

# **Report to the Council of the London Borough of Merton**

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Inspectors appointed by the Secretary of State

Date 04 October 2024

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Planning and Compulsory Purchase Act 2004 (as amended)

Section 20

## **Report on the Examination of the Merton Local Plan**

The Plan was submitted for examination on 2 December 2021

The examination hearings were held between 14 June 2022 and 21 October 2022

File Ref: PINS/T5720/429/8

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## Abbreviations used in this report

AA	Appropriate Assessment
BREEAM	Buildings Research Establishment Environmental Assessment Method
DtC	Duty to Co-operate
FMM	Further Main Modification
GLA	Greater London Authority
HRA	Habitats Regulations Assessment
IDP	Infrastructure Delivery Plan
LSIS	Locally Significant Industrial Sites
MOL	Metropolitan Open Land
MM	Main Modification
NDG	National Design Guide
NMDC	National Model Design Code
PPG	Planning Practice Guidance
PPTS	Planning Policy for Traveller Sites
PTAL	Public Transport Accessibility Level
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SHLAA	Strategic Housing Land Availability Assessment
SIL	Strategic Industrial Locations
SFRA	Strategic Flood Risk Assessment
SPD	Supplementary Planning Document
TfL	Transport for London

## Non-Technical Summary

This report concludes that the Merton Local Plan (the Plan) provides an appropriate basis for the planning of the Borough, provided that a number of main modifications (MMs) are made to it. The Council of the London Borough of Merton has specifically requested that we recommend any MMs necessary to enable the Plan to be adopted.

The MMs all concern matters that were discussed at the examination hearings. Prior to and following the hearings, the Council prepared a schedule of the proposed MMs and, where necessary, carried out a Sustainability Appraisal (SA) and Habitats Regulation Assessment (HRA) of them.

The MMs were subject to public consultation over a 7-week period. In some cases, we have amended their detailed wording and/or added consequential modifications where necessary. A further MM (FMM) was also consulted on after the consultation period for MMs finished, for a period of 4 weeks – again this was subject to SA and HRA.

We have recommended the inclusion of the MMs in the Plan after considering SA and HRA work, and all the representations made in response to consultation on them.

The MMs can be summarised as follows:

- MMs to ensure consistency with national policy in terms of strategic policies and the Plan period;
- MMs to ensure that the Plan is positively prepared and justified in terms of its approach to housing requirements and supply;
- MMs to ensure that the Plan's policies reflect the size, type and tenures of housing needed for different groups in the community, including Gypsies and Travellers;
- MMs to ensure that the Plan is in general conformity with the London Plan (the Spatial Development Strategy for Greater London (Published March 2021) (the London Plan) including in terms of its approach to tall buildings, and that its policies in these respects are effective, justified and consistent with national policy;
- MMs to ensure that the Plan's approach to climate change mitigation and adaptation is justified, consistent with national policy, in general conformity with the London Plan, and effective;
- MMs to site allocations to ensure that the policy wording is clear, precise and effective;

- MMs to ensure adequate and effective monitoring of the Plan and its policies.
- MMs to ensure that the Plan is clear and unambiguous and avoids unnecessary repetition, to achieve consistency with national policy in these terms, and to ensure its effectiveness; and
- A number of other modifications to ensure that the Plan is positively prepared, justified, effective and consistent with national policy.

## Introduction

1. This report contains our assessment of the Merton Local Plan (the Plan) in terms of s20(5) of the Planning and Compulsory Purchase Act 2004 (as amended) (the 2004 Act). It considers first whether the Plan's preparation has complied with the Duty to Cooperate (DtC). It then considers whether the Plan is compliant with other legal requirements and whether it is sound.
2. Soundness tests for local plans are set out in the National Planning Policy Framework (the Framework). As per paragraph 230 of the Framework published on 19 December 2023, the policies of the previous version of the Framework, published on 5 September 2023 apply to the examination of the Plan. Accordingly, within this report, all subsequent references to the Framework will be to the version published on 5 September 2023. Similarly, the version of the Planning Practice Guidance (PPG) as it existed immediately prior to the publication of the new Framework provides advice relevant to this examination.
3. The Framework (at paragraph 35) establishes that in order to be sound, a local plan should be positively prepared, justified, effective and consistent with national policy. Moreover, this Plan is required to be in general conformity with the London Plan (per s24 of the 2004 Act).
4. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The Merton Local Plan, submitted in December 2021 is the basis for our examination. It is the same document as was published for consultation on 22 July 2021.

## Main Modifications

5. In accordance with s20(7C) of the 2004 Act, the Council requested that we should recommend any MMs necessary to rectify matters that make the Plan unsound and/or not legally compliant and thus incapable of being adopted. Our report explains why the recommended MMs are necessary.
6. Following the examination hearings, the Council prepared a schedule of proposed MMs (Document reference: LBM29) and carried out SA and HRA of them, where necessary. The MM schedule was subject to public consultation for 7 weeks. Following that the Council consulted on a single further main modification (FMM) for 4 weeks, which again was subject to SA and HRA.
7. We have taken account of consultation responses on the MMs in coming to our conclusions in this report. In this light, we have made some limited amendments to the detailed wording of the MMs where these are necessary for consistency or clarity. None of the amendments significantly alters the content of the MMs as published for consultation or undermines the participatory

processes and SA and HRA that have been undertaken. Where necessary we have highlighted these amendments in the report.

8. The MMs (and FMM) are referenced in bold in the report in the form **MM1**, **MM2**, **FMM1** etc, and are set out in full in the Appendices.

## Policies Map

9. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing any changes that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as Merton's Local Plan Policies Map Stage 3 Reg 19 – July 2021 (Document reference 0D2).
10. The Policies Map is not defined in statute as a development plan document and so we do not have the power to recommend MMs to it. However, a number of the published MMs require corresponding changes to be made to the Policies Map. In addition, there are some instances where the geographic illustration of policies on the Submission Map is not justified and changes are needed to ensure the effectiveness of the relevant parts of the Plan.
11. These further changes to the Policies Map were published for consultation alongside the MMs in the Schedule of Modifications to the Policies Map – January 2024 (Document reference: LBM36), and the Schedule of Further Modifications to the Policies Map – July 2024. (Document reference: LBM42).
12. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted Policies Map to include the changes proposed in the above mentioned documents (0D2, LBM36 and LBM42).

## Context of the Plan

13. The Plan relates to Merton, a diverse outer London Borough, with distinctive individual areas and communities reflecting the heritage and influence of the Borough's location. Merton's population is approximately 211,800. However, it has a comparatively low population density resulting to some extent from the suburban character of many of its neighbourhoods. Consisting of four ancient parishes of Merton, Morden, Wimbledon and Mitcham, Merton is a polycentric Borough with distinct and diverse settlements.



14. Wimbledon town centre is Merton's main shopping and entertainment centre and office location, and is designated as a Major Town Centre in the London Plan. The wider Wimbledon area is a key contributor to the economic success of Merton as a borough and is recognised globally due to the tennis championships held annually at the All England Lawn Tennis Club. District centres within the Borough include Colliers Wood, Mitcham and Morden with each providing important shops and services for residents and visitors. There are also a number of smaller local centres scattered across the Borough.
15. The Borough includes wide open spaces such as Mitcham and Wimbledon Commons, which are covered by designations relating to their biodiversity value. Landscapes designated for their heritage such as Wimbledon Park and Morden Hall Park are also a feature of the Borough. The Wandle Trail, and the Wandle Valley Regional Park are notable environmental and recreational assets.
16. Merton's heritage assets, including numerous conservation areas, are features of the Borough that contribute to its identity. The diversity of built forms in the area includes Garden City style planned council estates, low density private estates and mansion blocks as well as areas of post-War reconstruction after severe bomb damage, alongside more recent modern infill and higher density developments close to public transport nodes.
17. Once adopted the Plan will supersede Merton's Core Planning Strategy and its Sites and Policies Plan and will form part of the development plan along with the London Plan, the Merton Estates Local Plan (the Estates Plan), and the South London Waste Plan.

## **Public Sector Equality Duty**

18. Throughout the examination, we have had due regard to the equality impacts of the Plan in accordance with the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010. This, amongst other matters, sets out the need to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
19. Whilst we have had due regard to relevant equalities aspects throughout the examination, we note particularly here our approach to policy for the provision of accommodation for Gypsies and Travellers; the Plan's provisions relating to housing types, tenures and standards to meet a diverse range of needs in the Borough; and modification to ensure that safe and secure access to sites would be provided for all users. Our findings in relation to those matters are set out in subsequent sections of this report. However, at this point, and against this background, we are content that the recommended MMs on these and other

issues seek to minimise any disadvantages of those with protected characteristics in a manner consistent with the Public Sector Equality Duty.

## **Assessment of Duty to Cooperate**

20. Section 20(5)(c) of the 2004 Act requires that we consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
21. The Borough is part of Greater London, and the strategic tier of planning is therefore substantially covered by the London Plan, including in terms of setting ten-year housing requirements. A number of strategic matters relevant to the Plan include housing, economic growth, flood risk management, travel, transport, green infrastructure and climate change.
22. The Duty to Co-operate Statement (Document reference: 0D13) and other documents including correspondence with the Greater London Authority (GLA), comprehensively set out how the Council has worked with appropriate bodies on strategic matters affecting the Borough. Positive engagement through the DtC has resulted in regular exchanges of information. Amongst other things, this involved participation in strategic projects relating to flood-risk and in regard to the Wandle Valley and Trail. The preparation, and recent adoption of a joint South London Waste Plan, is further evidence of a co-operative approach with neighbouring Boroughs. This co-operation has helped to shape the policies in the Plan, including in terms of facilitating release of industrial land currently in waste use to provide a housing allocation in the Plan via re-provision of processing capacity elsewhere. Other DtC bodies have been appropriately involved throughout the preparation stage and their input has assisted with cross-boundary strategic matters where relevant.
23. Consequently, the evidence clearly demonstrates that the Council has made considerable efforts to engage with all relevant organisations and prescribed bodies throughout the Plan's preparation. The proposals in the Plan reflect the outcome of the joint working on those strategic matters and none of the prescribed bodies or other relevant organisations have indicated that they are dissatisfied with their liaison with the Council. We are therefore satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the DtC has therefore been met.

## **Assessment of Other Aspects of Legal Compliance**

### Statement of Community Involvement

24. The Council's Regulation 22(1)(c) Statement of Consultation demonstrates how the consultation carried out during the various stages of Plan preparation was in compliance with the Council's adopted Statement of Community Involvement (Document reference: 0D19) (the SCI). The representations received during the consultation stages helped to inform our identification of main soundness issues and questions for the hearings. Those who made comments were also able to participate in the examination and at the hearings.
  
25. There is nothing in the Town and Country Planning (Local Planning) (England) Regulations 2012 (the 2012 Regulations) or the Council's SCI which requires more targeted consultation with residents in the environs of particular sites. Consequently, it follows that, in the absence of such targeted actions, the consultation process was adequate and accorded with the SCI and the 2012 Regulations. Ultimately, representations were received in relation to proposals included in the Plan, with adequate time given for relevant site-specific matters to be discussed at public hearing sessions. We therefore conclude that the consultation undertaken has not prejudiced the ability to make comments on the submitted Plan and has enabled fair and equitable access to participate in the examination insofar as is required by the 2012 Regulations.

### Sustainability Appraisal

26. The Council carried out a SA of the Plan, prepared a report of the findings of the appraisal, and published the report along with the Plan and other submission documents under Regulation 19 the 2012 Regulations. The SA uses a framework to appraise the policies of the Plan against a set of defined objectives which have been adequately justified. It has also suitably addressed reasonable alternatives. It thus provides a reasonably consistent guide that the Council used to help inform its choices about what to include in the Plan. Production of the SA has been in-step with the various stages of plan-making and has included an assessment of our recommended MMs. It follows that the SA has been a genuinely iterative process. Overall, therefore, we are satisfied that the SA processes have been adequate.

### Habitats Regulations Assessment

27. The Council's Local Plan Habitats Regulation Assessment Report (Document reference: 0D12) (the HRA) suitably sets out why an appropriate assessment is not necessary. The HRA concludes that the Plan is unlikely to lead to any significant adverse effects (either alone or in combination) on any European Sites.

28. The HRA process is an iterative one, and in this vein, the Council produced an HRA of the recommended MMs (Document reference: LBM33). This considered, in particular, the effects on the Wimbledon Special Area of Conservation (SAC), including consideration of whether any in combination effects could result from MMs relating to Wimbledon Park and the All England Lawn Tennis Club's Wimbledon site. An HRA was also undertaken for **FMM1** (Document reference: LBM43). These assessments also find that appropriate assessment is not necessary.
29. Natural England made no objections to the HRA in responses at Regulation 19 stage or during the examination (including the consultation on the MMs). It is of note that successive Court judgements clarify that advice from Natural England can be accorded significant weight<sup>1</sup>, and we have taken this principle into account in forming our view on this matter.
30. Accordingly, we consider that the HRA processes that have supported the Plan to be adequate. We consider soundness aspects relating to the Plan's approach to biodiversity matters below.

#### Development and Use of Land and Climate Change

31. The Plan, taken as a whole, includes policies to address the strategic priorities for the development and use of land in the local planning authority's area. Similarly, the Plan, taken as a whole, includes policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change – including, in particular, Policies CC2.1, CC2.2, CC2.3, CC2.4, CC2.5 and CC2.6 of this Plan. Whilst we are content that the Plan accords with s19 of the 2004 Act and is thus legally compliant in these terms, we return in more detail below to the soundness aspects of the Plan's policies relating to climate change.

#### General Conformity with the London Plan

32. The Plan must be in general conformity with the London Plan, under the terms of s24 of the 2004 Act. Broadly, and subject to MMs that we recommend, we conclude that the Plan is in general conformity with the London Plan. Our reasoning on this matter is set out fully in the main issues below.

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<sup>1</sup> Including *R(Wyatt) v Fareham Borough Council & Natural England* [2022] EWCA Civ 983

### Other Legal Requirements

33. As submitted the Plan is not clear as to which development plan policies it would supersede, and as a result does not comply with Regulation 8 of the 2012 Regulations. Consequently, **MM351** is necessary. This MM clarifies which policies would be superseded and sets out the Plan's relationship with other aspects of the development plan. The MM would thus ensure that the Plan is legally compliant in these terms.
34. The Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations. Further reasoning on this, where necessary, is set out further below.

### Conclusion

35. For the reasons set out above we conclude that all relevant legal requirements have been met.

## **Assessment of Soundness**

### **Main Issues**

36. Taking account of all representations, written evidence and the discussions that took place at the examination hearings, we have identified 14 main issues upon which the soundness of the Plan depends. This report deals with these under the following headings and with regard to the main matters of soundness. It does not respond to every point or issue raised by representors. Nor does it refer to every policy, policy criterion or allocation in the Plan. Aspects of the Plan considered to be sound as submitted are not referred to as a matter of course in this report. As the starting point for our examination is the Regulation 19 version of the Plan, all references to policy and paragraph numbers are to those that appear in that iteration of the Plan.

## **Issue 1: Is the Plan period and format of the Plan consistent with national policy and otherwise justified?**

37. The Plan period, as submitted would not cover 15 years from adoption as required by the Framework (at paragraph 22). Consequently, **MM5** and **MM9** are required which would extend the Plan period to 2037/38 and this approach is justified as the underpinning studies such as the London Strategic Housing Land Availability Assessment (the SHLAA) cover a period beyond that anticipated by the Plan as modified. Due to the length of time taken to adopt the Plan, its policies are now likely to cover 14 years from its adoption. Nevertheless, there would be at least two reviews of the Plan as mandated by Regulation 10A of the 2012 Regulations before the end of the Plan period. These reviews would consider the changing circumstances affecting the area, including changes to national and London-wide policies, and would inform whether updates would be necessary.
38. In this context, little practical benefit would be realised from further extension of the Plan period, particularly where evidence base documents may have to be updated to encompass such an extension, leading to further delays to the adoption of the Plan. These considerations, taken together with the Framework's requirement (at paragraph 15) for a planning system to be led by up-to-date plans justify the MMs proposed and ensure that the Plan accords with national policy in these terms.
39. The Plan contains a mixture of strategic and non- strategic policies, but it is unclear that they have been appropriately identified as such as required by the Framework (at paragraph 21). Accordingly, to make it explicit which policies are strategic ones **MM136** is required. This MM ensures that strategic policies are correctly identified based on their content and with reference to paragraphs 20 to 23 of the Framework, and thus secures consistency with national policy.

### Conclusion

40. We consider it pragmatic for an otherwise sound Plan, subject to the MMs that we recommend as set out in this report, to proceed to adoption despite its strategic policies not looking ahead 15 years as per paragraph 22 of the Framework. For these reasons, in the context of our conclusions on the main issues set out elsewhere in this report, and on the basis of the recommended MMs, we conclude on this main issue that the Plan period and format would be consistent with national policy and justified.

