

**MERTON SITES AND POLICIES PLAN (the Plan)**  
**Public Examination**  
**Main Matters and Issues**

**Q4 Flood Risk Management: Is Policy DM F1, which indicates that ‘more vulnerable development’ may be acceptable in functional floodplain, consistent with national policy and guidance as set out in the National Planning Policy Framework and in National Planning Practice Guidance?**

- 4.1 The council has worked with the Environment Agency over the past two years, and especially since Sept 2013, to ensure that Merton’s *Sites and Policies plan* conforms to the National Planning Policy Framework and the National Flood Risk Management Strategy.
- 4.2 It should also be noted that the council is working continuously on managing local flood risk, including:
- Working with the Environment Agency, Thames Water and other parties on the Local Flood Risk Management Strategy. This strategy will set out measurable objectives and actions as to how Merton is managing and will continue to manage flood risk.
  - Drain London
  - Surface Water Management Plan
- 4.3 The intended aim of **SP4.1** Sites and Policies Plan Policy DM F1: *Support for flood risk management* is to adopt a sequential approach, which means that sites at risk of will only be developed if it reduces flood risk overall and it has been demonstrated that no other potential suitable sites exist.
- 4.4 Since the preparation of the **SP4.1** Sites and Policies Plan, the council has conducted a number of consultations to which the Environment Agency has submitted representations, particularly in relation to the appropriate development for all flood zone designations in Policy DM F1.
- 4.5 Recent dialogue between the council and the Environment Agency specifically on DM F1 of SP4.1 can be seen in (**SP4.13** key correspondences from the Environment Agency) and recent correspondence (December 2013) is attached as Appendix A to this statement.
- 4.6 In conclusion, the council has reached a **Statement of Common Ground** with the Environment Agency (see Appendix A to this statement) and is proposing changing the wording to *DM F1 Support for flood risk management* (table at the bottom of page 124, section and extract relating to Flood zone 3b and ‘more vulnerable development’). .

*“The council will only support redevelopment of existing developed sites if there is no greater flood risk than currently exists to the re-development or wider community.*

~~*Developments classed as ‘more vulnerable’ which are considered key to the delivery of the boroughs wider aims may be acceptable provided that it can be demonstrate that the wider economic, environment and outweighs the designation of Flood Zone 3b and robust flood risk mitigation measure are installed that will result in an overall flood risk reduction for the area and it surrounds, as advised by the E.A.”*~~

4.7 The above deleted wording would be replaced with the wording below, which is an adapted version of paragraph 102 of the NPPF (**SP1.1**):

*In accordance with the NPPF if, following the application of the Sequential Test, it is not possible, consistent with the wider sustainability objectives for development to be located in flood zones with lower probability of flooding:*

- *The developer must demonstrate that the development provides a wider social, environment, and economical benefit to the wider community that outweighs the flood risk, as informed by the SFRA and,*
- *Submit a site specific flood risk assessment which must demonstrate that the development will be safe for the life time of the build taking into account vulnerability of its users, without increasing the risk to the development and surrounding area; and where possible will reduce flood risk overall.*

4.8 The council has adapted page 124 of SP4.1 and included this as Appendix 2 to this Statement, to make it easier for the reader to see what this change will look like.

4.9 The amendment to policy DM F1 is intended to be used in conjunction with national, London-wide and Merton's Core Planning Strategy's (**SP3.2**) policy CS16 *Flooding* (part of Merton's Local Plan) and guidance to reach an informed judgement on development.

4.10 On the 12<sup>th</sup> December 2013, the council received written support from the Environment Agency on the council proposed policy changes (appendix 1 of this statement).

4.11 In conclusion the council and the Environment Agency are supportive of these new policy amendments to DM F1, which they believe are in conformity with the National Planning Policy Framework and National Planning Practice Guidance.

Appendix 1: Letter from the Environment Agency to the council, 12 December 2013  
(Statement of Common Ground)

Tara Butler  
Programme manager – Strategic Policy and  
Research  
Future Merton  
London Borough of Merton  
12th Floor Civic Centre  
London Road  
Morden SM4 5DX

**Our ref:** SL/2006/100135/OT-05/SB1

**Your ref:** Email

**Date:** 12 December 2013

Dear Tara,

**Re: Environment Agency Merton Sites and Policies Plan Examination**

Thank you for your detailed response which we received today. We understand the complexity of this situation and the need to find an agreeable solution. We are keen to stress that our comments made so far have been intended to indicate how policy DM F1 sits with the national planning policy and do not reflect a desire to prevent appropriate redevelopment and associated reductions in flood risk in these key areas.

