

LONDON BOROUGH OF MERTON
LOCAL PLANNING AUTHORITY STATEMENT OF CASE
APPEAL BY: Red Row Homes Ltd

SITE AT: 265 Burlington Road, London, KT3 4NE

APPEAL AGAINST NON-DETERMINATION FOR THE DEMOLITION OF THE EXISTING BUILDINGS AND ERECTION OF TWO BLOCKS OF DEVELOPMENT RANGING IN HEIGHT BETWEEN SEVEN AND 15 STOREYS AND COMPRISING 456 NEW HOMES, OF WHICH 114 WILL BE ONE BEDS, 290 WILL BE TWO BEDS AND 52 WILL BE THREE BEDS. 499SQM OF B1(A) OFFICE SPACE WILL BE ACCOMMODATED AT GROUND FLOOR LEVEL ALONG WITH 220 CAR PARKING SPACES, 830 CYCLE PARKING SPACES, A REALIGNED JUNCTION ONTO BURLINGTON ROAD, HARD AND SOFT LANDSCAPING AND ASSOCIATED RESIDENTIAL FACILITIES. THE APPLICATION ALSO INCLUDES MINOR CHANGES TO THE LAYOUT AND CONFIGURATION OF THE RETAINED TESCO CAR PARK

LPA REF: 19/P2387

PINS REF: APP/T5720/W/20/3250440

21st May 2020

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1.0 Introduction

1.1 This appeal is made by Redrow Homes Ltd (the appellant) against the non-determination of full planning permission for: THE DEMOLITION OF THE EXISTING BUILDINGS AND ERECTION OF TWO BLOCKS OF DEVELOPMENT RANGING IN HEIGHT BETWEEN SEVEN AND 15 STOREYS AND COMPRISING 456 NEW HOMES, OF WHICH 114 WILL BE ONE BEDS, 290 WILL BE TWO BEDS AND 52 WILL BE THREE BEDS. 499SQM OF B1(A) OFFICE SPACE WILL BE ACCOMMODATED AT GROUND FLOOR LEVEL ALONG WITH 220 CAR PARKING SPACES, 830 CYCLE PARKING SPACES, A REALIGNED JUNCTION ONTO BURLINGTON ROAD, HARD AND SOFT LANDSCAPING AND ASSOCIATED RESIDENTIAL FACILITIES. THE APPLICATION ALSO INCLUDES MINOR CHANGES TO THE LAYOUT AND CONFIGURATION OF THE RETAINED TESCO CAR PARK, at 265 Burlington Road.

1.2 This statement will set out the Council's case and defend the reasons for refusal that would have been raised had the application been determined.

1.3 The application was submitted on 19th June 2019 and registered on 22nd July 2019. The Planning Applications Committee resolved to refuse the application on 13th February 2020 against an officer recommendation for approval.

1.4 The reasons for refusal are as follows:

1. *The proposals by reason of the number of units proposed, the location of the main vehicle access coupled with the prevailing intermittent road congestion arising from the operation of the nearby level crossing, and in the absence of a controlled parking zone or other additional parking controls operating locally, would be likely to:*

- *Exacerbate potential for congestion, already prevalent in the vicinity of the application site and at the nearby junction of West Barnes Lane and Burlington Road, precipitated by the level crossing that results in significant queuing, impacting on the road and various junctions and more so at the existing egress to the site, leading to a harmful impact on the overall environment including safety and the efficient operation of the highway network within the vicinity of the appeal site. The proposals would contribute towards a motorised vehicle dominant*

environment which diminishes the quality of environment for pedestrians and cyclists and does not encourage sustainable modes of movement;

- *Exacerbate pressure on kerbside parking locally to the detriment of the amenities of existing residents, as a controlled parking zone or other additional parking controls operating locally, could not be implemented unilaterally by the Council as Traffic Authority on the basis of a S106 undertaking, any such proposal being subject to consultation processes and Cabinet member approval and thus any outcome cannot be pre-judged;*

The proposals would be contrary to policies 6.3 and 6.10 of the London Plan (2016), Policies CS18 and CS20 of the Merton Core Planning Strategy (2011), and policy DM.T2 of the Merton Sites and Policies Plan (2014).

2. *Notwithstanding the metropolitan planning objective of optimising housing potential, as set out in policy 3.4 of the London Plan, the proposals by reason of their size, massing and bulk, would result in an overdevelopment of the site that would be overly dominant and unduly prominent, failing to relate positively and appropriately to local character to the detriment of the visual amenities of the area and failing to deliver a housing development of the highest quality in relation to its context. The proposals would be contrary to policies 3.5, 7.4 and 7.6 of the London Plan (2015), policy CS.14 of the Merton Core Planning Strategy (2011), and policy DM.D2 of the Merton Sites and Policies Plan (2014).*

1.5 The application is currently undergoing the Stage 2 referral to the Greater London Authority.

1.6 The planning application is one of three concurrent and interlinked applications, including applications:

Site address: 300 Beverley Way and 265 Burlington Road New Malden KT3 4PJ
19/P3085 - PARTIAL DEMOLITION OF B1 OFFICE BUILDING AND CHANGE OF USE OF PART OF OFFICE BUILDING CAR PARK TO FACILITATE THE RECONFIGURATION OF SUPERMARKET CAR PARK TO PROVIDE A TOTAL OF 684 CAR PARKING SPACES (A LOSS OF 19 CAR PARKING SPACES), TO PROVIDE TROLLEY PARKING SHELTERS, CHANGES TO WHITE LINE MARKING

AND PROVISION OF A NEW SERVICING AREA AND ALTERATIONS TO OFFICE CAR PARK WITH A LOSS OF 29 CAR PARKING SPACES. THE ALTERATIONS TO THE SUPERMARKET CAR PARK LAYOUT AND ASSOCIATED WORKS HAVE BEEN SUBMITTED IN CONNECTION WITH THE CONCURRENT PLANNING APPLICATION 19/P2387 FOR THE ERECTION OF A MIXED USE DEVELOPMENT COMPRISING 456 FLATS AND 499 SQ.M OF B1 FLOOR SPACE

Site address: 247 Burlington Road New Malden KT3 4NF

19/P2578 - DEMOLITION OF BUILDING AND FORMATION OF TEMPORARY ROAD FOR THE TESCO CAR PARK (2 YEAR PERIOD), PROVIDING PEDESTRIAN AND BICYCLE ACCESS PLUS VEHICULAR EGRESS, WITH ASSOCIATED WORKS INCLUDING THE RELOCATION OF BUS STOP

Both these applications remain undetermined at this time.

- 1.7 In addition to the above planning applications the following application is currently under assessment:

Site address: Office building, 265 Burlington Road, KT3 4NE

20/P1253 - APPLICATION TO DETERMINE WHETHER PRIOR APPROVAL IS REQUIRED FOR THE PROPOSED CHANGE OF USE OF OFFICE SPACE (USE CLASS B1A) TO RESIDENTIAL (USE CLASS C3), CREATING 38 X NEW RESIDENTIAL UNITS. (submitted by the appellant on 1st April 2020)

- 1.7 A list of documents the Council may refer to is included at Section 12 of this document.