## **Issue 2 - Does the Plan take a justified approach to mitigating and adapting to climate change, and would its policies on these matters be effective, consistent with national policy and in general conformity with the London Plan?**

41. Through encompassing a wider range of development scales and types that would be captured by its climate change and energy efficiency policies, the Plan's requirements go further than those of the London Plan in these regards. Whilst the London Plan's requirements relate only to major developments, with supporting text (at paragraph 9.2.1) indicating that developments "involving major refurbishment should also aim to meet this policy", the Plan's policies apply to developments of 1 or more houses, and non-residential uses of 500SqM or more including new buildings, conversions<sup>2</sup> and changes of use. In addition, the Plan seeks to secure a higher financial contribution for the funding of off-site carbon offsetting, than that anticipated in the London Plan and requires conversions and changes of use resulting in the creation of 10 or more new dwellings to achieve the Buildings Research Establishment Environmental Assessment Method (BREEAM) 'excellent' standard.
42. The Climate Change Act 2008 (as amended) (the 2008 Act) sets out a legally binding carbon reduction target for 2050. Against the background of this looming statutory requirement, the Council's supporting evidence (including 'The Costs and Benefits of Tighter Standards for New Buildings' Document reference: 2D10) points to clear challenges relating to the feasibility and cost associated with retrofitting building stock to assist with meeting the carbon reduction target. These considerations provide the broad justification for the Plan's requirements for new buildings to be designed in a manner that would avoid costly and potentially disruptive retrofitting work, which in some cases may be required not long after their completion in order to contribute towards the requirements of the 2008 Act.
43. Of relevance too is that a substantial proportion of development in the Borough over the Plan period is expected to come forward on small sites. This is a consideration which lends support to the Plan's application of the relevant standards to proposals which would not be major development.
44. Taking these issues together, we consider that the overall approach of the Plan to these matters accords with the Framework (at paragraph 154(b)) insofar as it requires new development to be planned for in ways that can help to reduce greenhouse gas emissions, such as through its location, orientation and design. It is therefore broadly clear that these are considerations which weigh in favour of the Plan's aspirations and related targets in terms of carbon reduction and support a nuanced local approach to small sites which differs from the

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<sup>2</sup> Proposed to be defined in the glossary of the Plan as the "conversion of existing single dwellings into two or more smaller dwellings"

requirements set out in the London Plan. It follows also that the Plan is consistent with national policy as expressed in the 'Planning – Local Energy Efficiency Standards Update' Written Ministerial Statement (the Energy Efficiency WMS) insofar as it is supported by a well-reasoned rationale for its approach.

45. Nevertheless, the 'Merton Local Plan Housing Viability Study'<sup>3</sup> (the Viability Study) reaches the clear finding that "where viability is already on the margins, other policy requirements may need to be reduced to compensate for these costs", and that "in lower value areas, there would be a trade-off of circa 10% affordable housing to accommodate the higher climate change costs". It has not been demonstrated therefore that the policies of the Plan are realistic, and that the total cumulative costs of all relevant policies would not undermine the deliverability of the Plan, and this is contrary to the Framework (at paragraph 34) and the advice of the PPG<sup>4</sup>. In these terms also, the Plan falls short of the expectations of the Energy Efficiency WMS insofar as it expects policies to be based on a robustly costed rationale.
46. Moreover, we are not persuaded, given the very wide range of development types that the climate change policies would apply to, that some of the measures sought would be feasible or viable, particularly in respect of smaller developments, conversions and changes of use. In these latter regards, the Viability Study's findings (at page 94) relating to the sensitivity of scheme viability to the existing use value of small sites are also of relevance. When considered in the context of our conclusions on housing supply matters, both in terms of homes to meet general needs and affordable dwellings, set out below, there is also a material risk that the cumulative cost of the Plan's requirements could act as a drag on delivery. As a result, the Plan is not justified, effective or positively prepared in these terms. Furthermore, in the context of the Viability Study's findings, the Plan does not clearly apply priority to affordable housing and necessary public transport improvements insofar as seeking contributions from development is concerned and as a result does not accord with Policy DF1 of the London Plan.
47. Consequently, **MM23** and **MM287** are necessary which introduce a policy criterion and supporting text setting out clearly how viability considerations will be dealt with in a way that is consistent with the London Plan's expectations, and which prioritise the delivery of affordable housing. Accordingly, the MMs will ensure that the Plan is justified, effective, in general conformity with the London Plan in these senses and positively prepared insofar as the policies bear on the delivery of housing. The MMs also ensure that the Plan is consistent with the Energy Efficiency WMS insofar as it requires development to

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<sup>3</sup> Document Reference: 11D7

<sup>4</sup> 'Viability' Paragraph: 002 Reference ID: 10-002-20190509 Revision date: 09 05 2019



remain viable and the impact on housing supply and affordability to be considered, with policies based on a robustly costed rationale.

48. Following recent updates to the Building Regulations relating to the energy efficiency of developments, the way that the Plan's targets in this respect are expressed are now out of date and result in an ineffective, unjustified policy which is inconsistent with national policy insofar as it expects requirements to be expressed as percentage uplifts against target emission rates (per the Energy Efficiency WMS). However, the GLA published Guidance on how the London Plan's targets are to be applied at the London-wide level following the changes to Building Regulations in its Energy Assessment Guidance (June 2022) (Document reference: LBM38). Accordingly, **MM13** imports targets from the Energy Assessment Guidance, except in the case of hotels where locally derived evidence ('The Delivering Net Zero Report' Document reference: LBM 37) supports a lower carbon reduction target. In order to provide context for the changes, **MM16** and **MM20** set out explanatory text relating to Building Regulations updates. These MMs achieve a justified and effective position in a manner consistent with the London-wide approach to this matter, and also secure consistency with national policy.
49. As drafted, Policy CC2.2 and its supporting text is unclear in terms of what types of development it would apply to, and further ambiguity arises from the requirement for developments to be "in line with any future locally derived methodology", "the relevant guidance" and "future guidance", requirements which are also unjustified. Moreover, the Policy is unclear as to when proposals for off-site measures would be acceptable. In addition, the supporting text fails to clarify how changing national or London-wide standards may be taken into account. The totality of these issues also means that the policy is ineffective.
50. For these reasons **MM14**, **MM15**, **MM17**, **MM18**, **MM19** and **MM21**, which make alterations to Policy CC2.2 and its supporting text are necessary. Taken together these MMs remove unjustified, ambiguous and ineffective references to guidance, clearly set out the instances where offsite contributions would be permissible and clarify the types of development captured by the policy. They would therefore ensure that the Plan would be justified, effective and clear and thus consistent with the Framework (at paragraph 16) in these terms.
51. The Plan sets a higher offsite carbon offsetting charge than the one in the London Plan, in an effort to provide incentives for the delivery of on-site measures, and to reflect locally derived costs of implementing offsite measures. The London Plan encourages Boroughs to develop carbon offsetting prices based on the costs across the Borough, and the figure included in the Plan is derived from the Towards Net Zero Study (Document reference: 2D12), research commissioned by 17 London Boroughs on this topic, and tested in 'Merton Local Plan climate change policies – note on viability testing' (Document reference: 2D47). Moreover, the aim of maximising on-site gains

accords with the design-led approach to reducing greenhouse gas emissions advocated by the Framework (at paragraph 154(a)). For these reasons the higher offset charge included in the Plan is justified.

52. However, as drafted, the open-ended, and ill-defined approach relating to how the charge would be reviewed is ambiguous and deferring such activity to “future guidance” is unjustified and ineffective as the Framework makes clear that plans should set out the contributions expected from development (at paragraph 34). Accordingly, we recommend **MM22**, which clarifies how the charge would be monitored, reviewed and if warranted updated, which would ensure that the Plan is justified and effective in these terms.
53. Locally derived research, and the GLA’s Energy Assessment Guidance point to challenges in achieving the ‘Be Lean’ requirements of the London Plan as they relate to energy efficiency in the context of updates to the Building Regulations. In this changed context, Policy CC2.3’s requirement for energy efficiency measures which would deliver a 10% improvement over the 2013 Building Regulations baseline is ineffective. Accordingly, **MM24** would delete these requirements to ensure that Policy CC2.3 sets an effective basis for the minimisation of energy use in developments when considered in the context of the up-to-date Building Regulations.
54. Policy CC2.3 lacks clarity as to the activities that would be captured in the scope of its provisions relating to energy use in the context of the Building Regulations and is ineffective as a result. **MM25** is therefore necessary which clarifies the measures that apply to regulated energy use in the interests of effectiveness.
55. Policy CC2.3 seeks to mandate compliance with “energy use intensity targets from 2025 in line with the relevant guidance”. As this guidance is yet to be produced, its status is unclear, and the evidential basis for, and viability implications of it are unknown at this stage, this requirement is unjustified. Moreover, these considerations also point to an ineffective policy position on energy use intensity. However, The Delivering Net Zero Report (Document reference: LBM37) published during the examination sets out a set of recommended energy use intensity levels for differing types of development, which could act as benchmarks to assist the implementation of the policy.
56. Consequently, against this background, **MM26** and **MM27** are required which would delete the unjustified and ambiguous reference to future guidance and introduce references to recommended energy use intensity levels in the supporting text that would assist the implementation of Policy CC2.3’s requirement for developments to make the fullest contribution to minimising energy use. Accordingly, these MMs would ensure that the Plan is justified and effective in these terms.

57. Policy CC2.4 and its supporting text seek to restrict the installation of gas boilers. Such installations would almost always fall outside of the definition of 'development' for the purposes of the Planning Acts. Consequently, the policy is both ineffective and unjustified, and thus **MM28** is necessary which would delete the reference to gas boilers and ensure the Plan's soundness in relation to this matter.
58. The Plan promotes the use of heat pumps as a potential low-carbon technology to be deployed in new developments. However, it is unclear how any potential visual and amenity effects of these technologies would be assessed, which results in an ineffective policy that is inconsistent with the Framework (in particular paragraph 130) in these terms. Consequently, **MM29** is required which introduces supporting text explaining how such matters would be taken into account and points to other relevant policies of the Plan. It secures soundness on this point as a result.
59. Policy CC2.5 seeks to promote the re-use of existing building stock in redevelopment projects – an objective that accords with the London Plan's policies (including Policies GG5 and SI7) on minimising waste and promoting a circular economy. However, as drafted it is unclear that the requirement to prioritise re-use and retrofit only applies to sites with existing buildings present, and there is no supporting evidence before us that would justify a wider application of these considerations. Moreover, the policy is unclear and thus ineffective insofar as building design considerations are concerned. Consequently, **MM30** is required, which clarifies the type of site that this consideration would apply to, and the design aspects to be assessed. In these ways, the modification ensures that the Plan would be clear, justified and effective in relation to this topic.
60. Policy CC2.5 is unclear as to how aspects relating to materials sourcing and building design should be taken into account in the assessment of proposals and is thus ineffective in these terms. Moreover, the policy does not clearly articulate what whole-life cycle carbon assessments would be expected to demonstrate. As a result, **MM31** is necessary, which would clarify the considerations to be taken into account on both of these items in a manner which is consistent with the Framework insofar as it requires firstly, new development to be planned for in ways that can help to reduce greenhouse gas emissions, such as through its location, orientation and design (at paragraph 154(b)), and secondly, that plans should contain policies that are clearly written and unambiguous (at paragraph 16(d)).
61. As drafted the supporting text to Policy CC2.1 refers to superseded national policy, and is thus inconsistent with the version of the Framework relevant to this examination. Accordingly, **MM11** deletes previous references to the Framework in the reasoned supporting text of Policy CC2.1 and ensures consistency with national policy as a result.

## Conclusion

62. For the reasons set out above, and subject to the MMs that we recommend, we conclude on this main issue that the Plan takes a justified approach to mitigating and adapting to climate change, and that its policies on this matter are effective, consistent with national policy and in general conformity with the London Plan.

### **Issue 3 – Is the Plan’s overall spatial strategy justified and in general conformity with the London Plan, and is its approach to the Borough’s neighbourhoods justified and effective?**

#### Opportunity Area

63. The London Plan identifies Opportunity Areas which are those that are anticipated to see the most significant change and development over the lifetime of that plan, typically containing capacity for at least 5,000 net additional jobs or 2,500 additional homes, or a combination of the two. An Opportunity Area covering parts of Wimbledon, South Wimbledon and Colliers Wood is identified in the London Plan. However, the boundary of the Opportunity Area as included in the Plan also encompasses Morden, due to its development potential and the support of Transport for London (TfL) and the Greater London Authority (GLA) for its regeneration.
64. This is an approach we consider to be consistent with the London Plan insofar as it recommends (at paragraph 2.1.27) that the potential for Morden’s inclusion should be explored. We therefore consider that the geographical coverage of the Opportunity Area, as expressed in the Plan, is in general conformity with the London Plan. We return to aspects relating to whether the Plan sets out how it will encourage and develop the growth potential of the Opportunity Area (per Policy SD1(B) of the London Plan) in subsequent sections of this Report.
65. As drafted, supporting text relating to the neighbourhoods covered by the Opportunity Area inaccurately references the home and job figures given in the London Plan as ‘targets’. Accordingly, **MM32** is required which introduces terminology consistent with that used in the London Plan, in the interests of general conformity.
66. References to Opportunity Area Planning Frameworks in the Plan are not clear as to who will be involved and how they might be brought forward, matters which mean the Plan is at variance with the London Plan in these terms, and is also ineffective. Accordingly, **MM7** and **MM71** are required which clarify the methods for bringing about such planning frameworks, and thus achieve clarity (and consistency with the Framework paragraph 16 in these terms), general conformity with the London Plan and effectiveness. We have made a post-consultation amendment to **MM71** which is consequential to **MM32**, and

ensures that the terminology used is in general conformity with the London Plan. The change does not alter the intent or effect of **MM71** as consulted on and no material prejudice would occur as a result of us making this minor change at this stage.

## Neighbourhoods

67. The Plan identifies the Borough's individual neighbourhoods and sets out their indicative boundaries based on analysis included in the Borough Character Study (Document reference: 12D1) (the Character Study), which included consultation on this issue. Although some have questioned these boundaries, we are satisfied that they form a reasonable spatial basis for the overarching policies relating to them and for planning to meet the Plan's neighbourhood-related objectives. Moreover, the Character Study provides an evidence-based rationale for the broad areas identified. Accordingly, there are no soundness reasons to modify the boundaries as set out in the Plan.

### Mitcham Neighbourhood

68. Policy N4.1 relating to Mitcham uses terminology inconsistent with the spatial hierarchy and is thus unclear and inconsistent with the Framework (at paragraph 16(d)) in these terms. Accordingly, **MM54** is required which ensures that the correct terminology is used and thus achieves clarity and consistency with national policy.

### Morden Neighbourhood

69. Overarching principles for the Morden neighbourhood are set out in Policy N5.1. However, overlapping and confusing terminology is used in Policy N5.1 which means it is unclear how it would be applied to different parts of the neighbourhood and in relation to allocations within that area. The illustrative mapping material included in Policy N5.1 introduces further ambiguity in these regards. Accordingly, **MM64**, **MM65**, **MM66** and **MM69** are required which would ensure that consistent terminology is used and that the map is deleted from the Plan. These changes are necessary to ensure that the Plan is clear and effective in these terms.

70. The Morden Regeneration Area is a specifically defined area within the wider Morden neighbourhood. Land included in the Morden Regeneration Area is in a number of different ownerships. As drafted the Plan's statements about comprehensive development and/or regeneration of this area are unclear as to what delivery mechanisms are envisaged to bring this about. This ambiguity calls into question whether comprehensive development is anticipated to be orchestrated by one body and include land assembly activity; and whether such an approach would be either justified or effective. Moreover, related phrasing

assumptions of such an approach, which push back delivery to the latter part of the plan period mean that the Plan is not positively prepared in terms of seeking to bring forward housing.

71. It follows that **MM67**, **MM70**, **MM72**, **MM73** and **MM84** are required to Policy N5.1, its supporting text and Site Allocation Mo4, which set out what is meant by “comprehensive regeneration”, that it is not dependent entirely on land assembly, and could be brought forward by different owners. In short, they capture that the phrase relates to the nature and scale of the changes in the area rather than a specific delivery method. A consequence of this is the potential to adjust the timing of delivery meaning that the Mo4 Morden Regeneration Zone site allocation would be likely to deliver development earlier in the plan period than is assumed in the policy as drafted. Consequently, **MM80** is required which changes the deliverability assumptions in the Mo4 allocation to ensure that it is justified and effective in these terms. Accordingly, these changes ensure that the Plan is justified, effective and positively prepared in terms of the delivery arrangements relating to the Morden Regeneration Area.
72. The Infrastructure Delivery Plan (the IDP) (Document reference: LBM 16) recognises that new bus standing facilities are required in Morden in the medium to long term, and that comprehensive regeneration may also trigger the need for additional health infrastructure. However, the Plan does not reflect this, and in failing to do so is inconsistent with national policy requiring the contributions expected from development to be set out (per paragraph 34 of the Framework). Consequently, **MM74** and **MM76** are required to the supporting text of Policy N5.1, which introduce references to bus standing and health facilities and the contributions that might be expected. They thus achieve consistency with national policy in these terms.

