

265 Burlington Road Planning Appeal  
 Summary Document – Key Issues in Dispute DRAFT DOCUMENT

No.	Issue/ Matter	LB Merton Position	Appellant Position	Rule 6 Party Comments
<b>1. Transport Matters</b>				
	Local Congestion	Supplementary Statement of Common Ground submitted 011220 confirming that the Council no longer contest this matter in light of the evidence submitted.		<del>The application site has a low PTAL rating and is beyond reasonable walking distance of Raynes Park and Motspur Park stations. High density developments should be near good public transport links.</del>
	Highway Safety	LB Merton Position to remain as per original: The proposed development would have a harmful impact on highway safety, due to the significant parking pressure it will generate on the surrounding highway network.	The proposed development would not have a harmful impact on highway safety.	<del>Residents, schools and businesses are all concerned about the potential impact of this development on their lives, children and enterprises.</del>  <del>There is real concern of residents about the width of the pavements in the area, given that there are two schools in the immediate area, and that no provision has been made to set the buildings back from the street to allow for wider pavements, or improved pedestrian environment.</del>
	Motorised Vehicle Dominant Environment	Supplementary Statement of Common Ground submitted 011220 confirming that the Council no longer contest this matter in light of the evidence submitted.		It is highly unlikely that residents in West Barnes would be in favour of a

		<p>The applicants have additionally agreed to provide funding for improvements to bus services of £450,000, improvement to walking and cycling in the area, £100,000 towards a pedestrian crossing facility and junction improvement at Burlington Road/Claremont Road and funding for provision of CPZ in adjoining streets.</p>		<p>CPZ, particularly in the light of the recent increases in charges by LBM.</p> <p>The suggestion of funding for the provision of CPZ in adjoining streets is a clear indication that the appellant's provision for car parking on site is wholly inadequate for the number of apartments suggested.</p>
	Operation of the Highway Network	<p>Supplementary Statement of Common Ground submitted 011220 confirming that the Council no longer contest this matter in light of the evidence submitted.</p>		<p>The application site has an established "No Entry" restriction due to the hazardous nature of the road junction and associated level-crossing. This is already the cause of heavy congestion and long queues.</p>
	Parking	<p>The proposed development would exacerbate pressure on kerbside parking locally to the detriment of highway safety and the amenities of existing residents</p>	<p>The proposed development would not exacerbate pressure on kerbside parking locally to the detriment of the amenities of existing residents. Where improvements are necessary these have been identified and commitments have been made to mitigate any adverse issues.</p>	<p>It is inevitable that occupants of the development will seek to park cars in the nearby residential street. It is highly unlikely that residents in West Barnes would be in favour of a CPZ, particularly in the light of the recent increases in charges by LBM.</p>
	Policy Compliance	<p>The proposals would be contrary to policies 6.3 and 6.10 of the London</p>	<p>The development would be in accordance with national,</p>	<p>Concur with LBM</p>

		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).	regional and local planning policy	
<b>2. Townscape/ Architecture/ Design</b>				
	Tall Building Policy	The proposed development would be detrimental to the character of the area and conflicts with London Plan Policy 7.7 Location and Design of Tall and Large Buildings and LB Merton's the Council's Tall Building Paper.	Well-designed tall buildings can effect a positive change for regeneration. This is not an area particularly sensitive to change. The appeal scheme has been resolved through engagement to deliver an attractive environment of buildings and spaces that will enhance Burlington Road.	Concur with LBM  The appellant states that "the appeal scheme has been resolved through engagement....".  Apart from one initial meeting with the Association and the local councillors, during which we clearly expressed the view that the proposals were over large and dominant, and out of keeping with the local area, there has been no further engagement with our Association.
	Context	The site has a context of low-rise, low-density suburbia, with very limited rationale for the building heights proposed.	The appeal site lies within the Shannon Corner Area which has a very low townscape value with considerable potential for enhancement. A proportion of the area is identified in emerging planning policy for regeneration and redevelopment for including new residential uses.	Whilst it is recognised that parts of the Burlington Road area are in need of enhancement, this does not justify the Appellant's proposals, which would be architecturally deleterious to the area.

