

## **Committee: Council**

**Date: 10 July 2013**

Agenda item: 13

Wards: all

## **Subject: Merton's Sites and Policies Plan and Policies Map – submission to the Secretary of State**

Lead officer: Director of Environment and Regeneration, Chris Lee

Lead member: Cabinet Member for Environmental Sustainability and Regeneration, Councillor Andrew Judge

Forward Plan reference number: 1255

Contact officer: Future Merton Strategic Policy Manager, Tara Butler

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### **Recommendations:**

That council resolve to:

- A. Note the recommendations of Cabinet as detailed in paragraphs 2.16-2.18 of this report.
  - B. submit Merton's Sites and Policies Plan and Policies Map to the Secretary of State for independent examination. This would be preceded by a statutory six week consultation period between July and September 2013.
  - C. Agree the timetable for production set out in section 5 of this report.
  - D. delegate authority to the Director of Environment and Regeneration, Chris Lee, in consultation with the Cabinet Member for Environmental Sustainability and Regeneration, Councillor Andrew Judge and the chair and vice-chair of the Borough Plan Advisory Committee (councillors Ian Munn and Diane Neil Mills) for changes to the documents between 10 July 2013 and the receipt of the Planning Inspector's final report:
    - (i) to approve minor alterations to the plans for submission to the Secretary of State for independent examination and as necessary throughout the examination process
    - (ii) to consider and approve officers' response to comments received at the pre-submission public consultation, and associated minor alternations to the plans for their submission to the Planning Inspector via the Secretary of State
  - D. delegate approval of significant alterations to Merton's *Sites and Policies Plan and Policies Map* arising from matters including responses to pre-submission public consultation, national or regional policy changes, additional relevant evidence to the Director for Environment and Regeneration in consultation with the Cabinet Member for Environmental Sustainability and Regeneration, the chair and vice chair of the Borough Plan Advisory Committee.
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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. Merton's *Sites and Policies Development Plan Document* (DPD) is the detailed development plan for Merton, complementary to the Core Planning Strategy. If adopted in 2014, would replace the remaining planning policies in Merton's Unitary Development Plan 2003. It contains detailed planning policies and allocates sites for new development.
- 1.2. Merton's Proposals Map is being revised at the same time, which will designate land for specific uses, such as open spaces, town centre boundaries, neighbourhood parades and nature conservation.
- 1.3. Once adopted, the plans and the map will be the main reference point guiding planning decisions in the borough, alongside Merton's Core Planning Strategy.
- 1.4. These plans were started in July 2011; they have been prepared in line with statutory regulations, informed by nine months of public consultation, local and national research and the latest data from the Census 2011. The plans are in general conformity with the Mayor's London Plan 2011 and the National Planning Policies Framework 2012.
- 1.5. This report recommends that council resolves to
  - submit the *Sites and Policies Plan* and Map to the Secretary of State for an examination in public by an independent Planning Inspector. This is preceded by pre-submission public consultation.
  - Agree the timetable for production set out in Section 5 of this report.
  - delegate amendments to the documents that arise between 10 July 2013 and the receipt of the Planning Inspector's final report to the Director of Environment and Regeneration, Chris Lee, in consultation with the Cabinet Member for Environmental Sustainability and Regeneration, Councillor Andrew Judge and the chair and vice chair of the Borough Plan Advisory Committee (Councillors Ian Munn and Diane Neil Mills).
- 1.6. On 26 June 2013, the cross-party Borough Plan Advisory Committee considered the *Sites and Policies Plan* and *Proposals Map*. The recommendations of this meeting were reported to Cabinet on 01 July 2013. All of BPAC's recommendations were agreed by Cabinet apart from the three set out

## **2 DETAILS**

- 2.1. Every borough should have an up-to-date development plan to guide planning decision in their area. Currently (July 2013) Merton's statutory development plan is:
  - The Mayor's London Plan 2011
  - Merton's Core Planning Strategy 2011
  - The South London Waste Plan 2012
  - Merton's Unitary Development Plan 2003 (those policies that haven't been superseded by more recent documents)
- 2.2. Merton's Unitary Development Plan was adopted in October 2003 and was produced between 1999 and 2001, based on the 1991 Census and other information that is now more than 10 years old.
- 2.3. Since the UDP was adopted, there have been very significant changes to the planning system including:

- The introduction of the first London Plan in 2004, and subsequent London Plans in 2008 and 2011 as part of the statutory development plan for all London boroughs
  - At least three Acts of Parliament with great significance for planning matters: the Planning and Compulsory Purchase Act 2004; the Planning Act 2008; the Localism Act 2011 and the Growth and Infrastructure Act 2013
  - New streamlined national policy - the National Planning Policy Framework
- 2.4. It is important that Merton has a detailed development plan that is based on the most-up-to-date research for the borough, the most recent consultation feedback and is in conformity with the National Planning Policy Framework 2012 and the Mayor's London Plan 2011.
- 2.5. Without up-to-date planning policies, the NPPF and other material considerations can be used to guide local planning decisions, rather than adopted policy. This means that local issues may not be able to be adequately considered in decision-making, especially at planning appeals.