### South Wimbledon Neighbourhood

73. Policy N7.1 seeks to recognise South Wimbledon as a distinctive neighbourhood in its own right, proposing a new Local Centre at its heart. As drafted, however, the policy is ambiguous as to which part of the neighbourhood its specific criteria would relate to. It is also unjustified and unclear as to how guidance documents are to be treated in the consideration of proposals. The policy is also inconsistent with national policy in terms of the achievement of well-designed places (per section 12 of the Framework), in terms of the consideration of the benefits of estate regeneration (per paragraph 94 of the Framework), in respect of the conservation of heritage assets (per section 16 of the Framework), and insofar as the promotion of walking, cycling and public transport (per paragraph 104(c) of the Framework) are concerned. Taken together these issues also mean that the Plan is ineffective on these matters.

74. It follows that to ensure that Policy N7.1 is justified, clear, effective and consistent with national policy, **MM102**, **MM103**, **MM104**, **MM105** and **MM106** are required which make appropriate and justified references to relevant guidance, clarify the parts of the neighbourhood that various criteria would apply to, and insert wording consistent with the Framework in terms of design, estate regeneration and the promotion of walking, cycling and public transport. They would thus achieve soundness in these terms.

#### Wimbledon Neighbourhood

75. Policy N9.1 seeks to ensure Wimbledon Town Centre continues to be a thriving destination for business, residents and visitors. However, there is a lack of justification for its requirement to reduce “severance” and introduce bridges over the railway, with scant evidence as to the feasibility of such initiatives. Taken together these things also result in an ineffective policy. **MM108** is therefore required, which deletes reference to severance and bridges and ensures that the policy is effective and justified. As drafted, the policy is inconsistent with the Framework insofar as it expects planning policies to support the role that town centres play at the heart of local communities and to aim to achieve healthy, safe and inclusive places (per paragraphs 86 and 92 of the Framework). Accordingly, **MM109** introduces a criterion which means that these national policy considerations would be appropriately reflected in the consideration of proposals, and thus ensures consistency with the Framework in these terms.

#### Conclusion

76. For the reasons given above, and subject to the recommended MMs, the Plan's overall spatial strategy is justified and in general conformity with the London Plan, and its approach to the Borough's neighbourhoods is justified and effective.

### **Issue 4 – Is the Plan positively prepared, justified and consistent with national policy and the London Plan insofar as its housing requirement is concerned?**

#### Housing Requirement

77. The London Plan sets ten year housing targets for Boroughs covering the period 2019 to 2029. For Merton, the London Plan requires delivery of 9,180 homes over that period (per Table 4.2). The London Plan is clear (at paragraph 4.1.10) that a Borough's housing targets can be achieved gradually, and that Boroughs are encouraged to set out a realistic and, where appropriate, stepped housing delivery target over the ten year period. The targets in the London Plan are derived from the 2017 Strategic Housing Land Availability Assessment (Document reference: 11D2), and are based on the capacity of Boroughs to

absorb new development (per paragraph 4.1.7 of the London Plan). The housing target for the Borough has increased significantly from 411 homes per year for the previous London Plan period to 918 homes per year in the current one.

78. We note that the London Plan (at paragraph 4.8.1) recognises the important role that redevelopment and intensification of housing estates plays in the evolution of London. Furthermore, the Framework emphasises that the social, economic and environmental benefits of estate regeneration should be considered, and that local planning authorities should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs using the full range of powers available to them (at paragraphs 94 and 121). Against this background, a considerable proportion of the Borough's housing supply over the plan period is projected to come from the ongoing regeneration of larger social housing estates, which involve demolitions, some of these pursuant to compulsory purchase activity, in the initial phase of the programme. This acts as a significant drag on delivery in the early part of the Plan period.
79. Moreover, other large sites allocated in the Plan, including those involving the provision of housing in tall buildings need the enhanced certainty provided by an adopted development plan in order to provide incentives for delivery. In addition, tall buildings, by their nature, generally only deliver housing once an entire building is completed, as opposed to a steadier stream of completions which may flow from more traditional methods of construction. Furthermore, land assembly and other factors also bear on some of the more significant sites included in the Plan, in particular the Morden Regeneration Area. It is clear that these factors, taken together, mean that housing completions from these sources are likely to come forward in the mid to late years of the Plan period. Whilst we set out in further detail below our findings on housing supply and delivery matters, we point out at this stage that we are content that the Council has undertaken a robust and thoroughgoing approach to the identification and allocation of sites.
80. Accordingly, taken together, the significant change in housing requirements between existing and emerging policies, and the reliance on sites with phased delivery programmes and the construction of tall buildings weigh in favour of a stepped requirement. The inclusion of a stepped requirement in the Plan would therefore accord with the advice on this matter set out in the 'Housing supply and delivery' PPG<sup>5</sup>. However, as submitted, the Plan's figures do not fully take into account the extent that demolitions may act as a drag on delivery in the early part of the Plan period. Nor do they reflect the re-phasing of the anticipated housing yield of the Mi1 Benedict's Wharf allocation to the later parts of the Plan period due to a change in circumstances of the site's current

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<sup>5</sup> Paragraph: 021 Reference ID: 68-021-20190722 Revision date: 22 July 2019



operator. Neither do the requirements set out in the submitted Plan cover the full Plan period as modified. As a result, the stepped trajectory is not realistic, and it is unjustified and ineffective as a result.

81. Consequently **MM153**, **MM155**, **MM158**, and **MM159** are required which re-profile the stepped trajectory with figures that better reflect these considerations. They (and **MM12**) also provide consequential modifications to the Plan relating to overall numbers delivered during the extended plan period, alongside further detail on demolitions and completions pursuant to the estate regeneration programme. Accordingly, the MMs would ensure that the housing requirement is justified, effective and consistent with the London Plan insofar as it encourages Boroughs to set out *realistic* stepped housing delivery targets.
82. We arrive at this view fully aware that the modified requirements would fall below the London Plan ten year target and would thus be at variance with it in these terms. Nevertheless, the setting of an unrealistic stepped requirement would similarly be at odds with the London Plan in these respects. Moreover, higher initial steps would not be consistent with the Framework either insofar as it expects plans to be justified and underpinned by adequate and proportionate evidence, or in terms of its expectation for the planning system to be genuinely plan-led. It is of note too that the Plan as modified would be likely to deliver a greater quantity of housing (by around 3,800 dwellings) than anticipated by the London SHLAA over its period of operation. Accordingly, for the reasons set out above, we consider the requirement, as modified, to be in general conformity with the London Plan in these terms.
83. Where local plans seek to include targets beyond 2029, the London Plan indicates (at paragraph 4.1.11) that, amongst other things, Boroughs should draw on the Greater London SHLAA. In terms of the housing targets for the latter part of the Plan period, as modified by **MM153**, these are drawn from the capacities identified in the SHLAA, but with additional anticipated completions on identified sites, both those allocated by the Plan and those pursuant to the estates regeneration programme, alongside the small sites estimates set out in the London Plan (in Table 4.2). They therefore provide a justified basis for requirements in the latter part of the Plan period, consistent with the London Plan in these terms.
84. Due to the requirement to extend the Plan period, a housing target for 2037/38 is needed to ensure that the Plan would be consistent with national policy (in particular paragraphs 20ff of the Framework) in these terms. This soundness deficiency is remedied by **MM153**, **MM156**, **MM157** and **MM160** which introduce figures based on the SHLAA in a manner consistent with the London Plan, delete superseded figures and set out the justification for the approach.

85. We note the Mayor of London's view that the average annual target has reduced from that of the Regulation 19 version of the Plan. However, this is partially as a result of the extension of the Plan period, and the London Plan compliant approach to setting requirements after the 10 year targets for those years. This results in lower annual targets in the latter years of the Plan period, including those that have been included by way of MMs. Moreover, we note above how delivery over the plan period is expected to exceed the housing output anticipated in the SHLAA. Accordingly, we do not view this change in annualised average targets over the extended Plan period as something that would undermine housing delivery. Furthermore, both the Local Plan and the London Plan would be subject to review prior to those latter years, which may have an effect on housing targets at those points. It follows that no further alterations are needed to the housing targets to achieve a sound and/or legally compliant outcome on this matter.

### Housing Trajectory

86. The housing trajectory contained within the Plan sets out the anticipated pipeline of housing provision (that is those sites with planning permission which are already under construction), alongside allocations and other sources of supply. However, this has been overtaken by events including the requirement to alter the Plan period to achieve consistency with the Framework. Moreover, the trajectory does not take into account further evidence supplied on the deliverability of sites, nor does it reflect the MMs made to ensure that the stepped requirement is realistic (per paragraph 4.1.10 of the London Plan). As such, the submitted trajectory is no longer justified and is inconsistent with national policy insofar as it requires strategic policies to include trajectories which illustrate the expected rate of housing delivery over the Plan period. Consequently, **MM161** and **MM163** are necessary which reprofile the trajectory both for the Borough as a whole and its constituent neighbourhoods. These would ensure that the Plan is justified and achieves consistency with national policy in these terms.

### Conclusion

87. For the reasons set out above, and subject to the MMs we recommend, we conclude that the Plan is positively prepared insofar as its housing requirements are concerned, is justified and is consistent with national policy and the London Plan.

## **Issue 5 - Does the Plan identify a sufficient supply of housing sites?**

### Land Availability and Site Selection

88. The Framework (at paragraph 68) requires planning policies to identify a sufficient supply of housing sites, based on a clear understanding of the land available in the area. Policy H1 of the London Plan expects the potential for housing delivery on all suitable and available brownfield sites to be optimised.
89. Site selection for the Plan was informed by the London SHLAA and a subsequent Borough-specific call for sites exercise. Further locations for housing development and intensification were identified through a range of studies and other documents that supported the production of the Plan, including the Character Study, the Morden Strategic Development Framework (Document reference: 5D1), the Future Wimbledon Supplementary Planning Document (SPD) (Document reference: 9D1) and the Green and Blue Infrastructure, Biodiversity and Open Space Study ((Document reference: 15D1) (the Green Infrastructure Study).
90. Public sector land holdings, including those of the Council (such as parts of Mo4 – Morden Regeneration Zone, Mo2 – Farm Road Church and Mi11 – Raleigh Gardens Car Park), Transport for London (TfL) (for example CW1 – Baltic Close and elements of Mo4 – Morden Regeneration Zone), and the National Health Service (Mi2 – Birches Close, Mitcham, Mi18 – Wilson Hospital) amongst others were also assessed and identified in terms of their potential for development and intensification. Sites with current low densities such as car parks (including allocations CW1 – Baltic Close, Mi4 – Elm Nursery Car Park, Mi11 – Raleigh Gardens Car Park, Mi12: Sibthorpe Road Car Park; Mo6 – York Close Car Park), retail parks (allocation CW5 – Priors Retail Park) and supermarkets (allocations Mi8 – 1 to 12 Majestic Way and RP3 - Tesco, Burlington Road) have also been identified and allocated.
91. The Plan sits alongside the adopted Estates Plan which identifies the Borough's 3 locations where estates regeneration is taking place and sets out policies of relevance to them. The intensified capacities achieved through the redevelopment of the three identified estates is set to be an important component of housing supply during the plan period, with over 2,000 net additional homes anticipated.
92. Policy H1 of the London Plan anticipates that industrial sites could be identified as potential sources of additional residential capacity. In line with this expectation, Strategic Industrial Locations (SILs) and Local Strategic Industrial Sites (LSIS) have been assessed by the Council in terms of their capacity to accommodate residential development. In general terms, the nature of existing

uses on the Borough's SILs, with the 24 hour cycle of their operations, do not readily lend themselves to co-location with housing development. However, the Plan amends the SIL boundary to remove allocation Mi1 – Benedict Wharf, and identifies the site for redevelopment including the delivery of homes. Furthermore, two of the Plan's allocations within LSIS (RP4 80 – 86 Bushey Road, Raynes Park and RP7 Rainbow Estate) are for a mix of housing, employment and other uses.

93. Otherwise, the high demand for, and low vacancy rates in, industrial space within the Borough are factors which militate against further release of SIL or LSIS for residential uses - an approach which accords with the London Plan (particularly Policies E4, E5, E6 and E7) insofar as it expects a sufficient supply of land and premises to meet demands for industrial space. Accordingly, it is clear that the Plan strikes an appropriate balance between the objectives of optimising the potential of brownfield land for residential development, and for industrial demand to be accommodated.
94. The above considerations lead us to the view that the Plan is based on a robust and thorough approach to site identification and selection of available and suitable sites. This has yielded a range of types and sizes of allocations across the Borough consistent with the Plan's overall spatial strategy. The approach therefore conforms with both the Framework and Policy H1 of the London Plan in these terms.

### 5 Year Supply

95. At the beginning of the examination, we requested updates to evidence on housing delivery setting a base date of April 2022 (Document reference: 11D15, 11D15a), with additional detail provided on some sites for the second round of hearings as an addendum to the Council's Matter 3 statement. Following the hearings, further information (as set out in the Merton Topic Paper on Housing Delivery, Document reference: LBM28a (the Housing Delivery Topic Paper)) came to light relating to the phasing of demolitions and completions pursuant to the ongoing Estate Regeneration Programme, combined with more up to date delivery assumptions for allocation Mi1 - Benedict Wharf, a site that benefits from outline planning permission for residential development. Due to the significance that these two assumptions have in relation to delivery in the early years of the Plan period we have taken them into account in our assessment.
96. Taken together the Framework (at paragraph 68) and the 'Housing Supply and Delivery' PPG<sup>6</sup> indicate that planning policies should identify a 5 year supply of specific deliverable sites from the intended adoption date of a plan. We

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<sup>6</sup> Paragraph: 004 Reference ID: 68-004-20190722 Revision date: 22 July 2019

anticipate that the Plan would be adopted in 2024/2025 and have used this as the base date of the assessment of the 5 year supply of deliverable sites.

97. The Council disputed the result of the 2022 Housing Delivery Test (HDT), which resulted in the government issuing a re-calculated figure (included as Document reference: LBM40). The effect of the recalculated result is that a 5% buffer is to be added to the 5 year supply of specific deliverable sites, rather than the 20% that would have otherwise been required. When the 5% buffer is added to the 5 year supply this gives an overall requirement of **3,938** homes.
98. The Council's delivery figures are based on extant full planning permissions, sites with outline permissions, allocations, assumptions about the yield of small sites (that is those below 0.25 hectares) in line with Policy H2 of the London Plan, and other sites progressing constructively through the planning process with developers actively pursuing residential uses. We now shall consider the supply from each of these components.
99. In terms of sites with full planning permission, some **1,161** dwellings are anticipated to come forward in the 5 years from 2024/25 according to the Council's March 2022 (Document reference: 11D15a) and October 2022 data (Addendum to the Council's Stage 2: Matter 3 Hearing Statement). This figure excludes Estate Regeneration sites with planning permission which are included in that data as an updated delivery trajectory for these sites became available in August 2023, and is included in the Council's Housing Delivery Topic Paper. These Estates Regeneration figures are discussed in more detail below.
100. At the hearing stages, the Council also provided evidence relating to the deliverability of sites that did not benefit from full planning permission, but were subject to outline consents, identified as allocations in the Plan, were other public sector sites being brought forward under other programmes, or sites put forward through the SHLAA process and otherwise considered as suitable. This was supported with input from site owners and promoters where available and with details of ongoing planning and related activities. These matters are all comprehensively captured in the October 2022 update to the Council's housing delivery information and provide clear evidence as to their deliverability. When taken together with the updates on assumptions set out in the Council's Housing Delivery Topic Paper, these sites have the capacity to deliver some **2,368** dwellings over the five year period from 24/25 – albeit that the modified trajectory takes a more conservative approach to expected delivery.
101. Of these 2,368 dwellings, some 1,933 are expected from Plan allocations which, at the date of the Council's submitted delivery data did not have full planning permission in place. Of these, several are Council-owned sites included in a package intended to deliver homes by 2026, with commitment to progress preparatory works in relation to the sites (Allocations Mo1 - Chaucer Centre,

Morden; Mo7 - Gifford House, Morden; Mi19 – Worsfold House, Mitcham; Wi1 - Battle Close, Wimbledon). Allocation Mi6 is another site owned by the Council and identified as part of the GLA-funded small sites review with delivery based on reasonable assumptions of relocation of existing uses and an 18 month build out phase following that.