2. SITE DESCRIPTION

- 2.1 The site comprises two parcels of land including land within the car park of the Tesco Extra store. The larger parcel of land comprises the eastern part of the car park and accommodates a two-storey office building and warehouse distribution warehouse with surface car parking for 102 cars to serve the office use. In addition, this part of the site accommodates 342 car parking spaces (plus 13 parking spaces for Tesco vehicles) serving the Tesco store. This parcel of land has an area of 2.29Ha. The smaller parcel of land comprises a bank of parking bays within the Tesco car park to the west of the main site. This part of the site accommodates 42 parking spaces and has an area of 0.05Ha.
- 2.2 265 Burlington Road is a vacant 1980's two storey office building with ancillary warehouse building (total 3,737sq.m. GIA).
- 2.3 The site is bound to the east by Burlington Road, commercial properties to the south, a Tesco Extra store to the west and Raynes Park High School to the north. The Sacred Heart Roman Catholic Primary School is located to the southwest of the site. The closest section of the Transport for London Road Network (TLRN) is the A3 Kingston Bypass which runs west of the Tesco store in a north-south direction. The A298 Bushey Road which forms part of the Strategic Road Network (SRN) is located north of Raynes Park High School and runs in an east-west direction.
- 2.4 Motspur Park rail station is located approximately 750m south of the application site. The site is located 1.2km south-west of Raynes Park rail station and 1.5km east of New Malden rail station. There are 4 bus routes within an acceptable walk distance. Based on TfL's Webcat toolkit the application site has a public transport accessibility level (PTAL) range of 2 to 3, on a scale of 0 to 6b where 6b is the most accessible.
- 2.5 The site is currently occupied by a vacant office building and car parking spaces associated with the adjacent Tesco store.
- 2.6 The site is bounded to the north by Pyl Brook, (a tributary of Beverley Brook) and is heavily treed and vegetated on both banks. This part of the site is designated as a Site of Importance for Nature Conservation (SINC). There is currently no public access to Pyl brook in the vicinity of the site.

- 2.7 In terms of surrounding built form, to the west are large distribution and retail warehouses along with the A3 flyover. To the east and south, buildings are at a lower level, with an appearance of lowrise suburbia. A shopping parade and light industrial uses continue along Burlington Road to the south. The maximum height of any building in the locality is 5 storeys (Northrop Grumman building to the west of the A3), other than the B&Q advertising column which is around 30m to the top of the totem and 37m to the top of the lattice above the totem (equivalent to approximately 16 storeys).
- 2.8 Buildings in the immediate vicinity of the site along Burlington Road range in height from two-storey to four storeys in height. There is a five storey building under construction to the immediate southeast of the site on Burlington Road (Albany House).
- 2.9 There is a finer grain of buildings to the east and south of the site compared to the warehouse development to the west. The area is characterised by predominantly 2-3 storey Victorian terraces and semi-detached housing blocks as well as some 4 and 5 storey housing blocks like 'Malden Court' just north of the Site and 'Albany House' to the east.
- 2.10 The site is served by four bus routes, with the nearest bus stop location on Burlington Road approximately 100 metres from the site.
- 2.11 There is a level crossing to the east of the site over the Raynes Park to Motspur Park railway line. Officers acknowledge that the operation of the level crossing is the source of localised traffic congestion, particularly at peak traffic periods.
- 2.12 Vehicular access into the site is via the existing Tesco car park from the A3 sliproad. Vehicular access to the office building is possible from Burlington Road and egress from the Tesco car park or the office car park on to Burlington Road is possible but vehicle access into the Tesco car park from Burlington Road is restricted.
- 2.13 The site at 265 Burlington Road includes a vacant two-storey office building with a single storey interconnecting warehouse. The existing buildings were constructed in the 1980's under planning permission MER416/84. Following this, planning permission was granted in 1990 for the use of the existing buildings as offices (Class B1).

2.14 In terms of trees, the site is largely laid to hardstanding. However, there are belts of trees along Burlington Road to the eastern part of the site and lining both sides of the Pyl Brook.

3 PROPOSAL

3.1 Proposal Summary:

In summary, the proposals will deliver:

-) 7 to 15 storeys of residential accommodation at ground and podium level.
-) 456 residential apartments in a courtyard arrangement with communal landscaping above a residential parking level.
-) Concierge for the residential accommodation.
-) 220 undercroft car parking spaces, including 14 spaces for disabled motorists serving the residential accommodation (subject to condition).
-) 5 on-street parking spaces (in lay-bys on the access road, within the development site), including two dedicated Car Club spaces.
-) 830 cycle parking spaces.
-) Secure private vehicle parking for residents accessed from Burlington Road.
-) 499m² of B1 commercial space within five separate units ranging in size between 57sqm and 125sqm, with frontages onto Burlington Road and within the new access road created on the development site.
-) 103sqm office/ meeting space, dedicated for use by residents only.
-) Landscaping and private pedestrian route along Pyl Brook.
-) 577 Tesco customer parking spaces would be retained. 40% affordable housing, of which 60% are affordable rent and 40% shared ownership, equating to 171 affordable housing units.

3.2 This application includes the demolition of the existing two-storey office and warehouse building on site and the erection of two blocks ranging in height from 7 storeys to 15 storeys to provide 456 residential homes along with associated parking and 499sqm of commercial space at ground floor level.

3.3 The commercial space would be within five separate units ranging in size between 57sqm and 125sqm.

3.4 The proposed development would be laid out in perimeter blocks, with soft landscaped amenity areas within the blocks. Car parking would be located at ground floor level beneath the podium level of each of the two blocks. The landscaped amenity space would be at first floor level, on a podium above the ground floor level parking.

- 3.5 The scheme is focused around two residential blocks with internal courtyards at podium level above ground floor car parking. The two blocks (Block A to the north and Block B to the south) are split by the realigned access road that provides egress for Tesco customers from the store car park onto Burlington Road. It will also provide access and egress to the residential car parks beneath the undercroft of both blocks.
- 3.6 The main vehicular access to the site is via Burlington Road located to the east of the development site. This access will be retained with some minor alterations. A secondary access is from the B282 Beverley Way, west of the site, which runs parallel to the A3 Kingston Bypass. This access links to the Burlington Road access through the Tesco car park, but only allows vehicles to egress the Tesco car park via Burlington Road. It is proposed to retain this link between the two accesses as part of the development proposals.
- 3.7 Both supermarket visitors egress and residents access is via the realigned access road, splitting left or right to enter respective residential car parking areas beneath either Block A or B. The main entrance to the supermarket for both customers and service vehicles is retained from Beverley Way with direct access to the customer car park. Residents access their apartments via the ground floor lobbied entrance foyers which provides both lift and stair access. Post boxes sit within these lobby spaces.
- 3.8 The access road provides two service lay-bys, one to the north side and one to the south side together with 5 residential parking spaces, two of which are dedicated to a car club. Access to the perimeter of the blocks for emergency services and maintenance is also via the realigned access road with limited access to the Page 48 supermarkets service road to the western boundary of the development.
- 3.9 The ground floor of the proposed development is mostly comprised of the undercroft car parking and commercial units facing Burlington Road. 3.10 The northern block (Block A) has four residential cores serving buildings A, B, C and D while the southern block (Block B) has three residential cores serving buildings E, F and G. These cores run from ground floor to the top storey of each respective building.
- 3.10 Within Block A at ground floor level there is an undercroft car park with space for 149 cars. Five of these spaces are wheelchair accessible. The entrance to the car park is from the newly aligned road linking the Tesco store car park to Burlington Road.

