

## Inspectors' Matters, Issues and Questions – April 2022

**Matter 3: Does the Plan include policies designed to secure that the development and use of land contributes to the mitigation of, and adaptation to, climate change? And are the climate change aspects of the plan consistent with national policy, in general conformity with the London Plan, justified and effective?**

**Issue (i) Do the climate change policies of the Plan ensure that the development and use of land contributes to the mitigation of, and adaptation to, climate change, and are they consistent with national policies, in general conformity with the London Plan, justified and effective?**

**Q1. To what extent does the Plan facilitate the move away from petrol and diesel cars towards greener alternatives, and to make walking and cycling the default choice of travel – as set out in the Plan's Good Growth Strategy<sup>25</sup>?**

Council response:

- 3.1. In the interest of keeping the Local Plan short and focussed, these requirements are covered in detail in the Sustainable Travel policies of the Plan (policies T16.1 – T16).
- 3.2. Strategic policy T1.6 sets out the plans overarching approach to transport which is to reduce dependency on cars in favour of active, efficient and sustainable modes of travel. The Mayor's Transport Strategy sets a target for 73% of all trips in Merton to be made on foot, by cycle or using public transport by 2041, and this target has now been incorporated into the Local Plan monitoring targets. Main modification MM19.1 introduces the Local Plan Monitoring Framework which contains a target for mode share across the whole borough (see below extracted from MM19.1).
- 3.3. Policy T16.2 sets out policies that will enable cycling and walking including the provision of new routes across sites and minimum cycle parking standards. Policy T16.3 sets out how the transport impacts of development will be managed to promote sustainable travel patterns and reduce vehicle emissions, including through the requirement for travel plans and delivery and servicing plans. Policy T16.4 sets out the approach to car parking provision to restrain car use in accordance with London Plan maximum parking standards and also sets out policies in relation to the provision of car clubs and electric vehicle charging infrastructure to facilitate a transition to shared car ownership and lower emissions vehicles. Policy T16.5 aims to protect existing public transport facilities and to assist the provision of new capacity to serve future transport needs.

Proposed Modification:

MM19.1

Local Plan Monitoring Framework

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<sup>25</sup> At page 10 -11

<u>Thematic area</u>	<u>Monitoring indicator</u>	<u>Target (if applicable)</u>
<u><b>Sustainable transport</b></u>  <u>To enhance and improve connectivity for all and increase the proportion of journeys made by sustainable and active transport modes.</u>	<u>Overall sustainable mode share.</u>  <u>Uptake of low emission vehicles.</u>	<u>Increase in overall sustainable mode share based on a rolling three year average.</u> <u>Increase in registered EV vehicles in Merton - measured annually.</u>

**Q2. The ‘Merton Local Plan Housing Viability Study’<sup>26</sup> (the Viability Study) notes of the Plan’s climate change policies that “where viability is already on the margins, other policy requirements may need to be reduced to compensate for these costs”<sup>27</sup>, and that “in lower value areas, there would be a trade-off of circa 10% affordable housing to accommodate the higher climate change costs”<sup>28</sup>. Against this background, are the climate change policies of the Plan in general conformity with Policy DF1(D) of the London Plan insofar as it expects development plans, when setting policies seeking planning obligations, to apply priority to affordable housing and public transport improvements? Is any deviation from this aspect of the London Plan justified?**

Council response

- 3.4. Yes, Merton’s climate change policies are in general conformity with [0D32 the London Plan](#). The GLA’s regulation 19 response to Merton’s Local Plan (contained in [Document 0D6](#) and [Document 0D7](#)) and [Document 0D13a Statement of Common Ground between Merton and the GLA](#) did not identify this as an issue of general conformity.
- 3.5. Yes, the climate change policies are justified: they set out an appropriate strategy, taking into account reasonable alternatives and based on proportionate evidence.
- 3.6. Merton’s Local Plan Housing Viability Study (document 11D7) tested the potential impacts of a range of different scenarios relating to climate change policies which were set out in Table 4.23.1 “Potential climate change scenarios” of the study. The costs associated with each of these scenarios ranged from 1.48% to 6.52% build cost for flats and 1.16% to 4.89% build costs for houses. As set out in Submitted Document 2D47, Merton’s Local Plan Climate Change Policies – note on viability update, the viability study concluded that the impact of these additional costs would vary between schemes and sites across the borough. However, the tested scenarios represent a spectrum of design solutions combining different fabric and heating system specifications, ranging from good to best practice, which were all compatible with Merton’s new climate change targets. Therefore if the best practice solution with the highest cost uplift

<sup>26</sup> Document Reference: 11D7

<sup>27</sup> Per paragraph 1.7

<sup>28</sup> Ibid per paragraph 7.5

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is not viable on a given site, other good practice options with a lower cost uplift can still be considered in order to meet Merton's minimum requirements. Merton's Local Plan Climate Change policies (see paragraph 2.2.21) include a provision that if the developer cannot meet the requirement for viability reasons, this will be considered on a case by case basis on the submission of a viability assessment.

- 3.7. Therefore, by testing a range of costs that allow all developments to meet Merton's climate change policies, the council has considered reasonable alternatives to meeting the climate change policies, based on proportionate evidence and the policies themselves are an appropriate strategy which do not put undue pressure on other planning obligations.
- 3.8. Submitted Document 0D32 London Plan 2021 states (with our emphasis) *When setting policies seeking planning obligations in local Development Plan Documents and in situations where it has been demonstrated that planning obligations cannot viably be supported by a specific development, applicants and decision-makers should firstly apply priority to affordable housing and necessary public transport improvements,...* etc... In accordance with the Community Infrastructure Levy Regulations 2010, Regulation 122(2) and as set out in the [NPPF paragraph 57](#), *Planning obligations must only be sought where they meet all of the following*
- a) necessary to make the development acceptable in planning terms;*
  - b) directly related to the development; and*
  - c) fairly and reasonably related in scale and kind to the development.*
- 3.9. For specific development sites the [NPPF \(paragraph 58\)](#), and [submitted document 0D32 London Plan \(policy DF1\)](#) are clear that it is for the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the planning application stage. Where this is demonstrated both policies (same references) are also clear that the weight to be given to the viability assessment is a matter for the decision maker. It will also be for the decision maker to ensure whether planning obligations, such as public transport improvements, meet the three tests above. As there is flexibility built into the costs and a range of different approaches that applicants can take to achieve the requirements of Merton's climate change policies, it is considered that Merton's climate change policies are justified and do not deviate from the requirements of [0D32 London Plan policy DF1](#).

**Q3. Is support for the utilisation of energy from waste set out in Strategic Objective 1 consistent with the emerging South London Waste Plan?**

Council response

- 3.10. The draft Local Plan's Strategic objective 1: 'tackling climate change' part f. states:

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*To make Merton an exemplary borough in mitigating and adapting to climate change, reducing pollution, developing a low carbon economy, consuming fewer resources and using them more effectively.*

*We will achieve this by:*

*...*

*f. Supporting sustainable energy infrastructure to produce energy more efficiently and utilise energy from waste.*

3.11. The submission version of the [emerging South London Waste Plan \(14D1\)](#) does currently contain wording that is inconsistent with part f of Strategic Objective 1. However, at the 2<sup>nd</sup> day of the hearings for the examination in public of the emerging South London Waste Plan, on 2 September 2021, following discussions regarding part D of [London Plan policy SI 8 'Waste capacity and net waste self-sufficiency' \(0D32\)](#), the South London Waste Plan partners boroughs agreed to consult on proposed amendments to draft policy WP7 'The Benefits of Waste' (14D1).

3.12. Part D [of London Plan](#) Policy SI 8 'Waste capacity and net waste self-sufficiency' states the following in parts 3) and 4):

*D Development proposals for materials and waste management sites are encouraged where they:*

*...*

- 3) contribute towards renewable energy generation, especially renewable gas technologies from organic/biomass waste, and/or*
- 4) are linked to low emission combined heat and power and/or combined cooling heat and power (CHP is only acceptable where it will enable the delivery or extension of an area-wide heat network consistent with Policy SI 3 Energy infrastructure Part D1c)*

3.13. To improve clarity and ensure consistency with London Plan policy, the partner boroughs will propose the following changes to the [emerging South London Waste Plan \(14D1\)](#) as part of the post-hearing public consultation on the proposed amendments:

1. Paragraph 5.44 of the supporting text:

*In the London Environment Strategy (Objective 7.4), the Mayor of London states that "achieving reduction and recycling targets will mean that no new energy from waste facilities in London will be needed." ~~Therefore, the South London Waste Plan boroughs will not expect a proposal for such a facility to be submitted. Notwithstanding this, the Mayor's London Plan sets out a number of benefits from waste that should be encouraged when development proposals are brought forward. Therefore, in accordance with London Plan Policy SI 8 Part D, the South London~~*

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Waste Plan Boroughs will support schemes that also propose additional benefits alongside waste operations.