102. Allocation Mo4 – Morden Regeneration Zone, is anticipated to deliver houses towards the end of the five year period, as a result of the more flexible approach to delivery achieved by **MM67**, **MM70**, **MM72** and **MM73** as referenced above, and the willingness of developers to bring sites forward within the zone, as evidenced in various representations made at the Regulation 19 consultation and examination stages. There is also strong potential for sites in the vicinity of the Regeneration Zone, which are in public sector ownership (Mo5 – Morden Road Clinic and Mo6 - York Close Car Park) to deliver housing in conjunction with the wider programme within the five year period.
103. Site Wi16 – Centre Court Shopping Centre is part of a multi-phased redevelopment. The first element of this, which is focussed on commercial uses has already commenced, with delivery of housing anticipated in its second phase.
104. Site allocation Mi16 – Mitcham Gasworks, is a significant opportunity for housing redevelopment of a redundant Brownfield site. Preparatory works including removal of structures have been undertaken onsite, and the developer has engaged in pre-application work including community consultation. Due to the developer's considerable investment in these processes, we consider the anticipated phasing of the housing delivery on the site to be reasonable. Similarly in Mitcham Mi8 Majestic Way is a site in the ownership of a developer, with considerable pre-application work having been undertaken by them at the time of the October 2022 data. The phasing of the site is based on reasonable assumptions relating to gaining relevant consents, securing vacant possession of the site and progressing any necessary demolitions.
105. Allocation CW2 – Car Park South of Britannia Point, was the subject of a live planning application at the time of the October 2022 hearings, and evidence from the developer submitted both at the Regulation 19 and examination stages pointed to the continued commitment to residential redevelopment of the site in the early to mid-years of the plan period. Furthermore, the MMs discussed elsewhere in this Report relating to the allocation itself and to the Plan's approach to tall buildings more generally, provide further certainty in terms of acceptable forms of development on this site, which may assist in the determination of any applications. For these reasons, we consider that assumptions about the site yield contributing towards the 5 year supply are reasonable.

106. However, several allocations that are anticipated to yield housing within the five years from 2024/25 according to the Council's October 2022 lack the clear evidence needed to demonstrate that housing will be delivered on the site within five years (CW3, Mi3, Mi7, Mi10, RP2 and RP8). As a consequence, we have discounted them from our estimate of the five year supply.
107. The London Plan's small sites targets (set out in Table 4.2) are components of the overall 10 year requirements, and are based on the SHLAA, trends in housing completions on such sites and estimated capacities taking into account, amongst other things, public transport accessibility levels (PTALs). This methodology provides a 10 year target for delivery from such sites in the Borough of 2,610 homes (or 261 per year). The London Plan is clear that the small sites targets are to be taken as reliable sources of windfall supply over the Plan period based as they are on this comprehensive evidence base.
108. Additionally, the Council's Housing Delivery Study (Document reference: 11D6) assesses the delivery of housing on small sites within the Borough and finds an average yield of 269 dwellings per year over the period 2005 to 2020. The Study also finds that the rate of delivery increased at the latter end of the 15 year assessment period to an average of 359 homes per year during 2015 to 2020. London Plan Policies H1 and H2 are supportive of intensification of delivery on small sites, policy support which is supplemented at the local level by the Borough's Small Sites Toolkit SPD, considerations that point to positive attitude to such developments in up-to-date planning documents.
109. Accordingly, taking these considerations together leads us to the view that using the annualised London Plan target for small sites is justified and is based on compelling evidence that they will provide a reliable source of supply (per paragraph 71 of the Framework). Consequently, the revised trajectory shows **1,044** homes arising from this source starting from 25/26 to the end of the 5 year supply period from anticipated adoption.
110. The Housing Delivery Topic Paper demonstrates some **715** demolitions are anticipated over the 5 year period from 2024/25, which need to be subtracted from the anticipated delivery figures. However, updates to the delivery trajectory of completions on those sites are included in Figure 1 of the paper showing that some **696** homes would come forward from that source over the 5 year period from anticipated adoption – an overall figure broadly commensurate with similar estimates of completions on the Estate Regeneration programme at the time of the hearings (692 per the annexe to the Council's October hearing Statement).

111. Taken together, the yield of all of the sources<sup>7</sup> mentioned above after estate demolitions have been subtracted gives a supply figure of around **4,554** homes, which would comfortably meet the 5 year requirement with the 5% buffer added.

### Delivery Against the London Plan Target

112. As discussed above in relation to setting the housing requirement, a number of factors act as a drag on delivery in the early years of the Plan period. As a result, housing delivery is projected to fall around 1,700 homes short of the 10 year target figure included in the London Plan. However, as set out above, the Council has taken a robust approach to site selection and its assessment of housing delivery from sources of supply other than its allocations is reasonable, and well evidenced. Due to the comprehensiveness of this approach, we see little merit in requiring the Council to attempt to find additional housing sites at this stage. In arriving at this view, we also consider that further exercises of this nature could unduly delay adoption of the Plan. This in itself would have housing delivery impacts by delaying the greater certainty that the Plan's allocations and other area-specific policies would provide relating to the developments that could take place there. Such sites and areas include those that may involve the development of tall buildings.

113. Having said this, given the shortfall against the London Plan housing target we are not persuaded that the approach the Plan takes to tall buildings generally and some of the allocated sites in particular is justified, or amounts to a positively prepared way of seeking to meet needs. Neither is the approach to these matters consistent with the Framework, which emphasises that it is especially important for planning policies to ensure that developments make optimal use of the potential of each site and to meet as much of the identified need for housing as possible (at paragraph 125). In the context of the undershoot against the 10 year target, the Framework's requirements in these regards are particularly relevant.

114. We set out in further detail the design and other considerations that are also taken into account in our assessment of these matters below where relevant. However, we point out here that **MM239**, **MM240** and **MM241**, are necessary, which would make changes to Policy D12.6, its supporting text and relevant allocations setting the appropriate heights that may be considered in areas identified as suitable tall building locations. **MM239** also introduces a criterion in Policy D12.6 that allows for tall buildings to be sited in the vicinity of allocated sites and clusters where this would facilitate increased housing output, appropriate transitions between building scales and ultimately high quality

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<sup>7</sup> Sites with planning permission (1,161) + other sites (2,368) + trajectory small sites (1,044) + estate regeneration completions (696) – estate regeneration demolitions (715) = 4,554



design using a design led approach. The fuller reasons for these MMs are set out in relation to Issue 8 below.

115. In addition, as submitted, the significant opportunity provided by the Morden Regeneration Area to provide housing is hindered by indicative phasing and proposed delivery methods that are neither clear nor justified, and in seeming to delay housing output unnecessarily on the relevant sites would also be ineffective and show a lack of positive preparation. We set out above some of the MMs that are necessary to create a more flexible and thus effective and justified approach to phasing of the Regeneration Area, in our discussion of Main Issue 3. These change the way that the method of 'comprehensive regeneration' is to be understood in the context of the Morden Regeneration Area and amend the phasing to reflect the appetite of site owners to bring development forward more quickly in the interests of positive preparation. They also provide a more flexible policy position for individual sites to be brought forward earlier in the plan period, and thus secure the effectiveness of the Plan in relation to this initiative in a justified way.
116. Taken together these MMs would ensure that the housing output of tall buildings clusters, relevant site allocations and windfall opportunities within their environs could be optimised. They would thus secure a justified, effective and positively prepared approach to the delivery of housing in a way that would promote the optimal use of the potential of each site and allow sites to be brought forward earlier in the plan period.
117. The Plan is unclear as to what measures would be taken in the event of under-delivery on individual sites or across the board and in this way is neither positively prepared nor effective in this respect. Consequently, **MM162** is necessary which sets out the actions to be taken in the event of under-delivery. This would ensure positive preparation and effectiveness in these terms.
118. Whilst it is unclear at this stage whether the effect of these MMs taken together would ensure that the London Plan ten year delivery target would be met, they would nevertheless have the clear potential to optimise the housing capacities both of allocations and windfall sites located adjacent to tall buildings clusters. Moreover, housing delivery over the plan period is estimated to exceed the overall London SHLAA figure for the Borough over the same timeframe by just under 4,000 dwellings – a figure substantially in excess of the 10 year target shortfall. Furthermore, it is clear from the analysis above that the Plan is genuinely delivery-focused, identifying a range of types and sizes of site, and including policies which promote the take-up of small sites opportunities, mixed uses and other windfalls in a way that is consistent with Policy H1 of the London Plan.

119. Accordingly, the Plan, together with the above specified MMs provides a genuinely plan-led response to housing delivery in the Borough (per paragraph 15 of the Framework). Consequently, whilst housing delivery is set to fall short of the ten year housing target expressed in Policy H1 of the London Plan, we nevertheless conclude that the Plan, subject to the MMs set out above, is in general conformity with that policy, taken as a whole, in respect of its requirements directed to increasing housing supply for the reasons given above.

#### Restrictions on net losses of housing and other changes of use

120. Policy H11.2, whilst supportive of initiatives to improve housing quality through redevelopment or refurbishment seeks to restrict net losses of housing as a result of such proposals. Given the projected undershoot against the 10 year target, and the housing needs picture more generally, we consider the overall thrust of the policy to be justified on the basis of positive preparation. Nevertheless, as drafted, the policy is unclear as to what types of proposals it applies to, and what changes of use it seeks to restrict. It is not therefore evident how a decision maker should react to development proposals, and in this way the policy is at odds with the Framework (at paragraph 16(d)) and is ineffective. Moreover, the Plan is not in general conformity with the London Plan (Policy H9) in terms of how its policies are to apply to changes of use to 'non-permanent' forms of accommodation.

121. To rectify these issues, **MM154** is required which clarifies the types of proposals that would be captured by the policy. Supporting text also requires associated modifications which reference the Greater London (General Powers) Act 1973 and the Deregulation Act 2015, in its definition on 'non-permanent' accommodation. These changes would be made by **MM164**. Due to the change brought about by **MM164**, a consequential modification is needed (**MM181**) to delete text and thus avoid unnecessary duplication in these terms and this would achieve consistency with national policy (per paragraph 16(f) of the Framework). Taken together these MMs would ensure that the Plan's approach to these matters is effective, consistent with national policy and in general conformity with the London Plan.

#### Conclusion

122. For the reasons set out above, and subject to the recommended MMs, we conclude that the Plan identifies a sufficient supply of housing sites.

## **Issue 6 – Are the size, type and tenures of housing needed for different groups in the community reflected in the Plan's policies?**

### Affordable Housing

123. Amongst other matters, Policy H11.1 of the Plan sets out requirements for affordable housing from developments of nine dwellings or less. This requirement is inconsistent with national policy in that contributions from developments of this size should not be sought (as expressed in the 'Support for small scale developers, custom and self-builders' WMS of 28 November 2014 (the WMS) and paragraph 64 of the Framework).
124. However, monitoring shows that a substantial proportion of historic completions in Merton have been as a result of developments below the ten-unit threshold. It is also relevant that such sites are likely to remain a significant component of the Borough's housing supply over the Plan period. Moreover, Merton's Strategic Housing Needs Assessment and Strategic Housing Market Assessment (Document reference: 11D8) identifies very significant needs for affordable housing in the Borough of between 878 and 1,084 dwellings per annum – figures in excess of some of the *overall* annual housing requirements expressed in the Plan.
125. The London Plan is permissive of local plans requiring affordable housing contributions from minor residential developments (per Policy H4, footnote 50). In addition, viability testing of the Plan as a whole, coupled with the clear statement that the maximisation of affordable housing provision, including from small sites, would be 'subject to viability' (at paragraph 11.1.32), ensures that any affordable housing contributions secured would not be a disproportionate burden on developers, and thus not at odds with this aspect of the WMS. Moreover, the Framework at paragraph 58 is clear that whether the viability evidence underpinning a plan remains up to date will be a matter relevant at the decision-making stage, which would allow for changing economic factors to be taken into account, as appropriate. For these reasons too, Policy H11.1's requirements in respect of small sites would be unlikely to act as a bar to the achievement of the minimum targets for small sites set out in the London Plan, as required by its Policy H2.
126. Against this background, if the Plan were to be modified to achieve consistency with the WMS and the Framework insofar as development thresholds are concerned, this would substantially impair its ability to make sufficient provision for affordable housing. Moreover, its policies would fail to reflect the size, type and tenure of housing needed for different groups in the community as a consequence. It follows that the effect of any potential modification that sought to achieve consistency with the thresholds set out in the WMS or the Framework would result in the Plan failing to be positively prepared in terms of its approach to meeting needs for affordable housing, and also give rise to other

conflicts with national policy (in particular paragraphs 20 and 64 of the Framework).

127. Taken together, these considerations demonstrate that the Plan's approach to securing affordable housing contributions from small sites is justified and thus results in a soundly based approach to this matter. We reach this conclusion aware of the example of the Lambeth Local Plan, which has been referred to by some representors, where the examining Inspector took a different view on this issue. However, due to the relevant Borough-specific justifications that we outline above, we see no reason in soundness terms to recommend modifications which would delete the Plan's requirements relating to small sites.
128. Nonetheless, the wording of Policy H11.1 and its supporting text is not in conformity with the London Plan or national policy in terms of the tenure mixes sought, the application of the 'Fast Track Route' to assessing affordable housing contributions, and minimum requirements for First Homes, as expressed in the 'Affordable Homes Update' WMS of 24 May 2021. Neither are its requirements relating to when off-site provision of affordable homes might be appropriate consistent with national (per paragraph 63 of the Framework) or London Plan (Policy H4) policy. Moreover, it is unclear how viability considerations would be taken into account, and the policy fails to be justified or effective as a result.
129. Consequently, **MM138, MM139, MM140, MM141, MM142, MM143, MM144, MM145, MM146, MM147, MM148** and **MM149** are therefore necessary, which taken together include new wording to Policy H11.1 and supporting text to reflect national policy relating to First Homes; set out clear approaches to viability, including where further advice is to be provided on this in relation to small sites; and introduce alterations which reflect London Plan and national policy on off-site provision. These modifications would ensure the policy is justified, consistent with national planning policy, in general conformity with the London Plan and clear. We note that the First Homes aspects of the modification will be applied in the context of the Mayor of London's Practice Note (July 2021) on this matter, which gives further advice on potential considerations which may be of relevance at the planning application stage. However, given that the Note would likely be a material consideration in the assessment of relevant proposals, and that the MMs as presented rectify the soundness issues we have identified, there is no reason at this stage to introduce further changes to make explicit references to the Note.

### Estate Regeneration

130. In terms of estate regeneration proposals, the Plan does not take the opportunity to ensure that effective use of land is made, or that the type and tenure of housing needed is reflected in planning policies, or that estate

regeneration is delivered to a high standard with its social benefits considered. As a result, it is inconsistent with paragraph 62, paragraph 92 and Section 12 of the Framework, and fails to be effective as a result. **MM150** is therefore required to Policy H11.1's supporting text to clarify that estate regeneration involving loss and replacement of affordable housing should seek an uplift in both its quantity and quality. It follows that effectiveness and consistency with national policy would be secured as a result.

### Technical Standards

131. The Plan does not have regard to how M4(2) and M4(3) dwellings would be secured and how their provision may be affected by site specific factors and viability issues. In this way, the Plan is at variance with the advice on these matters given in the 'Housing: Optional Technical Standards' PPG<sup>8</sup> without justification for such a difference of approach, and also ineffective. Accordingly, to give appropriate site-specific flexibility to the application of accessible housing standards, in line with the PPG, and to ensure that requirements for them would be secured by way of condition, **MM151** and **MM152** are required to the Plan's supporting text. These modifications would secure effectiveness and ensure that the Plan is consistent with the PPG advice (per paragraph 130 of the Framework).

132. Policy H11.1 is ambiguous in terms of its approach to step-free access and adaptable housing. This leads to an ineffective and unjustified position that fails to secure consistency with the London Plan (Policy D7) in these regards. **MM137** is therefore needed, which makes amendments to the policy, clarifying the measures that are expected, and which of them will be required, to ensure that the Plan is justified, effective and clear (per paragraph 16 of the Framework).

### Policy H11.3 Housing Mix

133. The Plan is not clear that Policy H11.3 applies to all residential development proposals, irrespective of tenure or type and thus is at odds with paragraph 16 of the Framework. **MM166**, **MM167** and **MM168** are therefore necessary to ensure clarity, and consistency with national policy. As drafted, the supporting text is unclear as to the types of homes that would be required for families. Accordingly, **MM169** and **MM172** are required, which emphasise that the size of homes is a relevant consideration in this context and would thus achieve clarity and therefore consistency with paragraph 16(d) of the Framework. The policy's supporting text includes some repetitive and inconsistent wording relating to the factors to be taken into account in securing a mix of housing within a development, which results in an ineffective and unjustified policy position.

