Local Plan **IS NOT ACCEPTED AND SHOULD BE REMOVED.**

Reason: It would lead inevitably to developers attempting to justify daylight infringements to adjoining properties, loss of privacy ditto, higher and out-of-character buildings, loss of open land, and perhaps even building on protected open spaces (eg the Lessa sports ground off Grand Drive).

Reliance on what is now commonly seen as the discredited system of so-called “viability statements” would lead to lower standards and poor planning decisions.

Instead of using their energy to create good designs, the developer will instead be encouraged to “game the system”, and see what lower standards they can get away with.

If a scheme cannot meet the legitimate design and planning criteria in the Local Plan, then its promoters should go elsewhere. Perhaps returning later when market conditions have changed. The planning system must maintain credibility and respect, if it is to be supported by the public. There is no point in sanctioning poor quality development: we are already having to demolish schemes built inadequately just 40 years ago, hardly a sustainable approach.

p378 11.2.4 **Omit:** The suggestion that “**green spaces**” are a constraint on the supply of housing is not accepted, and should be removed, so as to read: “.....**CHARACTERISED BY A LARGE NUMBER OF SMALL SITES. THESE CHARACTERISTICS.....**”

Reason: Including such a reference in the Plan would be an encouragement to those who wish to build on such green spaces (eg the Lessa sports ground in Grand Drive).

Additionally, the Health and Wellbeing Chapter identifies Access to Open Space and Nature as a major issue (p349) as does the Strategic Policy). O15.1.

Chapter 12 Places and Spaces in a Growing Borough

p408 D12.1.1 **Support** the reference to supporting documents produced by other bodies:

Add: However, given the growing encouragement for positive involvement by local people, it would be desirable to include a reference eg “.....Good Practice Advice Notes, **AND PUBLISHED DESIGN GUIDES FROM LOCAL GROUPS. These provide detailed guidance and advice....**

Reason: In the past, the Council has formally adopted such guidance eg a planning Brief produced by the Society (Atkinson Morley site), and also utilised the many local road townscape surveys by the Society and local groups.

p411 D12.2B **Amend:** The proposed **removal** of the policy on the permeability of new development to pedestrians and cyclists **is not accepted**, and **SHOULD BE RE-INSTATED**.

Reason: blocks to easy public movement through the Borough can be alleviated by the incorporation of new routes, and the Council's original wording has much merit.

p411 D12.2F **Amend:** The proposed **removal** of the policy on identifiable public spaces is **NOT ACCEPTED AND SHOULD BE RE-INSTATED**.

Reason: the importance of clearly defining public and private spaces has been a cornerstone of 'designing out crime' for some years, and has credibility in use. The Council's wording has merit.

p412 D12.2M **Support** the inclusion of the sustainability approach to design.

p418 D12.3F The proposed **removal** of the policy on providing appropriate levels of daylight and sunlight to adjoining buildings and gardens is **STRONGLY RESISTED AND SHOULD NOT BE ACCEPTED**.

It should BE RE-INSTATED USING THE SPECIFIC WORDING "AND GARDENS".

Reason: Constantly one sees proposals that severely adversely affect the daylight and privacy of the neighbouring properties, contrary to (for example) the standards set out in the definitive BRE document on Daylight and Sunlight 2022.

EG: On each common boundary, a new building should not penetrate an inclined plane of 43 degrees from the top of a 1.6m notional fence (ref: 2.3.10a). (* This phrase is specifically used by HMG in the current public consultation on Permitted Development).*

In designing a new development it is important to safeguard the daylight to nearby buildings (2.2.1) And also to gardens and open spaces (3.3.1).

That developers (and even skilled building professionals) consistently fail to understand these most basic neighbour protection standards in their planning applications is a constant source of concern for neighbours, for local people and for the Society.

There is a failure to understand the basic requirements, that daylight and privacy standards need to be respected to the whole of an adjoining site (not just the property windows), and this policy (currently DMD2 in the 2014 Local Plan) is the only "protective guidance" that Councils, (and those affected by development proposals, and local people) have.

*The Council's current approach **has great merit** and should continue.*

p418 D12.3f **Relocate:** Rather than be classed as people-focussed, might this policy be better located within the "context" or building design section, being easily measurable in physical terms?

p418 D12.3c **Add:** This suggested Policy should be **EXPANDED TO INCLUDE THE NEED TO AVOID THE SHADOWING OF THE SOLAR PANELS ON ADJOINING PROPERTIES**.

