

Merton's Sites and Policies Plan, the visit of the Inspector

1. Flooding and DM F1

We welcome the strengthening of DMF1 in the 3b flood zone section at the request of Environment Agency. The paragraph in question has now been replaced with the wording of the exceptional test to be found in the NPPF, namely paragraph 102. However, this document covers all aspects of planning and more detailed guidance for planning for flooding is found in Flood and Coastal Change Risk Management; Practice Guide (PPS25) and the Technical Guidance. In fact paragraphs 93-103 in the NPPF also relate to flood risk. Merton's LDF should comply with all these guidelines and just quoting from the NPPF paragraph 102 gives the impression that only this paragraph matters and this might be used to circumvent the more relevant guidelines. In fact the meaning of paragraph 102 is not clear in the absence of these other documents.

As such we propose that it would be more appropriate to replace it with the statement

Developments will also comply with paragraphs 94, 99-103 of NPPF. It should also comply with the Flood and Coastal Change Risk Management; Practice Guide (PPS25) and the Technical Guidance and in particular paragraphs 4.2, 4.5, 4.38, 4.42, 4.46, 4.47, 4.54, 4.58, 4.60, 4.67 of the former and also take into account the need to accommodate climate change, in particular paragraphs 11 and 13 of the latter .

One could also be more straightforward and replace the whole discussion by

Developments should be compatible with paragraphs 94, 99-103 in the NPPF and also Flood and Coastal Change Risk Management; Practice Guide (PPS25) and the Technical Guidance. In particular they should take into account climate change.

The contents of the above mentioned paragraphs referred to above are indicated in appendix A. We would also support other wording provided it reflects the guidelines on flooding as a whole. Finally we note that there will soon be new legislation on flood risk which will further restrict allowed developments. Also the effects of climate change will be better known in the near future and it could well be more significant than previously thought. These changes are very consistent with policy 5.12 of **The London Plan 2011 London's Response to Climate change** which we summarise at the end of Appendix A.

We also suggest that the preceding paragraph in DMF1 on redevelopment be strengthened to read

The council will only support redevelopment of existing developed sites if there is less flood risk than currently exist to the redevelopment or wider community, that is, the flood risk on the site is reduced and the flood water is retained within the site.

2. Site 37

In this section we suggest changes to the description of site 37 in the LDF.

2.1 Light Industrial

Light Industrial was included in the original use suggested by Merton for this site, however, it was subsequently removed on the grounds that there was no demand based on a study that Merton commissioned. However, this report (Employment and Land Study; London Borough of Merton 2010) could not be used to justify this conclusion, but it instead stated that industrial vacancy in Merton is quite low, there was a lack of modern premises and it emphasized the need to encourage industrial development in Merton. We refer to our original document submitted to the consultation for a summary of this study. We also note that NPPF paragraph 19 states that ..” therefore significant weights should be placed on the need to support economic growth through the planning system” and paragraph 20 that ”local planning authorities should plan proactively to meet the development needs of business and support economic growth through the planning system.”

There really is no reason not to include this use. Indeed, it is not clear if the enabling development suggested so far for sporting identification can indeed pass the exceptional test required for flooding and as a result it is pragmatic to include light industrial use .

The National Planning Policy Framework makes it clear that one should steer new development to areas of lowest probability of flooding and that ”opportunities to substitute lower vulnerability uses in higher risk areas and place housing development in lower risk areas have been taken wherever possible” (paragraph 4.38 in PPS25)

A we have suggested in our submission to the consultation, it may be possible to move, for example, the dairy and builders merchant on Gap Road to site 37 and build residential housing or a school on the vacated premises.

2.2 Constraining enabling development

A frequently asked question in respect of LDF’s is ”Are the detailed requirements for each of the allocations clear and justified? Have site constraints, development mix and viability considerations been adequately addressed?”

We also note in paragraph 17 of NPPF ”..planning should be genuinely plan lead, empowering local people to shape their surroundings they should provide a practical framework within which decisions on planning applications can be made with a high degree of predicability and efficiency”

Furthermore the NPPF states in paragraph 196

” The planning system is plan-lead. Planning law requires that applications for planning permission must be determined in accordance with the development plan.”,
in paragraph 11

”Planning law requires that application for planning permission must be determined in accordance with the development plan...”

These guidelines relate to the inspectors questions (c) and (d) on site 37. The site description just says enabling development and this does not specify what development is compatible with the constraints of this site. Given the substantial area of the site that these enabling developments will occupy and the considerable difficulties of this site

we do not believe that the site description is sufficiently specified to be consistent with NPPF. Indeed, we think the allowed developments should be specified, or at the very least conditions placed upon them, for the description to be regarded as sound.

Furthermore we think that the enabling developments suggested so far may be inconsistent with these constraints imposed on the site by NPPF.

2.2.1 Flood Risk

Site 37 is a site of highest flood risk (3b) and as such it is a functional flood plain. We note that the flooding arises from an outcrop of black Gravel (sand and gravel) and not usually due to flooding of the River Wandle itself. Site 37 was flooded on 4/1/2014 even though water was removed using pipes on the previous day. The car boot sale was cancelled. I have pictures of this flood. People who work there stated that it was not unusual for it to be flooded.

