

Examination of the Merton Local Plan

Changes to National Policy

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Inspectors appointed by the Secretary of State

Dear Ms Butler,

Preamble

1. The Department for Levelling Up, Housing and Communities published the latest version of the National Planning Policy Framework (the Framework) on 19 December 2023 alongside a number of other related documents including the updated Housing Delivery Test (HDT). The following sets out what additional actions may be required as a result of these updates. Where relevant we will make reference to the Written Ministerial Statement of 19 December 2023 “The Next Stage in Our Long Term Plan for Housing Update” (the WMS), which accompanied the publication of the revised Framework. Other than in paragraph 2 below, references to the Framework in the rest of what follows are to the pre-December 2023 version.

The Framework

2. The latest version of the Framework is clear (at paragraph 230) that its policies will only apply to plans that are published for Regulation 19 consultation after 19 March 2024. Consequently, the previous version of the Framework remains the basis of our examination and no further action will need to be taken in respect of the main modifications as a result of the publication of the December revision. We will refer to this matter in a covering note that we will produce to accompany the main modifications consultation.

Planning Policy for Traveller Sites

3. A revised version of the government’s Planning Policy for Traveller Sites (PPTS) was published on 19 December, which makes alterations to the planning definition of the terms ‘gypsies and travellers’ and ‘travelling showpeople’. The change now brings within the scope of the PPTS those travellers who have ceased to travel temporarily or permanently on the grounds of their own, their families’ or dependents’ educational or health needs or old age. Unlike the transitional arrangements pertaining to the Framework, the PPTS is a relevant consideration in plan examinations from the day of its publication as is made clear in the WMS. This is a considerable

material change from the point at which we originally suggested the scope of main modifications relating to the Plan's approach to Gypsy and Traveller accommodation.

4. In contrast to that former position, the recent definitional change could mean that the Plan, as drafted, is inconsistent with the revised PPTS insofar as it expects a robust evidence base to establish the accommodation needs for the broader range of households that are now captured by the definition (per paragraph 7). In addition, the Merton Gypsy and Traveller Accommodation Assessment (document reference 11D9) (the GTAA) is now of an age where it may be at risk of being overtaken by events (per paragraph 1.12 of the Planning Inspectorate's 'Procedure Guide for Local Plan Examinations') - indeed one such event is the PPTS update itself.
5. Moreover, considerations before us prior to the definitional change led us to the view that non-PPTS needs should be assessed and reflected in planning policies (per paragraph 62 of the Framework), but that they need not necessarily be addressed by specific allocations. Indeed, the Plan contains no allocations to meet the need for 6 pitches identified in the GTAA, as the households which it relates to were deemed to fall outside the superseded PPTS definition.
6. However, in the light of the broader definition of Gypsies and Travellers, this lack of allocations taken together with the GTAA's finding that the identified needs are relevant to the 2019-2024 period, mean that the Plan's approach would now appear inconsistent with PPTS (paragraph 8). This expects Councils through the production of local plans to identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against locally set targets. We reach this view in the absence of any specific information available to the examination which would demonstrate that the identified needs have been, or are to be, met through planning permissions or other measures.
7. Moreover, in undertaking the examination we must discharge the public sector equality duty as set out in the Equality Act 2010 s149, which requires us to have due regard to the need to eliminate discrimination, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it, and foster good relations between persons who share a relevant protected characteristic and those who do not share it. The Council as a public authority is also subject to the public sector equality duty in the exercise of its functions. In light of this duty, taken together with the change to PPTS, we consider that there is a risk that the policy and main modifications as drafted would fail to advance equality of opportunity due to the lack of allocations to meet the GTAA's identified need, when compared to the approach to identifying sites to provide bricks and mortar housing.

8. For the above given reasons, we are of the view that further alteration is now required to Policy H11.6 in order for the Plan to be positively prepared insofar as seeking to meet the area's objectively assessed needs is concerned, to achieve consistency with the revised PPTS definition, and to address our concerns relating to equality matters.
9. It is likely that to be compliant with the PPTS, as revised, the Council would now need to update the GTAA in the light of the definitional change. Should a revised GTAA identify needs, it would then form the baseline for a site search exercise to inform whether any allocations could be made to accord with the PPTS's expectations (paragraph 10). Nevertheless, these actions would be time-consuming at this very advanced stage of the examination and further delay adoption of the Plan. Extension of the examination to facilitate such actions may also have knock-on effects on other aspects of the Plan, potentially meaning that elements of its wider evidence base might have to be updated.
10. Against this background, it is important to emphasise that the Secretary of State expects Inspectors to conduct examinations in a pragmatic manner. This expectation is set out in letters from Secretaries of State to the Planning Inspectorate, which "recognise the real value in getting a Local Plan in place at the soonest opportunity, even if it has some shortcomings that are not critical to the whole plan" ('Local Plans' Letter from the Secretary of State to the Chief Executive of the Planning Inspectorate 21 July 2015); and point to the "need to work pragmatically with councils towards achieving sound plans" (Letter from the Secretary of State to the Chief Executive of the Planning Inspectorate 18 June 2019).
11. Taking these considerations together, we are of the view that main modifications to Policy H11.6 should include a time-bound commitment to refresh the GTAA, taking into account the updated PPTS. Should the updated GTAA identify needs, it would inform a site search exercise, using the criteria-based policy in the Plan as a basis for assessment (per paragraph 11 PPTS). Both of these actions will inform whether updates to the Plan are required in this respect. If main modifications along these lines were to be taken forward, consequential modifications to the monitoring table would be needed, which would clarify how an update to the Plan would be triggered.
12. We would value your comments on the above, and should the broad approach in paragraph 11 be acceptable we will work with you to draft the final version of the main modifications.

Housing Delivery Test

13. The implications of the latest HDT for Merton are that the 20% buffer should be applied to the 5 year supply of housing sites. As we were conducting the examination up to this point on the basis that a 20% buffer should be applied

as a result of the previous HDT, we consider that this does not constitute a material change or that any other actions are required as a result of this update.

London Housing Delivery

14. The WMS refers to actions that the Secretary of State intends to take in respect of housing delivery in Greater London. In addition, a letter from the Secretary of State to the Mayor of London on this topic accompanied the publication of the WMS, and is available here:
https://assets.publishing.service.gov.uk/media/65816753fc07f300128d4429/18122023_SoS_DLUHC_to_Mayor_of_London_-_housebuilding_in_London.pdf. We would welcome any brief comments that you may wish to make on these matters.

Closing

15. We would welcome your responses on the matters indicated above as soon as is practicably possible. If anything in the above is unclear please do not hesitate to contact us.

Yours sincerely,

R J Aston

G J Fort

INSPECTORS