

LONDON BOROUGH OF MERTON
ENVIRONMENT AND REGENERATION
DEPARTMENT

TOWN & COUNTRY PLANNING ACT 1990
(AS AMENDED)

**PROOF OF EVIDENCE PREPARED BY MR TIM LIPSCOMB (PLANNING
OFFICER) ON BEHALF OF THE LOCAL PLANNING AUTHORITY**

265 BURLINGTON ROAD

APPELLANT – REDROW HOMES LTD

Local planning authority ref – 19/P2387
Planning inspectors Ref – APP/T5720/W/20/3250440

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1. INTRODUCTION AND SCOPE OF EVIDENCE

- 1.1 This proof of evidence is submitted in respect of an appeal by Redrow Homes Ltd and the refusal of planning permission by the London Borough of Merton of planning application reference 19/P2387.
- 1.2 My name is Tim Lipscomb and I hold a Bachelor of Arts degree in Environmental Design, Conservation and Planning Studies and a Master of Science degree in Spatial Planning. I have been a member of the Royal Town Planning Institute since April 2014. I have 15 years local authority planning experience, the last 4 years have been at the London Borough of Merton.
- 1.3 The Council will provide four separate proofs of evidence in defending the Council's failure to determine planning application 19/P2387 and the reasons for refusal that would have been raised had the application been determined.
- 1.4 This proof of evidence will provide background to the appeal and the separate proofs of evidence, prepared by Richard Lancaster (Transport Consultant - PWLC Projects), which will focus on why the Council considers that the proposed development would be contrary to adopted planning policies on highway grounds (refusal reason 1), Hugo Nowell (Design Consultant - Urban Initiatives Studio Ltd), which will focus on why the Council considers that the proposed development would be contrary to adopted planning policies on local character and visual amenity grounds (refusal reason 1), and Tara Butler (Planning Policy Officer London Borough of Merton) and Valerie Mowah (Planning Policy Officer London Borough of Merton) which will focus on matters of housing supply and delivery.
- 1.5 For the sake of repetition, the Council's Proof of Evidence will refer where necessary to information already provided within the agreed Statement of Common Ground and the Council's Statement of Case.
- 1.6 The planning application, 19/P2387 was for:

“Demolition of the existing buildings at 265 Burlington Road and 300 Beverley Way 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”.

1.7 The planning application, 19/P2387 would have been refused by the Planning Applications Committee for the following reasons had the application been determined:

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).

- 1.8 The evidence which I have prepared and provide for this planning appeal PINS Ref: APP/T5720/W/20/3250440 in this proof of evidence is true and I confirm that the opinions expressed are my true and professional opinions.

2 DESCRIPTION OF SITE AND SURROUNDINGS

- 2.1 The site and surroundings are described fully in the previously submitted Statement of Case and Statement of Common Ground.

3 PLANNING HISTORY

3.1 The Statement of Case and Statement of Common Ground detail the full planning history for the application site.

4. PROPOSAL

4.1. The proposal is fully described in the Statement of Case and Statement of Common Ground.

5 Legislative and Policy

5.1 The Councils Statement of Case and Statement of Common Ground details policies and guidance the Council will have regard to in defending the appeal.

6 Council's Case

6.1 It is acknowledged that the appellant has worked proactively with the Council in order to achieve a positive recommendation at Committee. However, the application was resolved to be refused by the Planning Applications Committee on 13th February 2020.

6.3 As set out above, the key matters relate to highway grounds, local character and visual amenity grounds, housing supply and delivery.

6.4 Whilst all other planning considerations were considered to acceptable and in line with planning policy, the Council considered that the benefits of the scheme in terms of good quality housing provision, with no materially harmful impact on neighbouring amenity, public realm improvements, provision of pedestrian crossing, junction improvement, affordable housing provision, unit mix, surface water run-off rates, biodiversity improvements would not outweigh the concerns the Council has raised in regards to visual impact and highway concerns.

6.5 *Transport and highway impacts (Reason for Refusal 1):*

6.5.1 Whilst this matter will be primarily addressed in evidence from Richard Lancaster, the proposed development 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).

