

# MAYOR OF LONDON

**Tara Butler**  
Sustainable Communities  
Merton Council  
Merton Civic Centre  
London Road  
Morden  
SW4 5DX

**Our ref:** PDU/LDF24/LDD04/  
JF05  
**Date:** 28 August 2013

Dear Tara Butler,

## **Merton Council Local Development Framework: Proposed submission of Sites and Policies Plan and Policy Maps**

### **Statement of general conformity with the London Plan (Planning and Compulsory Act 2004, Section 24 (4) a)**

Thank you for your letter of 15 July 2013 consulting the Mayor on the above documents and requesting an opinion on general conformity.

The Mayor has delegated his planning powers to me in relation to this matter and on 28 August 2013 I considered a report on this matter, reference PDU/LDF24/LDD04/04. This report constitutes my formal representations to the proposed submission consultation. Please note that this includes representations relating to general conformity with the London Plan as well as other representations to clarify or improve policy.

As you will be aware, all development plan documents must be in general conformity with the London Plan under section 24 (1) (b) of the Planning and Compulsory Purchase Act 2004. However, it is my opinion that the Sites and Policies Plan proposed submission document is not in general conformity with the London Plan in respect to the Council's position on affordable housing, and specifically Policy DM.H3 which proposes to cap affordable rent levels at 65% of market rent. Further discussion would be welcomed in relation to this point and the issues raised in respect of student housing, the allocated use of Wimbledon Greyhound Stadium and transport in order to bring a document forward that is in line with national guidance and the London Plan.

If you would like to discuss any of my representations in more detail, please contact Jonathan Finch (020 7983 4799) who will be happy to discuss and arrange further meetings.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Edward Lister', followed by a horizontal line.

**Sir Edward Lister**  
Deputy Mayor and Chief of Staff

cc Richard Tracey, Merton London Assembly Constituency Member  
Nicky Gavron, Chair of London Assembly Planning and Housing Committee  
Planning Casework (London), DCLG  
Colin Lovell, TfL

28 August 2008

**Merton Submission Draft Sites and Policies Plan and Draft Proposals Map,  
Development Plan Document**

**Merton Council Local Development Framework**

**Consultation on Pre-Submission Document**

Town & Country Planning Act 1990 (as amended) (TCPA); Greater London Authority Acts 1999 and 2007 ("GLA Act"); Planning and Compulsory Purchase Act 2004 (as amended) ("PCPA"); Town and Country Planning (Local Development) (England) Regulations 2012 ("the Regulations").

**Strategic issues**

The Development Management Policies Document is **still not in general conformity** with the London Plan in relation to its **affordable housing** policy. The report also raises issues with regards to **student housing, transport** and the **site allocations**.

**Recommendation**

That the Mayor agrees to submit the comments set out in this report to Merton Council as the formal response to the Pre-Submission consultation, and that Merton Council be advised that the Proposed Submission documents are not in general conformity with the London Plan in relation to the above strategic issues.

**Context**

1. On 15 July 2013 Merton Council consulted the Mayor of London on the above document. This report sets out information for the Mayor's use in deciding what comments to make. The consultation period ends on 30 August 2013.
2. The Local Development Framework together with the Mayor's Spatial Development Strategy ("London Plan") and the National Planning Policy Framework ("NPPF") provides the essential framework for planning at the borough level. The "development plan" in London for the purposes of section 38(6) of the Act is:
  - The London Plan (2011); and
  - Development plan documents produced by the borough councils (and saved unitary development plan policies in transitional period); and
  - Neighbourhood Plans as appropriate.
3. There are three types of Local Development Documents ("LDDs"): Development Plan Documents (DPDs); Supplementary Planning Documents ("SPDs"); and Statements of Community Involvement. All of the documents now being consulted on are DPDs with development plan status, which will be subject to an examination to test the 'soundness' of the plan.

4. The NPPF states that a plan is “sound” where it is positively prepared, justified, effective and consistent with national policy.