Reason: Solar Panels work properly only when direct sunlight reaches them, and shadowing by new adjoining development needs to be avoided. The generation of electrical energy, its use in the building, and its exporting to bolster local energy production should now be prioritised.

If 10 or 12 solar panels were installed in only half (c5,000) of the current stock of semi-detached houses in Merton, the projected electrical energy generation could approach some 15 million kWh annually by 2050.

The potential generation from roof top PV's on housing in Merton might approach 50-80 million kWh by 2050. Therefore, when designing new development, the protection of existing or potential future rooftop Solar Panel generation on neighbouring properties (including non-residential) should now be seen as highly sustainable, and comparable in importance to protecting their daylighting.

- p423 D12.3.6 **Add:** The proposed text should include a reference to “providing good levels of daylight into the dwellings” but also to their sites/gardens, ie **“PROVIDE A GOOD LEVEL OF DAYLIGHT AND PRIVACY TO BOTH DWELLINGS AND GARDENS”**.
Reason: as for D12.3F above.
- p432 D12.5A ii. **Add:** The **removal** of the reference to Merton’s Conservation Area Character assessments and guidance etc **IS NOT ACCEPTED AND SHOULD BE REINSTATED**.
Reason: These documents contain a wealth of local knowledge and understanding, something that no developer can hope to match.
Local groups (including the Society) have themselves contributed to this invaluable stock of information over many years, and it should continue to provide a resource for both developers and their architects.
Indeed, many applicants currently use these assessments in their D & A Statements.
- p435 **Support** the addition of Locally Listed Buildings etc as Heritage Assets (see comment at Appendix: 7.4.2).
- p435 12.5.6 **Update:** As the Archaeological Priority Zones have been superseded, should not the entry now read **“ARCHAEOLOGICAL PRIORITY AREAS WITH TIERS 1, 2, OR 3 (DESIGNATED HA)?**
Reason: Archaeological Priority Area Tier 4 is a ‘catch-all’ covering the whole of the Borough that is not in Tiers 1, 2, or 3.
So without this qualification the whole of the Borough would become a Heritage Asset.
- p437 D12.6.1ABE **Omit:** The reference to tall buildings being suitable for parts of Wimbledon Town Centre is not accepted. Instead, a height limits Policy should be established.
The phrase **“and Wimbledon Town Centre”** therefore **SHOULD BE REMOVED**.
*Reason: Local people have consistently said that buildings above about 6 storeys are not needed or desirable, are out of scale, and create an inappropriate identity and character. Also, authoritative studies are showing that higher buildings **use more energy**, and are **sustainably less efficient**.*
- p442 **Strategic Heights Diagram:** **Support** the suggested references to “Subject to all other Policy requirements” in the key panel.
This makes clear that higher structures are only acceptable when other Policy constraints are met.
- p442 **Omit:** The indicative location of **tall buildings up to 40m IS NOT SUPPORTED**.
In any event the **dotted orange boundary of the western section would anyway need to be SIGNIFICANTLY RE-DRAWN, AND MINIMISED:**
- (a) to **avoid going outside the defined Town centre:**
 - (b) avoid including Tabor Grove, St George’s Road and Ashbourne Terrace, which all have small scale properties/housing:
 - (c) It should entirely **avoid the Queen’s Road and Broadway properties in the Wimbledon Broadway Conservation Area**, with their Listed and Locally listed buildings:
(the dot indicating the Locally Listed Police Station seems to be missing):
 - (d) It should entirely **avoid sites Wi 16 and Wi 11**, (both of which are partly within the conservation area):
 - (e) It should entirely **avoid including properties that lie between the two Conservation Areas of Wimbledon Broadway and South Park Gardens:**
- Reason: the introduction and encouragement of very much higher buildings within and beside these conservation areas would significantly damage their inherent character and design quality.*
This is contrary to Strategic objective 5g, Policy N9.1e (which protects the historic WTC core from taller building), Policy N9.1 item o (which promotes conservation area protection), and Policy D12.5bcdef..
To be consistent, the various site descriptions need to be amended accordingly (p301 – 345).