6.6 Local character and visual amenities of the area (Reason for Refusal 2):

6.6.1 Whilst this matter will be primarily addressed in evidence from Hugo Nowell, it can be seen from the Committee Report to Members that the visual impact of the scheme was a matter to be weighed against other benefits of the scheme. The Committee Report to Members concluded that:

“The proposal would have no effects on any designated heritage assets or any protected views. Officers acknowledge that there would be an impact on views from streets in the surrounding area and from further afield due to the scale of the proposed development. However, whether this harms the visual amenities of the area is a matter where judgement may be exercised and requires assessment in terms of the overall visual impacts of the scheme and, in turn, the overall merits of the scheme. In the event that the delivery of housing is accorded primary importance and that at street level there is the potential for enhancement, it may be concluded that the imposing skyline and departure from the surrounding built form created by the proposals would not in itself warrant refusal.”

“The scheme would introduce a significant uplift in the level of built form across the site, which would be significantly taller than the surrounding suburban context. However, given the degree of flexibility afforded by adopted policy on tall buildings and the anticipated uplift in housing targets, it is considered, on balance, that the design, massing and appearance of the proposal would deliver a significant quantity of new housing and improve the ground level streetscape and connectivity, without causing harm to the visual amenities of the area.”

6.6.2 The decision of the committee concluded that the benefits of the proposal did not overcome the visual harm arising.

6.6.3 The planning benefits of the scheme do not overcome the harm to the local character and visual amenities of the area. The proposed development would conflict with Policies 3.5, 7.4, 7.6 and 7.7 of the London Plan 2016, Policy CS4 and CS14 of the Core Planning Strategy 2011 and Policies DM D1 and DM D2 of the Sites and Policies Plan 2014, as 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.

6.6.4 The evidence of Hugo Nowell will explain how the proposed development fail to relate positively and appropriately to local character and the context of the site to the detriment of the visual amenities of the area and fail to deliver a housing development of the highest quality in relation to its context, in conflict with How the proposed development fails to have regard to the pattern and grain of the existing spaces and streets in orientation, scale, proportion and mass, in conflict with policies 3.5, 7.4 and 7.6 of the London Plan (2016), policy CS4 and CS.14 of the Merton Core Planning Strategy (2011), and policies DM D1 and DM D2 of the Merton Sites and Policies Plan (2014).

6.7 Benefits of the scheme:

6.7.1 Good quality housing provision

6.7.2 It is noted that the scheme would provide for good quality housing accommodation in accordance with Policy 3.5 of the London Plan 2016, Policy D6 of the draft London Plan, Policy CS14 of the Core Planning Strategy 2011, Policy DM D2 of the Sites and Policies Plan 2014 and Policy D5.3 of the draft Local Plan, (other than elements relating to local character and impact on visual amenity).

6.7.3 Most units would benefit from dual and triple aspect outlooks (and no north facing single aspect units).

6.7.4 In terms of the layout, the physical arrangement of buildings at ground floor level are based on sound urban design principles. However, the layout and proposed use at ground floor level, with a number of cycle stores, bin stores and residential entrances, creates a proportion of inactive edges, which would not be positive in terms of place making, which limits the overall quality of the scheme.

6.7.5 The open space provided within the development would be of a high standard with high quality soft and hard landscaping along with play equipment, which is a clear benefit of the scheme. However, this playspace would not be available to the wider local population beyond residents of the scheme, which limits the potential benefit of this element of the proposal. In addition, the failure to provide on-site playspace for 12-18 year olds also limits the benefit to be attributed to the provision of playspace in the proposed development (it is noted that a commuted sum has been sought in this regard to provide off-site playspace).

6.7.6 The proposal would comply with Part M of the Building Regulations with 10% of the dwellings designed to be easily adapted to meet the needs of a wheelchair user. This can be recognized as a benefit of the proposed development, albeit a requirement under planning policy.

