

Merton Estates Local Plan Independent Examination

June 2017



Response to Draft Matters, Issues and Questions Identified by the Inspector

Clarion Housing Group (CHG)

Matter 1 – The Overall Plan (including certain issues and policies common to all three estates)

This Statement is made on behalf of Clarion Housing Group (CHG). Representations were made to the Draft Estates Local Plan (ELP) DPD in March 2016 and to the Publication Version in February 2017.

CHG is fully committed to delivering the regeneration of the three Estates and has been developing proposals for the schemes and consulting with residents for a number of years. This extensive work culminated in the submission of outline planning applications for the regeneration of each of the Estates in April 2017.

We reserve the right to make further representations on these draft matters, issues and questions identified by the Inspector, and to any other points that may arise during the course of the Examination.

1. *In the absence of a specific policy or policies:*

- ***is the overall vision and strategy for the estates clear, in terms of full or partial regeneration, regardless of tenure and ownership, so as to ensure the plan's deliverability?***

Whilst CHG is committed to the delivery of all three schemes which is demonstrated through the concurrent submission of the outline planning applications for each Estate in April 2017, in planning terms, each Estate could be brought forward on its own. Paragraph 21 of the National Planning Policy Framework (NPPF) states that "*Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances*". As such it would be consistent with the NPPF to acknowledge that the schemes are not mutually dependable in planning terms and that they could therefore be granted planning permission separately. If unforeseen circumstances mean that an estate cannot be delivered, this should not preclude the delivery of the other(s).

- ***should the question of the viability of regeneration of all three estates together (see paras 2.19 – 2.22 and MA3) be expressed in policy?***

As set out above the viability of the schemes is currently interlinked; however in order to allow flexibility for the Plan to respond to changes in economic circumstances or unforeseen constraints as required by Paragraph 21, it is not considered justified for the viability of the regeneration to be expressed in policy. Viability will be assessed at planning application stage in accordance with current development plan policies and the NPPF.

- ***does the ELP provide sufficient flexibility over time and robustness in the light of unforeseen constraints, such as infrastructure implications, or changes to legislation, policy or financial conditions?***

The Plan should recognise that each Estate could be brought forward independently of each other. There are other areas of the Plan which are considered to not provide sufficient flexibility as set out in previous representations. These will be addressed where appropriate within the Statements prepared for Matters 2, 3 and 4.



- 2. Is the quantum, density and mix of housing (in terms of sizes and types) appropriately clear, whether expressed as target figures, ranges, proportions or minima/maxima, whilst recognising the need for flexibility? Is it consistent with LP Policies 2.13, 3.4 and 3.7?**

The planning applications will be considered against the Development Plan which already expresses policies on these topic areas. It is not considered necessary for this DPD to repeat these policies, instead, the ELP should provide flexibility for the masterplans to be developed following a design-led process to optimise development potential.

- 3. Is the ELP sufficiently clear about the proportion and types of affordable housing, and viability implications, consistent with national policy and guidance, the development plan and current and emerging London policy and guidance?**

It is not considered necessary for the ELP to repeat the policies of the wider Development Plan.

- 4. Is the ELP's relationship with the overall development plan clear and consistent? Is it easy to understand where reliance is on policies in other development plan documents whilst avoiding unnecessary duplication?**

We welcome the Council's proposed modification to include this clarification.

It is not justified or effective for the ELP to duplicate policies contained within other DPD documents given that the schemes will be assessed against the development plan as a whole, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.

- 5. Does the ELP make sufficient provision for inclusive design and accessible environments in accordance with paragraphs 57, 58, 61 and 69 of the Framework?**

The planning applications will be considered against the whole Development Plan which already expresses policies on these topic areas. It is not considered necessary for the ELP to repeat these policies.

- 6. Is the ELP positively prepared, based on robust evidence, and consistent with national policy in the light of Objective 3 of Sport England's Planning for Sport: Aims and Objectives and paragraph 74 of the Framework?**

- 7. Is simple reference to "gardens or amenity space that meet or exceed current space standards" in Policies EP E5, EP H5 and EP R5, necessary or effective expression of policy?**

This blanket approach is too restrictive and does not take into account the nature of various styles of homes that may be delivered across the estates. It is also repeating policy found elsewhere within the development plan and is not therefore considered necessary. It is common for both mews and town house properties to have smaller garden spaces, reflecting their historic design and therefore the current wording is not effective. These types of properties form part of the masterplan proposals; therefore, the current wording of the ELP would preclude the choice of housing that can be delivered. As per our previous representations, we repeat that the three sites are

'large sites' which can create their own character areas; therefore, it is important that the ELP does not stifle innovation and housing choice by setting rigid standards. Greater flexibility should be incorporated in order to reflect the various characteristics of different housing types and character areas that will be delivered on the Estates.