Overdevelopment	The proposed development would, by reason of its size, massing and bulk, 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.	<p>The proposed development comprises high quality design.</p> <p>There is no overriding character within the Shannon Corner townscape character area (TCA) in terms of building style or quality. There is no overriding scale of development and heights are varied.</p> <p>The approach to scale and massing, siting and landscaping will successfully integrate the new buildings into their surroundings. The proposed scale of development is mediated from the edges into the middle of the site. The massing of the buildings is articulated by insets, balconies, large windows, materials and setbacks at upper floors to create rich and articulated elevations that positively contribute to the street scene.</p> <p>The site is unconstrained by neighbouring development and provides an opportunity to optimise the development.</p>	The appellant's proposals would dominate an area far beyond the confines of Shannon Corner and Burlington Road. Whilst there are a few buildings of four or five storeys close to the site, the wider townscape is characteristically suburban in nature, of two or three storeys.
Visual Prominence	The location of the site would allow for long distance views of the development from surrounding vantage points and would be visually unduly prominent.	The proposed development will articulate and bring activity into the street scene and define the evolved townscape. The contemporary architectural approach, materials and detailing	It is self-evident that, within a suburban townscape, as one moves further away from the site the degree of visual intrusion becomes more

			<p>of facades reinforces the character of the more recent developments to add cohesion to the townscape. It will comprise a clear positive addition to the townscape providing high quality residential development.</p> <p>Being able to see taller buildings is a characteristic of London, including in the suburbs as recognised by Inspectors and the Secretary of State in a number of recent appeal decisions.</p>	<p>dominant and spreads more widely.</p> <p>Visual intrusion is of considerable concern to our members and residents.</p> <p>Additionally, we note that, whilst the final architectural design was not referred to Merton's Design Review Panel, at an earlier stage the Panel reported the following concerns.</p> <ul style="list-style-type: none"><li>• No proper rationale for the chosen storey heights</li><li>• Very poor interface with the street, dead frontage, places for concealment and lots of different building lines.</li><li>• Lack of a proper public space.</li><li>• A worrying lack of a sense of place to the whole development.</li></ul>
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				<ul style="list-style-type: none"><li>• No townscape or contextual justification for the heights chosen</li><li>• The form and typology of the development was a long way from good practice and significantly out of date.</li><li>• The Panel were also not convinced by the applicant's description of dual and single aspect dwellings as many units stated as dual aspect did not achieve the benefits of dual aspect units.</li><li>• VERDICT: "RED"</li></ul> <p>The final proposals do not differ very much from the design referred to Merton's Design Review Panel and rejected in the above strong terms.</p> <p>To the best of our knowledge, no explanation has ever been given by the Appellant for their failure to re-submit the present proposals to the</p>
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				<p>Panel. The appellant is put to strict proof as to why not.</p>
	<p>Interface with the street/ frontages</p>	<p>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</p>	<p>The new homes and commercial opportunities are accommodated within an attractive pedestrian friendly environment of wide street spaces, shared spaces and podium gardens. Public spaces are addressed by richly articulated, attractive and active frontages that draw people into the development and significantly enhance the street scene along Burlington Road.</p> <p>Poor quality buildings and a car park on Burlington Road will be replaced with an attractive frontage of apartments with ground floor activity.</p> <p>76% of the frontage onto Burlington Road is active.</p>	<p>Concur with LBM.</p> <p>The proposed podium gardens are unlikely to be open to the public.</p> <p>Whilst opinions about architecture are to some extent personal, we do not agree with the Appellant's assessment of its designs. We note Merton's Design Panel's assessment above.</p> <p>Existing poor quality buildings do not justify replacing them with what is proposed.</p> <p>No provision has been made for any kind of play area for children of any age. Given the number of units of accommodation, and the likely numbers of children, there is a grievous oversight.</p> <p>There is no provision either for the increased demand on school places occasioned by the development, or for the</p>

				added pressure on local GP practices.
	Quality of public realm provision Visual Harm to the surrounding area	The proposed public realm improvements do not provide a justification for the bulk and massing of the proposed buildings, which would result in visual harm to the surrounding area.	<p>The proposed development will provide high quality public realm development. The approach to scale and massing, siting and landscaping will successfully integrate the new buildings into their surroundings. There will be no visual harm to the surrounding area.</p> <p>Obligations in the s106 will future proof linkages to the wider masterplan when/ if delivered.</p> <p>The scheme will provide a significant improvement to the public realm, including to the wider area through the initiatives proposed to address the Mayor's Healthy Streets objectives.</p>	<p>It is self-evident that, within a suburban townscape, as one moves further away from the site the degree of visual intrusion becomes more dominant and spreads more widely.</p> <p>Visual intrusion is of considerable concern to our members and residents.</p> <p>LBM Policies make it clear that tall buildings are generally not appropriate within the borough due to its predominately suburban low rise character. The existing townscape in the West Barnes ward precisely matches this description.</p> <p>We note that the policy also it states that tall buildings of <b>exceptional design and architectural quality</b> may be appropriate in <b>town centres</b> and also that tall <b>buildings in industrial areas</b> such as Shannon</p>