## **The Mayor’s role**

5. All DPDs must be in general conformity with the London Plan, in accordance with Section 24(1)(b) of the PCPA. Section 24(4) of the PCPA requires boroughs prior to submitting it to the Secretary of State to request the opinion in writing of the Mayor of London as to the general conformity of a DPD with the London Plan and advises that they may request the opinion in writing of the Mayor as to the general conformity of any other LDD. The Mayor issues this opinion on DPD general conformity in accordance with Section 24(5) of the PCPA. Further to this Regulation 18 requires general consultation at the pre-submission stage. By virtue of Regulation 21(2) of the Regulations the Mayor has 6 weeks from the date of the request to provide his opinion on whether the DPD is in general conformity with the London Plan.

6. Mayor of London’s comments will be made available on the GLA website [www.london.gov.uk](http://www.london.gov.uk).

## **Previous representations**

11. The Mayor made representations on the previous stage 3 consultation stage of the plan preparation process on 27 February 2013 (planning report PDU/LDF24/LDD04/03) and representations were made by officers under delegated authority to the “Issues and Options” consultation stage on 23 March 2012. A number of the issues that were raised at these stages have been satisfactorily addressed; however, the following issues remain unresolved.

## **Proposed representations**

12. The Merton Local Development Framework will replace the adopted 2003 Unitary Development Plan. It will set the Council’s approach to the planning of the borough up to 2023 and will consist of the Core Strategy, Proposals Map, Development Control Policies and Site Specific Allocations Documents and a number of supplementary planning documents. Some of the UDP policies have already been superseded by Merton’s Core Planning Strategy 2011, the South London Waste Plan and the London Plan 2011. The remaining policies will eventually be superseded by the final version of the Sites and Policies DPD and Proposals Map.

## **Strategic Issues**

### Affordable Housing

13. The document’s approach to affordable housing is not in general conformity with the London Plan and is not a basis for informing sites and policies on affordable housing. It is disappointing to see that the Council has not addressed the strategic issues raised by the GLA at the previous stage 3 consultation in respect to limiting average rent levels on the affordable rent product. As stated in our previous responses, setting rent caps on affordable rent (including re-let conversions) at 65% of market rent could constrain delivery and prevent the maximisation of affordable housing delivery.

14. The London Plan Revised Early Minor Alterations (REMA) and the revised London Housing Strategy emphasise that the priority for affordable housing is maximising supply and increasing delivery, having regard to the availability of resources. The Secretary of State’s letter of 13 August 2013 which supports the publication of REMA also states that *“imposing rent controls through local planning policies would inter this objective and risk letting Londoners down by limiting the supply of*

*affordable housing, and reducing the choice for tenants.*” The nationally set definition of the affordable rent product as set out in the National Planning Policy Framework makes clear that affordable rent is up to 80% of market rent.

15. Merton Council’s Policy DM.H3 ‘Support for affordable housing’ and justification text which seek to impose local, lower rent ceilings through the planning system would compromise the flexibility necessary for the product to deliver affordable housing in different circumstances and in turn will not be compliant with national guidance and would not be in general conformity with the London Plan (Policies 3.11 & 3.12).

16. Officers would welcome further discussion regarding this non-conformity issue with the Council prior to its Examination in Public.

#### Student Accommodation

17. The amendments to the Policy DM.HF Student Housing are still considered unsatisfactory to address the issue raised in previous representations. The borough should not restrict student housing provision to meet the needs of particular boroughs but should meet strategic needs as well as local ones in line with London Plan Policy 3.8 Housing Choice. It is therefore suggested that the reference to specific south London boroughs in paragraph (vii) be removed and replaced by *“caters for recognised educational establishments within a reasonable travelling distance.”*

#### **Wimbledon Greyhound Stadium**

18. The GLA's previous issues concerning the potential loss of an active greyhound stadium use at the site remain and would raise strategic policy concerns regarding the protection of London’s cultural heritage. The intensification of the site for uses that would support the continuation of the greyhound stadium would be supported, however, the provision of a substantial out of centre retail store as an enabling development at this site, would not be in conformity with London Plan policy.