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<sup>8</sup> Paragraph: 008 Reference ID: 56-008-20160519 Revision date: 19 05 2016

Accordingly, **MM170** is required which deletes superfluous and repetitive text in the interests of effectiveness and justification.

134. Supporting text contains considerations relating to gated developments that read more like policy, but nevertheless are not related to the content of Policy H11.3. The wording results in ambiguity and an ineffective policy position lacking justification. Accordingly, **MM171** is necessary which deletes unnecessary supporting text referring to gated developments and achieves a justified, clear and effective policy position as a result.

#### Policy H11.4 Supported Care Housing

135. Policy H11.4 sets out the approach to the provision of supported care housing. The pressing needs for both affordable and general needs housing in the Borough taken together with the constrained land supply position broadly justify the policy's requirement for evidence of need for such specialist accommodation to be demonstrated at the application stage. However, as drafted, the relevant criterion is open-ended and ambiguous resulting in an unjustified and ineffective policy position on this matter. Moreover, the policy includes an ambiguous requirement for such accommodation to comply with all relevant standards, wording that fails to make clear how a decision maker should react to development proposals. Consequently, to ensure the Plan is justified, effective and consistent with national policy (at paragraph 16(d)) **MM173** is necessary, which introduces clearer wording in terms of needs assessment, and deletes ambiguous text referring to other standards.

#### Policy H11.5 Student Housing

136. Policy H11.5 relates to Student Housing and other housing with shared facilities. The policy is ambiguous as to how considerations relating to the locational and functional relationships of proposed developments and educational facilities are to be assessed. For this reason, it fails to secure general conformity with the London Plan (per Policy H15 and footnote 77). It is also unclear whether the policy applies to houses in multiple occupation. In addition, the policy and other supporting text of the Plan (at paragraph 11.2.22), are inconsistent with national policy (per paragraph 130 of the Framework) in terms of the standards of amenity that would be required. Supporting text (at paragraph 11.2.22) sets out some considerations relating to the assessment of proposals to provide houses in multiple occupation. However, the text is unclear as to what other guidance might be relevant or how it would be taken into account (contrary to paragraph 16(d) of the Framework).
137. The constrained land supply position in the Borough, combined with pressing needs for both market and affordable housing justify the relatively restrictive approach to the development of student housing. However, as drafted the Policy

is unclear and thus ineffective in terms of what considerations may be relevant in an assessment of whether proposals would compromise the ability to meet needs for 'conventional dwellings'. Moreover, against this background, the failure to recognise changing student housing/houses in multiple occupation to permanent residential accommodation as an exception to the generally restrictive approach to changes of use set out in Policy H11.5 is unjustified.

138. Supporting text to the policy includes a requirement for the provision of cultural or arts studios. However, this requirement is not objectively justified by any supporting evidence. Furthermore, supporting text unnecessarily repeats matters included elsewhere in the Plan, contrary to national policy (per paragraph 16(f) of the Framework).
139. Therefore **MM165, MM174, MM175, MM176, MM177, MM178, MM179, MM180, MM181** and **MM182** are required which make the necessary amendments and deletions to the policy and its supporting text to address the soundness deficiencies that we have identified and thus ensure that the Plan is justified, effective, consistent with national policy and in general conformity with the London Plan.

#### Policy H11.7 Build to Rent

140. Policy H11.7 sets out considerations relating to Build to Rent Housing. As drafted however, the requirement to secure nomination rights for any affordable homes arising as a result of such developments is unjustified and inconsistent with the advice of the 'Build to Rent' PPG<sup>9</sup> in these terms. It is also unclear how affordable elements are expected to be secured. Accordingly, **MM188** is required for all affordable housing to be secured via planning obligations or another appropriate mechanism, and to alter the policy to one of encouraging work with the Council in terms of identifying eligible households in a justified manner which is consistent with the 'Build to Rent' PPG. **MM190** is consequential to **MM188** and deletes unjustified supporting text dealing with nomination rights.
141. As drafted, the way in which any penalty charge towards affordable housing provision is to be secured is unclear and the policy is ineffective in these terms. Similarly, the approach to clawback mechanisms relating to affordable housing is unclear, inconsistent with the 'Build to Rent' PPG, and not in general conformity with the London Plan (Policy H11). Accordingly, **MM189** and **MM191** are required to make reference to the provisions of Policy H11.7 in terms of penalty charges, and to introduce supporting text relating to the relevant London Plan and PPG considerations on clawback. These MMs would

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<sup>9</sup> Paragraph: 009 Reference ID: 60-009-20180913 Revision Date: 13 09 2018

secure effectiveness, clarity and general conformity with the London Plan on these issues.

## Conclusion

142. For the reasons set out, and subject to the recommended MMs, we conclude on this issue that the Plan's policies reflect the size, type and tenure of housing needed for different groups in the community.

## **Issue 7 - Is the Plan's approach to Traveller accommodation justified?**

143. The Council's Gypsy and Traveller Accommodation Assessment (Document reference: 11D9) (the GTAA) found no need for the Plan to identify new sites, based on the planning definition of 'traveller' given in the version of the Planning Policy for Traveller Sites (PPTS) relevant at that time.

144. However, a revised version of the PPTS was published on 19 December 2023, which makes alterations to the planning definition of the terms 'gypsies and travellers' and 'travelling showpeople'. The change now brings within the scope of the PPTS those travellers who have ceased to travel temporarily or permanently on the grounds of their own, their families' or dependents' educational or health needs or old age. Unlike the transitional arrangements pertaining to the Framework, the PPTS is a relevant consideration in plan examinations from the day of its publication as is made clear in the 'The Next Stage in Our Long Term Plan for Housing Update' WMS of 19 December 2023. This change means that the Plan, as drafted, is inconsistent with the revised PPTS insofar as it expects a robust evidence base to establish the accommodation needs for the broader range of households that are now captured by the definition (per paragraph 7). In addition, the Merton Gypsy and Traveller Accommodation Assessment (document reference 11D9) (the GTAA) is now of an age where it may be at risk of being overtaken by more recent events.

145. Prior to the definitional change our view was that non-PPTS needs should be assessed and reflected in planning policies (per paragraph 62 of the Framework), but that they need not necessarily be addressed by specific allocations. Indeed, the Plan contains no allocations to meet the need for 6 pitches identified in the GTAA, as the households which it relates to were deemed to fall outside the superseded PPTS definition.

146. However, in the light of the broader definition of Gypsies and Travellers, this lack of allocations taken together with the GTAA's finding that the identified needs are relevant to the 2019-2024 period, mean that the Plan's approach is inconsistent with PPTS (paragraph 8). This expects Councils through the



production of local plans to identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against locally set targets.

147. It follows that the Council's GTAA needs to be updated to take into account this definitional change. However, the national policy change took place at a very late stage in the examination. Against this background, it is relevant that the government emphasises how essential it is that local authorities have an up-to-date local plan in place, and in this context expects Inspectors to conduct examinations in a pragmatic manner where it is likely that a plan can be capable of being found sound with limited additional work (per the Minister of State's Letter to the Chief Executive of the Planning Inspectorate dated 30 July 2024). Moreover, the PPTS expects policies to be 'realistic' (at paragraph 4(g)).
148. Accordingly, to avoid further delays in the adoption of the Plan and implications for its wider evidence base, and to ensure that an approach compliant with up to date national policy is pursued at the earliest opportunity, **MM183** and **MM186** are necessary, which require production of an updated GTAA as a priority action, taking into account the PPTS, and if necessary, a review of the Plan in 2025 to address any unmet needs that may be identified. If the updated GTAA identifies needs this would then inform a site search exercise using the criteria in Policy H11.6 as a basis for that assessment. These requirements are also reflected in the monitoring framework, which is to be inserted by means of **MM350**, the fuller reasoning for which is outlined below. These modifications would thus ensure an effective response to this national policy change at a late stage of the examination.
149. As drafted the plan is unclear how housing needs of those who do not meet the PPTS definition are to be met. This does not accord with the Framework (at paragraph 62) in terms of ensuring that the needs of differing groups in the community are reflected in planning policies. Accordingly, **MM186** is necessary which makes it clear that Policy H11.6 is to be applied to households that do not meet the PPTS definition, and thus secures consistency with the Framework in this respect.
150. Policy H11.6 lacks the requirements for the provision of a high standard of amenity for future occupants and is not therefore effective or consistent with national policy (at paragraph 130 of the Framework). It is also unclear how flood risk considerations would be taken into account and is ineffective in these terms. **MM184**, **MM185** and **MM187** are therefore necessary, which require provision of a high standard of amenity and clarify requirements relating to flood risk for development proposals. In doing so, these modifications would secure effectiveness and consistency with national policy.

151. Accordingly, subject to these MMs, this criteria-based policy would be fair and facilitate the traditional nomadic life of Travellers in a manner consistent with the PPTS (at paragraph 11). It therefore provides a justified basis for the assessment of any proposals that may come forward in advance of the refresh of the GTAA, and any subsequent actions which may flow from that work.

### Conclusion

152. Subject to the recommended MMs, we conclude on this issue that the Plan's approach to Traveller accommodation is justified.

## **Issue 8 – Is the Plan's approach to Tall Buildings justified and effective and does it accord with national policy and the London Plan?**

### Introduction

153. This section of the report focuses on the Plan's general approach to tall buildings. Site-specific considerations relating to relevant allocations where tall buildings may be located are set out in Issue 12.

### London Plan background

154. Policy D9 of the London Plan sets out a basis for the approach to tall buildings to be taken in local plans. It defines tall buildings as being not less than 6 storeys or 18 metres measured from the ground to the floor level of the uppermost storey. It establishes that development plans should set their own definition for tall buildings and that maps should identify the appropriate heights and locations of tall buildings.

### Local definition of 'tall building'

155. There are few existing tall buildings within the Borough. However, to accommodate growth and optimise finite land resources in line with both the Framework and the London Plan, tall buildings are an important element of the Plan's strategy. However, the Plan does not set its own definition of what would constitute a tall building, and in this way is not in general conformity with the London Plan. Consequently, **MM239** and **MM251** are necessary which define what a 'tall building' is in the context of the Plan, and thus would achieve conformity with the London Plan, in a way that reflects the Borough's prevailing character. We have amended **MM251** following consultation to avoid an internal contradiction in the interests of effectiveness. The changes do not materially alter the intent or effect of the Plan. As a result, and as the point is adequately covered in consultation responses, no prejudice would occur to any party as a result of us making these changes at this stage.

### Defined areas and appropriate heights

156. The Plan does not contain maps of where tall buildings would be acceptable so is not in conformity with the London Plan. Moreover, in the context of the housing delivery challenges we point to above, the tall buildings policy, as submitted, is not positively prepared, justified, effective or consistent with national policy (per section 11 of the Framework) insofar as boosting the supply of housing is concerned in a way that makes effective use of land.
157. The London Plan sets out that in areas of extensive change, such as Opportunity Areas, the threshold for what constitutes a tall building should relate to the evolving (not just the existing) context. Whilst the Character Study provides a helpful baseline, it is based specifically on existing and past context and appears therefore not to be consistent with the London Plan's expectations in this regard. Further, due to its Boroughwide coverage, the Character Assessment comes to overall findings which are broad-brush in their scope with little in the way of site-specifics. This means that, in general, the evidence which supports the approach to setting appropriate building heights within defined areas is not of a sufficient level of detail to demonstrate that buildings of greater scales than anticipated would cause significant harm to the environment, including the significance of heritage assets. This means that the Plan is ineffective, unjustified and fails to accord with the Framework insofar as it encourages the use of area-based character assessments, design guides, codes and masterplans to help ensure that land is used efficiently (per paragraph 125).
158. The setting of maximum heights is not required to achieve general conformity with London Plan Policy D9 which refers to '*appropriate*' tall building heights rather than maxima. It follows, in order to achieve soundness and general conformity in these regards, that the Plan should define heights that may be 'appropriate' subject to further design-led approaches to the areas included in Strategic Heights Diagrams, the sites within them, and specific allocations which are deemed suitable to accommodate tall buildings. Accordingly, **MM6, MM68, MM75, MM82, MM85, MM86, MM107, MM113, MM239, MM240, MM241, MM242, MM247, MM249, and MM250** are required which identify the locations where tall buildings would be acceptable and the appropriate heights. These MMs would ensure that the Plan is positively prepared, justified, effective and consistent with national policy and the London Plan in terms of boosting the supply of housing and making effective use of land.

### Design Considerations

159. Site allocations in Wimbledon have been drafted in the light of the guidance in the Future Wimbledon SPD (Document reference: 9D1) which contains detailed advice for the design of development and public spaces in the area. However, such detail is lacking for other areas and sites where tall buildings are

anticipated. Consequently, due to the Character Study's lack of site-specificity, further design analysis and evidence will be required to inform the schemes that could come forward in the areas defined within the Plan. However, given the clear national policy imperative to get a plan-led approach to the development of the area in place, it would be undesirable to extend the examination any further by requiring such analyses to be produced at this stage.

160. Instead, we recommend MMs (**MM75**, **MM86**, **MM239**, **MM199**, **MM252** and **MM243**) which require the preparation of design guides or codes by the Council, applicant or landowner which reflect local character and design preferences with reference to the National Design Guide (NDG) and National Model Design Code (NMDC) whilst also engaging with the community, with reference to the Character Study. **MM243** also ensures the appropriate use of design review panels to secure consistency with the Framework (per paragraph 16(d) and 133). Taken together, these MMs secure a justified and effective approach to this matter in a manner consistent with national policy.
161. Following this approach would allow emerging schemes to make the best use of land by following a design-led approach in seeking to optimise the capacity of a site and for a scheme to be fully scrutinised at the planning application stage. It is clear from the Framework that design guides and codes could take differing forms including as development plan documents (per paragraph 129). Thus a design code which sought to set differing height parameters to those included in the Plan could be brought forward as a development plan document, and seek to achieve general conformity with the London Plan in this respect.

#### Locational flexibility and conformity with the London Plan

162. In view of the pressing need for housing, and the high-level nature of the Character Study, there may be appropriate opportunities for tall buildings adjacent to areas defined on maps, where such development would provide a design-led transition between building scales. However, Policy D12.6 does not allow for a nuanced consideration of such sites and is ineffective and contrary to the Framework in terms of optimising the use of land as a result. Accordingly, **MM239** is necessary which expands the areas where tall buildings may be appropriate to sites in the environs of existing defined areas in the interests of avoiding abrupt transitions between scales and ensuring that the use of land is optimised. This MM ensures that the Plan is justified and consistent with national policy on this matter.
163. The MM introduces a flexible design-led approach for consideration of the introduction of tall buildings in the vicinity of the areas defined on maps within the Plan. This approach would not accord with Policy D9 of the London Plan's directive for the locations and heights of tall buildings to be identified on maps. However, the modified wording is location-specific and the requirement for

design-led *transitional* approaches to building heights clearly implies that these would be subservient to the appropriate heights within the clusters themselves. The policy (subject to **MM239**) is therefore abundantly clear, even in the absence of specific map annotations, as to the likely acceptable scales and locations of such buildings.

164. It is also important to see **MM239** in the wider context of what the Plan needs to achieve. Of particular note here are the undershoot against the London Plan 10-year housing target and the requirement to apply a design-led approach to determine the optimum development capacity of sites (per Policies GG2 and D3 of the London Plan). What is more, further delay to Plan adoption in order to bring forward additional design evidence to support more rigidly defined heights and boundaries in these locations would be likely to have concomitant impacts on housing delivery, an outcome at odds with both national and London Plan policies on this matter. For these reasons, whilst acknowledging the variance from Policy D9, we consider the overall thrust of this MM achieves general conformity with the London Plan.

#### Policy D12.6 – general considerations

165. The Framework (at paragraphs 16(d) and 130 (d) and (e)) expects planning policies to be clear and unambiguous, and that they should ensure that developments establish a strong sense of place and optimise the potential of sites to accommodate and sustain an appropriate amount and mix of development including public space. However, as drafted the policy fails to achieve clarity in terms of its requirements and what stage of the decision-taking process various criteria would relate to. Neither does it fully reflect the Framework in terms of place-making and public realm aspects of design. Furthermore, it lacks clarity on the mix of houses expected on sites. Accordingly, **MM244**, **MM245**, **MM246** and **MM248** are all necessary, which clarify the policy's requirements on these matters to secure consistency with national policy and effectiveness.
166. The policy and supporting text are inconsistent with national policy relating to the conservation of the historic environment, and fail to secure general conformity with the London Plan on this issue also. **MM254** is therefore necessary, which introduces wording which reflects the national policy approach in a way that is in general conformity with the London Plan.
167. The Framework (at paragraph 130(f)) expects developments to create places that are inclusive and accessible and which promote health and wellbeing. Policy D12.6 does not reflect this insofar as the consideration of tall buildings is concerned. As a consequence, **MM253** is required which introduces supporting text referencing how such matters will be considered, and thus secures consistency with national policy in these terms.

