LBM34 Equality and Diversity Impact Assessment (EDIA) for draft Local Plan proposed Main Modifications (post hearings)

January 2024



#### 1. Introduction

- 1.1 Merton Council submitted the borough's Local Plan (hereby referred to as the 'Plan') to the Secretary of State for examination on 2<sup>nd</sup> December 2021. An EDIA was prepared alongside the submission Local Plan (<u>0D10</u>) and in May 2022 (<u>LBM07</u>) following the Inspector Matter and Issue Questions (<u>INSP03a</u>).
- The Examination in Public Hearings stages was held in June and October 2022. Since the Hearings the council received a Post Hearing Letter (INSP22) (regulation 35) dated March 2023 and Post Hearing clarification letter dated April 2023 (INSP23) from the Planning Inspectors, as a result, the council is proposing Main Modifications (MMs). The Inspectors consider that further MMs are necessary for soundness.
- The purpose of this EDIA is to determine whether these further proposed MMs will have a negative impact on any Protected Characteristics. The proposed MMs relate to the following principal changes:
  - Changes for clarity and improve readability.
  - To ensure the 'Soundness' of the Plan.
  - Considerations raised by the Planning Inspectors for example previously proposed Additional Modification (AM) to be changed to Main Modifications.
- This EDIA has been undertaken with regard to the <u>Equality Act 2010</u>, <u>Public Sector Equality Duty</u> and with regard to the EDIA decision making criteria set out in the submission EDIA. (see Appendix figure A1).

### 2. Equality Act 2010

- 2.1 The Equality Act 2010¹ brings together over 116 separate pieces of legislation into one Act, making the law easier to understand and strengthening protection; and sets out the different ways in which it is unlawful to treat someone. Before the Act came into force there were several pieces of legislation to cover discrimination.
- The Act introduces a '**Public Sector Equality Duty**'. It was developed to harmonise the equality duties and to extend the Equality Act across nine protected characteristics. It consists of a general equality duty, supported by specific duties, which are imposed by secondary legislation, and replaces the race, disability and gender equality duties.

<sup>1</sup> www.legislation.gov.uk/EqualityAct2010

- At the decision-making stage local authorities must assess how changes to polices and service delivery will affect different people. In 2011, the Act extended protection against discrimination to nine 'Protected Characteristics'- which includes the following:
  - Age
  - Disability
  - Sex/Gender
  - Race

- Religion
- Sexual Orientation
- Gender Reassignment

- Marriage and Civil Partnership
- Pregnancy and Maternity.

Figure 1: The main principles of the Act are equality, diversity and inclusion.

Principle	Definition
Diversity	Diversity is about the ways in which people differ. These differences should be recognised, celebrated and treated as a natural part of society.
Equality	Equality is a natural extension of diversity and is, based on the idea of fairness, whilst recognising that everyone is different.
Inclusion	Inclusion means that all people, regardless of their abilities, disabilities or health care needs, have the right to be respected and appreciated as valuable members of their communities.
inclusion	Diversity refers to the traits and characteristics that make people unique, while inclusion refers to the behaviours and social norms that ensure people feel welcome.

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## 3. Proposed Modifications summary

This section provides a summary of the proposed MMs at this stage. This EDIA relates to the Schedule of the MMs LBM29 (January 2024).

#### **Screening of Proposed Main Modifications (MMs)**

- 3.2 MMs are material changes to the submitted plan which are necessary to make it *sound* and *legally compliant*. The council has screened the proposed MMs to determine if they significantly affect the findings of the submission Report and if further appraisal work is required. The proposed changes and findings of the screening including the rationale for screening *'out'* (no implication for the submission EDIA findings) or screening *'in'* (assessment required). The full assessment findings are provided in Appendix A of this report.
- Overall, most of the MMs involve relatively minor changes for reason of soundness. This meant adding clarification or enhance readability or updating information already presented in the Plan. The screening of the proposed MMs found that there is no significant effect on the findings of previous EDIA work presented in the submission Report (including updates carried out at various stages of the Plan's development, were needed). This is because the changes do not fundamentally alter the direction of the Plan, its aims or objectives, but are proposed on the ground of soundness.