- p442 **Omit:** The indicative location of **tall buildings of up to 48m IS NOT SUPPORTED:**
This reference should be **removed entirely.**
*Reason: as above for p437 – p442. **Croydonisation should not be a model.***
- p444 12.6.6 paragraph 4:
Omit: Asking developers to produce design briefs for their development site is both naïve and wrong.
It is analogous to “marking one’s own homework”, and **IS NOT SUPPORTED.**
Reason: As Michael (now Lord) Heseltine recently wrote: “The Market has no morality” (6/2023).
Add: Such briefs should be produced by the Council as planning authority, ideally with local involvement.
Accordingly, the text should instead read: “**PLANNING AND DESIGN BRIEFS WILL BE PREPARED FOR THESE SITES BY THE COUNCIL IN CONJUNCTION WITH LOCAL GROUPS.**”
Reason: Central Government has rightly been promoting the early involvement of the public in the design of development projects (eg NPPF 40 and 131).
The production of planning guidance for intending developers should be seen as an essential role of the local planning office, acting positively, and taking advice from local groups and interests.
Local people should be given the opportunity to be involved in the production of design briefs, rather than being left for Councils and developers to produce in secret.
The public planning system designs and plans the town, the scheme architect plans and designs the building: not the other way round. As someone once said: Whose town is it anyway?
- p444 12.6.6 paragraph 6: The seemingly tacit acceptance that “harm” to the historic environment can be acceptable, provided that enough so-called “justification” is provided **IS NOT SUPPORTED.**
Omit: Instead, the policy and paragraph should simply read “.....**TALLER BUILDINGS SHOULD AVOID HARM TO THE SIGNIFICANCE OF HERITAGE ASSETS**”.
Reason: National Policy on the protection of heritage is clear, and giving “ways round” such a Plan Policy makes it worthless in practical use.
It is counter-productive, and would lead to mis-use and loss of heritage.
Firmly controlling taller buildings in relation to the historic environment should be a given.
“Once lost, heritage is lost forever”.
- p445 D12.7 para A: **Add:** The **omission** of “the character of an area” **IS NOT SUPPORTED, and SHOULD BE REINSTATED.**
Reason: Local Character is not the same as “amenity”. The Council’s wording has merit.
- p447 D12.8C vi Digital Infrastructure: **Add:** It would be helpful if the supporting text on p448 could specifically say that, because the (usually five) current equipment boxes beside the masts are large, ugly & uncoordinated in design, design-led solutions are very much needed.
Reason: Such equipment – largely within the public highway - is very visible, and the current design quality is unthinking, and a significant blot on the landscape.
National priority for the expansion of the system should be matched by a need for high grade industrial design in the townscape.
- p449 D12.9Dii **Support** the new approach to the installation of near-solid shop front shutters.
- p454 D12.11J Basements: **Add:** To the suggested text should be added: “**SEWER FLOODING. PERMISSION FOR NEW BASEMENTS WILL NOT BE APPROPRIATE IN DEFINED FLOOD ZONE AREAS**”.
Reason: to reduce risk, both to people (eg bedrooms where sleeping or immobile occupants can be overwhelmed) and to property.

- p457 D12.10.16 New Basements under Heritage Assets: **Add:** Suggested addition to the revised text: “.....without causing harm to the significance and structural integrity of the asset, **AND ITS IMMEDIATE NEIGHBOURS.** Where a level of harm ...”
Reason: particularly in a terrace of old cottages etc, where the original foundations are by modern standards minimal, the introduction of a new strong basement foundation in one property inevitably leads to movement in the adjoining weaker foundations, and disturbance to the building above.
- p458 12.10.19 **Omit:** The suggested new phrase that basements “will be supported” in conservation areas **IS NOT SUPPORTED.** Instead it should read “will **ONLY** be supported if.....”.
Reason: basements are potentially disruptive to building character, structural stability of neighbouring property, and hydrology, and should only be accepted if they pass clear critical criteria.

Chapter 13: Economy and Town Centres

- p490 13.5c New Map of centres: **Add:** It would be helpful if the new map could include (perhaps by a simple symbol) the location of **SIMILAR CENTRES IN THE ADJOINING BOROUGHs:**
Reason: A London Borough is not an island, and the entirely normal crossing of boundaries for recreation, for shopping, for education etc etc should ideally be reflected in the map.

Chapter 14: Infrastructure

- p509 14.1.15 **Add:** The Council should work with the water companies to ensure that there is adequate water and waste water infrastructure **TO SERVE THE BOROUGH** (not just “new developments”).
*Reason: the present drainage infrastructure is clearly not sufficiently robust, (eg flooding at Raynes Park), and needs significant capacity upgrades.
Climate Change is predicted to generate more “surplus water events”.
The great majority (c80 - 90%?) of the Borough will not be developed over the next 30 years, and relying on just “new development” to deal with the need to significantly upgrade our largely Victorian system is clearly not enough.*