### Tall Buildings – local environmental and amenity matters

168. Taken together, Policy D12.6 of the Plan and Policy D9 of the London Plan seek to ensure that the local environmental impacts of tall buildings are taken into account and that their designs carefully consider wind, daylight, sunlight penetration and temperature conditions around the buildings and neighbourhood, and that they mitigate against any micro-climatic effects. What is more both national policy (per paragraph 130 (f) of the Framework) and Policy D12.3 of the Plan (as modified), require the provision of a high standard of amenity for existing and future occupants of proposed developments and their surroundings, including in terms of light, privacy and outlook. Taken together, these national, London Plan and Local Plan policies all provide a robust basis for the consideration of such matters at the planning application stage.

### Conclusion

169. For the reasons set out, we conclude that, subject to the recommended MMs, the approach and policies relating to tall buildings are justified, effective, consistent with national policy and in general conformity with the London Plan.

## **Issue 9: Is the Plan's approach to biodiversity, green infrastructure and open space (including Metropolitan Open Land) justified, effective, consistent with national policy and in general conformity with the London Plan?**

### London Plan Background

170. London Plan policy G3 Part C sets out that Metropolitan Open Land (MOL) boundaries should only be changed in exceptional circumstances and that any such alterations need to be fully evidenced and justified in accordance with national policy relating to Green Belts. There are 9 MOL sites within the Borough, totalling over 960 hectares. The Plan includes a number of MOL boundary amendments.

### Overall Approach to open spaces and Green Infrastructure

171. Policies O15.1 and O15.2 emphasise that access to open spaces and green infrastructure plays an important role in the physical and mental health and wellbeing of all people. They aim to ensure Merton remains an attractive and green borough, through the protection and enhancement of open spaces, green infrastructure and the natural environment.

172. The Green Infrastructure Study that underpins the policy includes a review of the environmental policy map designations in the borough, including MOL, open space, sites of importance for nature conservation and green corridors. An initial

review of sites was conducted, and then followed up with further site reviews. In terms of MOL, these reviews were undertaken using a methodology in line with the London Plan G3 criteria and the essential characteristics of Green Belt as set out in the Framework. On the whole it provides a robust basis for the consideration of these matters.

### Metropolitan Open Land

173. The Plan's spatial vision lacks specific reference to the protection of MOL, amongst other aspects relating to open spaces and biodiversity. It therefore fails to reflect the strategic objectives of the Plan and is ineffective in these terms. **MM10** is therefore required which inserts text relating to the protection and improvement of access to the borough's MOL, which achieves effectiveness on this matter.
174. Apart from where specifically mentioned below, MOL boundary amendments set out in the Plan consist of minor adjustments which seek to correct mapping errors and anomalies and reflect the current built form following improvements in the quality of mapping over time. This includes sites where the Council identified that, having been digitised, the boundaries are inaccurate. The final recommendations taken forward in the Policies Map are based on both the Green Infrastructure Study and subsequent sense checks. As a result, there are some minor differences between the recommendations set out in the Green Infrastructure Study and the Council's final recommended Policy Map changes.
175. We are satisfied that this methodology is thorough and that the overall effect of these minor amendments, excluding sites referred to below, has a negligible impact on the overall integrity of the MOL. Moreover, the physical characteristics of the land to be taken out of MOL clearly do not align with the purposes of the designation as set out in the London Plan. The redrawn boundaries would be strong and defensible, marked by physical features likely to be permanent – qualities lacking in the boundaries prior to their alteration. Taken together, these amount to the exceptional circumstances necessary to justify the proposed boundary alterations.
176. However, the precise nature of the amendments and the reasons for them are not reflected in the Plan. As a consequence, it fails to be consistent with national policy insofar as it expects exceptional circumstances to be fully evidenced and justified with detailed amendments to be made in plans (per paragraph 140 of the Framework). For these reasons too, the Plan is not in general conformity with the London Plan on this issue. **MM290** and **MM353** are therefore needed, which introduce new supporting text, which makes reference to the boundary amendments and justification for them. These MMs would ensure consistency with the Framework and secure general conformity with the London Plan insofar as MOL boundary alterations are concerned. Modifications

will need to be made to the policies map in line with the Council's Schedule (Document reference: LBM36) to ensure that the boundary alterations are accurately reflected. We have made post-consultation changes to **MM353** to correct the name of buildings and other features in the vicinity of Copse Hill MOL. These are factual corrections, the reasons for which were covered in consultation responses and they do not materially alter the effect of the MM as consulted on. Accordingly, no material prejudice would occur to the interests of parties as a result of these post-consultation changes.

### Wimbledon Park

177. Wimbledon Park MOL includes the publicly accessible Wimbledon Park, the Wimbledon Park Golf Course and Club, the Wimbledon Club sports club, Wimbledon Park Lake and part of the All England Lawn Tennis Club.
178. The Plan seeks to amend the MOL designation applying to the Tennis Club's northernmost portion. However, the proposed amendments to the boundaries do not fully reflect the recommendations of the Green Infrastructure Study<sup>10</sup> because they propose to remove the MOL designation from areas which nevertheless accord with relevant criteria in Policy G3 of the London Plan.
179. Moreover, although there are longer term aspirations to develop the facilities and an evolving vision for the Tennis Club estate as a whole, the evidence does not provide sufficient justification in terms of how it would relate to this particular part of the land holding. Neither is it clear that any development proposals that the Wi3 allocation is permissive of would require land to be removed from MOL given that the Framework includes several types of development that would be 'not inappropriate' in the Green Belt (and therefore MOL) which may be relevant to the uses contemplated.
180. It follows that the evidence before us does not adequately set out the exceptional circumstances necessary to justify the MOL boundary alterations relating to the northernmost portion of the Tennis Club. For these reasons, the proposed boundary amendment is not justified, and as a result it is inconsistent with both the London Plan and the Framework (at paragraph 140). Accordingly, MMs are required which reverse the proposed boundary amendment and retain the established MOL boundary relating to the Tennis Club. These changes are achieved by way of **MM115** which references the extent of the MOL in the body text, and **FMM1** which introduces consistent inset maps depicting the justified boundary so that it is clear to decision-takers how to react to relevant development proposals. Taken together these MMs ensure a justified and effective approach to this MOL in a way that secures consistency with the Framework and general conformity with the London Plan. Changes to the policies map included in LBM42 would need to be taken forward to ensure that,

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<sup>10</sup> 23 3.12 of the Green Infrastructure Study.



on adoption the geographical application of this modified policy is accurately reflected.

181. MOL confers the same protections in terms of development plan and national policy as those that relate to Local Green Spaces, as set out in paragraph 103 of the Framework. It is therefore not necessary, for soundness purposes, to introduce a Local Green Space designation for the Park by way of a MM.

#### Site Allocation MO3 – Imperial Sports Ground Tooting and Mitcham Hub, Morden

182. The allocation would remove land from MOL to facilitate housing development, which would enable improvements to the adjacent Tooting and Mitcham Sports Hub. The Green Infrastructure Study recommended retaining the whole of the site in the MOL. Nevertheless, the public benefits of the MO3 allocation in housing supply terms, against the background of the challenging 10-year delivery situation we set out above, taken together with the consequent improvements to the sports hub, amount to the exceptional circumstances which justify alteration of the MOL boundary to accommodate development on the site. Furthermore, development of the allocation, taken together with the roads present to the two other sides of the site would provide clear definition to the MOL boundary with readily recognisable physical features that are likely to be permanent (per paragraph 143 of the Framework).
183. However, the Plan is unclear that boundary changes would be brought about by the allocation and does not set out how compensatory improvements to the remaining MOL would be delivered. For these reasons, the allocation is unclear, ineffective and is inconsistent with the Framework (in particular paragraphs 16(d) and 142). Accordingly, to ensure that the Plan is effective, consistent with national policy and in general conformity with the London Plan **MM78** and **MM79** are required, which would introduce necessary wording and illustrative material to the Plan in the interests of clarity and to secure its soundness in this regard.
184. The wider Tooting and Mitcham Sports Hub holding, which includes stands, hardstanding, boundary treatments and other structures is washed over by MOL. Nevertheless, the land is clearly distinguishable from the wider built-up area, is intimately linked with the Wandle Valley, and includes open air facilities for leisure, recreation and sport that serve significant parts of London. For these reasons, we concur with the findings of the Green Infrastructure Study that the nature of the site militates against any further alteration of the MOL boundary relating to it.
185. Although there are longer term aspirations to develop facilities at the Sports Hub further, these do not in themselves amount to the exceptional circumstances necessary to justify any further boundary alterations. In arriving at this view, we

have also taken into account that the Framework counts the provision of appropriate facilities for outdoor sport amongst the types of development to be considered not inappropriate in the Green Belt (and by corollary MOL).

### Other boundary alterations

186. Aside from the specific instances referenced above, there are no further exceptional circumstances sufficient to justify any other boundary alterations.

### Green and Blue Infrastructure and Open Space

#### *Open Space*

187. The designation of Open Spaces in the Plan followed an assessment included in the Green Infrastructure Study, which considered them against a number of criteria derived from national policy and guidance and the London Plan – including accessibility to those spaces. The criteria used are clearly justified on this basis, and we consider the Green Infrastructure Study to provide a robust basis for the Open Space boundaries set out in the Plan.

188. In some instances, assessment has found that some locations do not meet the criteria to be protected as Open Spaces. However, taken together the policies in this Plan, the London Plan and the Framework would ensure that the implications of any development proposals relating to such spaces in terms of biodiversity, tree protection, residential amenity, the character and appearance of an area, or highway safety (amongst other matters) would all be material factors in the assessment of any related planning applications.

#### *Wandle Valley Regional Park*

189. Part of the Wandle Valley Regional Park is within the Borough. The extent of the Regional Park is defined in the All London Green Grid Wandle Area Framework, which provides a justified basis for the boundaries shown on the Policy Map and the spatial coverage of Policy O15.6. It follows that it is not necessary in soundness terms for the Plan to set out a different boundary to the one that is established in the All London work.

190. Policy O15.6 seeks to improve and protect the Wandle Valley Regional Park, maintaining it as a strategic, biodiverse and accessible corridor through the Borough. However, it is ineffectively worded in relation to these objectives. To reflect this **MM298** to criterion d is required to refer to 'protection' along with amendments to the supporting justification to make reference to mapping that identifies those access routes that have been identified for improvements. It also refers to the requirement for joint working between Boroughs, the Environment Agency and National Rail to be supported through s106

contributions already secured and other funding sources, along with the protection of access routes already secured through adjacent development sites. The modification would thus ensure effectiveness and achieve clarity.

### *Urban Greening*

191. The wording of Policy O15.5 Urban Greening is unclear and unjustified in terms of how its requirements would relate to non-major developments. **MM297** is therefore required, which makes it clear that proposals for greening of such sites would be strongly supported, which would ensure that the policy is clear and justified.

### Trees, hedges and other landscape features

192. Policy O15.4's title only refers to trees, whilst its text encompasses other landscape features. The Policy is unclear as a result and does not provide an effective basis for decision-making on this issue. It therefore requires modification to change all references to the policy title throughout the document to include 'Hedges and Other Landscape Features'. This would be achieved by **MM129**, which would clarify the scope of the policy and secure its effectiveness in this regard.

193. Policy O15.4 encourages and supports the protection of street trees but is not clear as to what sort of replacements might be required, and its requirements relating to "current technological advancements" in relation to these lacks justification. **MM294** is therefore required to clarify that 'appropriate' replacements are secured, and delete unjustified references to technological advancements. Neither the policy nor its supporting text are clear as to the considerations to be taken into account in respect of trees and other features of amenity value, and the Plan is ineffective as a result. What is more its restrictive approach to the loss of trees is not justified. Accordingly, **MM295** introduces a comprehensive re-wording of the policy to ensure that it clearly and appropriately captures trees and other landscape features of amenity value, and sets out a justified basis to the loss of such features in a way that is effective. Changes to the supporting text clarify the relevant legislation relating to trees in conservation areas and those subject to tree preservation orders, to ensure that the policy's applicability to these is effectively referenced.

194. The supporting text of Policy O15.4 is unclear as to how the maintenance of new trees being planted as part of developments would be secured. It is therefore inconsistent with the Framework in these terms (at paragraphs 16(d) and 131) insofar as it expects plans to be clear and that appropriate measures should be in place to secure long-term maintenance of new trees. **MM296** is therefore required to provide for long term maintenance and thus secures consistency with the Framework.

## Biodiversity

195. Policy O15.3 requires development to contribute to net gains in biodiversity by incorporation of various features. However, it does not include requirements for development that is adjacent to or includes a watercourse and is inconsistent with national policy relating to the conservation and enhancement of the natural environment as a result (per section 15 of the Framework). **MM291** is therefore necessary which sets out that in such locations, natural banks and processes should be restored with a buffer, where feasible. This would ensure consistency with national policy in these terms.
196. Policy O15.3 requires all developments in areas of deficiency in access to nature to address these deficiencies through incorporation of biodiversity features and provision of access to areas of nature conservation through site design. These very stringent requirements are not justified particularly in terms of non-major developments, and they would overlap with other requirements relating to site design and biodiversity net gain, meaning that they are also unnecessary and unclear (and thus contrary to paragraph 16 of the Framework) **MM292** is therefore required which ensures that the policy is justifiably related to major developments where suitable and viable. Moreover, the deletion of unnecessary text in the policy would achieve clarity and consistency with national policy in these terms. The Environment Act 2021 requires mandatory net biodiversity gain for most developments. As drafted the Plan does not reflect this, or the relevant metrics, or the London-specific considerations of relevance. It is unclear and ineffective on these points as a result. Consequently, **MM293** is required to insert a new paragraph referring to these things in the interests of clarity and effectiveness.
197. As drafted the appendix relating to nature conservation does not accurately reflect the status of the Borough's protected sites, and in this way is inconsistent with the Framework insofar as it requires plans to be clearly written and unambiguous (at paragraph 16(d)). Accordingly, **MM352** is necessary, which clarifies the status of relevant sites, and thus achieves consistency with national policy in these terms.

## Green Corridors

198. The Plan establishes Green Corridors based on the recommendations of the Green Infrastructure Study. Policy O15.3 requires the protection of Green Corridors from development that may destroy or impair their integrity.
199. Further site-specific work relating to the precise boundaries of the Green Corridors, on the basis of the methodology of the Green Infrastructure Study has been undertaken by the Council. This identified the need to alter boundaries where land previously identified as Green Corridor was

subsequently found not to accord with the relevant characteristics of the designation. These changes to Green Corridor designations are justified. However, in order for the application of the Policy O15.3 to be expressed spatially in a justified way, the changes contained in LBM36 to the policies map relating to the Ridge Road to Wimbledon Park Green Corridor (GC19) and the Morden Park and Surrounds Green Corridor (GC10) are required. These amendments ensure the boundaries accurately align with approved and implemented landscaping details and exclude areas of hard-surfacing, engineering and other structures.

## Conclusion

200. The above considerations lead us to the conclusion, subject to the recommended MMs that the Plan's approach to biodiversity, green infrastructure and open space (including Metropolitan Open Land) is justified, effective, consistent with national policy and in general conformity with the London Plan.

## **Issue 10: Does the Plan support the role that town centres play at the heart of local communities; and are the employment policies of the Plan effective and underpinned by relevant and up-to-date evidence?**

### Town and other centres – definitions, needs and supply

201. National policy expects development plans to define a network and hierarchy of town centres (per paragraph 86 of the Framework). The London Plan (Policy SD8) sets out a hierarchy of higher order centres within the capital. Of those, only the London Plan can define or change International, Metropolitan and Major town centres. In Merton's case the only one of these higher order centres in the Borough is Wimbledon, which is defined as a Major Centre. Whilst the approach to defining other lower order centres in the Borough is justified, the terminology used is unclear (contrary to paragraph 16(d) of the Framework), and results in ineffective policy on this matter. Consequently, **MM267**, **MM274**, **MM276** and **MM277** are required which clarify the relevant terminology relating to the various centres. They achieve consistency with national policy and effectiveness on this matter. It follows that, subject to this MM, the network and hierarchy of town centres is appropriately defined in a manner consistent with national and London Plan policies. There are therefore no soundness reasons to introduce different descriptors than those used in the Plan for any of the centres it defines.