8. Does the ELP satisfactorily address any risk of harm to the Wimbledon Commons SAC or Richmond Park SAC, including provision for mitigation if necessary?

The planning applications will be considered against the whole Development Plan which already expresses policies on these topic areas. It is not considered necessary for the ELP to repeat these policies.

9. Is the general approach to matters and development beyond the tight ELP boundaries appropriate?

Policy requirements that relate to areas outside of the site boundaries and therefore outside of the control of CHG should be expressed as Further Guidance in order to ensure the policies within the ELP remain deliverable. Specific examples of this are addressed in the Regulation 19 consultation response and where appropriate in the Statements for Matters 2, 3 and 4.

10. Should the requirement for phasing plans (paragraph 5.7) be given the status of policy?

Phasing plans have been submitted with the outline planning applications.

11. Is the status of the 'Urban Design principles' and Part 04 'Design requirements for planning applications' clear and appropriate in all instances? Do, or should, they comprise policy, guidance, explanation or validation checklist?

The Design Requirements section of the draft ELP provides '*detailed guidance to applicants that they will be expected to focus on in more detail to demonstrate that the Vision, Urban Design Principles and Site-Specific Policies of the Plan can be delivered*'. This section however refers to the design principles as guidance throughout. As required by Paragraph 59 of the NPPF, states that '*design policies should avoid unnecessary prescription or detail*'. The Planning Practice Guidance (PPG) (ref: 12-010-20140306) also states that Local Plans "*...should concentrate on the critical issues facing the area – including its development needs – and the strategy and opportunities for addressing them, paying careful attention to both deliverability and viability.*" Given that the regeneration of the Estates will be delivered over a number of years it is considered entirely appropriate that flexibility should be built into the ELP to allow the development proposals to respond to changing circumstances in order to create successful places. As such this section should comprise guidance only.

The draft ELP identifies a number of required documents to be submitted as part of a planning application on each Estate. An example of this is Policy EP E6 'Environmental Protection' where section (k) states that '*Development proposals must be accompanied by a working method statement and construction logistics plan*'. The level of detail to be submitted as part of a planning application should be commensurate to the type and nature of the application. Additionally, policy requirements should not be so onerous as to require details not normally required for planning application validation purposes. Taking account of this, planning conditions should be used to secure the further details of the outline planning applications for the three estates. This is acknowledged in the latter parts of the draft Plan; however, is not clear in some earlier policies and should therefore be acknowledged and be made consistent throughout.

Policies EP E6, H6 and R6 require the submission of an Exceptions Test. As set out in the Regulation 19 CHG consultation response this is not required in accordance with the NPPF. The NPPF at Paragraph 102 states:

“If, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate. For the Exception Test to be passed:

- *it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and*
- *a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*

Both elements of the test will have to be passed for development to be allocated or permitted.”

The PPG (Paragraph: 026 Reference ID: 7-027-20140306) clearly states that:

“The Exception Test should only be applied as set out in [Table 3](#) and following application of the Sequential Test.”

Flood Zones	Flood Risk Vulnerability Classification				
	Essential infrastructure	Highly vulnerable	More vulnerable	Less vulnerable	Water compatible
Zone 1	✓	✓	✓	✓	✓
Zone 2	✓	Exception Test required	✓	✓	✓
Zone 3a †	Exception Test required †	X	Exception Test required	✓	✓
Zone 3b *	Exception Test required *	X	X	X	✓*

Key:

✓ Development is appropriate

X Development should not be permitted.

Figure 1: PPG Table 3: Flood Risk Vulnerability and Flood Zone Compatibility

Table 2 confirms that: “Buildings used for dwelling houses, student halls of residence, drinking establishments, nightclubs and hotels” are **More Vulnerable** for the application of Table 3 (above).

Given that High Path is located within Flood Zone 1 and 2, and Eastfields is located within Flood Zone 1, based on the above, an Exception Test is not required for these Estates. As such it is not justified to require the Exceptions Test as it is not consistent with national policy.