2. In part (b) of draft policy WP7 'The Benefits of Waste':

Waste development ~~for additional Energy from Waste facilities will not that can deliver additional benefits, as set out in London Plan Policy SI 8 Part D, 3 and 4, will be supported encouraged.~~

- 3.14. With the above proposed amendments, which will be consulted on in 2022 as part of the South London Waste Plan examination in public, there will be consistency between the London Plan, the draft Local Plan and the emerging South London Waste Plan on matters regarding the utilisation of energy from waste.

**Q4. Paragraph 2.1.24 indicates that “climate adaptation has been embedded within the relevant section of the Local Plan”: how has this been achieved?**

Council response

- 3.15. Paragraph 2.1.24 sets out how the different elements of climate adaptation have been embedded across the plan: *Climate adaptation has been embedded within the relevant sections of the Local Plan. Overheating of buildings and subsidence are addressed in the Design policies; flooding, water shortages and the urban heat island effect are covered in the Green & Blue Infrastructure policies; and water use from development is addressed in Policy CC2.6 Sustainable Design Standards below.*

**Q5. Are the Council's climate change policies sufficiently focussed on outcomes, and would they be flexible enough to enable site-specific solutions that would deliver effective outcomes in these terms, but which may not include measures advocated by the Plan?**

Council response

- 3.16. Yes, the climate change policies are sufficiently focussed on outcomes and aim to ensure that all new development can operate at net zero carbon by 2050 without requiring significant retrofit. The policies are flexible and do not require specific heating solutions other than being fossil-fuel free in line with supporting evidence ([2D1 Merton Climate Strategy and Action Plan](#), [2D9 London Energy Transformation Initiative Climate Emergency Design Guide](#), [2D11 Committee on Climate Change “UK Housing fit for the future?”](#), [2D12 Towards Net Zero Carbon – achieving greater carbon reductions on site, the role of carbon pricing](#)). The policies require development to meet specific energy use and fabric efficiency targets but do not specify how these should be achieved.

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- 3.17. As set out in the schedule of Additional Modifications, the New Paragraph after paragraph 2.3.13 was added to clarify the approach for bespoke non-residential developments given the range of non-residential developments in Merton.

Proposed Additional Modification:

New Paragraph after 2.3.13 – In the past 5 years, non-residential development in Merton has included everything from a football stadium, to a hotel development, to a mixed-use development comprising a community gym/ retail space, hostel and residential development. Given the range of non-residential developments that could come forward in Merton over the lifetime of this Local Plan, the council will work with applicants towards achieving this target on a case by case basis for any bespoke non-residential development.

**Q6. Insofar as is relevant to proposals relating to the conversion or alteration of heritage assets, or in relation to development within their settings, do the climate change policies of the Plan pay appropriate attention to the requirement to conserve such assets in a manner appropriate to their significance<sup>29</sup>?**

Council response

- 3.18. Yes, the climate change policies pay appropriate attention to the requirement for proposals relating to the conversion or alteration of heritage assets to conserve these assets in a manner appropriate to their significance, as set out in paragraph 2.4.20.

*2.4.20 Developments in conservation areas or involving heritage assets need to provide careful consideration of how sustainable energy measures may be incorporated without adversely impacting on the character, function and preservation of a specific area or asset, in accordance with the policies on design in this Local Plan. In such circumstances, development proposals should not presume that a viable sustainable solution cannot be provided. Where necessary, Merton will determine whether the provision of sustainability measures causes any adverse impact with the asset or area, and will prioritise safeguarding of the asset, as appropriate.*

**Q7. Policy GG6 of the London Plan requires planning and development to seek to improve energy efficiency and support the move towards a low carbon circular economy – how does the Plan respond to this, in particular in terms of encouragement of the re-use, retrofit and adaptation of existing buildings?**

Council response

- 3.19. Yes, the Local Plan encourages the re-use, retrofit and adaptation of existing buildings. Policy CC2.5 relates to Minimising Waste and Promoting a Circular

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<sup>29</sup> Per paragraph 189 of the Framework



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Economy. Policy CC2.5a requires *all development to prioritise the reuse and retrofit of existing buildings wherever possible before considering the design of new buildings*. Please see Policy CC2.5 and supporting text for more details.

### Strategic Policy CC2.1

**Q8. Is Policy CC2.1 clear in terms of how development proposals would be assessed against its criteria, and what information might be necessary to demonstrate compliance with them?**

#### Council response

- 3.20. Yes, Policy CC2.1 is clear in terms of how development proposals would be assessed against its criteria and what information might be required to demonstrate compliance. The specific criteria and information requirements are detailed in the relevant subsequent policies as set out in paragraphs 2.1.7 (sustainable and healthy lifestyles), 2.1.19 (energy efficiency, low carbon heat and renewable energy), 2.1.20 (circular economy and waste), and 2.1.24 (climate adaptation and green infrastructure).

**Q9. Is Policy CC2.1 consistent with the Framework<sup>30</sup>, and the London Plan<sup>31</sup>?**

#### Council response

- 3.21. Yes, Policy CC2.1 is consistent with paragraphs 152ff of the NPPF (Document 0D20) and Policies SI2, SI3, SI4 and SI7 of the London Plan 2021 (submitted document 0D32). Policy CC2.1 refers to paragraph 153 of the NPPF and supports the NPPF objectives highlighted in section 14 of the NPPF (e.g. aims to reduce vulnerability to climate change, reduce flood risk, minimise greenhouse gas emissions, maximise renewable energy and low carbon energy and heat, etc.).
- 3.22. Policy CC2.1 is also consistent with [0D32 the London Plan](#) policies SI2 Minimising greenhouse gas emissions, SI3 Energy infrastructure, SI4 Managing heat risk, SI5 Water Infrastructure, and SI7 Reducing waste and supporting the circular economy. Policy CC2.1 is in general conformity with the London Plan; where policy CC2.1 goes beyond the London Plan this is justified.

**Q10. Is it clear how a decision-maker should react to paragraph 2.1.10 in terms of the requirement that “development must therefore be fit for the future (i.e be ultra-energy efficient and climate resilient, and maximise low carbon and renewable energy)”? Is the approach justified, and if so would this aspect be more suited to policy wording than supporting text?**

- 3.23. Yes, it is clear how a decision-maker should react to paragraph 2.1.10 in terms of the requirement that development must be fit for the future (i.e. be ultra-

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<sup>30</sup> In particular paragraphs 152ff

<sup>31</sup> In particular Policies SI2, SI3, SI4, SI7

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energy efficient and climate resilient, and maximise low carbon and renewable energy).

- 3.24. These requirements are already secured in Policy CC2.1 (a) which requires development to Minimise greenhouse gas emissions and support the transition to a low carbon society by maximising energy efficiency, low carbon heat and local renewable energy generation; and policy CC2.1 (c) which requires development to Recognise and adapt to Merton's changing climate and ensure that development mitigates the risk of overheating and flooding, and maximises comfort and wellbeing in a changing climate. Paragraphs 2.1.19, 2.1.20 and 2.1.24 set out how these strategic policy objectives will be implemented through the subsequent detailed climate change policies.
- 3.25. This approach is justified, as set out in paragraphs 2.1.8 to 2.1.12 of the Local Plan and supporting evidence ([2D1 Merton Climate Strategy and Action Plan](#), [2D9 London Energy Transformation Initiative Climate Emergency Design Guide](#), [2D11 Committee on Climate Change "UK Housing fit for the future?"](#), [2D12 Towards Net Zero Carbon - achieving greater carbon reductions on site, the role of carbon pricing](#)), to ensure that all new development in Merton is capable of operating at net-zero carbon without requiring significant and expensive retrofit in order to deliver our national and local carbon reduction commitments.

#### Policies CC2.2, CC2.3, CC2.4, CC2.5, CC2.6

**Q11. The differences between the Plan and the London Plan approaches to achieving net-zero carbon emissions are outlined in paragraph 2.1.18 of the Plan. Is the Plan in general conformity with the London Plan in these regards, and is the difference of approach robustly justified?**

##### Council response

- 3.26. Yes, the Local Plan is in general conformity with [0D32 the London Plan 2021](#), and where Merton's climate change policies go beyond the London Plan policies, this is justified in the supporting text and evidence which includes [2D1 Merton's Climate Strategy & Action Plan](#), [11D7 Merton's Housing Viability Study](#) and [2D47 Merton's Local Plan climate change policies note on viability testing](#). The GLA's regulation 19 response to Merton's Local Plan (contained in [Document 0D6](#) and [Document 0D7](#)) and [Document 0D13a Statement of Common Ground between Merton and the GLA](#) did not identify this as an issue of general conformity.