- 3.11 Four commercial units ranging in size run along the east elevation along Burlington Road, turning the corners on the north and south elevations. Refuse, plant and cycle stores are provided at various locations around the perimeter of Block A, including the energy centre in the northwest corner adjacent to the service yard.
- 3.12 Block B, located on the southern portion of the Site. It is a triangular shape in plan with the southern part narrowing towards a point. Three residential buildings form an internal courtyard, with buildings E and F forming a linear building to the west and building G, a linear building to the east following the orientation of Burlington Road.
- 3.13 Block B provides car parking within an undercroft, for 71 spaces. Four of these spaces are suitable for wheelchair users.
- 3.14 Each of the residential buildings are accessed from ground floor level with a degree of active street frontage. At ground floor beneath the podium, commercial frontage faces Burlington Road, with residential car park, refuse and cycle storage forming the remainder.
- 3.15 The scheme would involve a new streetscape at Burlington Road with a wide pavement created with street planting and street furniture. The proposals do not envisage this being dedicated as highway.
- 3.16 A planted, biodiverse walkway would be created adjacent to Pyl Brook. This would be restricted to use by residents only with the intention that it could become a through route if and when the wider Tesco site is redeveloped.
- 3.17 The west elevation, abutting the Tesco Extra car park, would be landscaped with green walls installed.
- 3.18 The scheme would result in the loss of 21 category B trees, 17 Class C trees and 4 tree/shrub groups and 4 category U trees. 9 trees to be lost are located around the Pyl Brook. 61 replacement trees would be planted as part of the proposals.
- 3.19 The scheme proposes 456 units, of which 114 (25%) are one beds, 289 (63%) are two beds and 53 (12%) are three beds: Unit Type Percentage of units
1 Bed 25
2 Bed 63
3 bed 12
- 3.21 In terms of affordable housing, the scheme offers 40% on-site provision

by habitable room (following amendments to the scheme); 60% are affordable rent and 40% shared ownership, equating to 171 affordable housing units.

- 3.20 11% of the proposed homes would be wheelchair adaptable.
- 3.21 The scheme has the following density: Habitable rooms per hectare – 570 (based on site area of 2.29Ha, the larger of the two parcels of land) and 199 dwellings per hectare.
- 3.22 In terms of parking, the development proposes 830 cycle parking spaces (798 residential spaces, 12 residential visitor spaces, 6 long term spaces for commercial units and 14 short term spaces for the commercial units), 220 undercroft car parking spaces, including nine wheelchair accessible spaces (N.B. officers advise that 14 wheelchair accessible spaces be secured by condition); five on street parking spaces, including two dedicated Car Club spaces.
- 3.23 In terms of combating the impacts of climate change, the proposal is accompanied by an Energy Statement which sets out that the proposed development is to target a reduction in CO₂ emissions of 35% beyond a determined Part L 2013 baseline case on site. This is equivalent to 40% reduction against a 2010 baseline as discussed in Merton's CS15 Energy policy. For the purposes of this Energy Statement the SAP10 carbon factors are to be utilised.
- 3.24 The remaining carbon emissions of 361.7 TCO₂ every year for 30 years are required to be offset. This would require a cash in lieu contribution to off-set the outstanding carbon savings.
- 3.25 Whilst not part of this application, the associated application, 19/P3085, deals with alterations to the retained Tesco Extra car park. The revised layout factors in the implementation of the application the subject of this report. Application 19/P3085 deals with the following associated development within the Tesco Extra car park:
- 3.26 Application 19/P2578 proposes the demolition of No.248 Burlington Road, a two-storey office building, fronting Burlington Road and the construction of a single width vehicular access, intended to provide access for construction vehicles in relation to the proposed mixed use redevelopment, for a temporary period of two years.

- 3.27 It is noted that the redevelopment of the site will also result in the loss of 98 Tesco Extra car parking spaces but 577 customer spaces would remain overall.
- 3.28 The Tesco Extra store and associated car park to the west of the Site would continue to operate throughout the construction process, in the event that planning permission is granted.
- 3.29 The application is accompanied by the following supporting documents:
-) Air Quality Assessment – May 2019
 -) Affordable Housing Grant Funding Model
 -) Arboricultural Impact Assessment, Arboricultural Method Statement and Arboricultural Survey – May 2019
 -) Cultural Heritage Desk Based Assessment – April 2018
 -) Daylight and Sunlight Assessment – May 2019
 -) Addendum to Daylight and Sunlight Analysis dated 4th December 2019
 -) Design and Access Statement – May 2019
 -) Design and Access Statement: Landscape – May 2019
 -) Desk Study/Preliminary Risk Assessment Report – August 2018
 -) Dynamic Overheating Assessment – May 2019
 -) Energy Statement (amended) – 16th October 2019
 -) Flood Risk Assessment – May 2019
 -) Noise and Vibration Assessment – May 2019
 -) Preliminary Ecological Appraisal – October 2018
 -) Residential Travel Plan – May 2019
 -) Statement of Community Involvement – May 2019
 -) Surface Water Drainage Strategy dated May 2019
 -) Sustainability Statement – May 2019
 -) Town Planning Statement and Health Impact Assessment – May 2019
 -) Townscape and Visual Appraisal (undated)
 -) Transport Assessment – May 2019

4 CONSTRAINTS

- 4.1 The site has no local or strategic policy designations, it does not lie within a conservation area and does not contain any listed buildings. At a local level the site forms part of allocated site RP3 within the emerging Merton Local Plan 2015-2030 (second consultation), and is identified as suitable for comprehensive redevelopment to retain the supermarket with the same floor space within a new purpose-built unit and to optimise the remainder of the site for new homes, landscaping and access.
- 4.2 Whilst the site falls outside the limits of Crossrail 2 Safeguarding, as set out in the 2015 Crossrail 2 Safeguarding Directions, part of the application site has been identified by Crossrail 2 and TfL as a proposed worksite for the future delivery of the Crossrail 2 scheme.
- 4.3 The site is not within a Controlled Parking Zone (CPZ) and there are no current plans to create a new CPZ.
- 4.4 The site is within Flood Zones 2 and 3. The part of the site that is Flood Zone 3 is mainly to the southern part of the site, but also, a small area of Flood Zone 3 around Pyl Brook.
- 4.5 Summary of constraints:
-) Conservation area: No
 -) Listed building: No
 -) Tree protection orders: No
 -) Controlled Parking Zone: No
 -) Green corridor – Yes (bordering the site to the north)
 -) Site of importance for nature conservation (SINC) – Yes (bordering the site to the north)
 -) Flood Zones 2/3
 -) Archaeological Priority Zone
 -) PTAL: 3

5. RELEVANT PLANNING HISTORY

- 5.1 MER419/84 - Erection of new industrial building with offices formation of new access roads off Burlington Road, car parking and demolition of existing buildings with new access from Kingston-by-pass slip road. Grant Permission 09/08/84
- 5.2 MER800/84 – OUTLINE APPLICATION FOR REDEVELOPMENT OF SITE TO PROVIDE RETAIL STORE WITH UNLOADING FACILITIES CAR PARK PETROL FILLING STATION AND LANDSCAPING AND VEHICULAR ACCESSES. Grant Permission 15/07/1985.
- 5.3 MER1069/85 - APPROVAL OF DETAILED PLANS FOR ERECTION OF A NEW RETAIL SUPERSTORE AND PETROL FILLING STATION INCLUDING PARKING AREAS SERVICE YARD AND ACCESS ROAD. Application Granted 13-02-1986.
- 5.4 90/P0445 - Demolition of existing single storey buildings and erection of three storey building for office (B1) use comprising 3,756sqm of floor space with associated car parking and landscaping. Allowed on appeal 04/11/1991. (Not implemented)

6 STATUTORY REQUIREMENTS

- 6.1 By Sections 70(2) and 79(4) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 this Appeal must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

7 RELEVANT PLANNING POLICY

7.1 The Development Plan consists of:

- The London Plan (2016);
- Merton Core Planning Strategy (2011); and
- Merton Sites and Policies Plan and Policies Map (2014).