6.7.7 Public realm improvements

6.7.8 The proposed development would improve the appearance of the Burlington Road streetscene in the vicinity of the site, given that it currently forms the edge of an expansive ground level car park. The proposed development would comply with Policy 7.5 of the London Plan 2016, Policy D8 of the draft London Plan, Policy CS14 of the Core Planning Strategy 2011, Policy DM D1 of the

Sites and Policies Plan 2014 and Policies D5.1 and D5.2 of the draft Local Plan, other than issues relating to bulk and massing.

6.7.9 The proposed development would provide a contribution of £100,000 towards public realm improvements relating to the Healthy Streets Indicator. This contribution is a benefit of the scheme but it is noted that no specific measures for public realm improvements beyond the immediate vicinity of the site have been proposed, which limits the benefit to be attributed to this element of the scheme.

6.7.10 Neighbouring amenity impact

6.7.11 In terms of the impact on neighboring uses, no material harm has been established by Officers or Committee Members. The proposed development would comply with Policy 7.6 of the London Plan 2016, Policy DM D2 of the Sites and Policies Plan 2014 and Policy D5.3 of the draft Local Plan, in relation to the impact on neighbouring amenity.

6.7.12 The relationship with the school is noted and whilst it raised objection from the school this was not supported in the Committee's resolution. Whilst the fact that the proposal would not have a materially harmful impact on neighbouring properties, the resultant relationship with the school limits the benefit of the proposal in this regard.

6.7.13 Provision of pedestrian crossing, junction improvement

6.7.14 Whilst the consideration on highway and transport matters will be primarily addressed in evidence from Richard Lancaster, it is noted that the provision of the pedestrian crossing and the junction improvement proposed is a benefit of the scheme. The application includes a public realm strategy, which puts forward the following:

- Planting of street trees along west side of Burlington Road;
- Introduction of public seating opportunities;

- Provision of publicly accessible cycle parking;
- Introduction of a pedestrian crossing on the northern side of Burlington Road/ Claremont Avenue junction, facilitated through the provision of drop kerbs, tactile paving, warning signs and a coloured surface treatment which will emphasise the desire line to/ from Motspur Park station;
- Signage to help wayfinding to/ from Motspur Park station; and
- Improvements to ‘the lane’ which comprises an existing Public Right of Way (PRoW) along the southern boundary of the proposed development site. The improvements will include measures to discourage vehicle parking at the junction of the PRoW with Burlington Road, planting, seating and visual amenity which in part will be enhanced by the surveillance of the lane which will be achieved through the delivery of new homes

6.7.15 As set out in the Committee report: “Having regard to the measures put forward and the financial contribution towards improving the walking environment around the site (£150,000), it is considered that the proposal would meet the objectives of the Health Streets Indicators”.

6.7.16 No objection is raised in relation the Healthy Streets Approach in the proposed development.

6.7.16 Affordable housing provision

6.7.17 The affordable housing provision meets the policy requirements, albeit offering over and above what is financially viable. The proposed development would comply with Policies 3.10, 3.11, 3.12 and 3.13 of the London Plan 2016, Policies H4, H5, H6 and H7 of the draft London Plan, Policies CS8 and CS9 of the Core Planning Strategy 2011, Policy DM H3 of the Sites and Policies Plan 2014 and Policies H4.1 and H4.2 of the draft Local Plan, in relation to the delivery of affordable housing. This is recognized as a benefit of the scheme to be attributed substantial weight.

6.7.18 Unit mix

6.7.19 The proposed unit mix has been demonstrated to be suitable by the appellant and this is considered to be a benefit of the proposed development. The proposed development would comply with Policies 3.4, 3.8 and 3.9 of the London Plan 2016, Policy H10 of the draft London Plan, Policies CS8 and CS9 of the Core Planning Strategy 2011, Policy DM H2 of the Sites and Policies Plan 2014 and Policies H4.1, H4.2 and H4.3 of the draft Local Plan, in relation to housing mix.