**Q12. Is Policy CC2.2's requirement for *all developments* to reduce greenhouse gas emissions justified – how would small scale developments such as residential alterations and extensions be assessed in these regards?**

##### Council response:

- 3.27. All development, including residential alterations and extensions, should seek to reduce greenhouse gas emissions on-site wherever possible. However, the Council will only assess this requirement for development resulting in the creation of 1 or more dwellings or 500sqm or more non-residential Gross Internal



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Area. To clarify and improve the effectiveness of this policy, we propose Main Modification 2.1(a) to Policy CC2.2 and paragraph 2.2.1 set out below:

Proposed Modification

Minimising Greenhouse Gas Emissions

~~We will require all proposed All~~ development within the borough ~~should seek to demonstrate that the fullest contribution to minimising~~ greenhouse gas emissions ~~has been made~~ on site.

~~This will be achieved by requiring:~~

~~a.1—All development:~~

We will require:

All development resulting in the creation of 1 or more dwellings or 500sqm or more non-residential GIA:

- a. To reduce greenhouse gas emissions on-site and minimise both annual and peak energy demand in accordance with the Mayor of London's Energy Hierarchy below, ~~or in line with any future locally derived methodology:~~
  - i. Be lean: use less energy and manage demand during operation
  - ii. Be clean: exploit local energy resources (such as secondary heat) and supply energy efficiently and cleanly
  - iii. Be green: maximise opportunities for renewable energy by producing, storing and using renewable energy on-site
  - iv. Be seen: monitor, verify and report on energy performance

~~All development resulting in the creation of 1 or more dwellings or 500sqm or more non-residential GIA:~~

2.2.1 In line with the London Plan, all developments in Merton ~~shouldare required to~~ maximise on-site carbon savings in accordance with the Mayor of London's energy hierarchy through energy efficiency, the use of clean energy, and on-site renewable energy generation.

**Q13. Is Policy CC2.2 (a) clear in terms what is meant by “any future locally derived methodology”, and is requiring development to accord with an as yet uncertain, and unexamined requirement justified?**

Council response:

- 3.28. This reference was removed in response to consultation feedback received at Stage 3 to avoid onerous wording; see proposed additional modification AM2.5 below.

Proposed Additional Modification:

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To reduce greenhouse gas emissions on-site and minimise both annual and peak energy demand in accordance with the Mayor of London's Energy Hierarchy below, ~~or in line with any future locally derived methodology:~~

**Q14. Policy CC2.2's criteria (b),(c),(d) and I relate to all developments resulting in the creation of 1 or more dwellings or 500SqM or more of non-residential GIA – is this approach in general conformity with the London Plan, and is the approach justified?**

Council response:

3.29. Yes, the Local Plan policies are in general conformity with [0D32 the London Plan](#) and this approach is an appropriate strategy as demonstrated by our detailed local climate change and viability evidence ([11D7 Merton's Local Plan Housing Viability Study](#); [2D47 Merton Local Plan climate change policies – note on viability testing](#)) which takes account of a range of different scenarios for cost which all meet Merton's climate change requirements. The policies also represent an appropriate strategy for the scale and nature of development in Merton (e.g. lots of small sites). The London Plan looks across the whole of London including boroughs that don't have Merton's scale and nature of development. The GLA's regulation 19 response to Merton's Local Plan (contained in [Document 0D6](#) and [Document 0D7](#)) and [Document 0D13a Statement of Common Ground between Merton and the GLA](#) did not identify this as an issue of general conformity.

**Q15. Is the energy statement mentioned in Policies CC2.2 (b) and CC2.4(b) included in the Council's list of information requirements for applications for planning permission<sup>32</sup>?**

Council response:

3.30. Yes, Merton's validation checklist will be updated to include any new information requirements for major and minor schemes should the new Local Plan be adopted.

**Q16. What is the justification for the on-site CO<sub>2</sub> reduction targets set out for the various types of developments given in the table in Policy CC2.2?**

Council response:

3.31. The on-site CO<sub>2</sub> reduction targets set out in Policy CC2.2© are based on a study commissioned by several London authorities ([2D12 Towards Net Zero Carbon – achieving greater carbon reductions on site, the role of carbon pricing](#)); the justification for these targets is set out in paragraphs 2.2.9 – 2.2.11 of the supporting text included below for ease of reference:

*2.2.9 The aim of the Mayor's zero carbon policy is to drive carbon savings on site and ensure that any carbon shortfall which cannot be addressed on site is*

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<sup>32</sup> Per paragraph 44 of the Framework, and paragraphs 038ff of 'Making and Application' PPG.

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*offset elsewhere in the borough to achieve a net-zero carbon balance. However, in practice, the current London Plan 2021 approach (35% minimum target) allows up to 65% of carbon emissions from development to be offset via cash-in-lieu contributions, which shifts the responsibility to the local authority to make the scheme compliant. In order to achieve our carbon reduction commitments, on-site emissions will need to reduce close to zero, so carbon offsetting must not be heavily relied upon and should only be considered where further savings cannot be achieved on site [9] [3].*

*2.2.10 In 2019/2020, a study commissioned by several London boroughs, to investigate the cost of carbon and its role in achieving greater carbon reductions on site, found that the London Plan on-site carbon reduction targets and cost of carbon are inadequate for delivering the savings required to achieve net-zero carbon [12]. The study demonstrated that, using more up to date carbon emissions factors than those used in Building Regulations 2013 (SAP 10 and SAP 10.1), with an efficient low carbon heating system (e.g. a heat pump) and reasonable levels of fabric and ventilation performance, new build residential and non-residential developments can and should achieve at least a 60% and 50% improvement against Building Regulations 2013 respectively. The decarbonisation of the electricity grid means that, for the same specifications, a greater improvement over Part L is achieved with no extra effort/ cost.*

*2.2.11 In order to drive on-site carbon reduction, we therefore require all major residential development of 10 or more units (including new builds, change of use, conversions and major refurbishments) and all minor new build residential development of 1 or more units to achieve at least a 60% improvement against Building Regulations 2013 on site. All non-residential development of 500sqm or more GIA (including new builds, change of use and major refurbishments) will need to achieve at least a 50% improvement against Building Regulations 2013 on site. All minor change of use and conversions resulting in the creation of 1 or more dwellings will need to achieve at least a 35% improvement against Building Regulations 2013 on site to account for the limitations associated with existing buildings and small-scale development.*

**Q17. Is the use of the term “conversions” in Policy CC2.2 clear – is the policy only intended to relate to material changes of use arising from “conversions”, or is it to be taken to include subdivisions of existing properties, as well (for example)?**

Council response:

3.32. The use of the word conversions is used in line with Policy D12.10 Dwelling Conversions: the conversion of existing single dwellings into two or more smaller dwellings. The term conversion has been added to the Local Plan Glossary for additional clarity as per the following proposed main modification.

Proposed Modification:

**Conversion**

**The conversion of existing single dwellings into two or more smaller dwellings.**

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**Q18. Footnote 3 of Policy CC2.2 refers to the minimum improvement beyond Part L of the Building Regulations 2010:**

**Q18a. Does Policy CC2.2 accord with the Government's policy for national technical standards<sup>33</sup>?**

Council response:

- 3.33. Yes, Policy CC2.2 accords with Government policy. Please note, Footnote 3 of Policy CC2.2 refers to the minimum improvement beyond Part L of the Building Regulations 2013 not 2010 as stated in the question above.
- 3.34. In August 2020, we sought legal advice regarding the legal powers of local authorities in setting carbon reduction targets beyond Building Regulations in the context of the Written Ministerial Statement of 25 March 2015 referred to in footnote 33 to Question 18(a) above. Legal advice concluded that this Ministerial Written Statement was not a barrier to Merton setting more ambitious carbon reduction targets given that restrictions on the powers of Local Authorities would only come into effect when/ if the Secretary of State were to bring into force capping provisions in the Deregulation Act.
- 3.35. In addition, subsequent to this, in the [Government's response to the Future Homes Standard Consultation in 2019](#) the Ministry of Housing, Communities & Local Government (MHCLG) stated: *To provide some certainty in the immediate term, we will not amend the Planning and Energy Act 2008, which means that local authorities will retain powers to set local energy efficiency standards for new homes.*

**Q18b. Is the statement "When new Building Regulations are updated we will seek to apply an equivalent standard against the new Building Regulations" justified, and unambiguous? Is this statement in general conformity with the London Plan<sup>34</sup> in these regards, insofar as that policy refers to review of the relevant policy thresholds should Building Regulations be updated? Is the text of the footnote internally consistent with paragraph 2.2.8 of the Plan?**

Council response:

- 3.36. Yes, this statement is justified and in general conformity with 0D32 the London Plan given that the proposed targets are relevant to Building Regulations 2013 and will therefore need to be reviewed when Building Regulations are updated as per footnote 152 of the London Plan. This would not change the proposed targets but would benchmark them against the updated Building Regulations as they are currently benchmarked against Building Regulations 2013.