7.2 Draft London Plan:

The draft plan in its current form should attract significant weight given the stage which it has reached towards its adoption. Assuming the draft London Plan is updated to take account of the directions made by the Secretary of State by the time of any appeal event, then it should be given full weight once adopted.

7.3 Draft Local Plan

A draft Local Plan is being prepared, which has been through a second round of consultation. Given that it is at a relatively early stage of the process, some limited weight can be given to its policies.

7.4 A list of the policies relevant to the consideration of this application is listed below:

London Plan Policies

2.6 Outer London: Vision and strategy

2.8 Outer London Transport

3.3 Increasing housing supply

3.4 Optimising housing potential

3.5 Quality and design of housing developments

3.6 Children and young people's play and informal recreation facilities

3.8 Housing choice

3.9 Mixed and balanced communities

3.10 Definition of affordable housing

3.11 Affordable housing targets

3.12 Negotiating affordable housing

3.13 Affordable housing thresholds

4.1 Developing London's economy

4.2 Offices

4.3 Mixed use development and offices

4.7 Retail and town centre development

- 4.8 Supporting a successful and diverse retail sector and related facilities and services
- 5.1 Climate change mitigation
- 5.2 Minimising carbon dioxide emissions
- 5.3 Sustainable design and construction
- 5.7 Renewable energy
- 5.10 Urban greening
- 5.11 Green roofs and development site environs
- 5.13 Sustainable drainage
- 5.14 Water quality and wastewater infrastructure
- 5.15 Water use and supplies
- 5.17 Waste capacity
- 5.21 Contaminated land
- 6.3 Assessing the effects of development on transport capacity
- 6.5 Funding Crossrail and other strategically important transport infrastructure
- 6.9 Cycling
- 6.11 Smoothing traffic flow and easing congestion
- 6.12 Road network capacity
- 6.13 Parking
- 7.2 An Inclusive environment
- 7.3 Designing out crime
- 7.4 Local character
- 7.5 Public realm
- 7.6 Architecture
- 7.8 Heritage assets and archaeology
- 7.14 Improving air quality
- 7.15 Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes
- 7.21 Trees and woodland
- 8.2 Planning obligations
- 8.3 CIL

Draft London Plan Policies:
(Intend to Publish version)

GG1 Building strong and inclusive communities
GG2 Making the best use of land

GG4 Delivering the homes Londoners need

D1 London's form, character and capacity for growth

D2 Infrastructure requirements for sustainable densities

D3 Optimising site capacity through the design-led approach

D4 Delivering good design

D5 Inclusive design

D6 Housing quality and standards

D7 Accessible housing

D8 Public realm

D9 Tall buildings

D11 Safety, security and resilience to emergency

D12 Fire safety

D13 Agent of Change

D14 Noise

H1 Increasing housing supply

H4 Delivering affordable housing

H5 Threshold approach to applications

H6 Affordable housing tenure

H7 Monitoring of affordable housing

H10 Housing size mix;

G1 Green infrastructure

G5 Urban greening

G6 Biodiversity and access to nature

G7 Trees and woodlands

SI 1 Improving air quality;

SI 2 Minimising greenhouse gas emissions;

SI 3 Energy infrastructure;

SI 4 Managing heat risk;

SI 5 Water infrastructure

SI 7 Reducing waste and supporting the circular economy

SI 8 Waste capacity and net waste self-sufficiency

SI 12 Flood risk management

SI 13 Sustainable drainage

T1 Strategic approach to transport

T2 Healthy Streets

T3 Transport capacity, connectivity and safeguarding

T4 Assessing and mitigating transport impacts

T5 Cycling
T6 Car parking
T6.1 Residential parking
T7 Deliveries, servicing and construction
T9 Funding transport infrastructure through planning

Local Plan Policies

Core Planning Strategy 2011

CS7 Centres
CS 8 Housing choice
CS 9 Housing provision
CS 11 Infrastructure
CS 12 Economic development
CS 13 Open space, leisure and nature conservation
CS 14 Design
CS 15 Climate change
CS16 Flood Risk Management
CS 17 Waste management
CS 18 Transport
CS 19 Public transport
CS 20 Parking servicing and delivery

Sites and Policies Plan 2014:

DM R1 Location and scale of development in Merton's town centres and neighbourhood
parades
DM R2 Development of town centre type uses outside town centres
DM H2 Housing mix
DM H3 Support for affordable housing
DM E1 Employment areas in Merton
DM E3 Protection of scattered employment sites
DM E4 Local employment opportunities
DM F1 Support for flood risk management
DM F2 Sustainable urban drainage systems (SuDS) and Wastewater and Water Infrastructure
DM O2 Nature conservation, Trees, hedges and landscape features

DM D1 Urban Design
DM D2 Design considerations
DM D7 Shop front design and signage
DM EP2 Reducing and mitigating noise
DM EP3 Allowable solutions
DM EP4 Pollutants
DM T2 Transport impacts of development
DM T3 Car parking and servicing standards
DM T4 Transport infrastructure

Supplementary Planning Guidance/ Documents and Other Material Considerations:

National Design Guide – October 2019

DCLG: Technical housing standards - nationally described space standard March 2015

Merton's Design SPG - 2004

GLA Guidance on preparing energy assessments – 2018

London Environment Strategy – 2018

Mayor's Air Quality Strategy – 2010

Mayor's SPG - Housing 2016

Mayor's SPG – Sustainable Design and Construction 2014

Mayor's SPG – Character and Context 2014

Mayor's SPG – Affordable Housing and Viability 2017

Mayor's SPG – Play and Informal Recreation 2012

LB Merton – Air quality action plan - 2018-2023

LB Merton - Draft Sustainable Drainage (SUDS) Design and Evaluation Supplementary

Planning Document (SPD) 2018

LB Merton - Local Development Framework - Tall buildings Background Paper 2010.

