

**Rebuttal and Supplementary Proof of Evidence**

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**Jonathan Owen Davies Murch MATCP MRTPI**

**Town & Country Planning Act 1990, Section 78**

**Appeal by Redrow Homes Limited**

**265 Burlington Road, London Borough of Merton**

**PINS Reference: APP/T5720/W/20/3250440**

**LPA Reference: 19/P2387**

## Contents

1. Introduction.....	Page 2
2. Housing Supply.....	Page 4
3. Ground Floor Condition/ Active Frontages.....	Page 16
4. Environmental Impacts of the Proposal, Energy and Sustainability.....	Page 18
5. Flood Risk.....	Page 19
6. Image Provided from West Way/ Brook Close Junction.....	Page 20
7. Merton’s Draft New Local Plan Supplementary Evidence.....	Page 21
8. Scheme Deliverability.....	Page 23
9. Conclusion.....	Page 24

## Appendices

Appendix 1 – Westminster City Council’s Five Year Housing Land Supply Statement;

Appendix 2 – Inspector’s report in to the LB Hackney Local Plan;

Appendix 3 – LB Southwark’s Five and Fifteen Year Housing Land Supply;

Appendix 4 – LB Lambeth’s Housing Provision Statement;

Appendix 5 – Landscape Design and Access Statement;

Appendix 6 – Energy Comment Response;

Appendix 7 – Whole Life Carbon And Circular Economy Scoping Note;

Appendix 8 – Letter from Ambiental dated 19<sup>th</sup> November 2020; and

Appendix 9 – Brook Close View.

# 1. Introduction

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- 1.1 Further to the exchange of Evidence, I have given consideration to the proofs of evidence submitted to the Inquiry on behalf of the London Borough of Merton (the Council), in particular the proof prepared by Ms. Valerie Mowah which deals with housing land supply matters and Mr. Nowell which deals with urban design and townscape. I also comment on specific points raised in the proof of evidence submitted by the Raynes Park and West Barnes Residents Association.
- 1.2 In addition to the above, I provide Supplementary Evidence in relation to the Council's draft New Local Plan, which it published for consultation on the 13<sup>th</sup> November. Matters raised within the publication are relevant to this appeal.
- 1.3 Finally, I have taken the opportunity to update the Inquiry in relation to the Appellants position and scheme delivery.
- 1.4 Rebuttal evidence has also been prepared separately on behalf of the Appellant by Mr. Mike Savage in relation to the Council's transport evidence prepared by Mr. Lancaster.

## Scope

- 1.5 In section 2, my rebuttal addresses the Council's housing requirement in response to Ms. Valerie Mowah's evidence.
- 1.6 In section 3, my rebuttal addresses matters relating to ground floor conditions/ active frontage in response to Mr. Nowell's evidence.
- 1.7 My rebuttal addresses the following matters in the evidence of the Raynes Park and West Barnes Residents Association:
- Section 4 in relation to comments made in respect of environmental impacts of the proposal, energy and sustainability;
  - Section 5 in relation to comments made in respect of flood risk; and
  - Section 6 in respect of Appendix 2 and Raynes Park and West Barnes Residents Association illustration of '*Visual Intrusion at West Way/ Brook Close junction.*'

- 1.8 My supplementary evidence identifies the relevant policies to this appeal set out in the Council's draft New Local Plan and the weight to be attached to the document.
- 1.9 In addressing the above points, I am aided by the appendices identified above.

Declaration

- 1.10 This rebuttal proof of evidence has been prepared by me and provides my true and professional opinions based upon my knowledge and experience and in accordance with the guidance of my professional institution. My opinions are given irrespective of by whom I am instructed.