#### **Proposed Modifications summary**

This section provides a summary of the proposed MMs. As reported earlier in this report it is focused on the MMs the council are making to the Plan, relating to the Hearings (June and October 2022), discussions and communications, between the council after the Hearings with the Inspectors for example the Post Hearing Letter(s).

#### Additional Modifications moved to Main Modification

The Inspectors letter recommended that a number of Additional Modification proposed by the council should be Main Modification due to the weight of the change and/or edit. The council has excepted these recommendations. It should be noted the alterations do not change the direction of the Plan.

#### Site allocations

The council is proposing modification to a few site allocations. These are triggered by changes elsewhere in the Plan, for example, modifications to policy D12.6 building heights; this in turn has led to MMs for some site allocations. Other MMs have been made to provide clarity and improve readability with the aim to set out clearly, the council's expectation for each site, its role for delivering housing (where applicable) and its contribution to growth. A significant site allocation change is site allocation Wi3. Initially, the council was proposing a large site area incorporating part of Wimbledon Park.

However, following comments made by the Planning Inspectors in the Post Hearing letter, the council is now, proposing a smaller site allocation boundary area excluding the park and creating a policy to cover the part of Wimbledon Park that lies within the London Borough of Merton.

#### Plan period

- The council is proposing a change to the Plan period to improve accuracy, ensure 'Soundness' and complying with the NPPF (para 22) requirements. The council is proposing MM1.1 to change the plan's development period this is due to the length of time between key stages taking long. At submission stage the plan's period was 2021/22-2035/36. The proposal is for the Plan to cover the years 2021/22 2037/38. This is in keeping with NPPF requirements.
- 3.9 NPPF paragraph 22 states that:

  Strategic policies should look ahead over a minimum 15 year period from adoption15, to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure.
- 3.10 Paragraph 61 (NPPF) states:

To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.

- The proposed MM throughout the Plan will improve accuracy, ensure 'Soundness' and complying with the NPPF (para 22) requirements, to produce a 15 year Plan. The proposed changes to the Housing Trajectory reflect this change and adds an additional 2 years for housing delivery.
- The council does not believe there are any 'likely significant effects' due to the Plan period changing as it is in keeping with the NPPF requirement to produce a development plan. However, what may have an effect is the proposed housing delivery stepped approach illustrated in the housing trajectory (Appendix A). It covers a 17 years 2 addition year and over the Plan period.
- Merton's housing target is 9,180 homes for the ten-year period 2019/20 to 2028/29 or 918 homes per annum. This is based on a detailed analysis of land availability and capacity across London that Merton worked with the GLA and all other London boroughs. In recognition of the significant increase in housing delivery required by these targets, the London Plan states at paragraph 4.1.10, that these may be achieved gradually and encourages boroughs to set a realistic and where appropriate, stepped housing delivery target over a ten-year period.

- London Plan paragraph 4.1.11 states that if a target is needed beyond the 10-year period (2019/20 to 2028/29), boroughs should draw on the 2017 Strategic Housing Land Availability Assessment (SHLAA) findings which covers a period up to 2041. In addition, any local evidence of identified capacity, in consultation with the GLA and take into account any additional capacity that could be delivered as a result of any committed transport infrastructure improvements and rolling forward the housing capacity assumptions applied in the London Plan for small sites.
- The council is proposing taking a stepped approach to deliver housing covering 2021/22 2037/38 in line with London Plan requirements. This approach should deliver a minimum of 12,084 additional homes as set out below. Therefore, from 2029/30 to 2032/33 Merton is proposing a total housing target of 3,400 new homes, which is higher than the London Plan SHLAA requirement for 1,896 new homes.