				Corner may be appropriate, where they <b>contribute to employment uses.</b> However, neither of these possible exceptions is applicable to Appellant's design.
	Policy Compliance	The proposals would be contrary to policies 3.5, 7.4 and 7.6 of the London Plan (2016), policy CS.14 of the Merton Core Planning Strategy (2011), and policy DM.D2 of the Merton Sites and Policies Plan (2014).	The proposed development is high quality design which accords with the development plan and national guidance and planning permission should be granted.  Other than the policies identified within the draft reasons for refusal the Council considers the scheme complies with all other aspects of the development plan.	Concur with LBM
<b>3. Housing/ 5YLS</b>				
3.1	NPPF 73a requires that Council's demonstrate 5YLS + 5% buffer.	The council's adopted Local Plan current target is 411 units per annum. This figure is derived from Table 3.1 of the adopted London Plan (2016) which as per NPPF para 73 is up to date as it is less than 5 years old. The council does have a 198% supply measured against the adopted strategic housing policies thus can demonstrate a 5YLS+5% buffer.	The Council does not have a 5YLS as it claims to have 101% of its supply rather than 105% as required by the NPPF. The Appellant also disputes that its 101% supply is robust.  The Appellant considers the Council's has, at best, a 79% supply.	
3.2	2016 GLA Housing Targets	The 2016 London Plan strategic policies are up to date as per para 73 because the 2016 London Plan is less than five years old.	PPG Paragraph: 003 Reference ID: 68-003-20190722 states: <i>"Where strategic policies are more than 5 years old, <b><u>or have been reviewed and found in need of updating</u></b>, local housing</i>	

		<p>The 2017 SHMA and 2019 SHNA is evidence to support the Intend to Publish London Plan and Merton's draft Local Plan respectively.</p> <p>The Secretary of State disputes the London Plan on housing grounds. The replacement London Plan has not yet been permitted for publication by the Secretary of State (as at November 2020)</p> <p>Paragraph 1.18 of Merton's SHNA states: <i>It should also be noted that the SHMA does not set housing targets. It provides an assessment of the need for housing, making no judgements regarding future policy decisions which Borough may take. Housing targets will be set through the local plan.</i></p>	<p><i>need calculated using the standard method should be used in place of the housing requirement."</i></p> <p>Also see paragraphs 002 and 004 of the PPG.</p> <p>The 2017 SHMA (evidence base for the draft London Plan) and the Council's 2019 SHNA confirms that the current London Plan housing targets don't meet identified need and are therefore out of date, which has been confirmed by the GLA in the email at Core Document 6.5.</p>	
3.3	Relevance of Paragraph 11d of the NPPF	<p>Paragraph 11d of the NPPF does not apply as the 2016 London Plan is not five years old and not out of date and the council can demonstrate a 5 year supply of deliverable sites with the appropriate buffer.</p>	<p>Applies as the 2016 London Plan's housing targets are out of date as per 3.2 above.</p>	
3.4	Timing for adoption of higher housing targets set within the draft London Plan	<p>Please refer to the council's response at section 3.2 above.</p> <p>The Intend to Publish London Plan is at an advanced stage of preparation and its policies should be given appropriate weight which the council is doing through preparation of Merton's revised</p>	<p>Para 73 requires LPA to update their 5YLS annually. As per 3.2 above, the Council should have been preparing to increase its housing targets following the publication of the 2017 SHMA.</p> <p>It should have adopted these targets and set out a strategy to</p>	

