



## **Examination of the Merton Local Plan - Next Steps for the Council 21 March 2022**

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**Inspectors appointed by the Secretary of State**

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Dear Ms Butler,

1. Following our Preliminary Letter of 28 January 2022 and further to the responses and additional evidence received from the Council, we set out below some additional matters and points of clarification that have arisen following our consideration of those submissions, alongside the documents previously submitted and the comments received at the Regulation 19 stage.
2. We have also set out some broad procedural points and aspects of the Plan and related material that will form the basis of elements of the ongoing examination. This letter is intended to be helpful and provide further clarity and advice on the focus of the examination, particularly the Stage 1 Hearings.
3. As with our previous letter we are inviting contributions from the Council only at this point, and do not expect any written evidence to be provided from other parties at this juncture. Again, the reply should set out where you may require additional time to complete tasks and what the likely timescales of such action would be. If anything is not clear or if further explanation is required of what is being requested, then please contact us via the Programme Officer (PO).

### Plan Length, Structure and Presentation

4. The National Planning Policy Framework (the Framework) is clear<sup>1</sup> that plans should be succinct and contain policies that are clearly written and unambiguous. This is required so it is evident how a decision maker should react to development proposals. The amended version of the Plan, document 0D4i now runs to over 690 pages long and relates to an area which includes the London Plan as part of the development plan. The Merton Estates Local Plan and the South London Waste Plan are also part of the development plan for the area.
5. Taken together with its length, the Plan's lack of a contents page, the absence of paragraph numbering in the Good Growth chapter, and the chosen document formatting which does not adequately distinguish between policies and supporting text (for example by the use of tinted boxes or different text) result in a document, which is neither clear nor unambiguous. The inclusion of what

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<sup>1</sup> At paragraphs 15 and 16.

appears to be policy in supporting text in some instances exacerbates the Plan's lack of clarity.

6. A number of the representations made also highlight drafting errors such as incorrect policy numbers, incomplete sentences, and missing text along with potential factual errors<sup>2</sup>. These matters are exacerbated by a lack of integration in the Plan's presentation and a lack of clarity as to how the chapters relate to one another. Overall, the Plan therefore reads in a somewhat fragmented and disjointed manner and the strategy is therefore challenging to understand and follow.
7. For these reasons, the Plan also fails to respond successfully to the recommendations of its supporting 'Housing Delivery Study'<sup>3</sup>, insofar as that document advises that consideration should be given to how development standards are set out in policy, including in terms of clarity<sup>4</sup>; and that the Council should review how it displays and communicates policy<sup>5</sup>. Moreover, the Framework sets out that plans should serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area<sup>6</sup>.
8. Taking the above considerations together leads us to the view that the current drafting and presentation of the Plan serve to create ambiguity, undermine the clarity of its purpose, and impair its effectiveness. The clarity of policy wording, plan length and structure are all related to the overall coherence of the plan and are potential soundness considerations.
9. Whilst these concerns will be revisited in subsequently published matters, issues, and questions and in hearing sessions throughout the examination, we suggest that it would be prudent at this stage for the Council to undertake further proofreading of the Plan with the broad principles set out immediately above in mind, with a view to providing solutions as we progress through the examination.
10. Whilst we do not expect a substantial set of Main Modifications (MM) in these regards to be produced ahead of our initial hearing sessions, we invite you at this early point in the examination to give some thought as to how the plan could be altered to address the points above, in order to propose such changes at the appropriate stage.

### Housing Delivery Test Results 2021

11. The Department of Levelling Up, Housing and Communities (DLUHC) published the Housing Delivery Test (HDT) Results on 14 January 2021 - which indicate that Merton's HDT Measurement of delivery over the relevant period is 80%. The Council will be aware that paragraph 74(c) and footnote 41 of the Framework state that where delivery falls below 85% of the housing requirement, a 20% buffer should be applied when establishing whether a sufficient five-year supply of deliverable housing sites exists.

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<sup>2</sup> E.g., The Wimbledon Society – Page 24, Mitcham Cricket Green Community & Heritage – Paras. 8-10 Merton Park Ward Residents Association – Page 1.

<sup>3</sup> Document Reference: 11D6.

<sup>4</sup> At paragraph 8.12.

<sup>5</sup> At paragraph 8.45.

<sup>6</sup> At paragraph 16(f).