8 OVERVIEW OF THE COUNCIL'S CASE

8.1 Reason for refusal:

The proposals by reason of the number of units proposed, the location of the main vehicle access coupled with the prevailing intermittent road congestion arising from the operation of the nearby level crossing, and in the absence of a controlled parking zone or other additional parking controls operating locally, would be likely to:

- Exacerbate potential for congestion, already prevalent in the vicinity of the application site and at the nearby junction of West Barnes Lane and Burlington Road, precipitated by the level crossing that results in significant queuing, impacting on the road and various junctions and more so at the existing egress to the site, leading to a harmful impact on the overall environment including safety and the efficient operation of the highway network within the vicinity of the appeal site. The proposals would contribute towards a motorised vehicle dominant environment which diminishes the quality of environment for pedestrians and cyclists and does not encourage sustainable modes of movement;*
- Exacerbate pressure on kerbside parking locally to the detriment of the amenities of existing residents, as a controlled parking zone or other additional parking controls operating locally, could not be implemented unilaterally by the Council as Traffic Authority on the basis of a S106 undertaking, any such proposal being subject to consultation processes and Cabinet member approval and thus any outcome cannot be pre-judged;*

The proposals would be contrary to policies 6.3 and 6.10 of the London Plan (2016), Policies CS18 and CS20 of the Merton Core Planning Strategy (2011), and policy DM.T2 of the Merton Sites and Policies Plan (2014).

8.2 The site is adjacent to a busy level crossing managed by CCTV, which causes significant local congestion when the barrier is down. In particular long queues can back up on each approach when inward and outward train arrival times do not coincide and the barrier is held down for an extended period. This includes past the application site, where the presence of a pelican crossing and all movement access serving as a secondary exit from the Tesco superstore site and existing business units increases the potential for vehicle, cycle and pedestrian conflict and the efficient movement of

traffic. The queuing impacts also affect other nearby junctions, such as the mini roundabout at the junction of Claremont Ave. The LPA will provide evidence to demonstrate that the traffic movements associated with the proposed development would result in local congestion and a motorised vehicle dominant environment.

8.3 Although parking along much of Burlington Road is controlled by single yellow line parking restrictions and peak hour loading bans, outside these periods parking and loading can legally take place. The residential area to the east of the site of the railway line is largely uncontrolled, except in the immediate vicinity of the level crossing, which is only a short walk from the application site. Similarly, much of the residential streets to the south of the site is also uncontrolled. In both cases even a small increase in parking demand could impact on residential amenity and operation of the highway through increased pressure for limited kerb space and on-street parking. The LPA will provide evidence to demonstrate that the proposal would exacerbate pressure on kerbside parking locally, to the detriment of the amenities of existing residents.

8.4 **Reason for refusal:**

Notwithstanding metropolitan planning objective of optimising housing potential, as set out in policy 3.4 of the London Plan, the proposals by reason of their size, massing and bulk, would result in an overdevelopment of the site that would be overly dominant and unduly prominent, failing to relate positively and appropriately to local character to the detriment of the visual amenities of the area and failing to deliver a housing development of the highest quality in relation to its context. The proposals would be contrary to policies 3.5, 7.4 and 7.6 of the London Plan (2015), policy CS.14 of the Merton Core Planning Strategy (2011), and policy DM.D2 of the Merton Sites and Policies Plan (2014).

8.5 The Council acknowledges that the site has no local or strategic policy designations, it does not lie within a conservation area and does not contain or adjoin any listed or locally listed buildings.

8.6 At a local level the site forms part of allocated site RP3 within the emerging Merton Local Plan 2015-2030 (second consultation), and has therefore been identified as suitable for comprehensive redevelopment to retain the supermarket with the same floor space within a new purpose-built unit and to optimise the remainder of the site for new homes, landscaping and access. The emerging site allocation does not specify an indicative residential density or maximum building heights and there is no

supplementary planning document to guide development in the meantime. The proposed scheme does not seek to redevelop the whole site in the way envisaged by the site allocation and the Council's preference was for a whole-site approach incorporating the Tesco store which would have maximised housing output beyond that of the current application, and would have mitigated the design issues of mass and bulk as it could have been a complete 'neighbourhood' with the whole site. The part-site option was sub-optimal in terms of the housing numbers and overall urban design approach that could have been achieved. The part-site approach does not meet the strategic objectives of the local plan site allocation.

- 8.7 The site has a context of low-rise, low-density suburbia, with very limited rationale for the chosen storey heights
- 8.8 The LPA will provide evidence to demonstrate that the design at ground floor level, with a podium at first floor level with ground level parking and entrances to flats below, along with limited ground floor commercial uses, leads to a poor interface with the street and areas of dead, inactive frontage. The quality of public realm provided would not be sufficiently high to justify the bulk and massing of the proposed buildings, which would result in visual harm to the surrounding area.
- 8.9 The officer recommendation for approval acknowledged that the site neither has good public transport accessibility nor existing high buildings precedents. However, the draft plan essentially identifies it as an area for change while the LDF caveats the resistance to tall buildings citing "where they will be detrimental to this valued character". The Council will provide evidence to demonstrate that the proposed development would be detrimental to the character of the area and conflicts with the Council's Tall Building Paper.
- 8.10 The location of the site would allow for long distance views of the development from surrounding vantage points and would be visually prominent. The delivery of the site for additional housing would provide a significant contribution towards meeting the housing needs of the borough. However, the Council will provide evidence to demonstrate that the design is not of a sufficiently high quality to justify the proposed massing and height and that the need for housing in the borough does not outweigh the resultant visual harm.

- 8.11 Merton's Tall Buildings Background Paper (2010) advises that tall buildings are generally not appropriate within the borough due to its predominately suburban low rise character, and will be resisted in all areas of the borough where they will be detrimental to this valued character. Tall buildings may be suitable in areas of the borough where all of the following factors are present:
-) Regeneration or change is envisaged
 -) Good public transport accessibility
 -) Existing higher building precedent
- 8.12 The site is within an area where change is envisaged, particularly given the higher housing targets of the draft London Plan. Public transport in the vicinity of the site is moderate and would be improved by the proposed development, given the contributions to local bus routes. However, the PTAL would remain moderate as opposed to good. The area is generally one of low to medium rise, with building heights around 5 storeys (maximum). The proposed buildings would be significantly taller than any building in the vicinity and as such there is no existing higher building precedent.
- 8.13 The LBM Tall Buildings paper indicates that "overall it is considered that suburban neighbourhoods in the borough are unsuitable locations for tall buildings, based on the distinct low scale and cohesive character of these areas, and their locations which are generally outside of centres in areas with low accessibility".
- 8.14 The Local Planning Authority will provide evidence to demonstrate that the proposal does not comply with the Council's Tall Buildings paper.

9 HOUSING LAND SUPPLY

- 9.1 The site is part of site allocation RP3 in Merton's draft new Local Plan to support comprehensive, well-design redevelopment across the whole of proposed site allocation RP.3 to provide new homes and other uses. This site is suitable for housing and high quality new homes in a well-designed scheme on this site would make a useful contribution towards Merton meeting its share of London's housing needs. However, it is not considered that the merits of the scheme's contribution to housing delivery outweighs the reasons for refusal. At the time of writing, Merton can demonstrate a five-year housing land supply for both its current target of 411 dwellings per annum and the draft London plan target as amended by the Inspector's Report of 918 dwellings per year.
- 9.2 The housing targets as set out in Merton's Core Planning Strategy are out of date and are superseded by London Plan 2016 as this is the most up to date document in the Council's statutory development plan. The London Plan sets the strategic housing target for London, including a disaggregation by borough. The policies in the published London Plan 2016 remain up to date and have not been superseded by a newly published London Plan at the time of determination. Paragraph 11d of the NPPF therefore does not apply to the assessment of this appeal as the London Plan 2016 combined with the significant weight to be afforded to the draft London Plan as amended by the EIP Inspector's report sets housing targets for the next five years and beyond for Merton.
- 9.3 The Council's Objectively Assessed Need, using the standard methodology, requires the provision of 1,534 dwellings per year, as set out within its Strategic Housing Needs Assessment 2019. As per paragraph 47 of the NPPF, the London Plan, published in 2016, is still the appropriate development plan for determining the housing need in London and is in place until the new London Plan is published which is envisaged to be in the next nine months (in the absence of any published timetable).
- 9.4 Therefore, Merton's current housing target which is set out in Policy 3.3 of the current London Plan is 411 dwellings per year. The draft London Plan as amended by the EIP Inspector report has significant weight. The new London Plan target of 918 dwellings per year may be taken into account from FY2021/2022. The draft London Plan is likely to come into effect from 2021/2022, and this is how the five-year land supply should be calculated: with the current year 2020/21 considering the published London

Plan 2016 housing target and from 2021/22 onwards considering the draft London Plan housing target.