		Local Plan which will include allocation of sufficient land to reflect the increased housing figure in the emerging London Plan and will be providing additional allocations to meet the necessary supply.	meet them at the point the Inspector's Report was published in 2019 and considered those targets ' <i>justified</i> ' (para 133.)  Other London Boroughs that have either recently adopted or at an advanced stage have adopted the draft London Plan targets for their housing requirement consistent with the advice from the GLA set out in the email at Core Document 6.5	
3.5	Draft London Plan Housing Targets	The draft London Plan target should not apply to any of the five years as the council's adopted Local Plan current target is 411 units per annum. This figure is derived from Table 3.1 of the adopted London Plan (2016) which as per NPPF para 73 is up to date as it is less than 5 years old.	The draft London Plan targets should be applied to all five years of the Council's supply following being found sound by the EiP Inspector.  This is also the approach adopted by the other London Boroughs at an advanced stage of their Local Plan preparation and the draft London Plan targets have been used for all five years of their housing requirement.	
3.6	Small sites	The council considers the increased delivery from small sites as revised by the Inspector's report on the draft London Plan is realistic and deliverable. Paragraph 173 of the Inspector's report on draft London Plan states:  <i>"173. In setting a revised target we consider that an annual growth rate of 0.3% is most likely to reflect the</i>	The Council has increased its delivery from small sites from historic levels of delivery of 0.21% to 0.3% based upon assumptions in the draft London Plan.  No evidence has been provided that this is realistic or deliverable.	

		<p><i>realistic output from small sites. This is because it relates closely to the evidence about the existing position that we heard from the boroughs and also because of the identified impediments to delivery. This is perhaps a cautious line to take but there would be nothing to prevent boroughs from adopting their own positive policies about small sites or higher targets and if we have under-estimated the potential then such developments could come forward anyway. Recommendations <b>PR8</b> and <b>PR10</b> and Appendices A and B are made accordingly in order to adjust the small sites target from 245,730 to 119,250 over ten years in Table 4.2 and the overall housing target in Table 4.1 as a consequence.”</i></p> <p><a href="https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/intend-publish-london-plan-2019">https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/intend-publish-london-plan-2019</a></p>		
3.5	Sources of Supply	<p>The council has allowed for non-implementation / drop off as stated in the Statement of Common Ground. Sites that aren't realistically deliverable are not included in the trajectory even when they have full planning permission for new homes.</p>	<p>46% of the Council supply of sites do not have planning permission with 33% not yet subject to a formal application.</p> <p>The Council has not allowed for non-implementation/ drop off and provided no detailed evidence to support the delivery.</p>	

3.6	Backlog	<p>In accordance NPPF para 73 the adopted London Plan (2016) is up to date as it is less than 5 years old. It also takes account of backlog which is informed by the 2013 SHMA.</p> <p>The Intend to Publish London Plan is at an advanced stage of preparation and its policies should be given appropriate weight which the council is doing through preparation of Merton's revised Local Plan which will include allocation of sufficient land to address the increased housing figure in the emerging London Plan.</p>	<p>Through not applying the draft London Plan housing targets, the Council's backlog continues to increase.</p> <p>The draft London Plan targets assumed delivery from 2016.</p>	
4.	<b>Planning</b>			
4.1	Site Allocation	<p>The part-site approach does not meet the strategic objectives of the local plan site allocation.</p>	<p>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.</p>	
	Weight to be given to Material Considerations (inc. design and housing need)	<p>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</p>	<p>The design is high quality and accords with the development plan and national guidance. There is no resultant visual harm, the mass and height are justified.</p>	<p>The Proposals do not meet LBM's Planning Guidance for Housing Mix, Sites and Policies Plan July 2014 Policy DM H2</p>

		does not outweigh the resultant visual harm.	In any event, significant weight should be attached to housing need in the borough.	and draft Local Plan Policy, H 4.3.  The proposal is to build 456 flats, of which 117 (26%) would be one bedroom units, 290 (64%) two bedroom units and 49 (11%) three bed units.  The target mix set out in Merton's Sites and Policy Plan <sup>1</sup> is 33% one bedroom, 32% two bedroom and 35% Three or more. These have been slightly modified in the draft Local Plan to 33%, 33% and 34%, <sup>2</sup> . The proposals are thus in clear conflict with this planning guidance and would consequently fail to deliver an adequate proportion of "family" (i.e. 3 bedroom) units.
	Compliance with the Development Plan	Does not comply with the development plan taken as a whole.	Does comply with the development plan taken as a whole.	
	Planning Balance	The planning benefits of the proposal do not outweigh the harm identified	The proposed development is of very high quality and accords with the development plan. The benefits of the development	