## 2. Housing Supply

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- 2.1 A detailed rebuttal on housing supply matters is required because the Council having changed its position on a number of occasions, did so again only a few days before proofs of evidence were submitted to the Inquiry. Ms. Mowah has helpfully provided a 'chronology of events' in relation to discussions between the Appellant and the Council which shows their changing position.
- 2.2 In paragraphs 2.1 to 2.8 it confirms that the Council and the Appellant exchanged detailed statements. This included advice provided by the GLA to the Council on this matter back in August (although only recently disclosed). The Council concluded at paragraph 2.8 that within its email dated 17<sup>th</sup> September, they did not have a five year land supply.
- 2.3 The Appellant understood this to be the Council's position up until 3<sup>rd</sup> November, when they provided their comments within the Summary Table of Issues identified at paragraph 2.8 of Ms. Mowah's evidence. Paragraph 2.9 of Ms. Mowah's evidence confirms the Council changed its position following receipt of legal advice, which it received on the 15<sup>th</sup> October. This rebuttal therefore has been produced to comment on the Council's latest position.
- 2.4 In section 3, Ms. Mowah goes on to set out what she considers is the Council's five year land supply requirement and at paragraph 3.3 sets out the position in relation to housing supply. Ms. Mowah states that the Council's housing targets of 411 units per annum set out within the 2016 London Plan are the most up to date because the plan is less than five years old. Ms. Mowah goes on to state that these targets remain up to date and will not be superseded until the draft London Plan is adopted.
- 2.5 At paragraph 3.4 to 3.7 Ms. Mowah refers to the application of footnote 37 of the NPPF.
- 2.6 I agree with Ms. Mowah interpretation of footnote 37, but that is not the end of the matter in determining how to approach determining five year land supply or the application of the tilted balance in paragraph 11d of NPPF.
- 2.7 Where I particularly disagree with the approach taken by Ms Mowah, is in relation to the comments made in paragraph 3.8, specifically the application of paragraph 005 of the PPG. Paragraph 005 states:

*"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.*

*In other circumstances the 5 year housing land supply will be measured against the area's local housing need calculated using the standard method."*

- 2.8 In my view, the wording of this paragraph does not allow the Council to choose from one of the two positions provided within the bullet points as seems to be Ms Mowah's position.
- 2.9 In my view, it allows for the planning judgment to be formed that housing requirements may be out of date, even if they are set out within a plan that is less than five years old, in the event that they have been reviewed and found in need of updating. Whilst I accept that the PPG does not spell out what is obvious in the second bullet point (ie what if the housing figures have been reviewed and have been found to be out of date?) on a straightforward reading of the paragraph if there has been a review of the policies (even if it is within 5 years) and they have been found to be out of date – then this is caught by the last sentence of the guidance – ie "in other circumstances". I note that the guidance does not confine itself to reviews only after the elapse of 5 years or more which is presumably the Council's erroneous reading of it.
- 2.10 In this instance, the 2016 London Plan targets have been reviewed within the 2017 SHMA (part of the evidence base for the draft London plan) and found in need of updating. The second bullet point of paragraph 005 of the PPG bites and therefore applies.
- 2.11 If Ms. Mowah's approach were correct, then there would be no need for the second bullet point of this paragraph and it would simply require Council's to update it's housing requirement every five years.
- 2.12 Paragraph 005 of the PPG must be read in conjunction with other relevant paragraphs within the PPG, which include paragraph 002:

*"A 5 year land supply is a supply of specific deliverable sites sufficient to provide 5 years' worth of housing (and appropriate buffer) against a housing requirement set out in adopted strategic policies, **or against a local housing need figure**, using the standard method, as appropriate in accordance with paragraph 73 of the National Planning Policy Framework. [My emphasis]"*

2.13 This paragraph makes it clear that a Council's housing requirement could be set out in strategic policies or a local housing need figure.

2.14 In addition, Paragraph 003 Reference ID: 68-003-20190722, states:

*"The purpose of the 5 year housing land supply is to provide an indication of whether there are sufficient sites available to meet the housing requirement set out in adopted strategic policies for the next 5 years. Where strategic policies are more than 5 years old, **or have been reviewed and found in need of updating, local housing need calculated using the standard method should be used in place of the housing requirement.***

[My emphasis]"

2.15 Again, this paragraph allows for the prospect that strategic policies could be less than five years old, but have been reviewed and found in need of updating. This is the case with LB Bromley's Local Plan, which I identified in my evidence at paragraph 6.40 was adopted in 2019 and based upon the housing targets set out within the 2016 London Plan. It has since published its Housing Trajectory, September 2020, which confirms that it is now using the draft London Plan targets for its housing requirement.

2.16 Finally, paragraph 004 states:

*"For decision-taking purposes, an authority will need to be able to demonstrate a 5 year housing land supply when dealing with applications and appeals. They can do this in one of two ways:*

- *using the latest available evidence such as a Strategic Housing Land Availability Assessment (SHLAA), Housing and Economic Land Availability Assessment (HELAA), or an Authority Monitoring Report (AMR);*
- *'confirming' the 5 year land supply using a recently adopted plan or through a subsequent annual position statement (as set out in paragraph 74 of the National Planning Policy Framework)."*

2.17 Again, this paragraph places the onus on the Council to be able to demonstrate a five year housing land supply when dealing with applications or appeals, which the first bullet point requires the use of the *'latest available evidence'*.

2.18 Ms. Mowah evidence does not deal with the relevance of the paragraphs from the PPG that I have identified above in relation to the Council's case.