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<sup>33</sup> Referenced in paragraph 154(b) of the Framework; set out in the 'Planning Update' WMS of March 2015; and further explained in the 'Climate Change' PPG Paragraph: 012 Reference ID: 6-012-20190315 Revision date: 15 03 2019.

<sup>34</sup> Policy SI2, Footnote 152

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3.37. With regard to Footnote 3 being internally consistent with paragraph 2.2.8, these are referring to two different things as set out below:

- Footnote 3 refers to changes to the percentage improvement targets against Part L when Building Regulations are updated in June 2021 and any subsequent updates to Part L (e.g. introduction of the Future Home Standard expected in 2025). This will involve translating the % improvement target which is currently relative to Part L 2013 to an equivalent target relative to subsequent versions of Part L (e.g. Part L due to be published in June 2021 – please see response to question 18© below for more details). This would not change the proposed targets but would benchmark them against the updated Building Regulations.
- Paragraph 2.2.8 refers to potential changes to the scope of the Mayor's net-zero carbon target as a result of future updates to Building Regulations or future updates to the London Plan with regard to the Mayor's definition of net-zero carbon development. This would be to address the shortfalls highlighted in paragraphs 2.1.18 and 2.2.7 of the Local Plan (e.g. a change in approach by the Mayor to include both regulated and unregulated emissions within their net-zero carbon target, not just regulated emissions). If this were to result in a substantial change, this would be considered as part of the local plan review process.

3.38. To clarify, we are proposing the following modification to Footnote 3 and paragraph 2.2.8.

Proposed Modification

3 This represents a minimum improvement beyond Part L of Building Regulations 2013. When Building Regulations are updated we will ~~seek to apply~~ publish an equivalent standard against the new Building Regulations.

2.2.8 This net-zero carbon target ~~will~~ may need to be reviewed ~~as and when if~~ national and regional policy changes (e.g. ~~updates to Building Regulations expected in 2023 and 2025 and any updates to the London Plan~~), and as ~~part of the Local Plan review in 5 years. If the Mayor were to adopt a change in approach to include both regulated and unregulated emissions within their net-zero carbon target, to address the shortfalls highlighted above~~). If this were to result in a substantial change, this would be considered as part of the local plan review process.

**Q18c. Are any MMs needed to cover the 2021 update to Approved Document L of the Building Regulations, the requirements of which take effect on 15 June 2022?**

Council response:

3.39. Yes, once government has published the 2021 update to Part L in June 2022, and an analysis of these changes has been carried out, MMs will be required to Policy CC2.2 © and Policy CC2.3 © (and the supporting text) where the proposed targets are relative to Part L of the Building Regulations. We are

working with the GLA and other London boroughs to understand the implications of the changes to Part L on [0D32 the London Plan](#) policies and proposed targets which go beyond the London Plan. We are looking to commission a review of [2D12 Towards Net Zero Carbon – achieving greater carbon reductions on site, the role of carbon pricing 2019](#) in light of upcoming changes to Part L to ensure that Merton's Local Plan contains equivalent targets to those published at Regulation 19 which are translated to the updated Building Regulations. This work cannot be carried out until Government has published the final Part L 2021 modelling as this will be used to undertake this review.

- 3.40. Please note, we are not intending to change the targets, we are just looking to determine the equivalent targets against the updated Part L 2021 as our targets are currently calculated against Building Regulations 2013. The MMs will be confirmed during the examination process once this information and updated evidence base is available.

**Q18d. Should specific monitoring arrangements be included to trigger appropriate action should Building Regulations requirements be amended in the plan period, to ensure effectiveness in these regards?**

Council response:

- 3.41. In addition to the Part L 2021 updates expected to take effect on 15 June 2022, Government currently also proposes to update Part L to the Future Home Standard in 2025, and there may be further updates to Building Regulations. Should Building Regulations be updated in the lifetime of this Local Plan, the Council will publish an equivalent target based on the updated Building Regulations. This would not change the proposed targets but would benchmark them against the updated Building Regulations. We propose the following modification to Table 19.1 Local Plan Monitoring Framework to improve clarity of the proposed monitoring arrangements.

Proposed Modification:

Local Plan Monitoring Framework

<u>Thematic area</u>	<u>Monitoring indicator</u>	<u>Target (if applicable)</u>
<u>Climate change – operational carbon savings</u>  <u>To help tackle climate change through reducing greenhouse gas emissions and moving towards a zero carbon Merton by 2050.</u>	<u>Average percentage improvement in operational carbon emissions against Part L of the Building Regulations.</u>  <u>Monitoring changes to Part L of the Building Regulations and the</u>	<u>Carbon reduction targets set out in policy CC2.2.</u>  <u>Monitoring and updating the Local Plan as required.</u>



	<u>London Plan in case these result in changes to Merton's policies and targets.</u>	
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**Q19. What is the justification for setting a different carbon offset price to that included in the London Plan? Is the Plan justified in deferring any changes to its carbon offset price to “future guidance”<sup>35</sup> or is this more properly a matter for monitoring and review of, and if necessary updates to, the relevant development plan policies?**

Council response:

- 3.42. The justification for setting a different carbon offset price is set out in paragraphs 2.2.15 to 2.2.17 of the Local Plan and Submitted Document 2D12 Towards Net Zero carbon – achieving greater carbon reductions on site, the role of carbon pricing. These are provided below with proposed modifications to paragraph 2.2.17 and to Table 19.1 regarding the monitoring and review of the carbon offset price.
- 3.43. 2.2.15 Etude et al. [2D12] found that the London Plan carbon offset price (£95/t in the London Plan 2021) is too low to actually deliver equivalent carbon savings and therefore does not incentivise sufficient on-site savings. Indeed, the cost of installing additional PV to achieve further improvement on site is currently at around £190/t and this cost is expected to increase to £325/t using the SAP 10.1 carbon factors as a result of the further decarbonisation of grid electricity. This means that, using the cost of carbon recommended in the London Plan, it is cheaper and easier for developers to offset carbon emissions via cash-in-lieu contributions than it is to achieve the actual savings on site, resulting in developments with higher operational emissions.
- 3.44. 2.2.16 Etude et al. also found that it would cost a local authority at least £300/t to save carbon in a sustainable way, taking into account administration and management costs [2D12]. Local authorities therefore have insufficient funds to deliver equivalent carbon savings off site through cash-in-lieu contributions using a cost of carbon of £95/t.

Proposed Modification

MM2.2b:

2.2.17 In order to incentivise developers to implement lower carbon strategies on site where possible, and to ensure that any remaining carbon shortfall can adequately be addressed off site, the carbon shortfall for the assumed life of a development (e.g. 30 years) will therefore be offset at a rate of £300/t as at 2021. The price for offsetting carbon is regularly reviewed; this will be monitored and, if necessary, updated. ~~Any changes to Merton's suggested carbon offset price will be updated in future guidance.~~

<sup>35</sup> As set out in paragraph 2.2.17 of the Plan

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MM19.1:

<u>Thematic area</u>	<u>Monitoring indicator</u>	<u>Target (if applicable)</u>
<u>Carbon offsetting</u> <u>To offset any carbon shortfall from development where zero carbon cannot be achieved on site.</u>	<u>Carbon offsetting proposed where on site reduction is not achievable.</u> <u>Monitoring changes to the carbon offset price.</u>	<u>Reporting on carbon offsetting in Infrastructure Funding Statement.</u> <u>Monitoring and updating the Local Plan as required.</u>

**Q20. Is it clear how a decision-taker should react to viability issues related to the climate change policies from the text set out in the plan at paragraph 2.2.21, and would it be clear when and how costs of independent viability assessments would be sought, and what the justification for this might be? Would the matters set out in the paragraph be more appropriately included in development plan policy?**

Council response:

- 3.45. Yes, it is clear how a decision-taker should react to viability issues. The onus is on the applicant to identify whether their particular development on their particular site may have an issue with viability relating to the delivery of the climate change policies. We consider that it is appropriate to address viability within the supporting text rather than the policy as it helps clarify how the Council will implement the policies.
- 3.46. 2.2.21 Developers will be expected to adopt the highest possible standards of fabric and *ventilation and heating plant to maximise carbon savings on site. Any development that fails to achieve the necessary on-site performance targets or to demonstrate that carbon savings have been maximised, must provide full evidence and justification as to why the scheme is unable to comply. Where the developer contends the policy requirements in relation to viability of a particular proposal, the onus would lie with the developer to demonstrate what can viably be achieved through the submission of a viability assessment. We may seek payments from applications for the cost of independent viability assessment(s).*

**Q21. Is it clear how the anticipated energy use intensity (per Policy CC2.3 (b)) at design and pre-occupation stage would be assessed?**

Council response:

- 3.47. With the following proposed modifications, it is clear how energy use intensity would be assessed. All development resulting in the creation of 1 or more residential units or 500sqm or more non-residential GIA is required to disclose

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the anticipated energy use intensity to drive more energy efficient design of buildings (as per paragraphs 2.3.17 and 2.3.18).