Figure 2: Merton's stepped housing delivery

Year	Target
2021/22	918
2022/23	500
2023/24	450
2024/25	700
2025/26	725
2026/27	775
2027/28	775
2028/29	775
2029/30	1120
2030/31	1200
2031/32	780
2032/33	700
2033/34	474
2034/35	548
2035/36	548
2036/37	548
2037/38	548
Total	12,084

- The additional new homes will be delivered by bringing forward housing capacity through Merton Opportunity Area (Morden, South Wimbledon, Wimbledon and Colliers Wood town centres), large scale regeneration project, enabling mixed use development within the town centres, bringing vacant properties back into use through Merton's empty homes strategy and preparing masterplans, development briefs and design guidance for larger housing sites for example. The council believes this is an appropriate approach to take to ensure deliver of new homes for Merton.
- A reason for taking this action is due to changes in the expected delivery of some our large-scale development in the borough. For example, the demolition of 748 homes for the Estates Regeneration (three housing estates in Mitcham, Morden and South Wimbledon) before 2029 which means the council cannot deliver the required 9,180 new homes between 2019/20 and 2028/29. The Estate Regeneration is support by the Estate Local Plan which was subject to an EDIA and other assessments (health and environmental).
- It found the plan has a wide range of positive and significant positive effects on the objectives. The Plan has taken on broad the key sustainability issues in a manner that maximises the benefits of sustainability and avoids adverse sustainable impacts not only for the residents on the estates but also the surrounding area (residential and commercial) and the environment both physical and natural.
- The three estates will result in an uplift of over 2,000 new homes. In general, the draft Plan has been found to have a wide range of positive and significant positive effects on the objectives. The Plan has taken on broad the key sustainability issues in a manner that maximises the benefits of sustainability and avoids adverse sustainable impacts not only for the residents on the estates but also the surrounding area (residential and commercial) and the environment both physical and natural.
- Other large sites identified in Merton's housing trajectory are expected to be delivered later than was once assumed during the SHLAA consultation in 2017. Merton's Opportunity Area (designated in the London Plan) is set to deliver 5000 new homes and 6000 jobs (indicative figure up to 2041). An Opportunity Area Planning Framework (OAPFs) will be produced in accordance with London Plan policy SD1 Opportunity Areas. It will be subject to a number of impact assessments such as Health Impact Assessment and environmental assessment for example Sustainability Appraisal and other environmental assessment assessing where deemed necessary guided by planning regulation.

#### Housing development policies

- A modification is proposed to update the minimum housing target requirement set out in strategic policy H11.2 and move the stepped housing trajectory from supporting text, into Strategic Policy H11.2 (Housing Provision) to ensure the Plan is effective. MMs are proposed to update the housing trajectory to:
  - Reflect the latest position on the housing supply pipeline projected over the Plan period.
  - Reflect the latest position on the delivery status of a number of large sites and the phasing programme for the three estates regeneration of Eastfields, High Path and Ravensbury estates.
  - Provide an updated stepped housing target for Merton.

- A modification is proposed to supporting text (para. 11.1.22) to improve the clarity and effectiveness of the Plan concerning the securing of affordable housing monetary contributions from sites proposing 2- 9 new homes. In addition, the council is also proposing a MM to policy H11.6 and its supporting text to address government's new policy direction (December 2023) on Planning Policy for Traveller Sites.

  Viability
- A MM is proposed to strategic policy IN14.1 (Infrastructure) to include requirements that comply with the approach to viability testing, decision making and infrastructure prioritisation as set out in the London Plan policy DF1 (Delivery of the plan and planning obligations). MMs are proposed, to include cross references where relevant to Strategic Policy IN14.1 in other chapters of the Plan e.g. chapter 2 (Climate Change) and chapter 11 (Housing Provision).

Monitoring framework (local plan)

The council is proposing a new policy named Monitoring Framework (chapter 17) the purpose of this policy is to monitor the performance of the Plan and its effectiveness. It also allows the council, to understand whether policies are working as intended. The monitoring period will be implemented from the first year of adoption. The Monitoring Framework table identifies the monitoring indicators which will monitor the effectiveness and performance of the Local Plan. Setting triggers for action and more importantly, when a full or partial review of the Plan would be triggered. The performance and implementation of the policies will be reported in Merton's Authority Monitoring Report (AMR).