<sup>1</sup> Part of Merton's Local Plan, Sites and Policies Plan and Policies Maps, 09 July 2014, p 48

<sup>2</sup> Merton's Local Plan, Stage 2 Consultation draft, October 2018, Policy H 4.3. p 4.15

			would weigh significantly in favour of the proposal. The requirement of parts c of paragraph 11 of the NPPF are triggered, which requires that planning permission should be granted for the proposed development without delay.	
<b>5</b>	<b>Employment and Land Use</b>			
5.1			<p>The office building has been vacant for some time and subject to extensive marketing with no interest shown for office use. The office building also benefits from permitted development rights to change to residential.</p> <p>There is no policy protection against the loss of retail parking. Policy H1 of the draft London Plan supports development of retail car parks for housing.</p> <p>500sqm of employment space is being reprovided on site plus economic benefits statement show £11.4m spend in local economy p.a.</p> <p>Tesco have confirmed that sufficient parking will be retained for customers.</p>	The proposals seek to change the land use from Retail and Employment to Residential, contrary to Employment Policy DM E3
5.2			Ditto.	The Application Site is currently occupied by an office block and retail carpark. Whilst the former has been empty for many

				<p>years, the latter is in constant use. Merton's Employment Policy DM E3 for Protection of Scattered Sites recognises that there a major financial incentive for landowners of such sites to seek a change of use to "Residential".</p>
5.3			Ditto	<p>Such changes can damage the delicate balance between delivering new homes and the opportunities for business and job growth in the borough</p> <p>The applicant should provide alternative sites for employment and community uses or to provide equivalent employment, in terms of jobs and floor space.</p> <p>The area around the site has already suffered from significant loss of employment opportunities through the conversion into residential developments. It also suffers from increasing demand for school places,</p>



				GP surgeries and other community facilities.
5.4			Ditto.	.It is therefore certain that Applicant's proposals would represent further loss of potential for employment land use and will at the same time exacerbate the demand on already stretched community facilities.
6.	Carbon Footprint			
6.1			The proposals are consistent with the requirements of the	The Appellant's Proposals are damaging to the Environment, with an enormous Carbon Footprint, in direct conflict with LBM's declared Climate Emergency.
6.2			The development would deliver 249.2 tonnes of CO <sub>2</sub> per annum.	The Appellant's Energy Statement shows an annual carbon footprint of 595 Tonnes of CO <sub>2</sub> released annually.
6.3				The embodied carbon footprint for the construction phase will exceed 11,000 Tonnes of CO <sub>2</sub>
7	Flood Risk			
7.1			The FRA has identified that there is a risk of flooding to the Site through review of the EA flood	Our area has a long history of flooding. It is one of the key reasons that the

			<p>map for planning, site is located in Flood Zones 2 and 3. Of the Fluvial Flood Risk, mitigation has been incorporated to manage the flood risk post development. The mitigation measures have been approved by the EA.</p> <p>The risk of Surface Water Flooding using the EA maps has demonstrated the site to be affected for the 1 in 1,000-year event only, a low risk event. The site is not affected for the 1 in 30-year event or 1 in 100 year event.</p>	<p>Raynes Park and West Barnes Residents' Association was established in 1928 This has been an important issue ever since; most recently on 23 August 2020, when Westway, Linkway and several other streets in our area were subject to flash flooding.</p>
7.2			<p>It is acknowledged that there could be a risk of flooding to the West Barnes Ward.</p> <p>The Application Site is located in an area of surface water flood risk where the risk of flooding with reference to the EA Risk of Flooding from Surface Water as Low.</p> <p>It has been demonstrated the site to be at risk of the 1 in 1,000 year event only. The Site is not affected for the 1 in 30 year event (High Risk) or 1 in 100 year event (Medium Risk / Present Day).</p> <p>Further the proposed development is to incorporate Sustainable Urban Drainage Systems to better attenuate and</p>	<p>Our members are therefore rightly concerned that, despite the assurances that may be given by the Environment Agency and Thames Water that surface water drainage in the area is adequate, the actual experience in West Barnes ward is that surface water flooding is an ever present risk. The continuous increase in hard surfaces in the area and impediments to the flow of flood water only serve to exacerbate this risk.</p>

			limit flows off of the site compared to the existing situation providing a betterment.	
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