- 3.48. As per modified Policy CC2.3€ (MM2.2), all **new build** development resulting in the creation of 1 or more residential unit or 500sqm or more non-residential GIA will be required,

Proposed Modification:

MM2.2:

2. From 01 January 2025, to meet the following maximum Energy Use Intensity targets ~~as set out in the relevant guidance.:~~
- Residential – 35 kWh/m2/yr
  - Offices – 55 kWh/m2/yr
  - Schools – 65 kWh/m2/yr
  - Multi-residential (e.g. student accommodation) – 35 kWh/m2/yr
  - Retail – 55 kWh/m2/yr
  - Leisure – 100 kWh/m2/yr
  - Higher education teaching facilities – 55 kWh/m2/yr
  - Light industrial uses – 110 kWh/m2/yr
  - GP surgery – 55 kWh/m2/yr
  - Hotel – 55 kWh/m2/yr

Under the same modification (MM2.2), paragraph 2.3.22 has been amended to clarify and confirm the evidence to support these targets, and a new paragraph has been added after paragraph 2.3.22 to clarify Merton's requirements regarding these targets:

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~~2.3.22-Merton Council expects all new development to make reasonable endeavours to achieve these EUI and space heating demand targets to future-proof their development and lead the way in decarbonising Merton until EUI targets are required through national regulations or a locally derived methodology. Merton Council will enforce EUI targets from 2025; these targets will be confirmed in relevant guidance closer to the time in order to consider the latest evidence and technologies. In 2021, Etude carried out a feasibility study [25] to inform the Net Zero Carbon Evidence Base for the Greater Cambridge Local Plan [26] which identified the following Energy Use Intensity targets for a range of development types:~~

- ~~• Residential – 35 kWh/m2/yr~~
- ~~• Offices – 55 kWh/m2/yr~~
- ~~• Schools – 65 kWh/m2/yr~~
- ~~• Multi-residential (e.g. student accommodation) – 35 kWh/m2/yr~~
- ~~• Retail – 55 kWh/m2/yr~~
- ~~• Leisure – 100 kWh/m2/yr~~
- ~~• Higher education teaching facilities – 55 kWh/m2/yr~~
- ~~• Light industrial uses – 110 kWh/m2/yr~~
- ~~• GP surgery – 55 kWh/m2/yr~~
- ~~• Hotel – 55 kWh/m2/yr~~

~~New Paragraph – Merton Council expects all new development to make reasonable endeavours to achieve these EUI and space heating demand targets to reduce fuel bills for future occupants and help tackle fuel poverty in Merton, and to future-proof their development and lead the way in decarbonising Merton. These targets, or subsequently adopted targets, will be enforced from January 2025.~~

The new references are provided in Appendix 1 (copied below for ease):

~~[25] Bioregional, Etude, Currie & Brown, “Greater Cambridge Local Plan: Net Zero Carbon Evidence Base. Task D – Technical Feasibility,” May 2021. [Online]. Available: Feasibility study  
[https://consultations.greatercambridgeplanning.org/sites/gcp/files/2021-08/NetZeroTechnicalFeasibility\\_GCLP\\_210831.pdf](https://consultations.greatercambridgeplanning.org/sites/gcp/files/2021-08/NetZeroTechnicalFeasibility_GCLP_210831.pdf).~~

~~[26] Bioregional, Etude, Currie & Brown, Mode, “Greater Cambridge Net Zero Carbon Evidence Base Non-technical summary,” August 2021. [Online]. Available: <https://consultations.greatercambridgeplanning.org/sites/gcp/files/2021-09/Greater%20Cambridge%20Local%20Plan%20Net%20Zero%20Carbon%20Evidence%20Base%20-%20Non%20Technical%20Summary%20FINAL.pdf>.~~

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**Q22. Are the efficiency improvement targets set out in Policy CC2.3 (c) justified?**

Council response:

- 3.49. Yes, these efficiency improvement targets are justified and align with OD32 the London Plan as set out in paragraphs 2.3.4 and 2.3.5 of the Local Plan.

*2.3.4 In order to manage running costs and avoid external costs to the grid infrastructure, a transition to low carbon heat can only be achieved through significant improvements to energy efficiency [10]. Indeed, low carbon heating solutions (such as heat pumps and solar thermal) tend to operate most effectively at low temperatures, and are therefore much more sensitive to energy efficiency than conventional gas boiler systems [9]. Indeed, if a building's heat losses are much higher than anticipated, a low temperature heating system has to run at higher operating temperatures to compensate for this, which can result in significant increases in energy use and energy bills [10]. In addition, as we move from gas to electricity to heat our buildings, energy use needs to be minimised to reduce the demand for energy generation and peak loads on the national grid [9] [22].*

*2.3.5 Merton Council therefore requires compliance with minimum on-site carbon reduction targets through energy efficiency alone in line with the London Plan. Developers will need to demonstrate a 10% and 15% improvement for all residential development resulting in the creation of 1 or more units and non-residential development of 500sqm GIA respectively (including new builds, change of use, conversions and major refurbishments).*

- 3.50. As set out in the answer to question 18.c above, these percentage improvement targets will need to be reviewed in light of changes to Part L in June 2022. This will be informed by work currently being carried out by the GLA in reviewing the implications of changes to Part L on the [OD32 London Plan](#). MMs will be required to policy CC2.3 (c) and the supporting text during the Examination once Government has published the modelling for Part L 2021 and once this work has been completed by the GLA.

**Q23. Are the 'stepped' fabric efficiency targets set out in Policy CC2.3(d) justified? Is the policy clear as to whether the relevant targets refer to both regulated and unregulated energy use, or simply regulated energy use?**

Council response:

- 3.51. Yes, these fabric efficiency targets are justified in paragraphs 2.3.7 to 2.3.13. The Energy Use Intensity targets referred to in policies CC2.3 (b) and I include both regulated and unregulated emissions, however the energy efficiency targets in Policy CC2.3 (c) and the Fabric Energy Efficiency Standards and Space Heating Demand in Policy CC2.3 (d) refer to only regulated energy use (under current Part L).

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- 3.52. A new footnote is proposed to Policy CC2.3(d) as an additional modification (AM2.5a(i)) to clarify this point.

Proposed Additional Modification

AM2.5a(i):

\*NEW FOOTNOTE – Both the Fabric Energy Efficiency Standard and Space Heating Demand Target are based on regulated energy use.

**Q24. Is Policy CC2.3 criterion (e) clear in terms of what is meant by “the relevant guidance”? If this criterion refers to Supplementary Planning Documents (or similar), would development plan policy seeking compliance with this be either justified, or consistent with the purposes of SPDs to build upon and provide more detailed advice or guidance in an adopted plan, and not to introduce new policies<sup>36</sup>?**

Council response:

- 3.53. This question has been addressed with main modification MM2.2. To ensure that the policy is justified and legally sound, all policy requirements to conform to guidance have been removed or amended. Specific Energy Use Intensity targets were added to Policy CC2.3 (e) instead based on new evidence commissioned by Greater Cambridge Shared Planning (refer to Appendix 1).

Proposed Modification

MM2.2:

- b. From 01 January 2025, to meet the following maximum Energy Use Intensity targets ~~as set out in the relevant guidance.:~~
  - o Residential – 35 kWh/m2/yr
  - o Offices – 55 kWh/m2/yr
  - o Schools – 65 kWh/m2/yr
  - o Multi-residential (e.g. student accommodation) – 35 kWh/m2/yr
  - o Retail – 55 kWh/m2/yr
  - o Leisure – 100 kWh/m2/yr
  - o Higher education teaching facilities – 55 kWh/m2/yr
  - o Light industrial uses – 110 kWh/m2/yr
  - o GP surgery – 55 kWh/m2/yr
  - o Hotel – 55 kWh/m2/yr

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<sup>36</sup> Per the 'Plan making' PPG paragraph 008: PPG Reference ID 61-008-20190315



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2.3.22 ~~Merton Council expects all new development to make reasonable endeavours to achieve these EUI and space heating demand targets to future-proof their development and lead the way in decarbonising Merton until EUI targets are required through national regulations or a locally derived methodology. Merton Council will enforce EUI targets from 2025; these targets will be confirmed in relevant guidance closer to the time in order to consider the latest evidence and technologies. In 2021, Etude carried out a feasibility study [25] to inform the Net Zero Carbon Evidence Base for the Greater Cambridge Local Plan [26] which identified the following Energy Use Intensity targets for a range of development types:~~

- ~~Residential – 35 kWh/m2/yr~~
- ~~Offices – 55 kWh/m2/yr~~
- ~~Schools – 65 kWh/m2/yr~~
- ~~Multi-residential (e.g. student accommodation) – 35 kWh/m2/yr~~
- ~~Retail – 55 kWh/m2/yr~~
- ~~Leisure – 100 kWh/m2/yr~~
- ~~Higher education teaching facilities – 55 kWh/m2/yr~~
- ~~Light industrial uses – 110 kWh/m2/yr~~
- ~~GP surgery – 55 kWh/m2/yr~~
- ~~Hotel – 55 kWh/m2/yr~~