202. National policy (per paragraph 31 of the Framework) and the London Plan (Policy SD7) require Local Plans to be justified by up-to-date evidence on town centres, reviewing town centre boundaries where necessary. The Plan is

supported by a range of evidence including on planning activity and other changes since 2004 (Document reference LBM01a: 'Economic Evidence Base: Town Centres and Retail'). This evidence justifies the appropriately defined boundaries for the centres, primary shopping areas and neighbourhood parades that are included in the Plan.

203. It is possible that some neighbourhood parades present in the Borough have not been identified either within the Plan or on the policies map, and there could be a number of reasons for this including changes of use within the buildings in question occurring during the periods of Plan preparation and examination. Consequently, due to this evolving picture, in the context of national initiatives which seek to make it easier to change commercial uses, and recent changes in the economy, there would be little merit at this stage to seek to refresh the supporting evidence relating to neighbourhood parades. In arriving at this view, we note that other policies in the Plan, including TC13.7 Protecting corner/local shops would be of relevance to such locations in any event. The five-yearly review of the Plan mandated by the 2012 Regulations would provide an appropriate opportunity to consider whether any updates to the boundaries and identified locations of neighbourhood parades are required.

204. The Council's 'Economic Evidence Base: town centres and retail' (Document reference: LBM01a) sets out the way in which the need for retail, leisure and other main town centre uses were assessed. How the requirements for office space have been derived is set out in the 'Topic paper – Economic Evidence base offices and industry' (Document reference LBM01b). The methodologies used to support these assessments are thoroughgoing and robust, and include reasonable estimates of churn and re-use of properties in coming to a view on overall needs over the Plan period.

205. Several of the Plan's allocations provide for uses that would make a marked contribution to meeting these identified needs within town and other centres. The allocations also recognise Wimbledon as the primary location for office development in the Borough – an approach consistent with its designation as a Major Centre in the London Plan. These include CW2 – Car Park South of Britannia Point, CW4 - Colliers Wood Station, CW5 - Priory Retail Park, Mi8 1-12 - Majestic Way, Mi12 - Sibthorp Road Car Park, M04 - Morden Regeneration Zone, Wi2 - Broadway Car Park, Wi5 - Hartfield Road Car Park, Wi6 - Highlands House, Wi8 South Wimbledon Station, Wi9 - 28 St George's Road, Wi10 - Prospect House, Wi11- Victoria Crescent, Wi13- 8-20 Worple Road, Wi15 - YMCA Wimbledon and Wi16 Centre Court Shopping Centre.

#### Town and other centres – other issues

206. Supporting text to Policy TC13.5 includes provisions relating to betting shops and hot food takeaways. The text relating to hot food takeaways unnecessarily

repeats policy found elsewhere in the development plan and is thus inconsistent with paragraph 16(f) of the Framework. The objective of restricting betting shops in Primary Shopping Areas is justified on the basis of the purpose of those designations being where retail development is concentrated and in the interests of maintaining the vitality and viability of them. However, considerations relating to them are set out in supporting text rather than policy, which is ambiguous (contrary to paragraph 16(d) of the Framework) and results in ineffectiveness.

207. Some other unnecessary repetition occurs in the policy itself in terms of its treatment of large increases of commercial floorspace in Neighbourhood Parades, a matter covered by Policy TC13.6. Moreover, the distinction between Neighbourhood Parades and the Borough's other centres in terms of their functions is not clearly drawn meaning that the Plan is ambiguous and ineffective in its approach to these matters.
208. Accordingly, **MM274**, **MM276** and **MM278** are necessary to Policy TC13.5 and its supporting text, which delete the repetitive references to hot food takeaways, ensure that the provisions relating to betting shops are included in the relevant policy in a clear way, and clarify the functional differences between Neighbourhood Parades and the Borough's centres. They would thus secure effectiveness and consistency with national policy.
209. Policy TC13.5 refers to the contribution of certain types of proposal to the Council's "regeneration objectives" as being a relevant consideration at the application stage. However, it is unclear what these objectives are, and the policy is ineffective as a result. **MM275** is therefore required, which refers instead to the "Good Growth objectives" that are included elsewhere in the Plan and therefore ensures that the Plan is effective in this sense.
210. The wording of Policy TC13.6 is unclear in respect of the sequential test and the requirement for impact assessments to be produced and as a result fails to accord with national policy on ensuring the vitality of town centres (per section 7 of the Framework). Consequently, **MM279** is required, which clearly differentiates matters relating to the sequential test and requirements for impact assessments. **MM280** and **MM281** clarify the position on these matters in supporting text. Taken together, these MMs secure consistency with national policy on this issue.
211. Policy TC13 sets up some logically incompatible criteria resulting in an ineffective policy, the ambiguity of which means that it would not be clear how a decision-taker should react to development proposals (contrary to paragraph 16(d) of the Framework). Consequently, **MM282** is required, which introduces wording changes to ensure that its criteria are compatible with each other and

clear in the interests of effectiveness and achieving consistency with national policy.

212. Policy TC13.8 is unclear as to what is meant by “overdevelopment” in terms of the locations of hot food takeaways, and is ineffective as a result. Moreover, the plan is not in general conformity with the London Plan in terms of restrictions on such uses within the vicinity of schools. **MM283** and **MM284** are therefore necessary which provide specificity in terms of what overdevelopment of hot food takeaways means, and clarify the distances and other considerations relevant to restrictions of such uses in the vicinity of schools. They thus secure consistency with national policy, effectiveness and general conformity with the London Plan on this issue.
213. Policy TC13.9 lacks clarity in terms of the type of centres it relates to and sets out unjustified requirements in relation to marketing periods to justify changes of use. **MM285** and **MM286** are therefore necessary to clarify that the policy relates to Major and District Centres, and that change of use from culture, arts and tourism to alternative uses requires a marketing period of 18 months. They would secure a justified, effective and clear position on these matters as a result.

#### Employment – London Plan Background

214. The London Plan (Policies E4 and E7) anticipates that a sufficient supply of land and premises in different parts of the capital should be provided and maintained, and that the potential for industrial intensification, co-location and substitution should be taken into account. The Borough includes 5 SILs. SILs are identified in the London Plan and given strategic protection as the main reservoir of land for industrial, logistics and related uses, and are considered critical to the running of London’s economy (per paragraph 6.5.1 of the London Plan). Policy E6 of the London Plan relates to LSIS and requires local plans to designate and define these based on strategic and local evidence. The Local Plan designates 7 LSIS.

#### Needs and Supply

215. Supporting evidence including the London Industrial Demand Study (Document reference: 13D1) (the Demand Study) and more recent material assessed and included in the Council’s Economic Topic Paper (Document reference: LBM01b) demonstrates that demand for industrial space and land in Merton is high and vacancies are very low, and that this is a trend that has continued for a number of years. The assessments point to high industrial land values, comparable with, and in some cases in excess of those relating to residential land, and high rents (per Centre for London ‘Industrial Land Commission: Initial Conclusions’ included as an appendix to the Economic Topic Paper). These factors lead to the conclusion in the Demand Study that Merton is to be treated as a Borough



in which industrial land capacity should be retained, albeit that some 5ha could be released from industrial uses.

216. As explained above, the Plan allocates Benedict's Wharf for a mix of residential and other uses, which would see the site taken out of SIL. As the waste capacity of the site is anticipated to be provided on a site identified within the South London Waste Plan, the amendment to the SIL boundary accords with the London Plan (Policy E7) in terms of the substitution of industrial capacity to related markets elsewhere in London. The area that would be released from SIL as a result of this is broadly comparable with the amount of land suggested for release in the Demand Study. It follows that no further large-scale industrial release is justified at this juncture and that the protective policies of the Plan, which seek to retain and enhance capacity in its SIL, LSIS and other relevant sites are justified and in general conformity with the London Plan.

### Scattered Employment Sites

217. Policy EC13.3 of the Plan relates to 'scattered employment sites', that is those that are not designated as either SIL or LSIS, which fall within the category of "non-designated industrial sites" for the purposes of Policy E4 of the London Plan. Scattered employment sites within the Borough are, by their nature, relatively small and dispersed. Due to their relatively limited size, additional scattered sites may well arise in the Borough during the plan period as a result of 'windfall' development activity. Accordingly, the verbal description of such sites in the policy and supporting text provides the required clarity and flexibility to address these matters. Taken together, then, these issues militate against including such sites on the policies map or defining their locations in the Plan. There are therefore no soundness reasons to change the policies map or Plan in order to identify such sites.

### Agent of Change Principle

218. The London Plan is generally protective of the industrial and other employment functions of non-designated industrial sites, but sets out where mixed uses, including residential may be permissible. However, the London Plan (Policy E4) makes reference to the 'agent of change' principle<sup>11</sup> as a determinative factor in the consideration of such proposals, a matter that is not reflected in the Policy EC13.3 of the Plan insofar as it relates to scattered employment sites.

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<sup>11</sup> "The principle places the responsibility of mitigating the impact of nuisances (including noise) from existing nuisance generating uses on proposed new development close by, thereby ensuring that residents and users of the new development are protected from nuisances, and existing uses are protected from nuisance complaints. Similarly, any new nuisance-generating development, for example a music venue, will need to put in place measures to mitigate noise impacts on existing development close by." – per the Glossary of the London Plan.

219. Similarly, Policy E5 of the London Plan expects that development proposals within or adjacent to SILs should not compromise the integrity or effectiveness of these locations in accommodating industrial-type activities on a 24-hour basis. However, this expectation is not reflected in the Plan.
220. The Plan is thus not in general conformity with the London Plan in these terms, and neither is it consistent with the Framework's expectation that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established (at paragraph 187). Accordingly, **MM268** and **MM270** are required which make appropriate references to the 'agent of change' principle in supporting text and therefore achieve general conformity with the London Plan and consistency with national policy on this issue.

### Marketing and Vacancy Evidence

221. The requirement for marketing and vacancy evidence relating to scattered employment sites is broadly consistent with the London Plan policy that such sites should only be released for mixed or residential uses should there be no reasonable prospect of them being used for industrial and related purposes (Policy E7(C)(1)). Nevertheless, the evidential basis of the 30 month marketing period set out in the Plan has not been provided, and in the context of the pressing need for housing in the 10 – year London Plan target period, is not justified. **MM269** is therefore necessary, which reduces the marketing period to 18 months, a reasonable timeframe which ensures that the Plan is justified in these terms.

### Local Employment Considerations

222. Policy EC13.4 seeks to secure local employment opportunities in developments and is in general conformity with Policy E11 of the London Plan in these terms insofar as it says that development proposals should support employment, skills development, apprenticeships, and other educational and training opportunities. However, the policy and its supporting text refer to documents and activities that are not relevant to the development and use of land. As a result, the Plan is neither justified nor legally compliant with the 2004 Act in terms of the scope of development plan policies. Accordingly, **MM271**, **MM272** and **MM273** are required, which delete references to these documents and activities and ensure that the policy is justified and legally compliant.

### Conclusion

223. For the reasons set out above, and subject to the recommended MMs, we conclude on this main issue that the Plan supports the role that town centres

play at the heart of local communities and that its employment policies are effective and underpinned by relevant and up-to-date evidence.

## **Issue 11 – Does the Plan make sufficient provision for infrastructure, and does it promote sustainable transport in a justified, effective and national policy compliant manner?**

### Infrastructure

224. In combination with the London Plan, the Plan sets out how development proposals will be expected to contribute towards infrastructure provision in the broadest sense. Furthermore, the Council's IDP sets out how necessary infrastructure would be delivered and how it would be funded. For some forms of infrastructure, such as healthcare facilities and transport, developer contributions form part of a wider funding package alongside central government resources relating to the National Health Service, and TfL funding.
225. The Plan's 'Good Growth Strategy', amongst other things, makes reference to how supporting infrastructure is to be secured. However, it is not clear how the Plan will approach these matters, and that the town and country planning system is but one of a number of means by which such infrastructure might be delivered. This ambiguity and consequent inconsistency with national policy (at paragraph 16(d) of the Framework) is corrected by **MM4**, which clarifies these matters.
226. The Plan is unclear how and when developers are to engage with water and wastewater companies, and what it would be necessary to demonstrate at the planning application and subsequent stages in relation to necessary capacity. The Plan is thus ineffective in these terms. Moreover, the supporting text relating to phasing conditions is not justified as it does not allow for sufficient site and proposal specific flexibility. The Plan's disparate references to the use of such conditions are also unnecessary repetition and thus inconsistent with the Framework (at paragraph 16(f)). Accordingly, **MM288** is necessary which makes changes and clarifications to the supporting text of Policy IN14.1 in the interests of effectiveness, justification and consistency with national policy.
227. As a Lead Local Flood Authority, the Council will need to work in partnership with the Environment Agency, water companies, developers, neighbouring boroughs and local communities in order to manage flood risk and sustainable drainage. However, the Plan does not effectively reflect how this relates to water and wastewater infrastructure requirements. Neither is the Plan consistent with national policy relating to the incorporation of sustainable drainage systems (at paragraph 169 of the Framework). Accordingly, **MM299**, **MM300**, **MM301**, **MM304**, **MM305**, **MM306** and **MM307** insert language to reflect the role of the LLFA and other relevant bodies and include relevant text

relating to water and wastewater infrastructure. The MMs also introduce wording relating to sustainable drainage systems. They would thus ensure that the Plan is justified, effective, clear and in accordance with national policy in these respects.

### Community Infrastructure

228. The narrower focus of Policy INI14.2 is inconsistent with London Plan Policy S1, which is supportive of the provision of community infrastructure to meet local or *strategic* needs (with our emphasis). **MM289** is therefore required which introduces wording consistent with that of the London Plan, and thus secures general conformity on this issue.

### Transport

229. The Plan's spatial strategy seeks to promote sustainable transport by managing patterns of growth. More specifically the strategy seeks to focus most new development in the identified locations which coincide with town centres and public transport hubs. Nevertheless, much of Merton is made up of lower density residential areas, where comparatively low levels of public transport have led to higher levels of car ownership than many other London boroughs.

230. Strategic Policy T16.1 'Sustainable Travel', sets out how Merton is to deliver an efficient, safe and sustainable transport system. However, it is not clear or effective in terms of the effects relating to vehicular traffic that it is seeking to minimise, and its seemingly broadly based restrictions in these terms are not justified. Modifications **MM323** and **MM324** are therefore necessary, which re-word the policy's provision on reduction of traffic dominance and network impacts, and provide references to relevant national documents in the supporting text to provide a justificatory context for the approach.

231. Policy T16.2 seeks to prioritise active travel choices. However, in requiring compliance with documents that are not part of the development plan the policy is not justified. Moreover, requiring the provision of 'dockless' cycle hire schemes is unduly restrictive, when other suitable schemes may be available – and the policy is ineffective and unjustified on this point. National and London level research strategies relating to sustainable travel which provide appropriate justification and explanation for the Policy are not adequately referred to and this bears on clarity and effectiveness in terms of what active travel solutions might be sought, and what they are intended to address. Consequently, **MM325**, **MM326**, **MM327**, **MM328**, **MM329** and **MM330** are all necessary which make changes so that guidance documents are referred to appropriately and in a justified manner, and so that clear references to national and London level strategies are included to secure clarity and effectiveness.

232. Policy T16.3 is focused on managing traffic impacts. However, its requirements in regard to highway safety are stringent and do not give appropriate scope for mitigation. Moreover, there would be a very wide range of developments that would need to be supported by travel plans, not just those that would generate significant movement (per paragraph 113 of the Framework). Similarly, an unjustifiably wide range of developments would be expected to supply construction logistics plans and delivery and servicing plans. Moreover, the policy requires accordance with guidance documents that are not part of the development plan, which is unjustified.
233. National policy expects that safe and suitable access should be achieved for all users of a site (per paragraph 110 of the Framework), but the policy, in referring only to specific users is not consistent with this. Neither does the policy set out the contributions expected from development in relation to the management of traffic impacts, and is inconsistent with the Framework (at paragraphs 34 and 40) as a result. Moreover, the Plan is unclear about the potential sustainable transport alternatives that could be pursued for the construction phase and does not therefore accord with the Framework (at paragraph 110) in these terms. Accordingly, to address the above-referenced soundness concerns **MM331**, **MM332**, **MM333**, **MM334**, **MM335**, **MM336**, and **MM337** are required to Policy T16.3 and its supporting text, which make the necessary changes by way of additions and deletions to secure effectiveness, justification and consistency with national policy.
234. Policy T16.4 of the Plan seeks to ensure development proposals manage car use and parking to ensure safety, reduce reliance on car use and support a transition to lower emission vehicles. It is not in general conformity with the London Plan, however, in terms of the locations where developments would be expected to be car-free, failing to refer to the relevant public transport accessibility levels. Neither is it clear as to what the restrictions relating to new developments in Controlled Parking Zones are. Moreover, its requirements for parking provision to meet unspecified 'design guidelines' that are not part of the development plan are neither justified nor effective.
235. References to electric vehicle parking fail to take into account relevant Building Regulations considerations, and also are not clear as to the sort of developments to which they relate, resulting in ineffectiveness. The considerations relevant to the provision of highway crossovers and the provision of parking spaces within the front boundaries of properties are unclear and fail to point to relevant guidance documents. It follows that these considerations, taken together result in an ineffective and unjustified policy which fails to accord with the Framework's expectations on clarity (per paragraph 16(d)). Accordingly, **MM338**, **MM339**, **MM340**, **MM341**, **MM342**, **MM343**, **MM344**, **MM345**, **MM346**, **MM347**, **MM348** and **MM349** are required which make the necessary insertions and deletions to Policy T16.4 and its supporting text to address these soundness deficiencies.