The Functional Floodplain was a key aspect of PPS25 and now the NPPF, in preserving those areas that flood frequently or have to store water in times of flood. We take a strong view that where genuine areas of Functional Floodplain exist, development should be restricted as set out in the NPPF. This is the reason why we are not supportive of general statements that could allow other issues to “outweigh” this designation. However, our advice to this point relating to a revision of Functional Floodplain, was suggesting that you could legitimately, as Local Planning Authority, consider a review of this designation within your borough.

Any revision to Flood Zone 3b would be based on a clarification of the designation, rather than a re-drawing of boundaries. You are correct in that no new modelling is available to suggest the area is not at risk in a 1 in 20 flood event. The question was whether it is appropriate to designate areas which have an existing and established ‘developed’ land use, as Functional Floodplain. It is for Local Planning Authorities to set the extent of the Functional Floodplain informed by our modelling evidence.

We were indicating to London Borough of Merton that other urban authorities had taken a more nuanced view that it was not appropriate to designate existing developed areas as Functional Floodplain (despite them falling within an extent of flooding with a certain flood probability). Therefore, a review of your Functional Floodplain designation, based on existing land uses, could be a pragmatic way out of the current situation.

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With respect to your proposed amendments, we support the deletion of the text in the table at the bottom of page 124, Flood Zone 3b section and support the proposed insertion of adapted version of paragraph 102 of the NPPF.

We look forward to continuing to work in partnership with you to manage flood risk at the same time as delivering the housing targets and regeneration plans.

Please do not hesitate to contact me should you wish to discuss this further.

Yours sincerely,

Charles Muriithi MRTPI  
Planning Specialist

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Appendix 2 – adapted page 124 of SP4.1 (policy DM. F1 *Support for flood risk management*) illustrating the proposed amendments as agreed between the Environment Agency and the Council in their Statement of Common Ground.

## 8. Flooding and Drainage

### **DM F1 Support for flood risk management**

Link to Core Planning Strategy CS 16 *Flood Risk Management*

#### **Policy aim**

To mitigate against the impact of flooding in Merton in line with the National Policy Planning Framework (NPPF 2012), the Flood and Water Management Act 2010, Flood Risk Regulations 2009, The Water Framework Directive, the council duty as Local Flood Risk Authority and Merton's Local Flood Risk Management Strategy.

#### **Policy**

- a) To minimise the impact of flooding in the borough the council will:
  - i. Encourage development to locate in areas of lower risk by applying the Sequential Test; any unacceptable development and land uses will not be permitted.
  - ii. Ensure that flood resilient and resistant measures are incorporated into design of development proposals in any area susceptible to flooding to minimise and manage the risk of flooding.
  - iii. Ensure that developments consider all sources of flooding from fluvial, groundwater, surface water run off, ordinary watercourse, and sewer; and including the risks of flooding arising from and to the development.
  - iv. All development proposals must have regard to the Strategic Flood Risk Assessment (SFRA) and the Local Flood Risk Management Strategy.
  - v. Permit appropriate development in Flood Zones 1, 2, 3a and 3b subject to meeting the criteria in the following table:

Flood Zones	Sequential Test	Exception Test	Flood risk assessment
<p><b>Flood Zone 1 Low Risk:</b>  <b>This zone has 1 in 1000 or less annual probability of fluvial flooding or less (&lt;0.1%) in any year.</b></p> <p>No land development restrictions.                      (Except for areas that have been identified as having critical drainage problems by the Environment Agency).</p>	<p>Not applicable.                      (Except for areas that are within a Critical Drainage Area).</p>	<p>Not applicable.</p>	<p>Required for sites greater than 1 ha or other developments proposals where there is evidence of risk from other sources of flooding including surface water, groundwater, ordinary watercourses and sewer flooding.</p>
<p><b>Flood Zone 2 Medium Risk:</b>  <b>This zone has between 1 in 100 and 1 in 1000 annual probability of fluvial flooding (between 1% and 0.1%).</b></p> <p>In this zone self-contained residential units at basement level and bedrooms at basement level will not be permitted by the council without appropriate mitigation measures in line with Environment Agency guidance.</p> <p>All basement, basement conversions and basement extensions must:</p> <ul style="list-style-type: none"> <li>• have access and escape routes to a higher floor, including other emergency planning measures; and,</li> <li>• Adopt flood resilient and resistant design techniques.</li> </ul> <p>Flooding from all sources (including surface and groundwater flooding) should be considered, where basements are proposed they must have mitigation measures as part of the development proposal and design layout to reduce the risk of flooding to and from the development and surrounding area.</p>	<p>Required for all developments (including minor development and change of use).</p>	<p>Required for developments classed as <i>'highly vulnerable'</i>.</p>	<p>Required for all development proposals unless the development is for change of use from <i>'water compatible'</i> to <i>'less vulnerable'</i> classification development.</p>
<p><b>Flood Zone 3a High Risk:</b>  <b>This zone has 1 in 100 annual probability or greater (&gt;1%) of fluvial flooding.</b></p> <p>Development proposals are constrained to <i>'water compatible'</i>, <i>'less vulnerable'</i> and <i>'more vulnerable'</i> classification.</p> <p><i>Development classed as 'Highly vulnerable'</i> will not be permitted by the council in line with Environment Agency guidance.</p>	<p>Required for all developments.</p>	<p>Required for developments classed as <i>'more vulnerable'</i> and <i>'essential infrastructure.'</i></p>	<p>Required for all development proposals.</p>