### **New detailed planning policies**

- 2.6. The *Sites and Policies Plan* contains new detailed planning policies including
- policies to support “sociable town centres”, recognising the forecast decline in demand for retail space on high streets and the rise in online shopping. This approach encourages a wider range of social activities such as cafes, restaurants, gyms, child-focussed businesses, arts, entertainment, healthcare, community facilities to locate at the heart of Merton's town centres in order to retain footfall and help reduce shop vacancies. The policies also support the location of less social activities such as betting shops and hot food takeaways towards the edges of town centres (policy references DM. R1-R7)
  - policies to protect business floorspace for which there is demand, including more extensive detail on what decision-makers in Merton will require if employment land is proposed for alternative uses (DM.E1-E4)
  - policies to enshrine the importance of design considerations in new development, including high quality urban design, managing heritage assets and a specific approach to inform planning applications for basements (DM.D1-D7)
  - detailed policies to guide planning applications for new homes and associated infrastructure such as schools, crèches and other community facilities (DMC1-C2)
  - policies to help mitigate flood risk, pollution and to improve the energy efficiency of new buildings, including seeking to retain and use additional funding from development to improve local community buildings (policies E1-E4, F1-F2)
  - policies to encourage walking and cycling, to manage parking and to consider the transport impacts of new development (DM T1-T5)
  - policies to protect open spaces, nature conservation areas and trees. (DMO1-O2)

### **Allocating sites to accommodate growth**

- 2.7. The *Sites and Policies Plan* allocates sites for new development. Every borough does this about every 10 years. It assists greatly with knowing where development might happen over the following 10 years, helping councils, their public sector

partners, businesses and others recognise in advance where new homes and business opportunities might be, and plan for their investment as necessary.

- 2.8. In 2011, sites in the plan were proposed by a wide variety of organisations including private sector landowners, local residents, the council, the NHS, Transport for London and local community groups. Since then, officers have investigated each of these sites, undertaken the necessary research including three rounds of public consultation totalling nine months to help inform potential development scenarios.

### **Designating land for specific uses**

- 2.9. The council has undertaken a very extensive review of the whole of the borough's area – regardless of ownership - to identify where specific land use designations should apply and to record these on a map, known as the Policies Map.
- 2.10. Once adopted, the Policies Map 2014 will replace Merton's Proposals Map 2003, illustrating where specific planning policies apply in the borough, for example where open space is protected in Merton, where are the boundaries of Merton's town centres, what parts of Merton are nature reserves and where industrial areas are.
- 2.11. The main changes to approach 2003 have been in the following areas:
- 2.12. **Town centre boundaries.** Evidence shows that there is likely to be much less demand for retailers to move into local high streets over the next 10 years. As mentioned earlier in this report, the plan contains proposals for "sociable town centres" for Merton, to encourage vitality and activity in Merton's town centres despite the changing nature of shopping patterns.
- 2.13. The plan proposes that Merton's town centre boundaries in Mitcham and Colliers Wood in particular are reduced to focus on the heart of the town centre. This will help the council to encourage new cafes, restaurants and other businesses to fill any vacancies and to build new premises in the centre of the town, thus helping to increase footfall there as opposed to a long spread out strip of development
- 2.14. In conjunction with this, the map also illustrates neighbourhood parades to be retained for grocery shopping, to help ensure that most residents in Merton are never more than 5 minutes walk from a local convenience store.
- 2.15. **Greater detail on protecting open space:** Previously Merton's Proposals Map only illustrated parks and open spaces of over 1acre (0.4hectares) as protected from development. Due to a combination of comprehensive research and more advanced mapping technology available in 2013, the Policies map being recommended to the councillors illustrates 1,238 hectares of land in Merton as protected as open space, an increase of more than 100 hectares when compared to the 2003 map. At 33% of Merton, this is significantly higher than the 10% average open space of other London boroughs.