Housing Delivery Test

- 9.5 In February 2017 the Government published the Housing White Paper “Fixing our broken housing market”, which proposed a new initiative to measure the performance of local authorities via a Housing Delivery Test. This has been taken forward as part of the revised National Planning Policy Framework (NPPF) that was published in July 2018. (para 4.6)
- 9.6 The Housing Delivery Test measurement for 2019 taking into account delivery over the past three financial years against the London Plan housing target of 411 results in a PASS with 114% of housing need delivered (Table 1). This means that Merton is not required to produce an Action Plan. (para 4.8)

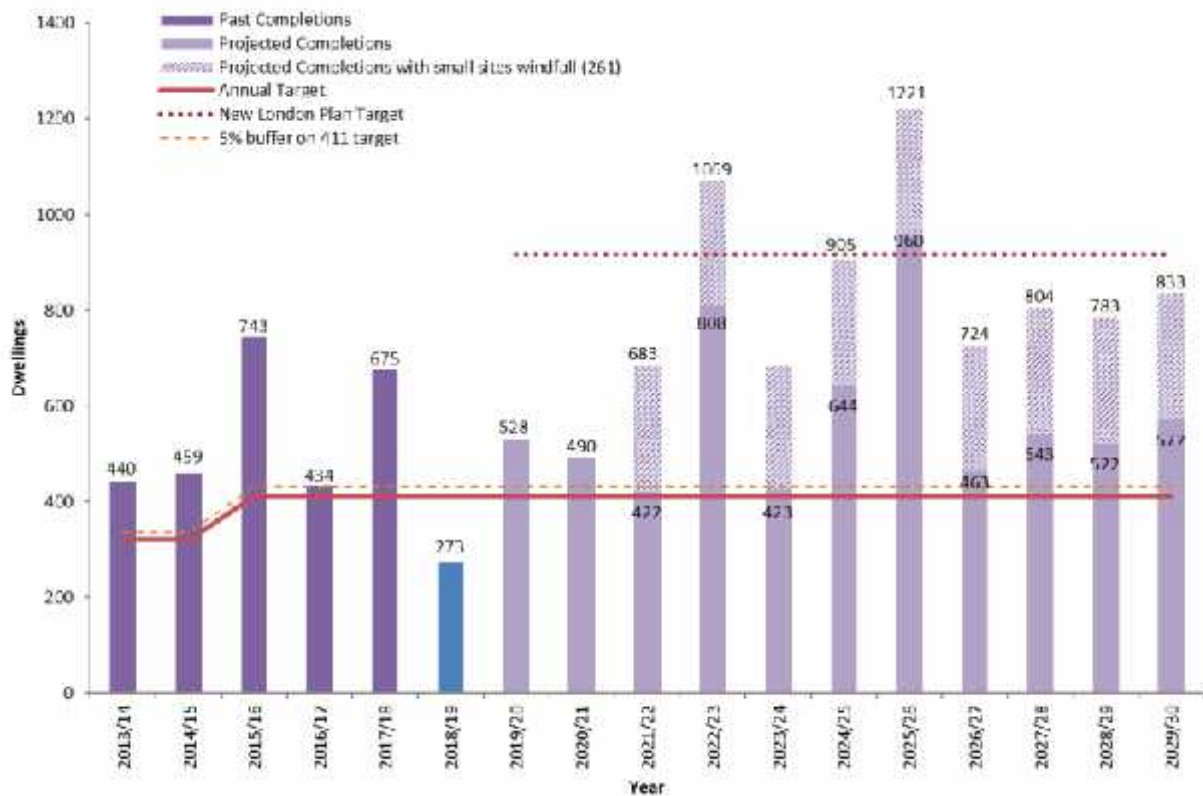
Table 1

Housing Delivery Test measurement 2019					
	2016/17	2017/18	2018/19	Total	
Target	411	411	411	1233	114%
Delivery	434	675	296	1405	PASS

Housing Trajectory AMR 2018/19

- 9.7 Paragraph 73 of the NPPF requires that the Council should provide a minimum of five years’ worth of housing plus a 5% buffer.
- 9.8 The housing trajectory set out in the Council’s published AMR 2018/19 also demonstrates that the five-year housing land supply based upon the current London Plan target (411 per year) has been met.

Graph 1: Housing Trajectory in AMR 2018/19



9.9 Merton’s current housing target to meet its housing need is set by the adopted London Plan (2016) which identifies Merton’s housing target of 411 homes per annum. The draft London Plan as amended by the Inspectors EIP report, increases the Council’s target to 9,180 homes over ten years, averaged at 918 homes per year, which is a 223% increase over the current target. This is shown with the dotted red line in Graph 1. The housing targets set out in the London Plan 2016 are in place until the new London Plan is published. This is envisaged to be within the next nine months (in the absence of any published timetable). Therefore, for the five-year land supply, the higher target of 918 homes per year has been taken into account from 2021/2022.

9.10 Housing delivery is dynamic and subject to change. The AMR 2018/19 used evidence of future supply as at December 2019. For the period FY2020/21- FY2024/25 the AMR 2018/19 showed that Merton could identify 94% of the five-year land supply. Since then additional schemes have come forward which at the time of writing (June 2020), demonstrate Merton is able to meet the 5-year land supply including 5% buffer, against the housing target of 411 until FY2020/21 and 918 new homes per annum from FY2021/22 to FY2024/2025.

Merton's five-year supply

- 9.11 The five-year land supply covers the period from the financial years 2020/21 to 2024/25. The target for the total number of new homes over this period is 4,083. Paragraph 73 of the NPPF requires that the Council should provide a minimum of five years' worth of housing plus a 5% buffer. This equates to 4,287 new homes.
- 9.12 At this time, the Council can demonstrate that it can meet the required 105% of the five year land supply from 2020/21 to 2024/25, further details of which are set out in the following tables and graphs. Therefore, the application site will make a useful additional contribution towards Merton meeting its strategic housing target.