~~New Paragraph - Merton Council expects all new development to make reasonable endeavours to achieve these EUI and space heating demand targets to reduce fuel bills for future occupants and help tackle fuel poverty in Merton, and to future-proof their development and lead the way in decarbonising Merton. These targets, or subsequently adopted targets, will be enforced from January 2025.~~

~~[25] Bioregional, Etude, Currie & Brown, “Greater Cambridge Local Plan: Net Zero Carbon Evidence Base. Task D - Technical Feasibility,” May 2021. [Online]. Available: Feasibility study [https://consultations.greatercambridgeplanning.org/sites/gcp/files/2021-08/NetZeroTechnicalFeasibility\\_GCLP\\_210831.pdf](https://consultations.greatercambridgeplanning.org/sites/gcp/files/2021-08/NetZeroTechnicalFeasibility_GCLP_210831.pdf).~~

~~[26] Bioregional, Etude, Currie & Brown, Mode, “Greater Cambridge Net Zero Carbon Evidence Base Non-technical summary,” August 2021. [Online]. Available: <https://consultations.greatercambridgeplanning.org/sites/gcp/files/2021-09/Greater%20Cambridge%20Local%20Plan%20Net%20Zero%20Carbon%20Evidence%20Base%20-%20Non%20Technical%20Summary%20FINAL.pdf>.~~

**Q25. Does the installation of gas boilers come within the scope of development and use of land<sup>37</sup>, and is the restriction on this activity sought by Policy CC2.4 therefore justified or effective?**

Council response:

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<sup>37</sup> Per s17 of the Planning and Compulsory Purchase Act 2004; and s55 of the Town and Country Planning Act 1990

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- 3.54. Policy CC2.4 relates to the energy use and carbon emissions from new dwellings and new non-residential developments in Merton and therefore falls within the scope of development and use of land relevant to Merton's local development documents as set out in s17 (3) of the Planning and Compulsory Purchase Act 2004 and the clarifications provided in s55 of the Town and Country Planning Act 1990. While a gas boiler is usually located on the interior of the building, it is required to connect to the gas network externally and is therefore not limited to the interior of the building.
- 3.55. In addition, Section 19 (1A) of the Planning and Compulsory Purchase Act 2004 states that Development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change.
- 3.56. Chapter 14 of the NPPF also requires plans to take a proactive approach to mitigating and adapting to climate change and to help increase the use and supply of renewable and low carbon energy and heat.
- 3.57. Policy CC2.4 is justified by our climate change evidence. All buildings in Merton will need to operate at net-zero carbon by 2050 in order to achieve our national and local climate change commitments ([2D1 Merton Climate Strategy and action plan 2020](#)). A building which operates at net-zero carbon does not burn fossil fuels, has ultra-high energy efficiency and is 100% powered by renewable energy ([2D9 London Energy Transformation Initiative LETI Climate emergency design guide 2020](#), [2D11 Committee on Climate Change "UK Housing fit for the future? 2019](#), [2D12 Towards Net Zero Carbon – achieving greater carbon reductions on site, the role of carbon pricing 2019](#)). In order to minimise Merton's future retrofit burden and achieve our carbon reduction target as cost effectively as possible all new development should be designed to be fossil-fuel free. Further justification is provided in paragraphs 2.4.2 – 2.4.7:

*2.4.2 Low carbon heat is an essential component of our roadmap to net-zero carbon given that heat accounts for a third of the UK's greenhouse gas emissions [11] [21]. BEIS' Clean Growth Strategy emphasized that a fundamental shift away from fossil fuels for heating is required, alongside reductions in energy demand through energy efficiency [27]. In 2015, the Energy Technologies Institute estimated that 20,000 households per week would need to be switched from gas to low carbon heating between 2020 and 2050 in order to bring emissions from the UK's existing housing stock to near zero carbon [28].*

*2.4.3 98% of homes in Merton use gas as their primary source of heating. All buildings in Merton must be gas free by 2050 in order to achieve our carbon reduction target, unless the Government plan to supply a low carbon gas through the gas grid [1]. There is increasing interest in the use of hydrogen and biomethane as low carbon alternatives to gas [27], but insufficient evidence is currently available to demonstrate that either of these are credible options for wide-scale decarbonisation of heat in the short term [29] [30] [12] [31].*

*2.4.4 Low carbon heating generally requires different space heating design standards to gas heating as the former tends to operate most effectively using a low temperature system whereas the latter operates at high temperatures [10]. A building typically has a lifespan longer than 30 years, so any new building which is designed*

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and built to use a high temperature heating system will require retrofit to move to a low carbon system before 2050.

2.4.5 In their 2019 study [10] on the costs and benefits of tighter energy efficiency standards, Currie & Brown demonstrated that delayed action in decarbonising heat would have a significant carbon impact: each year of delay in adopting lower-carbon heat technologies could result in several million tonnes of avoidable carbon emissions. They found that a home built to use gas heating in 2020 which is retrofitted to use a heat pump in 2030 can be expected to emit over three times more carbon over 60 years than if the heat pump was installed from the start, as the house would have originally been built to different space heating design standards.

2.4.6 The costs of installing low carbon heat as a retrofit are also between three and ten times higher than delivering them in a new building [10]. The Clean Growth Strategy highlighted the importance of ensuring that all new homes can accommodate low carbon heating in order to avoid the need for expensive retrofit further down the line. In their 'UK Housing: Fit for the Future?' report (2019), the CCC concluded that no new homes should be connected to the gas grid from 2025 at the latest, with ultra-low energy homes using low carbon heat instead [11].

2.4.7 In order to drive the decarbonisation of heat in Merton and minimise the retrofit burden, Merton Council requires all new development to use low carbon heat efficiently. Any development that proposes to use gas-powered systems will need to provide robust justification to satisfy Merton Council that low or zero carbon systems cannot be used, to set out how the development has been future-proofed to achieve net-zero carbon by 2050, and to demonstrate that the gas-powered system is credibly being used as a stepping stone towards this objective. No gas boilers can be installed in new dwellings or new non-domestic residential development from January 2023.

**Q26. Does Policy CC2.4, insofar as it relates to the installation of heat pumps, achieve consistency with the Framework firstly, in terms of ensuring that a high standard of amenity is achieved for existing and future users of sites, particularly in terms of any potential noise impacts<sup>38</sup>; and secondly, in terms of whether such installations would be sympathetic to local character and history, including the surrounding built environment and landscape setting, whilst not discouraging appropriate innovation and change<sup>39</sup>?**

Council response:

- 3.58. With the following proposed modifications, Policy CC2.4 achieves consistency with the NPPF in terms of requiring careful consideration of impacts on amenity and local character and history.
- 3.59. Paragraph 2.4.20 sets out requirements to provide careful consideration of how sustainable energy measures (including heat pumps) may be incorporated without adversely impacting on the character, function and preservation of a

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<sup>38</sup> Per paragraph 130(f)

<sup>39</sup> Per paragraph 130(c)

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specific area or asset, in accordance with the policies on design in the Plan. No proposed changes here.

- 3.60. Impacts on amenity, including noise impacts, are already addressed in Design Policies D12.3 (g) and D12.4 (g), and Pollution Policy P15.10. A new paragraph is proposed after paragraph 2.4.14 to make reference to these policies and to highlight the requirement to mitigate any impacts on amenity. [12D2 Merton's Small Sites Toolkit 2021](#) also gives guidance on mitigating potential noise impacts.

#### Proposed Additional Modification

##### AM2.9a:

New Paragraph – Where heat pumps are proposed developers will also need to ensure that living conditions of existing and future occupiers of the proposed development and neighbouring properties are not unduly diminished from visual intrusion, noise or vibrations in line with Design Policies D12.3 (g) and D12.4 (g), and Pollution Policy P15.10.

**Q27. How would Policy CC2.5 (a) and (b)'s requirements for all development “to prioritise the reuse and retrofit of existing buildings”, and for “design for durability, flexibility, easy disassembly and limiting needs for repair and replacement” be assessed achieved in practice? Would a failure to demonstrate these aspects amount to reasons for refusal of planning permission? Would aspects of the policy<sup>40</sup> be effective given the permitted development rights which exist relating to demolition?**

##### Council response:

- 3.61. Policy CC2.5 (a) is only relevant for developments involving existing buildings. In the relevant planning applications to which Policy CC2.5 (a) applies, the decision maker may choose to request additional information or refuse permission if the information provided did not demonstrate that this policy had adequately been complied with. It will be for the decision maker to weigh the benefits.
- 3.62. In cases where a developer is proposing to demolish and rebuild (particularly where an applicant is proposing to demolish a single dwelling to build a new single dwelling which doesn't contribute to Merton's housing provision), applicants will be expected to demonstrate the need for demolishing and rebuilding and to achieve best practice embodied carbon targets.
- 3.63. As set out in policy CC2.5 (e) and paragraphs 2.5.9 - 2.5.13, the council will require all proposals resulting in the creation of 30 or more dwellings or 1000sqm or more non-residential GIA, and all development proposing to demolish and rebuild a single dwelling, to undertake and submit a Whole Life-Cycle Carbon Assessment proportionate to the scale of development. This policy will also apply in cases where a substantial amount, but not all, of the original building is demolished and rebuilt (for example, where the original façade is required to be retained).