A detailed study of the flooding in Merton was given in flood risk survey "Strategic Flood Risk Assessment" by Scott and Wilson in 2009 commissioned by Merton. It showed that while there were areas subject to 3b flood risk the stadium site (no 6 in their numbering and 37 in the LDF) was one of the most at risk in Merton. In particular it states that "the site lies largely within functional flood plain, where only water compatible development is permitted. Residential development is not appropriate". " The site and surrounding area is dominated by medium hazard zones. Provision of dry access and egress unlikely to be possible. therefore lower vulnerability uses should be considered . Significant mitigation measures required to demonstrate safety of development, which is likely to be challenging."

We note that the Thames CFMO states "for the rivers in Merton the following approach needs to be takenLink flood risk management planning with regeneration and redevelopment so that the location and lay out of development can help to reduce the flood risk".

The final site description under the heading issues in Merton's LDF contains the statement

" Development proposals will need to incorporate mitigation measures to address the issues associated with the functional floodplain....incorporate sustainable drainage systems into development proposals."

These requirements are weak compared to those required in the NPPF and the more detailed guidance given in the Flood and Coastal Change Risk Management; Practice Guide (PPS25) and the Technical Guidance. Some of the relevant paragraphs in NPPF and SPP25 are given in Appendix A. It is likely that by the time this site is developed there will be new legislation on flood risk that will impose much stronger guidance on flood risk and the effects of climate change will be further quantified.

We note that residential development is not usually permitted in a functional flood plain (3b flood risk). Taking into account the above arguments we propose that in the site description this paragraph is replaced with the following:

Development proposals must be those suitable for situation in a functional floodplain and as a result be compatible with NPPF and Flood and Coastal Change Risk Management; Practice Guide (PPS25) and the Technical Guidance. Furthermore any development must lead to a reduced risk of flooding on

the site compared to the risk that the site currently possess and all the flood water must be stored on the site and not flow into the surrounding areas.

The question also arises to which extent site 37 can be considered to be developed and how this affects the criterion for flood risk. PPS25 does not differentiate between developed and undeveloped areas and that paragraph 4.92 states that "This is because some developed areas may still provide an important flood storage and conveyance function, such as a car park that has been designed to flood periodically to preserve flood storage volumes at a riverside commercial development. Roads and other linear spaces can act as flow routes and the functionality of such areas should be considered when defining Flood Zones 3a and 3b, taking into account strategic flood risk management policies." We note that site 37 does have a substantial part of it covered by a car park.

2.2.2 Lack of Transport

Site 37 has very limited public transport that can not easily be improved. As such a development that required the movement of large numbers of people to and from the site is not a suitable development.

We note that the NPPF in paragraph 30 states that "In preparing Local Plans, planning authorities should therefore support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport. " and in paragraph 34 " Plans and decisions should ensure developments that generate significant movement are located where the need to travel are minimised ..."

As spelt out in our previous submission to the consultation in January 2012, a development that incurs very substantial traffic movements in an area of very restricted transport links is incompatible with Merton's own policies and we believe that it will blight residential areas around the stadium and lead to a decline in the local shopping centres such as Wimbledon Town Centre, Arthur Road and Leopold Road. To this list we can add Garatt Lane in Wandsworth which contains one of the few places where a significant number of vibrant independent local shops and restaurants can be found. We refer to our previous document for a detailed listing of the relevant detailed policies of Merton.

Since our submission to the consultation it has come to light that Merton and the Greyhound Racing Association Ltd had commissioned a study ("Wimbledon Greyhound Stadium feasibility study") in 1996 into the feasibility of football stadium on site 37. This study found (see the appendix A in the study) that a development with 20,000 spectators would not be consistent with the lack of public transport to the site and that a stadium of 16,000 would only be possible unless a tram link was built to the site. They also noted that the cost of such a link might not be justified with the relatively low level of usage predicted. Since the publication of the study the traffic levels have increased substantially and the Plough Lane-Haydons Road-Gap Road-Dunsford Road junction has been changed to accommodate the new housing next to this Cross Roads and it can not be further improved. Furthermore, there have been new guidelines on sustainability and so limits on public transport.

The final description of site 37 contains under the Issues heading the paragraph

" Facilitating improved accessibility including improving bus infrastructure, walking, ... Site access arrangements require careful scrutiny/ improvement."

As has been acknowledged site 37 has poor transport links that can not be easily improved and this is not compatible with this statement. Although crowds of 5,000 can travel to the site by public transport and might be evacuated in the event of a flood this is not the case for crowds that are much bigger. It is quite unrealistic to suppose that many of the spectators will come by bike, walk or that a substantial number come on local buses.

We also note that paragraph 197 of NPPF states that "In assessing and determining proposals, local planning authorities should apply the presumption in favour of sustainable development". In other words developments that do not involve large movements of people to and from site 37.

We propose that this description is replaced to read

Any development permitted on this site must recognise the restricted transport access to and from the site and contain only uses that do not generate very significant levels of traffic. Any development should not adversely affect local transport hubs such Wimbledon Town Centre and Arthur Road. Furthermore development should seek to enhance the sustainable access to this site through improved public transport, cycle and pedestrian links and not generate significantly more transport needs than the site currently requires.