<p><b>Residential basements:</b> Self-contained residential basement and bedrooms at basement level will not be permitted by the council.</p> <p>All <b>other</b> basement, basement conversion and basement extensions must:</p> <ul style="list-style-type: none"> <li>• have access and escape routes to a higher floor, including other emergency planning measures; if an appropriate escape route can not be provided then the basement proposal will not be permitted and</li> <li>• adopt appropriate resilient design techniques and appropriate flood mitigation measures.</li> </ul>			
<p><b>Flood Zone 3b</b></p> <p>The functional floodplain will be protected by not allowing any form of development on undeveloped sites unless it:</p> <ul style="list-style-type: none"> <li>• classed as <i>'water compatible'</i></li> <li>• For development of <i>'essential infrastructure'</i> which has to be located in a flood risk area and where no alternative locations are available, should be developed safely, without increasing flood risk elsewhere and where possible reduce the flood risk overall.</li> </ul> <p>The council will only support redevelopment of existing developed sites if there is no greater flood risk than currently exists to the re-development or wider community.</p> <p><del>Developments classed as 'more vulnerable' which are considered key to the delivery of the boroughs wider aims may be acceptable provided that it can be demonstrate that the wider economic, environment and outweighs the designation of Flood Zone 3b and robust flood risk mitigation measure are installed that will result in an overall flood risk reduction for the area and it surrounds, as advised by the E.A.</del></p> <p><b>In accordance with the NPPF if, following the application of the Sequential Test, it is not possible, consistent with the wider sustainability objectives for development to be located in flood zones with lower probability of flooding:</b></p> <ul style="list-style-type: none"> <li>• <b>The developer must demonstrate that the development provides a wider social, environment, and economical benefit to the</b></li> </ul>	<p>Required for developments classed as <i>'essential infrastructure'</i>.</p>	<p>Required for developments classed as <i>'essential infrastructure'</i>.</p>	<p>Required for all development.</p>

<p>wider community that outweighs the flood risk, as informed by the SFRA and,</p> <ul style="list-style-type: none"> <li>Submit a site specific flood risk assessment which must demonstrate that the development will be safe for the life time of the build taking into account vulnerability of it users, without increasing the risk to the development and surrounding area; and where possible will reduce flood risk overall.</li> </ul> <p>Basements, basement extensions and conversion of basements to a 'higher vulnerability' classification or self-contained units will not be permitted by the council.</p>			
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### SA/ SEA implications

- 8.1. The policy meets a number of sustainability objectives including the objectives concerned with flooding and land use.

### Justification

- 8.2. Merton's Core Planning Strategy policy CS16 *Flood Risk Management* identifies the council's approach to managing flood risk in the borough. Merton's Strategic Flood Risk Assessment 2009 (SFRA), approved by the Environment Agency (EA) identifies the detailed criteria against which a planning application will be assessed for flood risk. Policies DM F1 and DM F2 support the Core Planning Strategy and provide further detail for consideration alongside the information contained within the SFRA. In addition DM F1 and DM F2 are in conformity to the London Plan.
- 8.3. The Strategic Flood Risk Assessment (SFRA), produced in partnership with the Environment agency and neighbouring boroughs of Croydon, Sutton and Wandsworth also contains guidance on building design, site or area-specific Flood Risk Assessments and vulnerability, developments behind flood defences, developments located within the River Wandle and Beverley Brook floodplains, surface water flooding and the use of Sustainable Drainage Systems (SuDS), water resources, residual risk and emergency planning. The council will use the SFRA alongside the advice of the Environment Agency when considering any development and infrastructure.
- 8.4. Merton is affected by a number of different sources of flood risk, including fluvial (or river), surface water, ordinary watercourse, sewer and groundwater and critical drainage flooding.
- 8.5. The NPPF requires inappropriate development in areas at risk of flooding be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.
- 8.6. A sequential risk based approach to the location of development should be undertaken to ensure new development be steered to areas with the lowest probability of flooding. If, following this approach, it is not possible, consistent with wider sustainability objectives,

for a development to be located in flood zones with a lower probability of flooding exceptional circumstances may be applied if appropriate.