Tall buildings clusters and their environments development policies

- 3.25 MMs are proposed to include strategic height diagrams for the Morden Regeneration Zone and Wimbledon town centre, to ensure general conformity with the London Plan. In addition, the term 'taller buildings' has been replaced with 'tall buildings' to provide a clear and consistent terminology throughout the Plan and to better reflect the language of the London Plan policy D9 Tall buildings.
- Other proposed MMs changed references to maximum heights in favour of 'appropriate' heights and require the submission of local Design Guides or Design Codes to allow for appropriate stepping up of storey heights in the environs of both the boundaries of the areas where tall buildings are considered suitable and adjacent to identified clusters, to avoid abrupt transitions. These changes relate to policy D12.6 and the neighbourhood policies and site allocations throughout the Plan.

Green infrastructure development policies and designations

There are proposed MMs for several site allocations, all to provide clarity in the text or update the site allocation maps to show further features such as MOL designations and other green infrastructure adjacent to a site. For example, sitesW5, Mo3 and Wi3. These changes do not affect the findings of the submitted EDIA.

- All proposed changes the Wimbledon Park MOL have now been withdrawn and some minor changes, removing an approximately 200sqm area, are proposed to the SINC and Green Corridor designations within Morden Park, to ensure that the boundaries accurately align with approved and implemented landscaping details and the location of an electrical substation.
- 3.29 MMs are proposed to policy O15.4, which, where appropriate, use the phrase 'trees, hedges and other landscape features' instead of merely 'trees,' thereby improving clarity that other landscape features of amenity and biodiversity value will also be protected, and clarity is also improved with the removal of unnecessary duplicated requirements and matters that are addressed in TPO regulations.

Morden regeneration zone development policy

There are proposed MMs that improve clarity through the provision of a definition and the consistent use of the term 'comprehensive regeneration' and another that also improves clarity, flexibility and deliverability by allowing incremental development proposals on large sites (0.25ha and above) that contribute to the delivery of comprehensive regeneration. The MMs do not affect the total number of units resulting from comprehensive regeneration within the Morden Regeneration Zone (circa 2000 units), which has not changed since the submission EDIA.

Climate change development policies

- Following the adoption of Building Regulation Part L 2021 on 15th June 2022, as part of a consortium of 18 London boroughs, Merton commissioned a consultant to review the 2D12 Towards Net Zero Carbon study (2019) considering changes to Part L. Government released the modelling behind the new Building Regulations in December 2022 which was required for the review. The results of this review were published in the Delivering Net Zero study in May 2023.
- As this study has been published at a later stage during the Local Plan examination, Main Modifications to the council's climate policies are recommended in line with evidence presented in Submitted document 2D12 Towards Net Zero Carbon study (2019), general conformity with the London Plan 2021, the update to Building Regulations Part L and the equivalence in targets set based on 2013 to 2021 Building Regulations.
- 3.33 The examination process evidence has led to the following changes to the climate change policies and supporting text:
  - The minimum onsite carbon reduction targets in policy CC2.2 (c) and supporting text have been updated considering changes to Part L and reflecting general conformity with the London Plan and the Mayor's Energy Assessment Guidance.
  - The Mayor's "Be Lean" requirements in policy CC2.3 (c) and the relevant supporting text have been removed because the updated evidence demonstrated that these targets were challenging to achieve against Part L 2021.
  - Policy CC2.3 (e) has been removed and the latest Energy Use Intensity figures as per the 2023 study are expressed in the supporting text to assist developers in how they might demonstrate that they have made the fullest contribution to minimising energy use.

The MMs across the climate change chapter seek to ensure the supporting text remains in general conformity with the London Plan 2021 and has regard to the GLA's Energy Assessment Guidance, reflecting the change in Part L Building Regulations published in 2022. Modifications have also been proposed within the climate change chapter where these other policies have changed (e.g. Merton's housing targets in policy H11.2 and to the infrastructure prioritisation included in policy (IN14.1); these changes are discussion in the relevant sub heading in this section.