It should also be noted that the PPG also gives guidance to Local Planning Authorities for the application of the Exception Test in the preparation of Local Plans. PPG (Paragraph: 004 Reference ID: 7-004-20140306) provides the table below:

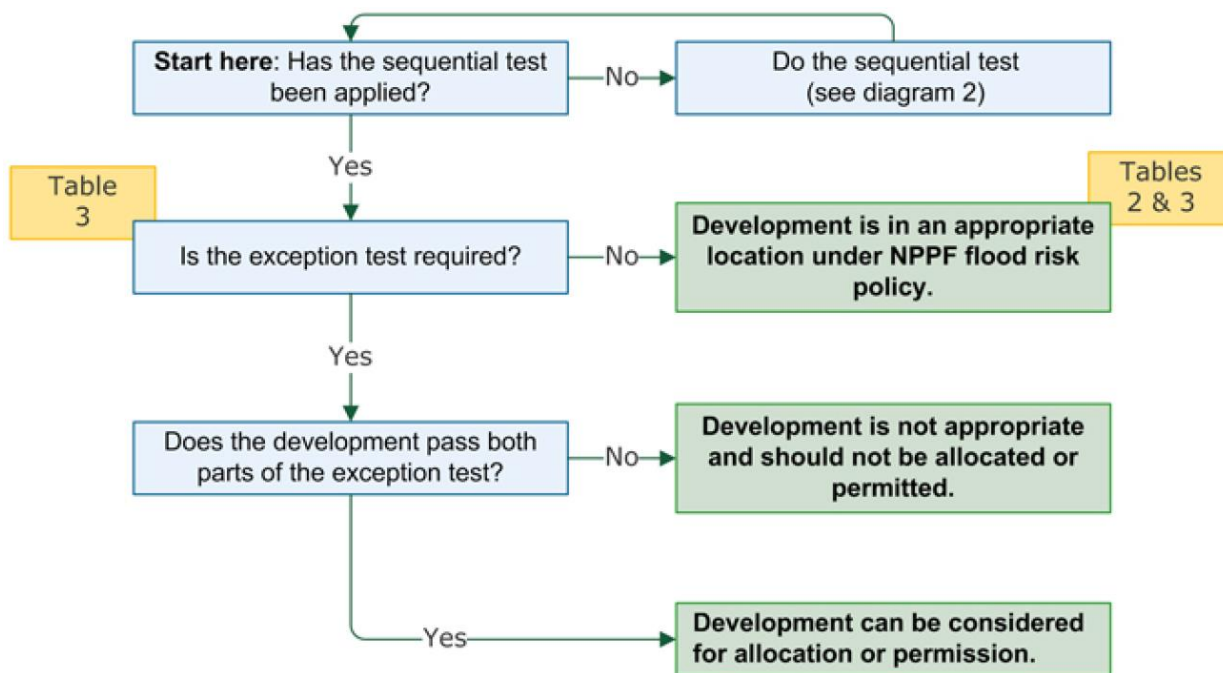


Figure 2: PPG Diagram 3 - Application of the Exception Test to Local Plan preparation

This again confirms reference is required to Table 3.

The Council’s response to the CHG representation makes reference to Section 8 of Level 1 the SFRA, which relates to Sequential Testing. It is noteworthy that the outline planning applications have had consideration to other sources of flooding, for example, a Sequential Test for Eastfields has been undertaken which is within Flood Zone 1 but within Critical Drainage Area, which is consistent with the requirements of national policy. It is not however necessary or justified to require an Exceptions Test for High Path and Eastfields.

12. What is the general status of the “Further guidance” to each of the policies? What criteria have been used to determine what goes into a policy and what into Further guidance? Should it be incorporated in the policies in some instances?

The inclusion of the Further Guidance is considered to be appropriate as guidance as it provides flexibility for the life of the Plan and avoids unnecessary prescription in accordance with Paragraph 59 of the NPPF.

13. Is the status of drawings and diagrams within ‘The Vision’ section and accompanying the policies sufficiently clear?

Whilst the drawings provided within the draft ELP provide helpful imagery as to the potential opportunities of the Estates, these should not be regarded as rigid design requirements. A statement noting that the drawings are for indicative purposes should be added to ensure that there is sufficient flexibility to allow the masterplans to respond to changing circumstances over a long delivery period.