Chapter 15: Green and Blue Infrastructure

- p535 O15.3 **Support** the addition of the references to improving biodiversity.
- O15.3d **Support** the addition of a 10m wide buffer strip beside a watercourse. (*spelling “where”*)
- O15.3f **Add:** Restricting the responsibility for addressing access to nature to only “major” development **IS NOT SUPPORTED.** The Council’s original wording (“**ALL**”) should be retained.
Reason: In the same way that lost trees are required to be replaced in development projects (see O15.4f below), so should the loss of nature be compensated for in virtually all developments.
- p541 O15.4b **Add** to the suggested revision, last line: “...a financial contribution of the full cost of appropriate re-provision **WITHIN THE BOROUGH** will be required.”
*Reason: to clarify that the nature benefit should stay in the Borough and not be exported to an outside agency. Mind-full of the somewhat discredited system of carbon offset payments, which seemingly “export” benefits via intermediaries to where they are ‘out of mind’, **local re-provision** ensures that the finance, as well as the product, can be locally and properly monitored by the Council.*

p542 O15.4f On replacement trees, **Add** “.....of amenity **AND ECOLOGICAL** value, to consist of appropriate species native to the UK **AND OF A TRUNK GIRTH THAT MATCHES THE GIRTHS OF THE LOST TREES**”.

Reason A: Adding ‘ecological’ reflects the growing understanding that the planning system should not limit tree protection to “amenity” (ie appearance), but now include a rather wider view of nature.

Reason B: To ensure that the loss of what often are significant mature trees is not “balanced” by the introduction of the same number of saplings, which have no chance of emulating the ecological, scenic, and aesthetic benefit of the lost trees for perhaps 30 or more years.

A case could be made for not just matching girth, but for a say 50% increase in conservation areas, and a 100% increase for lost TPO trees.

(This girth-replacement approach is known by the Society as the “Luckhurst Principle”, named after the Council’s late Arboricultural Officer, who advocated this approach).

p572 P15.10 Supporting Text: This reads as a Policy, & should therefore ideally **be relocated** to para ff.

p575 P15.10.7 Note “we” and “us”.

p578 P15.10.23 **Support** the addition of a construction and noise etc SPD.

Chapter 16 Sustainable Travel

p588 T16.2.4 **Support** the inclusion of the Council’s own assessment that “cycle and pedestrian provision in Merton **is not of adequate standard in all areas**”.

Support: for the “production of a cycling and walking strategy..... setting out detailed proposals for cycle and pedestrian routes”.

T16.2.4 **Add** to the suggested text revision:“detailed proposals for cycle and pedestrian routes **INCLUDING SOME PEDESTRIANISATION IN TOWN CENTRES** over the Plan period”.

Reason: Networks link places, and many of the places are local and town centres.

Almost all are dominated by traffic, and this is hampering not only the viability and character and safety of the centres, but discourage natural walking for pleasure.

Positively improving the pedestrian experience has been a powerful tool in rejuvenating many town centres throughout western Europe since the 1970’s, and the Plan should encourage it.

If the centre is uncomfortable and unwelcoming for pedestrians, they will not stay there, they will “shop and go”. Retaining footfall is one of the essential requirements for a resilient town centre.

pp607-9 **List of Transport Schemes:** **Support** for the revised texts on TN 1, 2, 3, 4, 8, 9, 11, 12, 13, 14.

Chapter 17: Monitoring

p611 17.1.5 **Add:** The list of bodies and agencies that the Council will “work with” should surely include **LOCAL GROUPS?**

Reason: “Our Town Our Plan” should be the mantra. The town is an expression of local peoples’ identity, the recognisable physical focus of their community. Pride in their town is key to its continuing success.*

** This indeed was the title of the comprehensive Plan produced by the Society and some 19 local groups in 1984, to counter the much-opposed plan by the then Council.*

p614 – p684 70 numbered pages not present

p686 **Add:** It would be helpful if each column on each page could have its title.

p687 **Add:** Should Air Quality fall below target levels, then an additional Local Plan Policy initiative could include **T16.2.4 (PEDESTRIANISATION), T16.2.4 (IMPROVED CYCLING AND WALKING):**

Reason: Whilst producing new Council documents may sometimes help, positive action by the Council with its direct power to act, has an important part to play.

Words sometimes need to be backed up by positive intervention.