6.7.20 Surface water run-off rates

6.7.21 In terms of surface water run-off, the London Plan 2016 advises that developments should seek to achieve greenfield run-off rates (Policy 5.13). It noted that the vast majority of the site is laid to hardstanding currently. The proposed development would improve run-off rates significantly but would not achieve green field rate run-off levels. The Council's Flood Risk Engineer has reviewed the proposed arrangements and raises no objection subject to conditions. The reduction in run-off levels is a benefit of the proposed development, despite the fact that it does not achieve the policy aims of the London Plan.

6.7.22 Biodiversity improvements

6.7.23 The scheme proposed a number of biodiversity enhancements around the site but particularly in relation to the treatment of the Pyl Brook. The proposed development would comply with Policy 7.19 of the London Plan 2016, Policy G6 of the draft London Plan, Policy CS13 of the Core Planning Strategy 2011, Policy DM O2 of the Sites and Policies Plan 2014 and Policies O8.1 and O8.3 of the draft Local Plan.

6.7.24 These enhancements are a benefit of the scheme but it is noted that this part of the site would not be publically accessible (until such time as a wider

redevelopment of the Tesco Extra store comes forward), which limits the benefit that can be attributed to this element of the proposed development.

6.7.25 Air Quality

6.7.26 It is noted that concerns have been raised in representations regarding the impact on air quality. However, the Council has assessed this matter and raised no objection subject to a financial contribution (£31K) to address air quality impact issues during the sensitive period of development. The proposed development would comply with Policies 6.7, 7.5 and 7.14 of the London Plan 2016, Policy SI 1 of the draft London Plan, Policy CS15 of the Core Planning Strategy 2011, Policy DM EP4 of the Sites and Policies Plan 2014 and Policy P.8.9 of the draft Local Plan, in relation to air quality.

6.7.27 This matter is neutral in terms of its benefit to the scheme.

6.7.28 Sustainability/Climate Change

6.7.29 An on-site reduction of 203 tonnes of carbon dioxide per year in regulated emissions compared to a 2013 Building Regulations compliant development is expected for the domestic buildings. This is equivalent to an overall saving of 35%, which does not meet the zero-carbon target. The non-residential element would achieve a 41% reduction, which exceeds the emissions target set in London Plan Policy 5.2. The remaining regulated CO2 emissions must be met through a contribution to the borough's offset fund.

6.7.30 The Council's Climate Change Officer has reviewed the proposals and concludes that a carbon offset contribution of £651,060 is necessary. Payments to offset carbon shortfalls are used by Merton Council to fund projects which seek to reduce carbon generation in the borough; projects to date have focused on schools and have included insulating building envelopes and pipes, boiler controls, lighting motion sensors and solar panels.

6.7.31 It is disappointing that the scheme does not meet the carbon savings target on-site. However, the scheme would be policy compliant subject to a carbon offset contribution and therefore officers do not raise objection in this regard.

6.7.32 The proposed development would comply with Policies 5.1, 5.2, 5.3 and 5.7 of the London Plan 2016, Policies SI 2, SI 3, SI 4 and SI 5 of the draft London Plan, Policy CS15 of the Core Planning Strategy 2011, Policies DM D2 and DM EP3 of the Sites and Policies Plan 2014 and Policies CC8.11, CC8.12, CC8.14 of the draft Local Plan, in relation to climate change and sustainability issues.

6.7.33 This matter is neutral in terms of its benefit to the scheme.

6.7 GLA Comments

6.7.1 The GLA commented on the planning application on 9th September 2019. The conclusion of the GLA is below:

- Principle of development: the residential-led mixed-use re-development is strongly supported in strategic planning terms, in line with London Plan and draft London Plan Policies.
- Affordable housing: 35% affordable housing by habitable room, comprised of 58 shared ownership units (40%) and 87 social rented units (60%), meets the Fast Track threshold. Social rented units would be offered at London Affordable Rent levels, in line with the Mayor's Affordable Housing and Viability SPG. Further information is required on the affordable rent levels, income ranges and availability of grant funding. An early stage review must be secured. A draft S106 must be shared with GLA officers prior to Stage 2 referral.
- Urban design: The proposed heights and massing are supported in terms of optimizing housing delivery. Further consideration is required in terms of the Crossrail 2 requirements, public realm, surface level landscaping, pedestrian routes and active frontages. An inactive

impermeable frontage along the western building line is not acceptable in the context of the wider site allocation.

