

Appeal at 265 Burlington Road, LB Merton

Position Statement – Appellants Comments on Appendix 3 and 4 of ID30

12th January 2021

1. This Position Statement (PS) has been submitted on behalf of the Appellant and in relation to the above to set out their position in respect of Appendix 3 and 4 of Inquiry Document 29 (ID30), Burlington Road Position Statement London Plan and Housing Supply.
2. The Appellant's comments are made in the context that Appendix 3 and 4 is new evidence that the Council has sought to introduce to the Inquiry and should have been provided before now. The Appellants comments are set out below.
3. The requirement upon the Council to justify its housing supply for sites that don't yet have planning permission is to demonstrate *"that sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years"* and to provide *"clear evidence that housing completions will begin on site within five years."* Examples of such evidence are set out in paragraph 007 of the Planning Practice Guidance, Housing Supply and Delivery.

Appendix 3

4. Appendix 3 is an exchange of emails with Lucy Lewis at NHS South West London CCG and in relation to land, the Appellant understands they own at Birches Close and Wilson Hospital.
5. The email exchange identifies previous planning applications that have been submitted on the site and determined some 10-15 years ago. The four applications at Birches House (two for planning permission and two for conservation area consent) were all refused. The one for Wilson Hospital was approved, although we don't believe it has been implemented and has therefore lapsed.
6. In relation to both sites, it says the following:

“Site declared surplus in January 2022, in line with the approval of business case of a new Mithcam Health and Wellbeing Hub. 1 year for planning permission and start on site (assuming pre-app discussions start in 2021). Completions in site in 2024/25.”

7. The Appellants position in relation to these statements is that they are vague and not at all definitive in terms of moving forward with an application. We would particularly note that completions during 2024/25 are contingent on pre-application discussions starting in 2021. There is no firm commitment that this will take place, and in any event the timescale described for a complex project appears very optimistic. If there is only 12 months of slippage then there will be no contribution to the 5YHLS.
8. It also appears to be a typo that the sites are declared surplus in 2022, and it may mean that they were declared surplus in 2020, but as the 2022 date has been entered in for both sites it may not be a typo and that they have not yet been declared surplus which further reduces the prospects of their delivery.
9. In terms of the site’s suitability from inclusion within its housing supply, we would comment as follows:
 - The definition of the ‘Deliverable’ in the NPPF is that the site *‘should be available now’* and no clear evidence is provided that it is available now, only that it will be surplus in 2022;
 - Part b) of the definition of Deliverable in the NPPF states that *“it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”* Such clear evidence has not been provided because the delivery date is based upon an assumption that pre-application discussions will take place in 2021, but there is not firm commitment that this will happen;
 - Paragraph 007 of the PPG identifies supporting evidence could include *‘firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers’ delivery intentions and anticipated start and build-out rates’*. Again, the delivery rates noted in the email are based upon pre-application discussions starting in 2021 and no firm commitment is made in this regard;
 - Paragraph 007 of the PPG requires firm progress with site assessment work, of which there is no evidence of that being undertaken. The previous applications on the site are noted,

but given that these are historic, no consideration has been given to any material change in circumstances, such as proximity of new, neighbouring development, which may constrain its potential;

- Paragraph 007 of the PPG requires “*clear relevant information about site viability, ownership constraints or infrastructure provision.*” No information has been provided in terms of market testing and whether this site is likely to be acquired by a developer and whether the assumed housing delivery rates are reasonable; and
- In relation to Birches Close only, justification for 40 units has been given in the context of the refusal of two previous applications. No details have been provided with regard to the previous schemes and their reasons for refusal and why the Council expect planning permission will now be granted.

This scheme is years before it could reasonably be considered to be deliverable within the meaning of NPPF.

Appendix 4

10. Appendix 4 includes a statement from the Council’s Assistant Director for Sustainable Communities in relation to it a number of its landholdings that form part of the Council’s supply and attached to the note.
11. The note confirms that the Council’s have appointed a Head of Recovery to ‘*accelerate the re-use of surplus property assets for other uses including residential*’. It then goes on to list the activities that it has undertaken to date.
12. However, none of these sites have actually yet been released to a developer and it confirms within the last bullet point of that agreement to release some of the sites from the Council’s Property Asset Management Board has not yet been given (and can’t be predetermined therefore). The Appellant also understands that the release of the sites, is contingent on the relocation of existing tenants, which means that the land is not available for development ‘now’ in accordance with the requirements of the NPPF.

13. It also notes that site-specific urban design assessments and development capacity studies '*to inform development viability*' have been undertaken. However, none of this information is before the Inquiry to evidence the Council's statement, it also makes clear that the viability analysis has not yet been undertaken, which is one of the examples provided by paragraph 007 of the PPG.
14. In respect of the dialogue with developers, the Council has not provided any 'clear evidence' of this or any commitments from developers that if the sites come forward that they would be interested in pursuing the opportunity or have provided a timetable for delivery of homes. If indeed the developers intend to deliver the sites for housing and not some other use.
15. Within the supporting information provided for each site attached to the note, it provides further commentary and makes vague statements about work having been undertaken, but has not evidenced the outcome of any of that work. No statements have been submitted to the Inquiry from architects or viability consultants that have carried out the work to confirm, in their professional judgement, that the capacity assumed is deliverable and financially viable.
16. It is not doubted that officers consider that there are reasonable grounds to consider that these sites may be released to market and may one day deliver housing, but the evidence falls substantially short of the threshold required by guidance.

Summary

17. The Appellants position in relation to both Appendix 3 and 4, is that it fails to provide the '*clear evidence*' required by the NPPF or any of the examples of the types of supporting information set out within Paragraph 007 of the PPG.
18. In the absence of such information, in accordance with the NPPF, these sites should be discounted from the Council's housing supply.

End.