2.19 In my opinion, the approach that I have set out, is entirely consistent with the advice provided to the Council from the GLA within **CD6.5**. It states:

*“Despite the London Plan 2016 forming part of Merton’s Development Plan, the ItP London Plan provides the most up to date policies. Officers at the GLA consider that the ItP London Plan housing targets (which cover the period 2019/20 to 2028/29 based on the London SHLAA and Panel report) have significant material weight as they reflect the Panel recommendation and have not been subject to a Direction from the SoS (see letter dated 13 March 2020 on the GLA web-site). Given the Mayor has accepted the Panel recommendation to reduce London’s overall housing target, the ItP (and therefore the 2016 LP given its lower housing target) no longer meet OAN – as set out by the 2017 London SHMA. In line with para 13 of the PPG (Housing and Economic needs assessments), it is for the Mayor to distribute London’s housing target.”*

And:

*“Boroughs should be planning for the ItP LP target (starting in 2019/20) through their revised Local Plans and allocate sufficient land to address this target in line with ItP LP policies H1 and H2, using the 2017 London SHLAA as a starting point.”*

2.20 Consistent with the approach I have set out within my evidence, the GLA recognise that the housing targets set out in 2016 London Plan “no longer meet OAN”. Therefore, the draft London Plan provides the clearest evidence that those targets have been reviewed and found to be out of date and that the draft London Plan figures comprise the most up to date policies and have ‘*significant material weight*’.

2.21 At this stage, it is relevant to note that Ms Mowah states at paragraph 2.13 of her proof:

*“...the Council is not ignoring the significant weighting and materiality that should be given to the emerging London Plan target of 918 homes per annum.”*

2.22 I find it difficult to understand how Ms. Mowah can give the draft London Plan housing targets significant weight, but at the same time, apply full weight to a housing target that is almost half of that figure.

2.23 Notwithstanding the above, If one takes Ms. Mowah’s approach that the housing targets in the 2016 London Plan are up to date because it is not less than five-years old, then it must be the case that they would be out of date as of April 2021 when it is more than five years old (the current London Plan was adopted in March 2016). The table below shows the Council’s housing requirement on this basis – see Alternative 1.

2.24 Alternatively, if Ms. Mowah is suggesting that the housing targets in the 2016 London Plan remain up to date until the draft London Plan is adopted, then this arrives at the same conclusion. It is expected that the draft



London Plan will be adopted imminently and certainly before April 2021. Again, I have set out in the table below the housing requirement against the logic of Ms. Mowah’s position – see Alternative 2.

	Year 1 20/21	Year 2 21/22	Year 3 22/23	Year 4 23/24	Year 5 24/25	Total	5% buffer
<b>Council’s Position</b>	411	411	411	411	411	2,055	2,158
<b>Alternative 1</b>	411	918	918	918	918	4,083	4,287
<b>Alternative 2</b>	411	918	918	918	918	4,083	4,287
<b>Appellant Position</b>	918	918	918	918	918	4,590	4,820
<b>Council’s Supply<sup>1</sup></b>	612	488	654	1,004	1,326	4,084	N/A

2.25 As can be seen from the table above, the Council would be able to demonstrate a five-year supply in relation to it’s current position only.

2.26 In any other scenario, the Council cannot demonstrate a five-year supply.

Approach Adopted by Other London Boroughs

2.27 Within my evidence at paragraph 6.39 to 6.40, I have identified the approach taken by the LB Bromley in relation to it’s housing requirement.

*Westminster City Council*

2.28 Consistent with LB Bromley’s approach, I would draw attention to the same approach taken by Westminster City Council and set out within their Five Year Housing Land Supply Statement, that has been produced as part of the evidence base for it’s Local Plan examination. This document is provided at **Appendix 1**. In relation to is housing requirement, it states at paragraph 2.2:

*“In accordance with the draft London Plan (intend to publish version) Westminster’s housing target is now 985 homes per year. This gives a 10-year requirement of 9,850 homes. The basic five-year requirement is therefore 4,925 homes.”*

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<sup>1</sup> Taken from the table provided on page 8 of Ms. Mowah’s evidence.

2.29 This confirms WCC are basing it's housing requirement on the draft London Plan and not the 2016 London Plan. It goes on to provide a Deliverable Sites Trajectory at page 10 of Appendix 1, which identifies that it's five year supply for the purposes of it's requirement runs from 2020/21 to 2024/25.

#### *LB Hackney*

2.30 LB Hackney adopted its Local Plan in July 2020. Policy LP12 confirms that the Council will deliver a minimum of 1,330 homes per year, but will seek to exceed this and try to deliver 1,750 homes per year to meet it's identified housing need.