12. In its response to our Preliminary Letter the Council contests some of the figures used in the HDT results and we note the Council's position is that the HDT score should be 89%. In such circumstances, the Framework does not require the 20% buffer, but instead expects the Council to produce an action plan (we note that one has been produced and is submitted as Document 11D10). Has the Council taken any steps to raise these points directly with the DLUHC, and if so, could an update be provided on the outcome or progress of discussions on this matter?

#### Main and Additional Modifications

13. We note that following our first letter the Council has suggested some further changes, some of which it considers to be necessary to address perceived soundness or legal compliance issues (which are contained in '0D4i Proposed Main Modifications to Merton's Local Plan'). This runs to an additional 60 pages of MM. In addition to these, 126 pages of changes characterised as "Additional Modifications" (AM) have also been submitted.

14. On 11 March 2022 further corrections were also submitted in the form of an 'Errata\_Mods table and Document 0D4i' setting out corrections to document 0D41 and the March 2022 Schedule of MMs 2022-03. It would be helpful in the interests of clarity, and to facilitate an effective examination, if these changes were incorporated into a further complete version of 0D4i and an appropriate reference given for this revised document in the examination library. The schedule of MM should also be amended accordingly, and an updated version added to the examination library.

15. Moreover, a number of the AM would, if taken forward, materially alter the Plan, and the operation of its policies and therefore appear to be more appropriately classified as MM. We will liaise with the Council via the PO to assist in the identification of proposed changes as MM, where appropriate.

16. Finally, as set out in our Preliminary Letter MM can only be made to development plan documents where they are necessary for soundness and/or legal compliance, and only where they are recommended by Inspectors appointed to examine them. We can only recommend MM if formally requested to do so by the Council (per s20(7C) of the Planning and Compulsory Purchase Act 2004 (the 2004 Act)).

17. We would therefore remind the Council that any formal request for us to recommend MM should be made before consultation on them begins. With this in mind, the Council may wish to formally make such a request in their response to this letter.

## Staged Hearings

18. In our previous letter we set out the intention to stage the hearings in the interests of the efficiency and effectiveness of the Examination. Following further engagement with the material previously submitted together with the responses to our Preliminary Letter, we consider that the following matters will be examined at Stage 1:

1. Legal Compliance and the Duty to Cooperate
2. Plan period, identification of strategic policies and purpose
3. Climate change
4. Viability and deliverability of the Plan
5. Metropolitan Open Land
6. Housing requirements
7. Identified housing sites – supply, mix and deliverability
8. Housing size, type and tenure
9. Gypsy and Traveller accommodation needs and provision
10. Approach to employment, town centres and the Opportunity Area
11. Flood risk assessment and management
12. Air quality
13. Tall buildings
14. Site allocation Wi3 – All England Lawn Tennis Club
15. Site allocation Mo4 – Morden Regeneration Zone

19. In line with the broad parameters established in the Preliminary Letter, the Stage 1 hearings will concentrate on the strategic and cross-cutting implications of the above matters, with a view to understanding whether any further work or MM may need to be provided to underpin the soundness and legal compliance of the Plan.

## Housing Land Supply Proforma and Allocations

20. We thank you for the responses received in relation to the sites anticipated to contribute to the Borough's five-year supply thus far. However, several of the sites where planning permission has been granted but development has not commenced have application references over three years old. Consequently, to assist with our task of determining whether such sites are deliverable for the purposes of the Framework, we ask the Council to review and amend the proforma to include the associated decision dates for the sites on which development is yet to commence. The document should be resubmitted with an appropriate reference for the examination library.

21. The Plan refers to Wi4 and Wi14 site allocations, however, no such allocations are made by the Plan. Could the Council clarify the position on these? We also suggest it would be prudent to check whether all proposed allocations have been made by the Plan.

Conclusion

22. In summary we would be grateful if you could provide us with a response on the following matters by close of business on **28 March 2022**:

1. An explanation of what steps have been taken (if any) to discuss with DLUHC your position on the 2021 HDT figures (paragraphs 11 and 12 above).
2. Your position on whether you wish to request us to recommend MM (per s20(7C) of the 2004 Act and paragraph 17 above).
3. The re-submission of the Housing Land Supply Proforma with the additional information requested in paragraph 20 above.

23. This letter should be published on the examination website in the usual way, as should your response and any related material. If you require any further clarification from us on any of the matters identified in this letter, please do not hesitate to contact us via the PO.

Yours sincerely,

*R J Aston*

*G J Fort*

INSPECTORS