Methodology

- 9.13 To calculate the five-year supply of homes in Merton, we have used the following sources of land supply:

Large identified sites (>25 proposed homes and >0.25ha)

- Sites with planning permission
- Sites where the principle of residential use has been established through previous planning permissions or refusals that have registered new applications or lodged an appeal.
- Suitable sites undergoing pre-application discussion and there is clear evidence that housing completions will begin on site within five years.
- Council-owned sites with redevelopment potential

Small identified sites (<25 proposed homes and <0.25ha)

- Sites with planning permission
- Sites where the principle of residential use has been established through previous planning permissions or refusals that have registered new applications or lodged an appeal.
- Suitable sites undergoing pre-application discussion and there is clear evidence that housing completions will begin on site within five years.
- Council-owned sites with redevelopment potential

Small sites assumption (261 homes per year)

- 9.14 Small sites are defined in the draft London Plan as those with 25 units or fewer and a site area <0.25ha.
- 9.15 In accordance with NPPF paragraph 70, small sites windfalls are included in the five-year housing supply to reflect a reliable source of supply prevailing both in Merton and throughout London. NPPF para 70 states:
- 9.16 Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends.
- 9.17 The EIP Inspector's Report for the draft London Plan, states in para 174 and PR9 that small sites can be taken as a reliable source of supply and provides the compelling evidence required for the purposes of para 70 of the NPPF as an expected future trend.
- 9.18 Para 174: "The upshot is that the overall target is just under 523,000 homes across the 10 year period or just over 52,000 homes each year compared to 649,300 or 65,000 homes per annum in the Plan. The contribution of small sites amounts to about 12,000 per annum. This includes both modelled sites with an annual growth rate of 0.3% and other windfall sites and, in future, can be taken to be a reliable source of supply for the purposes of paragraph 70 of the 2019 NPPF as an expected future trend. This should be confirmed in the supporting text as recommended by [PR9]. "
- https://www.london.gov.uk/sites/default/files/inspectors_report_and_recommendations_2019_final.pdf
- 9.19 This is also confirmed in the supporting text as per recommendation PR9 (Inspector's Report Appendix) that states: "The small site target can be taken to amount to a reliable source of windfall sites which contributes to anticipated supply and so provides the compelling evidence in this respect required by paragraph 70 of the National Planning Policy Framework of 2019."
- 9.20 Table 4.2 of the draft London Plan as amended by the EIP Inspector sets Merton's 10 year small sites target as 2,610 homes which equates to 261 homes per year.

9.21 A modelled small site assumption of 261 new homes per year has been added to the identified sites in Merton’s Housing Trajectory from 2021/2022 in accordance with the implementation of the new London Plan target, as set out in Para 174 of the EIP Inspector’s Report. Windfall sites that are under 25 homes and the site area is less than 0.25ha have been removed from the housing trajectory from 2021/2022 onwards to avoid double counting with the windfall assumption of 261 homes (as per paragraph 174 of the EIP Inspector’s report into the London Plan).

Delivery timescales

9.22 In accordance with the NPPF definition of deliverability, all sites in the Housing Trajectory have been considered deliverable until permission expires, except where there is clear evidence that homes will not be delivered in the five-year period. For example:

- Large sites in the trajectory have been phased according to the latest evidence from the applicant/landowner
- Prior approvals are assumed to complete within the three year expiry of the permission
- The phasing of small sites is based on a 15 year average of time taken from decision date to completion date in Merton’s Monitoring Database, as set out in Table 2:

Table 2: Historic completion timescales

Small site residential development type (<25 units and <0.25ha)	Average time from decision to completion (2006-2020)
Change of use (e.g. commercial to residential)	588 days
Conversion (e.g. house to flat/flat to house)	411 days
Extension (e.g. side or upward extensions to existing property)	537 days
New build	636 days

Sources of Supply

9.23 Merton's five-year supply is derived from a number of sources, these are summarised in Table 3 below.

Table 3: Sources of supply

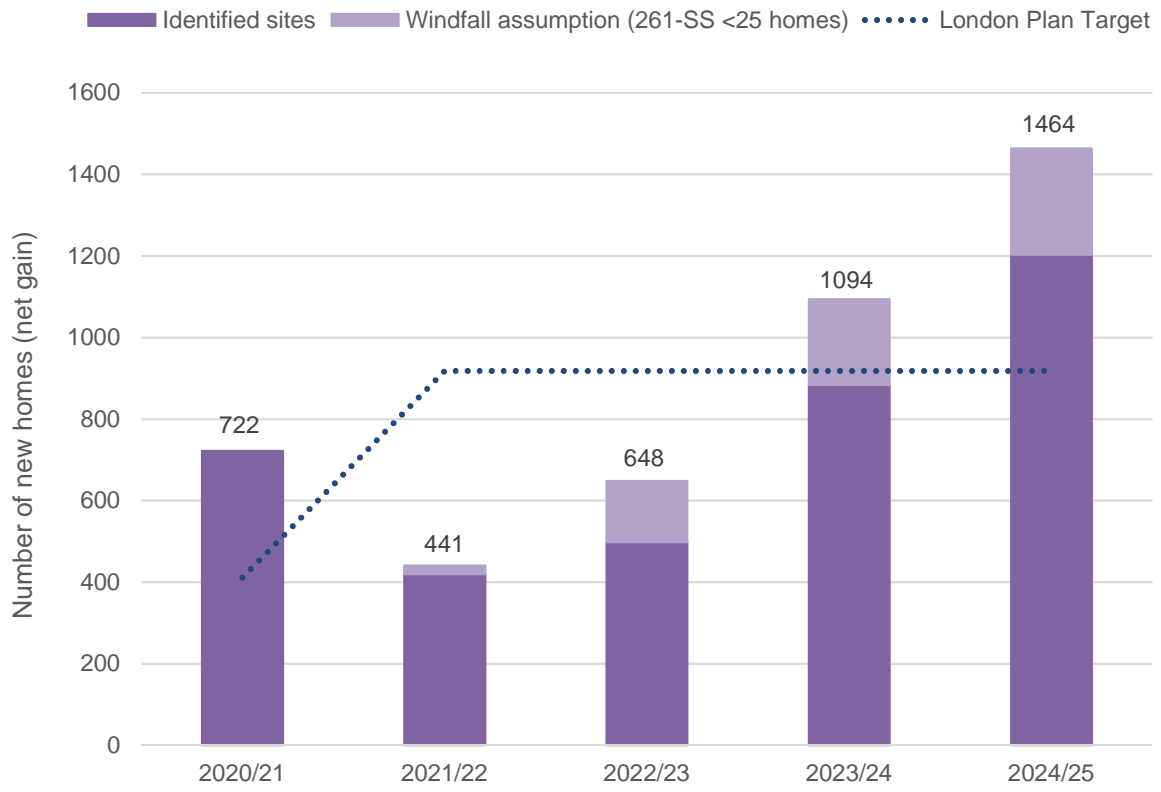
Sites	Net gain 5-year supply	% of supply
Permissioned sites	2,370	54%
Submitted sites	369	8%
Sites at pre-app	562	13%
Allocations	462	11%
Adjusted windfall allocation	642	15%
Total	4369	-

9.24 The tables and graphs below summarise Merton's five-year land supply position.

Table 4: Merton's five-year land supply

	2020/21	2021/22	2022/23	2023/24	2024/25	Total	
London Plan Target	411	918	918	918	918	4083	
Identified sites	722	420	498	884	1203	3727	
SS Double count (<25 homes)	n/a	-240	-111	-51	0	-402	
Windfall assumption (261-SS <25 homes)	n/a	21	150	210	261	642	
Total	722	441	648	1094	1464	4369	107%