2.31 Hackney's baseline target of 1,330 homes per year is consistent with the requirement within the draft London Plan, which requires 13,280 homes over 10 years, which averages at 1,328 per year.

2.32 It is important to recognise Hackney's policy commitment to do better than its draft London Plan housing target and deliver enough homes to meet its own identified need.

2.33 Hackney's housing requirement was considered in paragraph 56 to 60 of the Inspector's report into the draft Local Plan, which is provided at **Appendix 2**. At paragraph 56 it states:

*"Policy LP12 in the Plan sets out Hackney's housing requirement as a minimum of 1,330 dwellings per annum (dpa) to be delivered over the plan period 2018-2033. This housing requirement figure is capacity based and is derived from the London Strategic Housing Land Availability Assessment 2017 (SHLAA). This is the most recent assessment of capacity within the London Boroughs for the delivery of new housing. It also conforms to the 10 year housing requirement set out in the emerging new London Plan which has now been through examination."*

2.34 Paragraph 59 of the Inspector's report confirms the approach taken by LB Hackney is justified and the plan was adopted on this basis.

#### *LB Southwark*

2.35 The LB Southwark is in the process of examination of it's Local Plan. An extract of section 3 of it's Five and Fifteen Year Housing Land Supply evidence base document is provided at **Appendix 3**, which identifies the Council's housing requirement. Paragraph 3.2 confirms:

*“Following the examination in public and the publication of the Inspector’s report on the London Plan, significant weight can be attributed to these revised housing target figures. For the purposes of establishing the five year land supply in Southwark, the target within the Inspector’s report has been used.”*

#### *LB Lambeth*

- 2.36 The LB Lambeth is currently going through its examination of its draft Local Plan. Attached at **Appendix 4** is an extract from its Housing Provision Statement, August 2020, which forms part of the evidence base for the examination. At paragraph 2.1 and 2.2 it confirms:

*“Lambeth’s housing requirement is established through the new London Plan, which sets a borough-level housing target for ten years from 2019/20 to 2028/29. The target for Lambeth is to deliver at least 13,350 net additional dwellings over the ten years (London Plan Policy H1 and Table 4.1), which results in an annual delivery target of 1,335 dwellings per annum (dpa).*

*The ten-year housing targets in London Plan Table 4.1 are based on the 2017 London SHLAA.”*

- 2.37 The table provided on page 74, extract also provided at **Appendix 4**, shows that the Council have applied the draft London Plan targets for monitoring years 2019/20 to 2023/24 for calculating its five year supply.

#### *Summary*

- 2.38 Above, I have identified the approaches taken by Westminster City Council, LB Hackney, LB Southwark and LB Lambeth that are at various advanced stages of review of their Local Plan. I have also identified the approach taken by the LB Bromley who have updated their housing requirement/ supply position, to take account of the draft London Plan housing targets and the significant weight that they now carry. Their approach is consistent in that they are all applying the draft London Plan housing targets for the purposes of their housing requirement. None are relying on the housing targets set out in the 2016 London Plan.
- 2.39 The approach adopted by the identified boroughs is consistent with my own view of the correct approach and that set out by the GLA within **CD6.5**. I can find no evidence of any other London borough that is at an advanced stage of Local Plan preparation that has adopted the approach set out within Ms. Mowah’s evidence. Furthermore, I would note that Ms. Mowah has not provided any of her own evidence or examples to endorse the Council’s position.

- 2.40 It is my view that the Council's approach is based upon an over-legalistic approach to the NPPF and a mis-reading of the PPG (which is repeatedly cross referenced in the NPPF in respect of the approach to housing land supply – see for example paragraphs 60, 73 and associated footnote 37).

#### Other Boroughs

- 2.41 During the course of discussions with the Council on this matter and set out within their document Response to Applicants Burlington Road (**CD6.2**) they have stated some boroughs are taking different approaches. Included within that list are Lambeth, Bromley and Hackney and I have updated the Inquiry on the up to date position for those boroughs above. For the remaining boroughs, I comment on this below, although I would note in Ms. Mowah's evidence at 2.12 that **CD6.2** is now out of date so I assume she will not be relying on this at the Inquiry.

#### *LB Croydon*

- 2.42 LB Croydon published its latest monitoring report in August 2019 prior to the publication of the Inspector's report into the draft London Plan. At that point in time, its review of its Local Plan is at very early stages with its Preferred Options due to be published before the end of 2020. Consistent with the approach taken by other boroughs, it will need to take account of the draft London Plan targets in either its next monitoring report or, within the next draft of the Local Plan.