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<sup>40</sup> And the considerations set out in paragraphs 2.5.12 and 2.5.13 of the Plan

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- 3.64. With regard to the effectiveness of the policy in the context of permitted development rights, the policy would only be enforced where planning permission is required. It is our understanding that planning permission is required to demolish residential development.
- 3.65. The following modification is proposed to policy CC2.5 to improve the effectiveness of the policy.

#### Proposed Modification

##### MM2.3:

### **Minimising Waste and Promoting a Circular Economy**

~~Merton Council will require all~~ All development proposals ~~to should~~ adopt a circular economy approach to building design and construction, and be designed for durability, flexibility and easy disassembly, to reduce waste, to keep materials and products in use for as long as possible, and to minimise embodied carbon. This will be achieved by requiring:

#### **All development:**

- a. To prioritise the reuse and retrofit of existing buildings wherever possible before considering the design of new buildings.
- b. ~~To be designed for durability and flexibility as well as easy disassembly and reuse to minimise waste during the 'in-use' and 'end of life' phases of the development. Building shape and form should be designed to minimise embodied carbon and limit the need for repair and replacement.~~
- c. To ensure resource efficiency and reduce embodied carbon emissions by sourcing and prioritising materials that can easily be maintained, repaired and renewed across the development lifetime. Building shape and form should be designed to minimise embodied carbon and limit the need for repair and replacement.
- d. To minimise the environmental impact of materials by specifying sustainably-sourced, low impact and re-used or recycled materials; this should include identifying opportunities for the retention and reuse of existing materials on site (e.g. re-using demolition material on site). Materials should be locally-sourced wherever possible to minimise transport emissions.

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**Q28. When compared to the London Plan<sup>41</sup>, Policy CC2.5€ seeks to extend the requirement for submission of a Whole Life-Cycle Carbon Assessment to smaller scale development proposals:**

**Q28a. what is the justification for this?**

Council response:

3.66. The justification for policy CC2.5 € is set out in paragraphs 2.5.9 to 2.5.13.

*2.5.9 The Mayor requires all referable schemes to undertake a Whole Life-Cycle Carbon Assessment in line with the GLA's Whole Life-Cycle Carbon Assessment Guidance 2020, or equivalent. All major schemes are also encouraged to undertake whole-life cycle carbon assessments under the London Plan. In order to drive a reduction in whole life-cycle carbon emissions in Merton's building stock and to develop a better understanding of whole life-cycle carbon emissions associated with development in the borough, Merton Council will require all schemes resulting in the creation of 30 or more dwellings or 1000sqm or more non-residential GIA to undertake a Whole Life-Cycle Carbon Assessment.*

*2.5.10 Historically, Merton has received a large number of applications for the substantial or total demolition of a single dwelling house and rebuild as a single dwelling. Such proposals are typically driven by design, intensification or lifestyle rather than on the grounds of structural instability.*

*2.5.11 All such proposals outside of structural instability are considered a highly inefficient use of resources and materials and contrary to the principles of sustainable development and the circular economy. Even where proposals are deemed to result in an improvement of 'in use' energy consumption, the embodied carbon footprint of whole scale demolition and rebuild means that any environmental benefits are unlikely to be realised in the long term.*

*2.5.12 The council therefore requires all proposals to demolish and rebuild a single dwelling to submit a Whole Life-cycle Carbon Assessment proportionate to the scale of development. Developers will be required to demonstrate that the development has been designed and delivered in accordance with the principles of a circular economy to minimise embodied carbon.*

*2.5.13 This policy will also apply in cases where a substantial amount, but not all, of the original building is demolished and rebuilt (for example, where the original façade is required to be retained).*

3.67. As stated extensively in Merton's housing evidence, including [Document 11D6 Merton's Housing Delivery Study](#), land ownership in Merton is fragmented, the borough has previously developed land with high land values, resulting in Merton being strongly characterised by small development sites. Paragraph 4.20 of [11D6 Merton's Housing Delivery Study](#) states that 97% of the planning applications approved in Merton over the last 15 years were for small sites, accounting for 62% of all housing completions during the same 15-year period. More recently, during the last five years (2017/18 to 2021/22) there were 79

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<sup>41</sup> At paragraph 9.2.11



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schemes in Merton which were granted planning permission to demolish one house and build another in its place (so no net gain of homes despite development). In the same time period there were only 21 schemes where planning permission was granted for the development of 30 homes or more. Merton's development characteristics justify the policy approach set out in CC2.5(e.) requiring Whole Life Cycle Carbon Assessments for smaller scale developments.

**Q28b. Is the requirement for such an assessment included in the Council's list of local information requirements?**

Council response:

3.68. This requirement will be included in the Council's validation checklist once the new Local Plan has been adopted.

**Q28c. Would it be clear to a decision taker from such an assessment whether whole life-cycle carbon savings have been 'maximised' – and would the policy provide an effective basis for development management decisions in these terms?**

Council response:

3.69. To ensure that the decision taker understands how this policy will be assessed and that the policy is effective for development management decisions, we propose the following main modification; this wording aligns with [0D32 the London Plan](#) Policy SI2 (F).

Proposed Modification

MM2.4:

e. To undertake a Whole Life-Cycle Carbon assessment proportionate to the scale of development and demonstrate ~~that whole life-cycle carbon savings have been maximised~~ actions taken to reduce life-cycle carbon emissions.

**Q29. Have the implications of Policy CC2.5 (and the related supporting text<sup>42</sup> relating to the use of building materials) on the deliverability and viability of tall buildings been assessed, and is it clear that the Plan would be effective and positively prepared in these terms as a result?**

Council response:

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<sup>42</sup> At paragraph 2.5.3

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- 3.70. No, the implications of Policy CC2.5 relating to the use of building materials have not been tested for tall buildings (defined in the Local Plan as over 6 stories or 21 metres). The language in policy CC2.5 requires the applicant to 'prioritise' and 'identify opportunities to' reuse and retrofit and sustainable materials where possible, but doesn't require it.
- 3.71. Applicants will be expected to take a whole building approach. In some cases materials with higher embodied carbon may be required for particular aspects of the building, but we would still expect developers to consider low carbon options where possible. This approach aligns with [0D32 the London Plan](#) Policy SI7 Reducing waste and supporting the circular economy.

**Q30. For the purposes of Part G (4) of the Building Regulations “new dwelling” does not include dwellings that are formed in buildings which contain at least one dwelling, and thereafter contain a greater or lesser number of dwellings than they did previously<sup>43</sup> (i.e residential sub-divisions or amalgamations). Consequently, is the optional water efficiency requirement expressed in criterion I of Policy CC2.6 and paragraph 2.6.9 justified insofar it relates to *all* residential developments? Might MMs be needed in this regard, to ensure the effectiveness of the policy as a basis for securing enforceable and reasonable planning conditions?**

Council response:

- 3.72. As per Paragraph 014 of 'Housing: optional technical standards', DCLG, 27 March 2015, where there is a clear local need, local planning authorities can set out Local Plan policies requiring new dwellings to meet the tighter Building Regulations' Optional Requirement.
- 3.73. Paragraph 9.5.2 of the [0D32 the London Plan](#) specifies that An important aspect of avoiding the most severe water restrictions is to ensure that leakage is reduced and water used as efficiently as possible. The Optional Requirement set out in Part G of the Building Regulations should be applied across London.
- 3.74. Policy SI5 I of the London Plan specifies that:
- Development proposals should: 1) through the use of Planning Conditions minimise the use of mains water in line with the Optional Requirement of the Building Regulations (residential development), achieving mains water consumption of 105 litres or less per head per day (excluding allowance of up to five litres for external water consumption)*
- 3.75. Policy CC2.6 I of the Local Plan therefore requires that all residential development, including new build, change of use and conversions (i.e., amalgamations and subdivisions), will be required to meet a minimum internal water efficiency of 105 litres per person per day.
- 3.76. In addition, Merton has been implementing this target for all new dwellings, including subdivisions and amalgamations, without notable push-back from

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<sup>43</sup> Per regulation 5 (g) of the Building Regulations

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developers since the adoption of Merton's current [Core Strategy in 2011 \(submitted document 0D27\)](#).