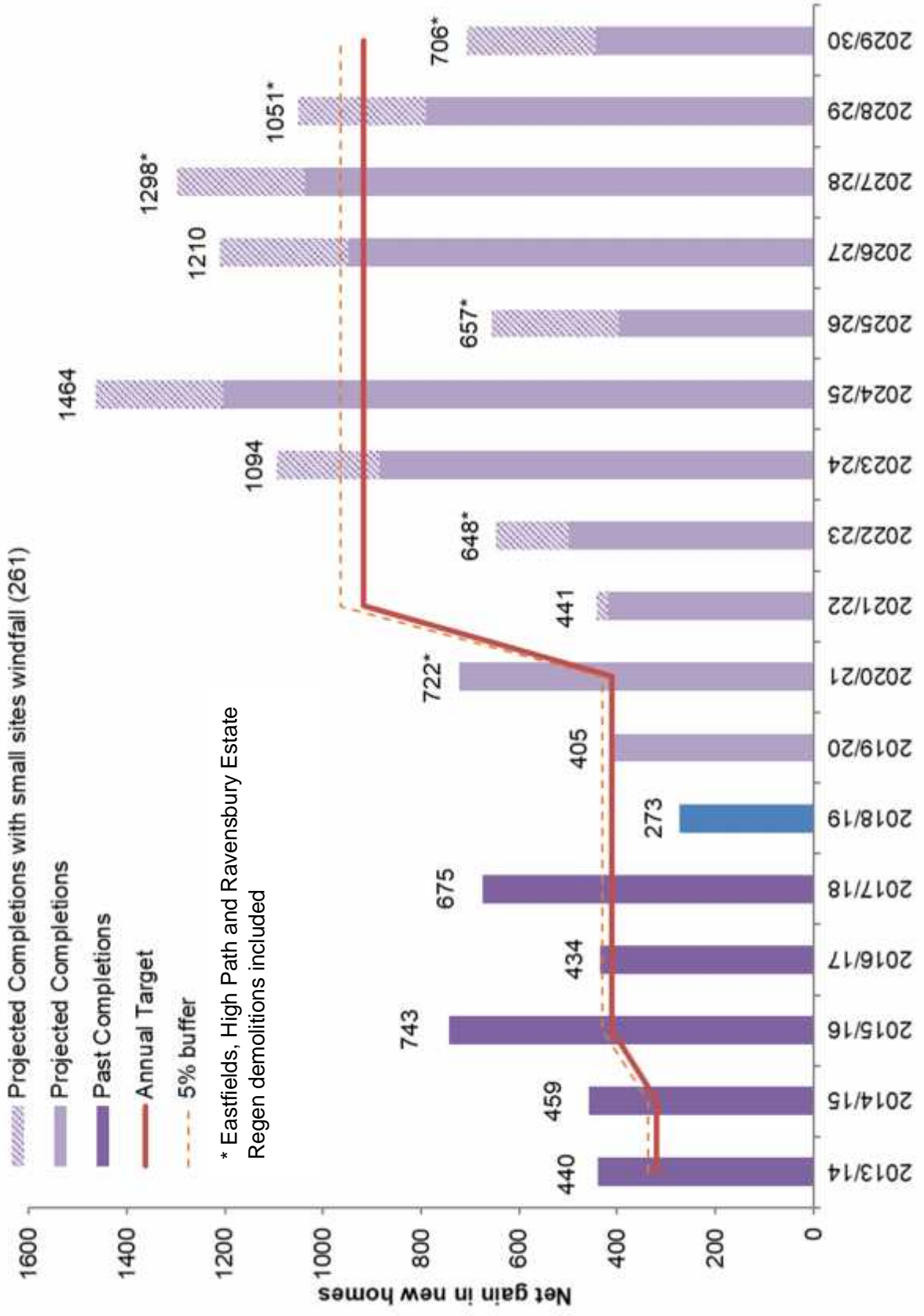
Graph 2: Merton's five-year land supply



Graph 3: Cumulative five-year land supply



Graph 4: Merton's Housing Trajectory



* Eastfields, High Path and Ravensbury Estate
 Regen demolitions included

9.25 Therefore, in conclusion, at the time of writing, Merton can demonstrate a five-year housing land supply for both its current target of 411 dwellings per annum and the draft London plan target as amended by the Inspector's Report of 918 dwellings per year. The council is also supportive of the principle of new homes at this site on Burlington Road and proposes that this site is part of Site Allocation RP3 for new homes in Merton's new Local Plan. However, it is the Council's view that housing delivery does not outweigh the reasons for refusal of this particular scheme.

10 PLANNING OBLIGATION

S106 legal agreement:

-) The provision of 40% affordable housing by habitable room, comprised of 77 shared ownership units (40%) and 94 affordable rent units (60%),
-) £150K to improve pedestrian and cycle infrastructure in the surrounding area,
-) £100K towards pedestrian crossing facility and junction improvement at Burlington Road/Claremont Avenue junction,
-) Travel Plan with £2K monitoring contribution,
-) The developer agreement to provide a 3 year membership to a car club for each residential unit of the development at the cost of the developer;
-) £450K contribution towards an additional bus journey in each peak period,
-) carbon offset contribution of £651,060,
-) £24,600 contribution towards off-site children's play facilities
-) £22K for Air Quality Service Impact,
-) £9K contribution to the Council's Air Quality Action Plan
-) The developer agreeing to meet the Council's costs of preparing (including legal fees) the Section 106 Obligations.

S278 agreement:

-) The upgrading of bus stops Stop B (9154) – Cavendish Road, Stop C (9155) – Burlington Road / Shannon and Bus Stop E (27392) – West Barnes Level.

12 RELEVANT DOCUMENTS

National Design Guide – October 2019

DCLG: Technical housing standards - nationally described space standard March 2015

Merton's Design SPG - 2004

GLA Guidance on preparing energy assessments – 2018

London Environment Strategy – 2018

Mayor's Air Quality Strategy – 2010

Mayor's SPG - Housing 2016

Mayor's SPG – Sustainable Design and Construction 2014

Mayor's SPG – Character and Context 2014

Mayor's SPG – Affordable Housing and Viability 2017

Mayor's SPG – Play and Informal Recreation 2012

LB Merton – Air quality action plan - 2018-2023

LB Merton - Draft Sustainable Drainage (SUDS) Design and Evaluation Supplementary Planning Document (SPD) 2018

LB Merton - Draft Borough character study 2016

LB Merton - Local Development Framework - Tall buildings Background Paper 2010.

Merton Strategic Housing Market Assessment July 2019

Merton Housing Strategy 2012-2015

Affordable Housing Viability Study Final Report 2010

Merton Playing Pitch Strategy – August 2019

Merton Open Space Study 2010-11

West London Strategic Housing Market Assessment Report of Findings October 2018

13 CONCLUSION AND PLANNING BALANCE

The delivery of housing is an important material consideration in this appeal. However, the LPA assert that the proposal would be harmful to the character of the area and would result in unacceptable increases in traffic movements resulting in localised congestion and increased pressure for kerbside parking, as will be evidenced in the LPA Proof of Evidence.

The case of the LPA will demonstrate that the planning benefits of the proposal do not outweigh the harm identified.