#### *LB Richmond*

- 2.43 LB Richmond's Local Plan Authority Monitoring Report, 16<sup>th</sup> November 2020, confirms that it has a five-year supply for years 2020/21 to 2024/25 which meets both the 2016 London Plan and the draft London Plan. LB Richmond adopted its Local Plan in July 2018. A new Local Plan is being progressed but its only at the Direction of Travel Consultation stage.

#### *LB Lewisham*

- 2.44 LB Lewisham's five-year supply set out in its Authority Monitoring Report, December 2019 which it has based upon the 2016 London Plan targets. A new Local Plan is being progressed but is at a very early stage – Consultation on Main Issues.

#### *LB Tower Hamlets*

- 2.45 LB Tower Hamlets adopted its Local Plan in January 2020 following examination late 2018/ early 2019. At that stage the draft London Plan had not been through its examination and, crucially, its proposed housing targets had not been found sound.

2.46 It should also be noted that Tower Hamlets housing targets in the 2016 London Plan (3,931 per year) are higher than those in the draft London Plan (3,473). They are also higher than its own assessment of Objectively Assessed Need.

#### *LB Barnet*

2.47 LB Barnet published its draft Local Plan (Reg 18) in January 2020. It is therefore at an early stage. Within section 4 it identifies the requirements of the draft London Plan housing targets as well as alternative targets using the Standard Methodology and Barnet's own Strategic Housing Market Assessment.

2.48 It says that the Council will update its targets once the draft London Plan has been adopted.

#### Summary

2.49 All of the examples identified above adopted their current Local Plans prior to the publication of the Inspector's report into the draft London Plan. None are at an advanced stage with their Local Plan review and therefore very limited weight can be given to their documents.

2.50 However, in most cases, they explicitly recognise that they will need to plan for the draft London Plan housing targets.

2.51 Paragraph: 004 Reference ID: 68-004-20190722 of the PPG states:

*"In plan-making, strategic policies should identify a 5 year housing land supply from the intended date of adoption of the plan.*

*For decision-taking purposes, an authority will need to be able to demonstrate a 5 year housing land supply when dealing with applications and appeals. They can do this in one of two ways:*

- *using the latest available evidence such as a Strategic Housing Land Availability Assessment (SHLAA), Housing and Economic Land Availability Assessment (HELAA), or an Authority Monitoring Report (AMR);*
- *'confirming' the 5 year land supply using a recently adopted plan or through a subsequent annual position statement (as set out in paragraph 74 of the National Planning Policy Framework)."*

2.52 Consistent with the requirements of this paragraph, we are asking the Council to demonstrate that it can identify a five year housing supply, 'using the latest available evidence' i.e. the draft London Plan. This paragraph recognises that this does not need to be just within an adopted plan but can include a SHLAA, HEELA or AMR.

2.53 Any of the Council's identified above, would need to do the same if an appeal was submitted and housing delivery was an issue for consideration.

#### Objectively Assessed Housing Need in London

2.54 Setting aside the above, in my view the Council's most recent approach is not consistent with the NPPF and PPG to provide up to date housing requirements to meet need. The Council are trying to interpret guidance/policy to produce an answer (housing requirement) that comes nowhere near meeting identified its up to date need.

2.55 Within my proof of evidence, at paragraph 6.12 I identified the conclusions the Inspector reached in respect of housing need for the 2016 London Plan. This confirmed that the housing targets within the 2016 London Plan would not deliver enough homes to meet need. It was adopted on the basis that there would be an immediate review to address this issue.

2.56 History is repeating in respect of the draft London Plan and the stinging criticisms made by the Secretary of State within his letter dated 13<sup>th</sup> March 2020 and the direction that the Mayor start considering the next London Plan immediately to enable more housing to be delivered.

2.57 The pattern here is that the London Plan is perpetually failing to identify enough land to meet it's housing need. It's housing targets in the draft London Plan are again falling short of need and the longer this goes on the larger the backlog that is going to develop.

2.58 This situation will only be made worse and increase the Council's own backlog if it does not get to grips with its obligations to meet it's housing targets. This approach will only serve to place an even greater burden on sites coming forward later in the pipeline that have to make up for the under-delivery.

2.59 At this stage, it is relevant to note the approach that is being taken within the Council's consultation on it's draft New Local Plan. I would specifically note the statements made within draft Policy No. H4.2 which identifies a housing target of 13,770 homes to be delivered over the period 2020/21 to 2034/35, which equates to an average of 918 homes per year, the draft London Plan target.