3. Continued Greyhound Stadium

The Greyhound stadium has been at the Plough Lane site for many years and has not caused problems for local residents. The one exception is the noise from the stock car racing which is envisaged to no longer take place. This is the last remaining Greyhound stadium in London and we think this continued use should be supported amongst the possible developments involving sporting intensification. We also think that the proposed development to incorporate a new Greyhound stadium could satisfy the transport constraints and possibly the flooding restrictions of site 37. As such we think it may be of benefit to the local area.

We propose that the site 37 description should include the statement

Preference should be given for the continued use of Greyhound racing as an intensification of sporting development

4. Supplementary Planning Document

Paragraphs 196, 11, 154 in NPPF makes it clear that the local plan should be the basis on which planning applications are decided and be sufficiently detailed to allow for proper guidance. In addition paragraph 153 states that "any additional development plan documents should only be used where clearly justified. Supplementary planning documents should only be used where they can help applicants make successful applications..."

The final site 37 description in Merton's LDF contains the paragraph "This site must be delivered via a site-specific planning brief (Supplementary Planning Document) to ensure the delivery of sporting intensification and six weeks of community consultation on proposals. "

In effect the Supplementary Planning Document, which is not subject to National and London wide scrutiny, would determine which enabling developments were allowed on site 37. We believe this should be determined in the primary document the LDF. As a result,

We think the Supplementary Planning Document should only be used if the the allowed uses for site 37 are either spelt out in the LDF, or at least strong constrained to reflect the difficult nature of this site.

5. Consultation

Although Merton Council has stated that it distributed 4500 leaflets to draw residents attention to the proposed redevelopment of site 37, a survey of residents has shown that almost all residents questioned were unaware of this leaflet. We have therefore concluded that Merton Council has not appropriately consulted local residents.

Appendix A

In this appendix we briefly indicate the content of these paragraphs of PPS25 and NPPF mentioned above.

PPS25

4.2 "...as early as possible use of Sequential Test .. at the level of the Local Development Document Level,...., taking climate change into account"

4.5 "keep all developments out of medium and high flood risk areas (Zone 2 and 3) where possible..."

4.38 "it has to be accepted that the redevelopment cannot go anywhere else, as there are not other reasonable sites....., it may be appropriate in some cases for a sequential test to be applied within large areas.....The applicants will need to show that the three parts of the exceptional Test are passed; The developer needs to satisfy the final part of the Exceptional Test , that the development will be safe,...The FRA should allow that opportunities to substitute lower vulnerability uses in higher risk areas and place housing development in lower risk areas have been taken wherever possible."

4.42 LPA's when formulating LDD's should bear in mind that change in use may involve an increase in flood risk if the vulnerability classification of the development is changed,.... For example, a change of use from industrial use to residential use will increase the vulnerability classification from less vulnerable to more vulnerable. The LPA should consider when formulating LDD policies, what changes will be acceptable taking into account the findings of the SFRA."

4.46 "application of the Sequential test should ensure that more vulnerable property types, such as residential housing will not be allocated to areas of high risk of flooding"

4.47 "increase flooding elsewhere"

4.54 "flood risk areas, it must be safe, taking into account climate change",

4.58 "certain sections of the community are not necessarily excluded, such as the elderly..."

4.60 "access routes should allow occupants to safely access their dwellings in design flood conditions.."

4.67 "Proposals that would increase the number of people .. require particularly careful consideration,....it is especially important to look at ways in which the development could help to reduce the overall consequences of flooding..."

Technical Guidance

13 This contains table 5 which gives predicted rises in river flow and rainfall intensity.
14 "...changes in the extent of inundation are negligible in well-defined floodplains, but can be dramatic in very flat areas..."

NPPF

94 "Local Planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations"

99 "Local Plans should take account of climate change over the longer term ..New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change ..."

100 "Inappropriate development in areas of risk of flooding should be avoided by directing development away from areas at highest risk..... " " safeguarding land from development that is required for current and future flood management.."

101 sequential test

102 as now in Merton's DMF1 document

103 " development is appropriately flood resilient and resistant, including safe access and escape routes where required"

We now give the relevant part of policy 5.12 from **The London Plan 2011 London's Response to Climate change**.

B Development proposals must comply with the flood risk assessment and management requirements set out in PPS25 over the lifetime of the development

C Developments which are required to pass the PPS25 Exceptions Test will need to address flood resilient design and emergency planning by demonstrating that:

a the development will remain safe and operational under flood conditions

b a strategy of either safe evacuation and/ or safely remaining in the building is followed under flood conditions

c key services including electricity, water etc will continue to be provided under flood conditions

d buildings are designed for quick recovery following a flood.

LDF preparation

E In line with PPS25, boroughs should, when preparing LDFs, utilise Strategic Flood Risk Appraisals to identify areas where particular flood risk issues exist and develop actions and policy approaches aimed at reducing these risks, particularly through redevelopment of sites at risk of flooding and identifying specific opportunities for flood risk management measures.