- p688 **Add:** Should Biodiversity fall below target levels, in Contingency (c) **“THE COUNCIL WILL CONSIDER ACQUIRING SUITABLE LAND AREAS FOR APPROPRIATE ENHANCEMENT”**: (eg Lessa Sports Ground?)
Reason: whilst the production of new Council documents may sometimes be needed, initiating on-the-ground positive action by the Council, together perhaps with local guerrilla gardening groups, has a part to play, setting an example, leading from the front.
- p691 **Add:** Should Heritage and Archaeological and Landscape fall below target levels, then in (c) **“THE COUNCIL WILL CONSIDER ACQUIRING THE HERITAGE ASSET, AND UNDERTAKING THE REMEDIAL WORKS”**.
Reason: The Council has clear powers to intervene, where deterioration of the asset is not able to be remedied by its current owners.
- p694 **Add:** Climate Change: **Indicators should also include: numbers of solar panels installed: ditto heat pumps: reduction targets for gas importation into the Borough: amount of locally generated electricity within the Borough:**
Reason: Such simple targets can be a practical and easily understood measure of progress towards 2050.
- p694 **Add:** Climate Change: Contingency column **should include “THE COUNCIL WILL PROMOTE/SUPPORT GROUP-BUYING SCHEMES FOR SOLAR PANELS & HEAT PUMPS”**.
*Reason: Group buying schemes can lower the price and guarantee the quality of work.
The solar panel group-buying scheme recently run by the Council (with other SW London Councils) has been very successful in encouraging wide take-up, and this should be accelerated.*
- p697 **Add:** Sustainable Transport: Monitoring information **SHOULD INCLUDE (D) LENGTH OF FULLY SEGREGATED CYCLE PATHS”**.
Reason: Given that the present cycle network is “not adequate” (in the Council’s words), and upgrading it is part of the Plan (T16.2.4), then progress towards achieving the segregated network needs to be monitored.
- p701 **Add:** Safe Environments: The Monitoring indicator column **SHOULD ALSO CONTAIN FIGURES ON CRIMES** against the person and/or property as (b).
Reason: Unsafe places need identification and remediation.
- p702 Design: A poorly designed environment will in part be identified by local people whose town it is. Involvement by the public in the evolution of development projects needs to be commonplace. **ADD AS (A) “INPUT FROM THE DESIGN REVIEW PANEL AND LOCAL AMENITY GROUPS”**.
*Reason: Their assessment and ideas for improvement should be regarded as a resource rather than an irritant.
The developer only owns the site, but the local community “owns” and lives and gives life and prosperity to the town and the wider locality.*
- p704 Economic Growth and Town Centres: **Amend:** The Topic (first column) should not be to “increase” the vitality and viability etc, but to **“ENSURE”**.
*Reason: the pursuit of “increase” can lead to overheating of the development market, the creation of out-of-scale crude developments so as to maximise CIL payment receipts, and loss of character: followed by even more decline.
Croydonisation should not be a model.*

- p742 **ADD:** The Schedule of Locally Listed Buildings (a non-designated Heritage Asset).
Reason: As these are specifically mentioned in 12.5.6 they need to be included.
- p707 **Appendices:** None of the following have been checked for completeness or accuracy in the limited time available:
Superseded Policies Table
Open Space – MOL
Open Space – Allotments and Farms
Open Space – Churchyards and Cemeteries
Open Space – Education
Open Space – Other
- p721 Nature Conservation –
Site of Special Scientific Interest (SSSI)
Special Areas of Conservation (SAC)
Sites of Metropolitan Importance for Nature Conservation
SINC
Site of Borough (Grade 1) Importance for Nature Conservation
Site of Borough (Grade 2) ditto
Site of Local Importance for Nature Conservation
Local Nature Reserves
Green Corridors
- p727 Metropolitan Open Land (MOL) boundaries and changes
Cannon Hill
Lower Morden
Beverley Brook (query is the map correct?)
Copse Hill
Wimbledon Common (no changed boundaries)
Mitcham Common (no changed boundaries)
Morden Park
Wandle Valley
- p741 Conservation Areas
Historic Parks & Gardens
- p742 Listed Buildings grades 1, 2* and 2
Archaeological Priority Areas (APA's) Tier 1, Tier 2, Tier 3
- ADD: THE SCHEDULE OF LOCALLY LISTED BUILDINGS** (a non-designated Heritage Asset)
Reason: As these are specifically mentioned in 12.5.6, they need to be included.
- p752 Scheduled Ancient Monuments
- p753 Flooding Tests and Assessment
Employment Opportunities
Marketing and Vacancy criteria
Glossary
- p792 Policies Map: This has not yet been made available on-line.

This ends the Society's Consultation Responses to the Inspectors' proposed Main Modifications to the Local Plan.

Should the Inspectors have any questions that the Society could respond to, then please let us know.

Yours sincerely

Chair, Wimbledon Society Planning & Environment Committee

cc Programme Officer

Please send all correspondence by email to