2.60 Whilst the draft New Local Plan is still at an early stage and should be given limited weight, the approach set out within this policy does not seem consistent with that set out by Ms. Mowah within her evidence.

2.61 Furthermore, the Council are not taking into consideration the direction provided by the Secretary of State that there is going to be an immediate review of the draft London Plan to increase housing targets to meet identified need. This is the approach taken by LB Hackney within Policy LP12, which identifies its minimum housing requirement consistent with the draft London Plan, but then goes onto identify a higher housing target that it will look to meet based upon its identified need.

2.62 In my view the approach taken by the LB Hackney (which was considered justified by the Local Plan Inspector) should be the approach being taken by the Council in its preparation of its Local Plan. Failure to do so will likely result in not enough land being identified to meet its need during the Local Plan review process and the Council failing to meet its housing targets.

### Summary

2.63 My position on Ms. Mowah's evidence can be summarised as follows:

- In calculating the Council's housing requirement Ms. Mowah has failed to take into account the requirements of paragraphs 002, 003, 005 and 006 of the PPG;
- Ms. Mowah has identified a housing requirement that is based upon out of date housing targets that are not being used by any other London Borough that are at an advanced stage of Local Plan preparation;
- Ms. Mowah's approach to its requirement figure is in conflict with the clear advice provided by the GLA, that the draft London Plan targets should be used to establish its five year supply;
- The examples provided for the London Boroughs show that those who have recently adopted plans or are at an advanced stage are all working to draft London Plan targets for calculating their housing requirement. None rely on 2016 London Plan targets. This approach is consistent with the advice provided by the GLA at **CD6.5** and set out within my proof of evidence;
- PPG Paragraph 004, requires that the Council is able to demonstrate to the Inquiry that it has a five year housing land supply, based upon 'the latest available evidence' which is not limited to a recently adopted plan.

- The Council's failure to get to grips with its housing targets mean that it is not setting the appropriate framework for housing delivery resulting in under-delivery, increased backlog and a greater burden being passed onto sites further down the pipeline.

2.64 Taking account of the above and consistent with the approach being adopted by other London boroughs and the clear advice provided by the GLA, I consider LB Merton's housing requirement figure to be 4,820, against its claimed supply of 4,288. This equates to 89% supply or 4.4 years of supply. This should be seen as the minimum requirement, since I have demonstrated within my evidence that it does not meet OAN.

2.65 The Council is therefore unable to demonstrate a five year supply and paragraph 11d of the NPPF is therefore engaged. Even if the Council was correct Ms. Mowah has clearly accepted that this part of the adopted plan is not up to date and the housing approach of the adopted local plan is unequivocally out of date. This too provides a clear route to the tilted balance.

2.66 I also consider that the Council's assumed supply of 4,288 units to be overly optimistic for the reasons I have set out within my proof of evidence. Ms. Mowah has not provided the detailed evidence to support the Council's assertions on its pipeline as required by the NPPF and the PPG. I therefore consider that the Council's pipeline to be 3,806 homes at most, identified in paragraph 6.96 of my proof of evidence, which give the Council 79% of its target or a supply of 3.9 years.



### 3. Ground Floor Condition/ Active Frontages

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3.1 In section 3.2 and 3.3 of Mr. Nowell's proof, he makes criticisms of the scheme in respect of ground floor conditions and the proportion of active frontages. In particular, he identifies the western elevation at ground floor level, which at 3.2.7 he states:

*"In effect the development turns its back on the Tesco site, at least at ground floor level, and would compromise any future later phase of development of that site."*

3.2 Mr. Nowells statement is ambiguous, but I assume that he is only talking about the lack of active frontage at ground floor and is not criticising the upper floors, which clearly provide a suitable aspect for the residential units above.

3.3 This issue was discussed with officer's at length at pre-application and application stage. This part of the scheme has been designed in the way it has because it fronts onto the access road to Tesco's servicing yard and customer car parking beyond that. In the current situation, active frontage was agreed by officers to be unnecessary. Instead, it is proposed to provide landscaping/ green wall to screen the car park.

3.4 During discussions with the Council the Appellant proposed a s106 obligation that would allow the conversion of the parking at ground level on the western elevation to commercial accommodation. This is possible because the car parking spaces are let on short term leases rather than sold with the flats. The building owner would therefore be able to take back control of those spaces at any stage to facilitate the change.

3.5 However, officers of the Council did not consider that this s106 obligation necessary and it wasn't included within the final Heads of Terms identified in the officers report to committee. I was therefore surprised to see Mr. Nowell's comments in relation to this matter. The Council have not approached the Appellant requesting that this be re-introduced into the legal agreement, which I assume they do not consider '*necessary to make the development acceptable in planning terms*'.

