

265 Burlington Road Appeal – Council’s Position on Housing Policy Matters

1. This statement sets out the London Borough of Merton’s position on five year housing land supply, the applicability of the ‘tilted balance’, and the materiality of the Intend to Publish London Plan policies.
2. The current housing target in the Council’s adopted Local Plan is 411 units per annum. This figure derives from Table 3.1 of the adopted London Plan. The London Plan and the Local Plan are less than five years old.
3. NPPF para 73 provides that: “Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.” In the Council’s case, their adopted strategic policies are less than five years old, and so the housing requirement should be assessed against the adopted policies i.e. the adopted target of 411 units.
4. Footnote 37 of the NPPF relates solely to the final sub-clause of the sentence – the situation where strategic policies are more than five years old. It provides that the standard method will be used: “unless these strategic policies have been reviewed and found not to require updating”, in which case the policies themselves can be relied on. It is of no relevance here since the Council’s adopted strategic policies are less than 5 years old. This is confirmed by para 005 of the relevant part of the PPG which provides that: “Housing requirement figures identified in adopted strategic housing policies should be used for calculating the 5 year housing land supply figure where: the plan was adopted in the last 5 years OR the strategic housing policies have been reviewed within the last 5 years and found not to need updating.”
5. The Council has a 192% supply measured as against the adopted strategic housing policies. It thus amply meets its housing target. Even if there is some dispute about the deliverability of individual schemes, there is a wide margin of error available.
6. Paragraph 11(b) of the NPPF applies the so-called ‘tilted balance’ to cases where the policies which are most important for determining the application are out-of-date. What is meant by ‘out-of-date’ is qualified by Footnote 7 which states that: “This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites.” Since the Council *can* demonstrate a five year supply of deliverable housing sites when measured against the correct target in the adopted strategic policies at the current time, the ‘tilted balance’ is not engaged in this appeal.
7. The Council acknowledges that the housing target is proposed to be dramatically increased under the emerging London Plan (the figure will be nearly doubled to 918 dwellings). The plan is at an advanced stage of preparation (at the Intend to Publish stage) and its policies should be given significant weight. The Council is in the process of consulting on revisions to its Local Plan to reflect the increased housing figure in

the emerging London Plan and will be providing additional allocations to meet the necessary supply. This is in accordance with the approach suggested by the GLA (see email correspondence). It is also acknowledged in the Intend to Publish London Plan at paragraph 4.1.10 that: *“The increase in housing delivery required by these targets may be achieved gradually and boroughs are encouraged to set out a realistic, and, where appropriate, stepped housing delivery target over a ten-year period. This should be supported by a clear articulation of how these homes will be delivered and any actions the boroughs will take in the event of under delivery.”* Accordingly, there is an acknowledgement that the new targets cannot simply be imposed on local authorities ‘overnight’ and they need time to respond to them through plan preparation and delivery.

8. It is accepted that the appeal scheme’s contribution to the supply of housing is a benefit which should be given significant weight in the planning balance. However, this cannot – and should not – detract from the basic policy position which is that the Council has an up-to-date Local Plan, it has a five year housing land supply, and thus the ‘tilted balance’ is not engaged. The contribution of the scheme in circumstances where the housing target is going to increase dramatically is a benefit which should be weighed in the overall planning balance.