- Sustainable development: The applicant has broadly followed the energy hierarchy; however, further information regarding overheating, potential connection to a nearby district heat network, the site heat network and renewable energy is required before the proposals can be considered acceptable.
- Transport: The design proposals must demonstrate how the site will accommodate the bridge requirement associated with the future delivery of Crossrail 2. Financial contributions are required towards the upgrade of bus stops and pedestrian and cycle infrastructure within the surrounding area. Further detail is required to assess Healthy Streets, Vision Zero and the impact on highways and public transport.

6.7.2 The response generally indicated support for the scheme in strategic planning terms.

6.7.3 The principle of development and the loss of existing car parking and office space was considered to be acceptable by the GLA.

6.7.4 The affordable housing offering was indicated to be acceptable.

6.7.5 The provision of playspace partly on site and partly provided by way of a commuted sum was indicated to be acceptable.

6.7.6 The density was supported and within the London Plan matrix range.

6.7.7 The GLA response raised concerns relating to the potential future use of the site relating to Crossrail 2. However, as set out in the Statement of Common Ground, this is not a matter to be pursued under the Council's case.

6.7.8 The layout was considered acceptable subject to some concerns regarding the inactive edge to the western site boundary.

6.7.9 The quality of residential accommodation was indicated to be good.

6.7.10 Subject to a financial contribution the energy strategy would be acceptable.

6.7.11 Concerns were raised in relation to surface water runoff. However, this does not form a reason for refusal and was found to be acceptable by the Planning Applications Committee.

6.7.12 The key area of dispute in the appeal relates to height, massing and architecture. The GLA stated:

“The development of a seven-storey shoulder height with variations of two to three storeys along the eastern edge of the site is supported and assists in providing variation between the buildings. The 17 storey maximum height is supported in terms of optimising housing delivery.

Whilst it is noted that the proposal would result in a noticeable addition to the surrounding low-density area, the distribution of massing across the site responds appropriately to the surrounding context.

The proposed architecture is broadly supported and does not present any strategic design concerns. High quality facing materials, balcony treatments and window reveals should be secured to ensure exemplary design is carried through post planning to completion.”

6.7.13 The evidence of Hugo Nowell will set out why this support for the scheme in terms of height, massing and architecture is not supported.

6.7.14 In relation to transport, the GLA response requested more information as to how the Crossrail 2 requirements may be accommodated within the site. However, as set out in the Statement of Common Ground this does not form part of the Council’s objection to the proposed development.

6.7.15 The GLA stated that the Council should review the results from the applicant’s Heathy Streets assessment to inform potential improvements to the walking

and cycling environment, which should be secured through the s106 agreement. A financial contribution may be required in this respect. A financial contribution has been sought through a legal agreement and this matter can be satisfactorily addressed through the requirements of the legal agreement.

6.7.16 Other issues relating to transport will be addressed in the evidence from Richard Lancaster.

6.8 Consideration of the 'Tilted Balance'

6.8.1 The “tilted balance” refers to the presumption in paragraph 11(d) ii of the NPPF that makes a presumption towards planning permission being granted unless there are “adverse impacts which would significantly and demonstrably outweigh its benefits. As set out in evidence from Tara Butler and Valerie Mowah, it is the case of the LPA that the tilted balance principle does not apply in this case. However, notwithstanding that position, even if the tilted balance were to apply, in my professional view the adverse impacts of permitting the proposed development would demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

6.9 Potential impact of Covid-19 on housing delivery

This matter is addressed in the Council’s response to appeal note on 269 Burlington Road, received 30th July 2020.

7. Conclusion

7.1 National Planning Policy Framework (2019) and Planning Practice Guidance states that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

7.2 As set out above, whilst the proposed development would have a number of planning benefits, these would not outweigh the concerns identified in the

reasons for refusal and there are no other material considerations to indicate why the Council should depart from adopted planning policy.

7.3 The planning inspector is therefore advised to dismiss the appeal.