- 8.7. Further guidance outlining the Sequential Test and the Exception Test is contained within the NPPF and its associated technical guidance.
- 8.8. Around a quarter of brownfield land in Merton is at risk of some form of flooding. Like most London boroughs, Merton is a borough with no developable greenfield land and all new development should take place on brownfield land.
- 8.9. In order to deliver the new homes, jobs and infrastructure necessary for the borough's future (as outlined in the Mayor's London Plan and Merton's Core Planning Strategy) and to secure improvements to Colliers Wood / South Wimbledon area for intensification and other sites within the Wandle Valley, it will be necessary to redevelop sites within medium to high flood risk zones, subject to meeting the requirements of the NPPF's Sequential and Exceptions Tests.
- 8.10. The Environment Agency's Flood Map for Surface Water and Thames Catchment Flood Management Plan, alongside Merton's SFRA and historical flooding records of the borough, indicate that several areas along the Wandle, including around Colliers Wood town centre, West Barnes and Rayne Park (around the Pyl Brook which feeds into Beverly Brook), and Plough Lane (Wimbledon) towards the Wandsworth border are affected by multiple flood risk.
- 8.11. The council will consult the Environment Agency on all applications for developments within a flood risk zone including basement developments. Inappropriate development in areas of highest flood risk should be avoided and if possible steered towards areas of lower flood risk.
- 8.12. Where there are no reasonably available sites in Flood Zone 1, the council will take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2, applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 will the council consider sites in Flood Zone 3, taking into account flood risk vulnerability, applying the Exception Test where necessary and ensuring that there is no risk of increasing flooding elsewhere.
- 8.13. A site specific Flood Risk Assessment will be required to justify the Exception Test to assess the flood risk posed to proposed developments and to ensure where necessary and appropriate, suitable mitigation measures are included in the development. Where a development type is not entirely compatible with the classification of flood risk as set by the Environment Agency and National Planning Policy Framework (2012) (NPPF), the applicant must demonstrate through a Flood Risk Assessment that all three elements of the Exception Test have been passed.
- 8.14. Information regarding how the Sequential Test and Exception Test should be carried out and guidance on what should be included within a Flood risk Assessment is contained within Merton's Strategic Flood Risk Assessment. Further guidance can be found in the Environment Agency's current advice on Flood Risk Assessment requirements and the Technical Guidance to the National Planning Policy Framework (2012).

- 8.15. ~~In accordance with Policy DM D2 of this document the council will only permit basement and underground development that does not cause harm to the built and natural environment, local amenity; result in increased flood risk or lead to ground instability.~~ In determining proposals for basement and other underground development, the council will require an assessment of the scheme's impact on drainage, flooding conditions (from all sources) ~~groundwater conditions~~ and structural stability ~~where appropriate.~~ ~~Applications will be required to submit a site specific basement assessment to demonstrate that the proposal would not cause harm to the built and natural environment; and local amenity and would not result in flooding or ground instability.~~
- 8.16. Basement schemes which include habitable rooms, ~~and other sensitive uses for self contained basements flats and underground structures~~ where flooding could threaten the safety of people, especially when sleeping, ~~in areas prone to flooding (including fluvial, surface water and ground water)~~ and in certain circumstances the use of basements may be restricted to non-habitable uses. Positively pumped devices should be installed to protect basements from the risk of sewer flooding and other measures outlined in policy DM F2 will not be ~~permitted by the council in areas prone to flooding.~~ ~~accepted.~~
- 8.17. Further guidance can be found in the Environment Agency's current advice on Flood Risk Assessment requirements, the Technical Guidance to the National Planning Policy Framework (2012) and DM D2 policy; Design considerations in all developments
- 8.18. In order to ensure efficient drainage of fluvial rivers it is important to maintain, and where necessary improve the river banks. Environment Agency consent will be required for any development within 8m of fluvial watercourses including the River Wandle, Beverley Brook and Pyl Brook. This is to enable the river channel to be inspected, cleared, repaired, modified or raise defences as necessary.

#### **Delivery and monitoring**

- 8.19. The council will continue to work in partnership with the Environment Agency, Mayor of London, neighbouring boroughs and utilities companies to investigate how the objectives of the Water Framework Directive, the Flood and Water Management Act 2010 and the Flood Risk Regulations 2009 can be achieved.
- 8.20. As required under The Flood and Water Management Act 2010 the council will be consulting and producing a Local Flood Risk Management Strategy during 2013; which will be in conformity with the Environment Agency's National Strategy on flooding. It should be noted that the Local Strategy will not be secondary to the National Strategy; rather it will have distinct objectives to manage local flood risks important to local communities.
- 8.21. The council will maintain, review, update as well as implement the actions in the Local Flood Risk Management Strategy.