**Q31. Is Policy CC2.6's requirement for major residential developments to achieve a minimum BREEAM Domestic refurbishment rating of 'excellent' justified, is it consistent with national policy on technical standards?**

Council response:

- 3.77. Please note, Policy CC2.6 (d) only relates to major conversions or change of use applications resulting in the creation of 10 or more new dwellings, not major new build residential development, as set out below:

*d. Requiring all conversions and changes to the use of existing buildings resulting in the creation of 10 or more new dwelling(s) to achieve a minimum BREEAM Domestic Refurbishment rating of 'Excellent' or equivalent.*

- 3.78. Yes, this policy is justified in paragraphs 2.6.1 to 2.6.3 which explain the breadth of BREEAM and its role in achieving a holistic approach to sustainable design and construction.

*2.6.3 The BREEAM Domestic Refurbishment standard provides a recognised scheme and methodology by which conversions and change of use can demonstrate their adherence to sustainable design and construction methodologies. Merton Council therefore requires all major schemes resulting in the creation of 10 or more new dwellings through the conversion or change of use of existing buildings to achieve a minimum BREEAM Domestic Refurbishment rating of 'Excellent' or equivalent. In particular, this scheme will help drive energy efficiency improvements across Merton's existing building stock through its post-refurbishment Energy Efficiency Rating requirements.*

- 3.79. As set out in Paragraph 001 of the Climate Change PPG (reference ID 6-001-20140306), *there is a statutory duty on local planning authorities to include policies in their Local Plan designed to tackle climate change and its impacts. This complements the sustainable development duty on plan-makers and the expectation that neighbourhood plans will contribute to the achievement of sustainable development. The National Planning Policy Framework emphasises that responding to climate change is central to the economic, social and environmental dimensions of sustainable development.*
- 3.80. Merton is trying to achieve a holistic approach to sustainable design & construction and BREEAM currently provides this standard. Indeed, in paragraph 9.2.7 of the [0D32 the London Plan](#), Boroughs are encouraged to include BREEAM targets in their Local Plans where appropriate.

**Q32. Are Policy CC2.6's requirements for BREEAM 'excellent' for non-residential buildings justified, and have the viability implications of this requirement been taken into account?**

Council response:

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3.81. Yes, Policies CC2.6 (e and f) are justified in paragraphs 2.6.1 to 2.6.4 and have been tested as part of 11D7 Merton's Housing Viability Assessment for mixed used developments with commercial and residential elements (11D7). This target also aligns with Policy SI5 (C.2) of the OD32 the London Plan which requires commercial development to achieve at least the BREEAM excellent standard for the 'Wat 01' water category160 or equivalent.

3.82. As set out in [2D47 Merton's note on viability testing](#), *In the past 5 years, non-residential development in Merton has included everything from a football stadium, to a hotel development, to a mixed-use development comprising a community gym/ retail space, hostel and residential development. Given the range of non-residential developments that could come forward in Merton over the lifetime of this Local Plan, the council will work with applicants towards achieving targets on a case by case basis for non-residential development.*

*Merton's Draft Local Plan Climate Change policies include a provision that if the developer cannot meet the requirement for viability reasons, this will be considered on a case by case basis on the submission of a viability assessment.*

**Q33. Paragraph 2.6.1 sets out further background and justification on the use of BREEAM standards:**

**Q33a. Is it sufficiently clear what "subsequently adopted set of standards"<sup>44</sup> might apply during the plan period?**

Council response:

3.83. Merton is trying to achieve a holistic approach to sustainable design & construction. BREEAM currently provides this standard, but if an equivalent set of standards were introduced and adopted by industry, we would want to use the most up-to-date standards and not let the policy drop away. The policy wording specifies BREEAM "Excellent" or equivalent. We propose the following modification to paragraph 2.6.1 to clarify:

Proposed Additional Modification

AM2.11a:

Using these standards or any subsequently adopted set of national sustainable construction standards equivalent to those set out in the policy, will assist in the delivery of a number of the policies covered in the Local Plan including the Transport, Green Infrastructure and Climate Change policies.

**Q33b. Given the apparent lack of certainty would the Plan be justified in its stance on this issue, particularly when viability implications of an unknown future standard would be difficult to assess at this stage?**

Council response:

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<sup>44</sup> As referred to in paragraph 2.6.1

- 3.84. Yes, these BREEAM requirements are justified in light of response to question 33(a) above and proposed additional modification AM2.11a. We would expect any subsequently adopted standards to be equivalent; these are not intended to be markedly different but rather an opportunity to stay up-to-date with latest industry standards. In the circumstances where the new set of standards was substantially different, this would need to be picked up as part of a local plan review.

**Q33c. Are there any circumstances where an update or change to national standards might justify updates to the Plan, and should this be reflected in the monitoring framework in the interests of effectiveness?**

Council response:

- 3.85. Yes, as per our response to question 33(b) above, there may be circumstances where the new set of standards is substantially different where this would need to be picked up as part of a local plan review. We propose to add this to the Local Plan monitoring requirements in Table 19.1 Local Plan monitoring framework in Chapter 19 of the Local Plan.

Proposed Modification

MM19.1:

<u>Thematic area</u>	<u>Monitoring indicator</u>	<u>Target (if applicable)</u>
<b><u>BREEAM</u></b>  <u>To achieve a holistic approach to sustainable design and construction.</u>	<u>Monitoring changes to industry standards for sustainable design and construction.</u>	<u>Monitoring and updating the Local Plan as required.</u>

Overheating

**Q34. Strategic Policies CC2.1, D12.1, and Policies D12.2, D12.3, D12.6, together with supporting text set out the Plan's approach to overheating. The Framework makes clear<sup>45</sup> that plans should take a proactive approach to mitigating and adapting to climate change, taking into account the risk of overheating. However, recent updates to the Building Regulations<sup>46</sup> introduce an overheating mitigation standard relevant to the construction of new homes. National policy expressed in the 'Housing Update' WMS<sup>47</sup>, indicates that the "new overheating**

<sup>45</sup> At paragraph 153

<sup>46</sup> Part O

<sup>47</sup> Of 15 December 2021 <https://questions-statements.parliament.uk/written-statements/detail/2021-12-15/hcws495>

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**standard is a part of the Building Regulations and is therefore mandatory, so there will be no need for policies in development plans to duplicate this." In the light of these considerations, are the Plan's policies relating to overheating consistent with national policy?**

Council response:

- 3.86. Yes, the Plan's policies relating to overheating are consistent with national policy.
- 3.87. Paragraph 153 of the NPPF states that Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures. Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and infrastructure.
- 3.88. As set out in paragraph 12.3.29 of the Local Plan, 20% of homes in England currently overheat even in cool summers and annual UK heat-related mortality is projected to increase from a current baseline of 2,000 heat-related deaths per year to 5,000 per year by 2050. Within London, the challenges of overheating are intensified by the urban heat island effect – caused by the absorption and retention of heat in built-up urban areas.
- 3.89. As per paragraph 0.3 of Part O of Building Regulations 2021, the guidance in this approved document applies to new residential buildings only. The new overheating mitigation standard introduced by Part O therefore does not apply to new dwellings resulting from the change of use or conversion of an existing building, and non-residential buildings, which are typical to Merton. These types of developments are also at risk and in some cases increased risk of overheating (e.g., where insulation has been added to existing buildings without appropriate ventilation). We will therefore maintain this requirement for all development to mitigate the risk of overheating.
- 3.90. The design and climate change policies require all development to mitigate the risk of overheating and to demonstrate that this risk has been mitigated, but do not specify how this should be achieved. Therefore, given the new Part O requirements, for new residential buildings developers would need to meet the requirements of Part O, but developments resulting from the change of use or conversion of an existing building and non-residential developments, would need to demonstrate that the risk of overheating has been mitigated separate to this. We are therefore not proposing to make any changes to our design and climate change policies with regard to overheating.



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## Matter 3 – Appendix 1

- [25] Bioregional, Etude, Currie & Brown, “Greater Cambridge Local Plan: Net Zero Carbon Evidence Base. Task D - Technical Feasibility,” May 2021. [Online]. Available: Feasibility study

[https://consultations.greatercambridgeplanning.org/sites/gcp/files/2021-08/NetZeroTechnicalFeasibility\\_GCLP\\_210831.pdf](https://consultations.greatercambridgeplanning.org/sites/gcp/files/2021-08/NetZeroTechnicalFeasibility_GCLP_210831.pdf).

- [26] Bioregional, Etude, Currie & Brown, Mode, “Greater Cambridge Net Zero Carbon Evidence Base Non-technical summary,” August 2021. [Online]. Available:

<https://consultations.greatercambridgeplanning.org/sites/gcp/files/2021-09/Greater%20Cambridge%20Local%20Plan%20Net%20Zero%20Carbon%20Evidence%20Base%20-%20Non%20Technical%20Summary%20FINAL.pdf>.