New policy Wimbledon Park development policy – N8.1

- The council is proposing a new policy to cover the whole of Wimbledon Park following discussions that took place during the Hearings and with regard to the 2012 Town and Country Planning (Local Plan) (England) Regulations and NPPF paragraph 190. It should be noted that the policy only covers the part of the Wimbledon Park Registered Park and Garden that lies with the London Borough of Merton as Local Planning Authority.
- As this is a new policy it has not been assessed before. The policy aims to provide for the conservation, enhancement and ongoing management of the registered park and garden, whilst also ensuring that clear support is given for continued long-term investment in AELTC's facilities to maintain its global position as a world class sporting venue of national and international significance. The policy aims to conserve and enhance the historic park and lake, provides opportunities to remove the park from Historic England's Heritage At Risk register, reflects the biodiversity, sporting and recreation activities across all landholdings. The assessment of the policy can be found in figure 2.

Conformity to national and regional planning policies

- The Plan is required to be in conformity and to have regard to the NPPF and the London Plan. The London Plan is legally part of each London borough's Development Plan and must be taken into account when planning decisions are taken in any part of Greater London. Planning applications should be determined in accordance with it, unless there are sound planning reasons (other material considerations) which indicate otherwise. All Development Plan Documents and Neighbourhood Plans must be 'in general conformity' with the London Plan.
- The London Plan seeks to develop an approach tailored for London to reflect the circumstances in the capital and is the key document shaping planning decisions across Greater London region. It provides an appropriate spatial strategy that plans for London's growth in a sustainable way. The London Plan is part of Merton's statutory Development Plan. The policies are written in a way that allows London to implement the ambitions, aims and objectives of the London Plan. There is no requirement for the policies to be repeated at the local level. However, in some instances a local approach is required within the context of the overall policy. The London Plan clearly sets out where this is the case by providing instruction to London boroughs.

- The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally prepared planning plans can be produced. Planning law requires that applications for planning permission be determined in accordance with development planning Plans. It further states, the NPPF must, be taken into account in preparing the development plan (for example Local Plans) and planning policies and decisions must also reflect relevant international obligations and statutory requirements.
- The need for local authorities to be in conformity with national and regional planning policies sets the context of planning policies at a local level. Thus, in turn can limit the reasonable alternative(s) a borough can pursue. Any deviation from national and regional policy must be supported by robust evidence, which shows a just reason for the deviation.
- As part of the Plans development the council has engaged with the Greater London Authority (including Mayoral offices e.g Transport for London) on aspect of the Plan's policy direction and conformity. The GLA have confirmed the Plan is in 'general conformity' with the London Plan. It is the role of the Planning Inspectors to determine if the Plan is in conformity with the NPPF (known as 'Sound') only then can the council adopt it. Once adopted any development proposal in the borough must have regard to all policies requirements and planning application are determined against.

#### 4. EDIA assessment of the Main Modifications

4.0 Only one proposed MM requires an EDIA assessment to determine its impact on the Protected Characteristics, MM9.2d. For this task, the same Scoring Matrix is being used, as before.

Figure 3: EDIA scoring matrix.

Impact	Meaning
Negative	Has a negative impact on an equality group or groups.
Low	Has no impact or difficult to determine how the policy could affect an equality group or groups.
Medium	Has some positive impact on an equality group or groups.
High	Considers the need of an equality group or groups and would have a positive impact.

Figure 4 EDIA Assessment										
Proposed MM	Age	Disability	Sex/Gender	Race	Religion	Sexual Orientation	Gender reassignment	Marriage and Civil Partnership	Pregnancy and maternity	Implications for equality groups
MM112: Policy N9.1 Wimbledon Park										In general the new policy will have a positive impact for all protected groups, for some groups it is difficult to determine how the policy could affect a particular group or groups. It is because the policy aim is to address the reasons why the Grade II* Wimbledon Park is on Historic England's Heritage at Risk Register. In addition to improve public access and support its sporting, recreation, ecological and amenity functions.  However, we did not think the policy and its aims would have a negative impact on any protected characteristics.
Housing stepped delivery approach										The stepped approach for delivering much needed housing above the set London Plan target is a positive for many groups. This policy will assist in delivering affordable and mixed tenure housing.
Plan period										The Plan period is still 15 years as required by the NPPF. The change to the Plan is the new start year covering 15 years. It does not change the aims or objectives of the Plan. Therefore, the prospect of negative impact on any of the groups is low. It is considered there is a slightly positive impact for age as the 15 year plan period will support a longer period of household formation and change.
Policy H11.6 Accommodation for gypsies and travellers										The proposed modifications will have an overall positive impact for many protected characteristics found more often in gypsy and traveller communities, including those of age, disability and race. The main modification is based on the December 2023 government revisions to national planning policies for traveller sites which expands the definition of those who can benefit from this policy to include gypsies and travellers who are not currently travelling (for example, for reasons of ill health or age).