3.7 I would, in any event, strongly refute Mr. Nowell's suggestion that a lack of active ground floor surveillance would '*compromise any future later phase of development on that site*'. The scheme as designed would not be in any way prejudicial to a future masterplan coming forward.

3.8 Furthermore, page 14 of the Landscape Design and Access Statement submitted with the application, shows the ground floor western elevation as being a '*living edge*' with patterned climbing plants and wildlife

elements including birds and bat boxes, insect hotels and loggery. Images of the design intent are shown on page 17 of the Landscape DAS and provided at **Appendix 5**.

- 3.9 I consider there will be significant visual interest along this ground floor elevation. However, as this part of the building will be owned by the freeholders of the building, it still allows for the potential for it to be changed to respond to any masterplan that comes forward at a future stage.
- 3.10 In relation to Mr. Nowell's comments set out in 3.3 and that the indicative masterplan has been 'retrofitted' to the appeal scheme, the 'masterplan' was put forward as being indicative only to show that comprehensive development of the wider site could come forward. Such a development is not expected to happen within the short term and therefore any scheme would need to take account of prevailing development plan policy at that stage.
- 3.11 The purpose of the masterplan was simply to show how a realistic scheme could be delivered retaining the floorspace of the current Tesco store and associated customer parking. This included input from Tesco's technical specialists that deal with store planning. There are a lot of variables that would need to go into the planning of how development on this wider site could be delivered and it would be impossible at this stage to anticipate these requirements.

## 4. Environmental Impacts of the Proposal, Energy and Sustainability

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- 4.1 Within the Proof of Evidence of the Raynes Park and West Barnes Residents Association, they raise various comments in section 8 in respect of the appeal proposals environmental impacts. The Inspector has indicated that these issues are to be discussed at a round table session.
- 4.2 To aid this discussion, the schemes energy and sustainability consultants Hodkinson, have provided a summary of the final agreed position with the Council and it's up to date relationship with policies in the draft London Plan. This is provided within the Energy Comment Response document at **Appendix 6**.
- 4.3 In addition to the above and given the weight that is now being applied to policies of the draft London Plan, we inted to take the opportunity of providing a Circular Economy Statement. This was not required during the formal assessment of the application as the draft London Plan had not been through it's examination and therefore limited weight was being given to it's policies and the requirement for the Circular Economy Statement.
- 4.4 This document is in the process of being finalised and will be submitted to the Inquiry as soon as possible. In the interim, I attach at **Appendix 7** a Whole Life Carbon and Circular Economy Scoping Note, which sets out the parameters. The Circular Economy Statement will ensure the appeal scheme is fully up to date with policy requirements and that should planning permission be granted, the scheme can deliver best practice. Should the Inspector be willing to accept this document as part of the appeal proposals, it could be controlled through an appropriately worded planning condition.

## 5. Flood Risk

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- 5.1 Within the Proof of Evidence of the Raynes Park and West Barnes Residents Association, they raise various comments in section 9 in relation to flood risk, which again, the Inspector has indicated will be discussed at a round table session. To aid this discussion and to provide a summary of the schemes performance against up to date policy, a letter has been provided by Ambiental which is enclosed at **Appendix 8**.

## 6. Image Provided from West Way/ Brook Close Junction

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- 6.1 The evidence from The Ranes Park and West Barnes Residents Association provides a view from West Way/ Brook Close junction. As acknowledged within its evidence, this view has been prepared by the association, and it is not contended that it represents a verified photomontage.
- 6.2 This view does not however provide an accurate representation as the buildings are located in the incorrect position in relation to Brook Close. The illustration they have provided is a montage which combines a photograph and 2 dimensional elevations, a flat representation of one façade. This fails to take into account the fact the proposed buildings are 3 dimensional shapes or illustrating the perspective, thus not representing three-dimensional objects on a two-dimensional surface so as to give the right impression of their height, width, depth, and position in relation to each other.
- 6.3 For completeness I have provided a more accurate representation of the development from this location at **Appendix 9**. This is based on the assumed photographic viewpoint and, with respect to COVID 19 restrictions, we have used google earth base imagery for which the photo viewpoint is elevated.