### **Borough Plan Advisory Committee and Cabinet recommendations**

- 2.16. At their meeting on 26 June 2013, the Borough Plan Advisory Committee made over 30 recommendations to the *Sites and Policies Plan* and *Policies Map*. These recommendations can be read in full as the notes from the BPAC meeting on Merton's website: <http://www.merton.gov.uk/bpac>
- 2.17. At their meeting of 01 July 2013, Cabinet agreed with all of these +30 recommendations apart from three. The recommendations that Cabinet made reference to are set out below:
- (a) Site 16 Wimbledon Library: Cabinet disagreed with BPAC's insertion of the word "ancillary" into the site allocation

- (b) Site 28 P4 Land adjacent to Wimbledon Theatre: Cabinet disagreed with BPAC's proposed insertion of the words "car park" into the site allocation
  - (c) Site 34 Raleigh Gardens car park: Cabinet agreed with BPAC that this site should not be allocated for development
  - (d) Site 37 Wimbledon Greyhound stadium, Cabinet agreed that, on the advice of officers, references to individual users in the *Sites and Policies* document (e.g. Christophers Squash Club) would not be appropriate
  - (e) Site 41 Kingston Road opposite Lower Downs Road: Cabinet disagreed with BPAC's proposed removal of this site from the plan
- 2.18. Should full council resolve to submit the plans to the Secretary of State on 10 July 2013, all of these amendments will be made to the plans following this resolution.

### **Delegated powers**

- 2.19. To ensure that the *Sites and Policies Plan* and Policies Map can be delivered efficiently and effectively between pre-submission publication (early July 2013), through the public examination to the receipt of the Inspector's final report, officers are seeking delegated powers in consultation with Members to make changes needed to the document.
- 2.20. Guidance is clear that the council should consider the plans sound once it has decided to publish them in advance of submitting them to the Secretary of State. However, it is recognised that during the next five months, changes to the plans may be required, for example to update facts, improve clarity, usability and formatting, and to fix errors.
- 2.21. The planning system has undergone significant changes since 2011 and more amendments to planning matters are proposed, including amalgamating planning guidance, national sustainability standards and potential amendments to what can be built without needing planning permission (the Use Classes Order). Factual updates may be necessary to ensure that Merton's *Sites and Policies Plan* and Policies Map remain up to date during this time.
- 2.22. It is recommended that the Council agree that authority be delegated to the Director for Environment and Regeneration, in consultation with the Cabinet Member for Environmental Sustainability and Regeneration to approve minor alterations.
- 2.23. In case of any significant issues emerging from the pre-submission public consultation, changes to national or regional policy or other matters, it is recommended these be considered by the Cabinet Member for Environmental Sustainability and Regeneration in consultation with the chair and vice chair of the Borough Plan Advisory Committee before being submitted to the Inspector prior to the Examination in Public.

## **3 ALTERNATIVE OPTIONS**

- 3.1. The main alternative option is not to submit the plans to the Secretary of State. This is not recommended for the following reasons:
- 3.2. An up-to-date plan prepared using local evidence and guided by community consultation, is the most appropriate guide for local planning decisions. The UDP is 10 years old and some of the information it relies on is more than 20 years old (e.g. Census 1991). The older the plan, the easier it is to challenge whether or not the all of the policies it contains conform to the National Planning Policy Framework. The

NPPF states that, if a local plan is adopted before 2004, the NPPF can be used as a material consideration to guide planning decisions in the borough instead of the local plan. This takes decision-making away from what is important locally.

- 3.3. The *Sites and Policies Plan* and *Policies Map* makes the most effective use of available evidence, particularly the evidence used to support Merton's Core Planning Strategy, and the Census 2011. Evidence that is more than 3 years old is considered out of date and is more easily subject to challenge by those objecting to the plan, either at examination or for planning applications.
- 3.4. Merton had prepared a wealth of evidence to support Merton's Core Planning Strategy, including an open space study, economic development and employment land study and a retail and town centre study, dating from 2010 and 2011. In total, preparation of evidence to support these plans, including community consultation, cost close to £750,000. This evidence also helps underpin Merton's *Sites and Policies Plan* and it is a much more efficient use of valuable resources to use one set of evidence to support both plans.
- 3.5. Not progressing with the plan at this time would mean revising this evidence, incurring significant additional costs.
- 3.6. Another alternative option is not to recommend delegating decisions to the Director in consultation with Members during the examination process and instead to require amendments to be considered via the councillor committee process. This approach is not recommended due to the significant amount of time it would add to the examination process, the committee cycle taking at least six weeks.
- 3.7. Once the plan has been submitted to the Secretary of State, the Planning Inspector manages the timetable for at least the next 12 weeks before, during and after the examination hearings. To ensure that Merton can respond to the Inspector's requests in an efficient and timely manner, it is recommended that decisions are delegated to the Director in consultation with Members. The Planning Inspector's fees are approximately £1,000 per day so this approach will also help to save resources.
- 3.8. There are also alternative options around amending or removing one or more of the policies, sites or land designations from within the plan.

#### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. Merton's Sites and Policies DPD was started in July 2011 and since then has been through three stages of public consultation over a total of more than eight months:
- 4.2. July-September 2011 – **Stage 1 Call for sites** to encourage respondents to submit sites for potential redevelopment, issues to be considered for new detailed planning policies and potential land designations on the Proposals Map
- 4.3. January-May 2012 – **Stage 2 Preferred options** for approximately 20 detailed planning policies, approximately 50 potential sites and Proposals Map changes
- 4.4. June-July 2012 – **Stage 2a Preferred options continued** for an additional 15 sites suggested at Stage 2, three detailed planning policies and some Proposals Map amendments.
- 4.5. January-February 2013 – **Stage 3 Towards a final plan**
- 4.6. All of the consultation responses have been considered and the plan has been amended accordingly at each stage. The plan is accompanied by a Statement of Consultation, setting out what people and organisations told us about the plans, and what actions have taken place as a result of their comments.

- 4.7. During the course of the plan's preparation, officers have proactively engaged with community groups, other infrastructure providers, businesses and their representatives, landowners and developers, and councillors representing most of the borough's wards.
- 4.8. If the plan is resolved by councillors for submission to the Secretary of State, then it will be published between July 2013 and September 2013 for local communities, businesses, landowners and any other interested parties to comment on the final plan. These comments, together with the final plan and associated supporting documents, would be submitted to the Secretary of State and be examined in a public hearing by an independent planning inspector.

## **5 TIMETABLE**

### **Next steps for Merton's *Sites and Policies Plan and Proposals Map***

- 5.1. *01 July 2013*: consideration by Cabinet, recommendation to submit to the Secretary of State
- 5.2. *10 July 2013*: proposed consideration by full council, recommendation to submit the plan to the Secretary of State
- 5.3. *Mid July-early September 2013*: pre-submission publication of the plan to ask the local community, businesses, landowners and any other interested parties if they still have comments on the plan that they would like considered by the independent planning inspector at examination
- 5.4. *27 September 2013* – submission of the plans to the Secretary of State
- 5.5. *December 2013* (timetable determined by the planning inspector) – examination in public of the plans, likely to take about 4 days
- 5.6. *Early 2014*: assuming a successful examination, adoption of the plans by Merton Council as the new development plan for the borough.

## **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. As set out in Section 3 of this report, not progressing with these plans to submit to the Secretary of State at this time could have significant financial and resource implications:
- Additional evidence gathering would be needed to replace any evidence that was more than 3 years old. In total, preparation of the evidence to support these plans cost more than £750,000
  - Continuing to use Merton's Unitary Development Plan 2003 to inform planning decisions, when some of the information that supports its policies is more than 20 years old, will become increasingly challengeable, especially at planning appeals. The NPPF states that the NPPF itself should be used to guide planning decisions where local plans are out of date.

## **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. The Town and Country Planning (Local Development)(England) Regulations 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012 have both informed the statutory procedure to be followed before a Local Plan is

submitted to the Secretary of State for independent examination. The *Sites and Policies Plan* and *Policies Map* have been prepared in conformity with both sets of regulations as and when they applied.

- 7.2. Failure to adhere to the statutory procedure or a lack of robust evidence to support the plan may result in legal proceedings to challenge the validity of the plan.

## **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1. An Equalities Impact Assessment has been prepared in conjunction with Merton's *Sites and Policies Plan* and *Policies Map*.
- 8.2. The plans have also been informed by a ongoing Strategic Environmental Assessment and Sustainability Appraisal, prepared in parallel with each stage of the plan and used to ensure that the plans deliver social, economic and environmental benefits equally. Some of the objectives that the plans have been appraised against relate to improving community cohesion.

## **9 CRIME AND DISORDER IMPLICATIONS**

- 9.1. The Met Police have been engaged in all stages of the preparation of Merton's *Sites and Policies Plan* and *Policies Map*, and have made representations on several issues.
- 9.2. The Sustainability Appraisal, prepared in parallel with each stage of the plan to ensure that the plans deliver social, economic and environmental benefits assesses the plans against objectives to reduce crime and the fear of crime.

## **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 10.1. As set out in Section 3 of this report, there is a risk that planning decisions will be challenged where decision-makers are using a development plan that is more than 10 years old to inform them. There is also a risk that decision-makers in Merton will be expected to use the NPPF to guide detailed local planning decisions.
- 10.2. There is also a risk identified to the ability of the council to successfully bid for funding for new local infrastructure. If the new infrastructure is to be delivered through the planning system, the council's ability to successfully deliver this may be called into question if the plan it is using to determine planning applications is more than 10 years old.

## **11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- Appendix 1: Merton's *Sites and Policies Plan* and *Policies Map* – submission version