## 5. Conclusion

5.1 The screening of the proposed MMs found that there is no significant negative effect on the Protected Characteristic Groups.

# Appendix A:

Figure A1: EDIA decision making criteria

Figure AT. EDIA decision making chiena	
Equality objectives	Decision making criteria.
Equality and inclusion  To make Merton a fair and inclusive borough where every	Reduce poverty and social exclusion Promote a culture of equality, fairness and respect for people and the environment.
person can take part, reducing inequality and addressing the diverse needs to the population.	Promote an inclusive design approach ensuring a barrier free environment for all, especially disabled people.
	Provide opportunities for residents to, actively take part in borough life, decision making and communities.
	Provide opportunities for all from every background.
Health and health inequalities	Reduce differentials in life expectancy and healthy life expectancy in Merton.
To improve the mental and physical health and wellbeing of residents and to reduce health inequalities across Merton.	Reduce inequalities and improve physical and mental health and wellbeing.
Crime, safety and security  To contribute to safety and security and the perceptions of crime.	Create a travel environment that feels safe to all users during the daytime and night-time including children, women and older people.
Housing supply, quality, choice and affordability	Help to facilitate the delivery of house building that meets the local needs.
To provide a quantum, type, quality and tenure of housing (including specialist and affordable provision) to better meet	Increase the range and affordability of housing.
demographic change and household demand.	Promote accessible and adaptable homes, improving choice for people who require them, including disabled people.
	Provide housing that encourages a sense of community and enhances the amenity value of the community for all.
Sustainable land use	Ensure that high densities development does not adversely impact on, diverse groups of people.
Make the best and most efficient use of land to support sustainable patterns and forms of development.	Promote regeneration and provide benefits for existing communities.
Design	Help to make people feel positive about the area they live in and promote social integration.

To create attractive, mixed-use neighbourhoods, ensuring new	Improve legibility and ease of use of the build environment for disabled
buildings and spaces are appropriately, designed that promote	people (including people with sensory or cognitive impairments).
and enhance existing a sense of place and distinctiveness	people (including people with sensory of cognitive impairments).
reducing the need to travel by motorised transport.	
	Improve accessibility to all public transport modes Increase equality of
To maximise accessibility for all in and around Morton	access to services and facilities.
To maximise accessibility for all in and around Merton.	Improve links between neighbourhoods and communities
To enhance and improve connectivity for all to, from, within	Improve links between neighbourhoods and communities.
	Reduce severance and consequent inequalities for those groups who are
	more greatly, affected by severance (e.g. people on low incomes, disabled
	people, children and young people, older people and people dependent on
	walking and using public transport for travel)?
	Help to provide, employment opportunities in the most deprived areas,
	particularly to, disadvantaged groups, and stimulate regeneration.
To maintain and strengthen Merton's.	
	Minimise barriers to employment (such as transport, financial and childcare).
	Enable people with physical and mental health conditions and disabilities to
	stay in employment.
	Provide accessible infrastructure to connect new housing developments to
	key services.
To ensure that provision of environmental, social and physical	key services.
infrastructure is, managed and delivered to meet population	Ensure equity of access to environmental, social and physical infrastructure.
and demographic change in line with sustainable development	
and to support economic competitiveness.	
	Help to improve learning and the attainment of skills to the right employment
	opportunities.
To ensure the education and skills provision meets the needs	
for Merton's existing and future labour market and improves life	Ensure provision of sufficient school places to meet growing needs and
ahanaaa farall	support transitions from education to work.
	Support adult education to improve social mobility and life chances for all ages Support early years education and support, particular.