## 7. Merton's Draft New Local Plan Supplementary Evidence

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- 7.1 As noted above, the Council published the latest version of its draft Local Plan for consultation on the 13<sup>th</sup> November following exchange of evidence. The evidence submitted in support of the Appeal scheme was therefore unable to take account of the draft Local Plan.
- 7.2 Very limited, if any, weight can be given to its policies given its early stage in the process consistent with paragraph 48 of the NPPF. Nevertheless I consider it necessary to provide supplementary evidence in respect of the main elements relevant to this appeal scheme. I have already provided comments in relation to the Council's housing targets/ supply in section 2 above.
- 7.3 The draft Local Plan includes various sections in favour of the appeal proposals which are listed below:
- Page 9 of chapter 2 recognises the importance of making the most efficient use of limited land and delivering higher density development, including taller buildings in some locations to help deliver enough homes, amongst other things, to meet need;
  - Key diagram, page 12 of chapter 2, identifies the appeal site as falling within an Opportunity Area, which page 11 and 13 identify as being the main areas for accommodating growth;
  - Part e. of strategic objective 4, on page 5 of chapter 3, which requires development to make the most efficient use of land, designed at optimum density;
  - Part h of Raynes Park Policy N3.4 of page 8 of chapter 7 and the requirement to optimise land by providing new homes at Shannon Corner;
  - Paragraph 3.4.7 of page 10 of chapter 7 recognises that Raynes Park's 'share ' of the Council's new homes will be provided on larger sites close to Shannon Corner, also recognised in paragraph 3.4.10; and
  - Site allocation RP3 on page 19 to 21 of chapter 7, which recognises the wider sites potential to deliver a '*considerable*' number of new homes as part of 'optimised' development. The allocation confirms that there are no heritage assets that would be impacted by the sites development, nor does it identify any significant development constraints.

- 7.4 As of the 24<sup>th</sup> November, the Council has not published its design chapter of the Local Plan. I have therefore not been able to address any points that it may raise.
- 7.5 I would also note the intentions of part e of Policy H4.1 and the strategic aim for 50% of new homes to be built between 2020 to 2035 to be affordable. The supporting text that goes with the policy emphasises the overwhelming need for affordable housing, particularly affordable rent, against a back drop of very low levels of delivery over recent years, which is set out in paragraph 7.13 to 7.37 of my proof of evidence.
- 7.6 At paragraph 4.1.27 of the draft New Local Plan, it states that the introduction of the Mayor's 'fast track route' has not resulted in a changed position in respect of the number of schemes submitted with viability assessments justifying affordable housing provision below policy targets.
- 7.7 The appeal scheme offers a level of affordable housing consistent with the Mayor's Fast Track approach. At the point the Council's Planning Applications Committee resolved to refuse permission for the application, it was proposing 40% affordable housing provision, with a tenure compliant split between affordable rent and intermediate.
- 7.8 The difficulties of delivering fast track compliant affordable housing within the appeal scheme are set out within the viability work provided at appendix 10 of my proof of evidence.
- 7.9 Delivery of affordable housing consistent with policy aspirations will be reliant on the delivery of optimised development, such as the appeal scheme.

### Summary

- 7.10 In summary, the thrust of the Council's draft New Local Plan is supportive of and consistent with these aspects of the appeal proposals. Albeit as noted above, given the relatively early stage of the plan, I attach limited weight to its policies.

## 8. Scheme Deliverability

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8.1 The Inspector will be aware that the effect of the global pandemic has had a number of impacts upon the UK economy. That has resulted in many businesses reviewing their approach going forwards, especially within the development industry. This includes the Appellant.

8.1.1 I have been instructed by the Appellant, Redrow Homes Limited, to update the Inquiry as to their position in relation to this site, and these proposals. Their position is as follows:

*‘Following a strategic review of our schemes in London and the wider market, we recently announced we will scale back operations in London. At this stage it is not expected that Redrow will deliver the scheme.’*

8.2 Whilst Redrow remain involved in progressing this appeal, Redrow is also, in conjunction with the landowners Tesco, seeking bids from alternative residential developers who are active in the London market to step into Redrow’s shoes and deliver the scheme. I am advised that appetite from the market for the appeal scheme is strong and therefore, despite Redrow’s change in position, it remains likely that the scheme will be delivered within the short term should the appeal be allowed.



## 9. Conclusion

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- 9.1 My rebuttal evidence responds to specific points raised in the proofs of evidence submitted by the Council's witnesses, in particular Ms. Mowah and Mr. Nowell and the evidence provided by The Raynes Park and West Barnes Residents Association.
- 9.2 In addition to the above, I provide supplementary evidence to consider the implications of the Council's draft New Local Plan that was published following the exchange of evidence.
- 9.3 My assessment of the scheme set out in my proof of evidence remain valid and reinforced by this rebuttal and supplementary evidence.
- 9.4 Finally, I have taken this opportunity to update the Inquiry, in relation to the Appellants position and scheme deliverability.