#### **Transport**

19. Transport for London (TfL) generally supports the Site and Policies Plan DPD, but is disappointed that some important transport issues have not been addressed in the changes made to the document between the Issues and Options and Pre-submission stage, and as such the document is considered contrary to London Plan Policy 6.2 and the Land for Industry and Transport SPG (September 2012). The following comments set out those issues with regards to each site:

##### Site 01 - “P3” Hartfield Road Car Park, Wimbledon

20. TfL still has concerns over the proposal for the above site as the Sir Cyril Black Way Bus Stand is located within its boundary. As per TfL’s previous representations, this is a very important asset and must be protected from any potential development if bus services in the area are to be adequately provided for. TfL requires the site proposal be amended to safeguard the bus interchange, unless or until a suitable alternative is identified which results in no overall loss of capacity or operational convenience. Until the policy is amended to include this safeguarding, TfL object to this site allocation which is contrary to London Plan Policy 6.2 and the Land for Industry and Transport SPG (September 2012).

##### Site 65 – Kenley Road Car Park, Morden

21. TfL previously identified this site as a potential location to provide additional bus standing space as required to meet additional demand in the area. Following these comments the Council has published a draft Morden Station Planning Brief. Within the wider Morden Station site, bus stops and

standing must be protected unless a suitable alternative site within the town centre can be found which does not result in a loss of capacity or convenience for bus passengers. TfL maintains that the sites should be allocated for this purpose.

#### Site 69 – Sibthorp Road, Mitcham

22. This site includes London buses driver facilities and toilets and any redevelopment of this site must maintain or replace these facilities. TfL requests that the policy wording includes safeguarding of these facilities in accordance with London Plan Policy 6.2 and the Land for Industry and Transport SPG.

#### General comments

23. In Chapter 9, *Transport*, Policy, point A, the 'Community Plan Infrastructure Levy' is mentioned. It is assumed that this is referring to the Community Infrastructure Levy, however, this should be clarified.

24. It should be noted that for any applications located within 50 metres of London Underground tunnels and infrastructure London Underground Infrastructure Protection must be consulted. This would appear to be relevant for sites 5, 8, 12, 16, 57, 58, 59, 61, 65.

#### **Legal considerations**

25. All LDDs must be in general conformity with the London Plan in accordance with Section 24(1)(b) of the Act. This is a key test of the soundness of plans. The Mayor's representations made at this stage will go forward to the examination in public and must include an opinion regarding general conformity with the London Plan.

26. The fact that a development plan document is inconsistent with one or more policies in the London Plan, either directly or through the omission of a policy or proposal, does not, by itself, mean that the document is not in general conformity. Rather, the test is how significant the inconsistency is from the point of view of delivery of the London Plan.

27. Any expression of opinion from the Mayor that the Draft Sites and Policies Plan and Draft Policies Map DPD is not in general conformity will be treated as a representation to be dealt with by the Inspector at the examination. The Planning Inspectorate has stated that the view of the Mayor's opinion "*will be given considerable weight*"<sup>1</sup> and that a lack of general conformity with the London Plan will need to be fully justified on the basis of local circumstances, based on relevant evidence.

28. The Mayor must also state why the policy is not in general conformity and his reasoning behind that opinion. The Inspector will determine whether he or she supports the opinion and recommend accordingly. The Mayor should provide the Inspector conducting the examination with any necessary additional information as appropriate, either through a representative or in writing according to the requirements of the Inspector. At the time of writing the date of the examination is not known.

#### **Conclusion**

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<sup>1</sup> Development Plans Examination – A Guide to the Process of Assessing the Soundness of Development Plan Documents (The Planning Inspectorate, 2005), paragraph 1.2.6

29. The Development Management Policies document submission version contains many positive aspects. The document however, remains to be not in general conformity with the London Plan in relation to the Council's position on affordable housing, and specifically the new policy DM.H3, which proposes to cap affordable rent levels at 65% of market rent. Further discussion would be welcomed in relation to this point and those issues raised in respect of student housing, transport and the allocated use for the Wimbledon Greyhound Stadium site in order to bring a document forward that is in line with national guidance and the London Plan.

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For further information, contact Development & Projects:

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