## Conclusion

236. Subject to the recommended MMs, the Plan makes sufficient provision for infrastructure, and promotes sustainable transport in a justified, effective and national policy compliant manner, which is in general conformity with the London Plan.

## **Issue 12 – Are the site allocations included in the plan justified and are they effective?**

### Introduction

237. The Plan contains a number of allocations relating to a broad range of sites and land uses. The 2012 Regulations define site allocation policies as those which allocate sites for particular uses or developments. The Regulation 19 version of the Plan establishes that site allocations “set out land use requirements for sites that will contribute to the Borough’s growth” (at paragraph 1.1.18).

### Site Allocations – General Infrastructure Matters

238. Each of the site allocations follow set criteria. However, the drafting of some of the criteria is imprecise insofar as infrastructure requirements are concerned and as a result, do not accord with the Framework which expects policies to be clearly written and unambiguous, so it is evident how a decision-maker should react to development proposals. A number of themes are common across a number of the allocations. **MM34, MM36, MM38, MM77** and **MM92** are therefore required to infrastructure requirements for managing and mitigation of flood risk in accordance with the Strategic Flood Risk Assessment (Document references: 15D2, 15D3, 15D4, 15D5, 15D6 and 15D7) and to ensure that reference is made to the correct bodies with responsibility for water infrastructure. These would ensure clarity and consistency.

239. For a number of sites Thames Water have indicated upgrades of the water supply network and wastewater network are required. However, the site allocations do not reflect this and are ineffective in these terms. Consequently, **MM42, MM43, MM60, MM96, MM99** and **MM118** are necessary to ensure clarity and effectiveness of the Plan. In the interests of clarity **MM48, MM62** and **MM63** are required to remove the reference to Southern Gas Networks, in favour of the correct title for the relevant statutory undertaker. These modifications would ensure clarity and thus effectiveness of the allocations in these terms.

240. A number of the allocations (RP5, Mi4, Mo6, Mo7 and Wi3) are either in areas deficient in access to nature, public open space or children’s play space. However, the deficiencies are not reflected in the allocations and as a result,

they fail to achieve consistency with the Framework (at paragraph 92) insofar as the provision of safe and accessible green infrastructure is concerned, and are not justified. Consequently, **MM58**, **MM90**, **MM91**, **MM100** and **MM115** are required to make corrections to the allocations RP5, Mi4, Mo6, Mo7 and Wi3 to ensure the policies are effective are justified and consistent with national policy.

### Wimbledon Site Allocations

#### Site Wi3 – All England Lawn Tennis Club

241. This allocation includes the publicly accessible Wimbledon Park (within the LB Merton boundary), the Wimbledon Park Golf Course and Club, The Wimbledon Club sports club, Wimbledon Park Lake and the All England Lawn Tennis Club. The Tennis Club is an internationally recognised venue, its main site comprising outdoor and indoor courts, with other structures hosting supporting uses including players' facilities, hospitality venues and security buildings amongst other things.
242. A smaller area within the Tennis Club's ownership, comprising in the main of croquet lawns and related facilities is situated at Bathgate Road. Wimbledon Park, including Wimbledon Park Lake, lies on the opposite side of Church Road to the main Tennis Club site. A portion of this, most recently used as a golf course, is in the ownership of the Tennis Club. However, the wider Wimbledon Park is split between various owners, and lies within two different local planning authority boundaries. The boundary of the Wi3 allocation takes in all of the Tennis Club owned land within Wimbledon, and within the Borough boundary, including the golf course element of the Park.
243. There are marked differences between the disparate elements of the Tennis Club's holdings either side of Church Road. On one side is a long-established, internationally renowned, and intensively developed sporting facility, which creates a great deal of associated activity, and pressures for incremental development relating to its unique function. On the other side, the land within the Tennis Club's ownership is a golf course, and only part of the wider Wimbledon Park, a designated heritage asset which is in a number of ownerships, and which includes a range of different uses, at a much generally lower intensity of development and activity than the Tennis Club site.
244. As drafted the site allocation is for a "World class sporting venue of national and international significance with support for continued and long-term investment in all sites towards this end and to improve community access, particularly to Wimbledon Park Lake". However, it is unclear as to what types of development might be acceptable on the discrete pieces of land within the boundary, given the wide parameters of the proposed use. Due to the differing characters of the land parcels within the boundary, the broadness of the definition of acceptable uses results in an ambiguous policy position.

245. Moreover, the site allocation sits uneasily with either the legislative definition of allocations given in the 2012 Regulations, or that of the Plan itself in these terms, and reads as a set of more generalised aspirations relating to the site and its surroundings. This adds further ambiguity and means that it is not evident how a decision-maker should react to development proposals and is thus contrary to national policy (per paragraph 16 of the Framework).
246. Wimbledon Park itself is also a Registered Park and Garden but it is unclear whether the requirements of the allocation relating to landscape and access would be relevant considerations in the assessment of proposals on both sides of the road, or only those brought forward in relation to the golf course element. The allocation gives little guidance to a decision-maker as to the types of proposals that may be acceptable, or what is indeed proposed by the allocation as far as it relates to the element of the Registered Park within the site boundary.
247. Instead, the allocation sets out a set of broad-brush criteria to be applied to the consideration of “any tennis related development” on the Registered Park including potential effects on its status as a Site of Importance for Nature Conservation (SINC) and MOL designations, along with consideration of other heritage assets, including archaeological matters. As these matters are all covered by specific national and London Plan policies as well as in some cases statutory provisions, their inclusion here is unnecessary and contrary to national policy (per paragraph 16(f) of the Framework).
248. Moreover, the ill-defined set of uses and acceptable forms of development set out in the allocation do little to address the reasons for the Park’s inclusion on the Heritage at Risk Register. As a result, the approach conflicts with the Framework, which expects Plans to set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats (per paragraph 190). Taking these considerations together leads us to the view that the policy position on these matters is ineffective, lacks justification and conflicts with national policy. What is more the allocation, as drafted, fails to set out how matters relating to potential effects to the Wimbledon Common SAC would be considered in the assessment of the travel arrangements relating to development proposals. It is thus inconsistent with the national policy relating to the protection and enhancement of biodiversity and the natural environment (per section 15 of the Framework).
249. These considerations lead us to the view that changes are needed to the Plan to create a more tightly focused and justified allocation on the one hand, and site specific policy for Wimbledon Park on the other. Proceeding on this basis would address the soundness concerns that we have identified.



250. Accordingly, **MM114** and **MM115** would secure an allocation focused more tightly on the existing Tennis Club facility to the west of Church Road and introduce additional text which comprehensively covers relevant considerations, ensuring that effectiveness, clarity and consistency with national policy is secured. The allocation, as modified, would also meet the 2012 Regulations in terms of what allocations are expected to encompass. Retaining an allocation for this altered boundary is justified due to the range of development proposals that come forward in relation to the site, both temporary and permanent, in association with the Championships and related activity.
251. We have made some relatively minor post-consultation changes to **MM115**, to ensure that the Policy is clear. These changes include deleting references to designations that are not relevant to land within the reduced boundary, amending the delivery timescale to reflect the ongoing nature of proposals relating to the site, and including the correct number of tennis courts. We have also deleted references in the allocation to land outside of the revised boundary as the relevant development plan policy for Wimbledon Park is contained in separate policy by way of **MM112**. Finally, consequential modification is needed to the supporting text of IN14.3 to reflect the relationship of the Tennis Club's operational assets and the policies relevant to them, in the interests of effectiveness. These matters have all been covered adequately in consultation responses and are minor matters intended to provide clarity. As a result, no material prejudice is likely to occur as a result of us making them at this stage.
252. The inset map included in the MMs as consulted on showed an erroneous boundary for MOL, and as the correct boundary is included elsewhere in the Plan in illustrative material included by virtue of **MM112**, going forward on this basis would result on an ambiguous policy position at variance with paragraph 16(d) of the Framework. Consequently, **FMM1** is necessary which inserts an inset map with the correct and justified boundary, and this secures consistency with the Framework on this issue. The change to the policies map set out in LBM 42 would ensure that the spatial implications of this FMM are adequately reflected.
253. **MM112** would introduce the new criteria-based Policy N8.1 Wimbledon Park and reasoned supporting text, which seeks to address the reasons why the Grade II\* Wimbledon Park is on Historic England's Heritage at Risk Register and to recognise and support its sporting, recreation, ecological and amenity functions. Only the part of the park within Merton Borough would be covered by such a development plan policy, whilst the Framework (at paragraphs 199ff) would provide the context for the consideration of the effects of any development proposals on the Park as a *whole* at the decision-taking stage. The MM provides an effective, justified and nationally compliant site-specific basis for the consideration of any proposals of whatever scale that may come forward in relation to the Park.

254. Covenants, and potentially other obligations, relate to parts of the Wimbledon Park site which place legal restrictions on the types of activities that could be carried out there. Nevertheless, proposals may still come forward relating to the site including for activities that would not be restricted by the covenants. The policy, as modified, provides a set of planning considerations specific to Wimbledon Park, that are likely to be relevant in the assessment of such proposals at the application stage, in the context of the development plan as a whole, and other material considerations.
255. **MM110** and **MM111** are consequential amendments which make changes to Policy N9.1 and its supporting text to reflect the changes made by **MM112**, **MM114** and **MM115**. This would ensure consistency with national policy insofar as it expects planning policies to help create the conditions in which businesses can invest, expand and adapt (paragraph 81 of the Framework). Consequential changes are also required to the policies map to ensure that the spatial implications of these MMs are adequately annotated.

#### Site Wi7 – Rufus Business Centre

256. The site is in a location deficient in access to public open space, and the allocation does not take the opportunities to promote active travel in the form of walking and cycling to access such spaces, and other locations. In these ways it is unjustified and contrary to the Framework (at section 9). Accordingly, **MM116** is required so proposals are required to explore opportunities to improve pedestrian and cycle access between the Wandle Trail and Durnsford Recreation Ground. The site is located adjacent to rail tracks used by Southwest Main line and safeguarded land for Crossrail2 but only requires that infrastructure providers 'should' be consulted which is not clear. **MM117** is therefore required so that the necessary providers 'must' be consulted about any proposals that may impact on rail infrastructure and corrects 'district line' to 'South West main line'. This would ensure clarity.

#### Wi8 – South Wimbledon Station

257. Policy N7.1 part k refers to the need to respect and enhance the station, a Grade II listed building. However, there are other heritage assets in the area, which are relevant to a consideration of any proposals. Moreover, Policy N7.1 does not accurately reflect other expectations of any development as expressed in the allocation itself – leading to ambiguity, and conflict with national policy relating to the identification and pursuit of opportunities to promote walking, cycling and public transport. Accordingly, **MM106** is required to refer to these in Policy N7.1 in the interests of clarity and to ensure that the Plan is consistent with national policy relating to the conservation of heritage assets (per section 16 of the Framework) and that opportunities to promote walking, cycling and

public transport are identified and pursued (per paragraph 110 of the Framework).

#### Site Wi12 – Wimbledon Stadium and Volante Site

258. The Wi12 site has the potential to deliver some 700 to 750 homes alongside the stadium for AFC Wimbledon. Although extant planning permissions relate to the site and development is well underway the site allocation remains relevant in the interests of certainty given the multiple landowners and the relationships with surrounding land uses and occupiers.
259. As drafted, the potential for the site to accommodate tall buildings, whilst referred to in a cursory manner, lacks the site-specific clarity required by Policy D9 of the London Plan. Accordingly, **MM120** is required to introduce clear wording on this matter and thus secure general conformity with the London Plan in these terms.
260. The allocation lacks clarity as to how nearby watercourses should be treated in any flood risk assessment. In addition, there is no reference to existing National Grid infrastructure which affects the site. It is also unclear as to when and how applicants should seek to engage with National Grid in shaping proposals. The policy is ineffective in these regards. Accordingly, **MM119** and **MM121** are necessary which clarify the position relating to watercourses, and introduce text relating to National Grid's infrastructure, and their involvement in the planning process. Effectiveness and clarity (and thus consistency with the Framework at paragraph 16) would be secured as a result.

#### Site Wi16 – Centre Court Shopping Centre

261. As drafted, the allocation for mixed-use redevelopment is unclear as to the appropriate mix of existing and future uses given its town centre location. Consequently, to ensure clarity, **MM122**, **MM123** and **MM125** are required to refer to existing ancillary offices, and for the allocation to include a suitable mix of uses. Redevelopment of the site is anticipated to be brought forward in two broad phases; however, this is not accurately reflected in the allocation, resulting in an ineffective and unjustified policy in these terms. Accordingly, to ensure that the allocation is effective and justified **MM124** is necessary to refer to a two stage phasing over 10 years.
262. Given the location of the site and the presence of listed buildings within it, the Broadway Conservation Area Design Guide is a relevant consideration but is not referred to within the allocation. This omission results in an ineffective policy which is also inconsistent with the Framework (section 16) insofar as it relates to the conservation of heritage assets. **MM126** inserts appropriate

reference to the relevance guidance, and thus secures effectiveness and consistency with national policy in these terms is necessary.

### Colliers Wood Site Allocations

#### Site CW1 – Baltic Close and CW4 Colliers Wood Station

263. These allocations relate to two TfL-owned sites. TfL analysis has identified the need for commuter cycle provision and hire within the environs of the station. However, the allocations do not provide an effective or clear response to the potential for this site to accommodate such uses or refer to the feasibility of providing them alongside other proposals. Consequently, **MM35**, **MM37** and **MM49** are required to delete superfluous text and refer to the requirement for secured cycle parking for commuters and space for cycle/scooter hire schemes. These modifications would ensure effectiveness and clarity (and thus consistency with paragraph 16 of the Framework).

#### Site CW2 – Car Park South of Britannia Point

##### Appropriate heights and design considerations

264. Site allocation CW2 is adjacent to the 19 storey Britannia Point, this is the only site within Colliers Wood Town Centre that is defined in the Plan as appropriate for tall buildings. The Council produced a Topic Paper (Document reference: LBM17) on the site. This focuses on views analysis and impacts whilst acknowledging the excellent public transport and road links and the site's positioning within an Opportunity Area. We note that the CW2 site is also not in a location identified by the Character Study as 'sensitive' to the development of tall buildings.

265. The Topic Paper's analysis is based on generic massing blocks which differ from more refined proposals in terms of the articulation of their elevations, and the potential for a more nuanced, design-led approach to scale, form and massing of buildings. Such analyses constitute a starting point for an 'appropriate' building height at the site, but in our view, they do not robustly justify a 'maximum' height. The Topic Paper also falls some way short of the Character Study's recommendation that the production of a 'comprehensive and joined up masterplan should set out a phased strategy for the reimagining of the area between Colliers Wood High Street, south to Merton Abbey Mills and east to also include the Tandem Centre'. Neither does the analysis presented up to this point establish that the existing Britannia Point building needs to be the "pinnacle" building in any resulting cluster, meaning that this aspect of the policy is unjustified.

266. Furthermore, the site's location in Flood Zone 2 limits the potential for residential uses on lower floors. This taken together with the restrictive approach to storey heights included in the policy serves to limit the contribution that redevelopment of the site could make to meeting identified needs for market and affordable housing in a range of sizes and types and in a highly accessible location.
267. It follows that the overall approach taken lacks sufficient flexibility to ensure proposals that are genuinely design-led can come forward at the application stage. Moreover, in the context of the undershoot against the 10 year London Plan housing targets, the tightly defined parameters of the policy are unjustified. It is therefore clear that the allocation, as drafted, would fail to ensure that development of the site would make optimal use of its potential. The allocation would not therefore achieve the Framework's expectations in terms of the optimisation of the use of land and the achievement of appropriate densities. Further, the approach is out of step with Policy SD1 of the London Plan in terms of its requirement to deliver the growth potential of Opportunity Areas and to maximise the delivery of affordable housing.
268. Consequently, in order to be positively prepared, justified, effective and consistent with national policy relating to making the efficient use of land and achieving well designed places, **MM33**, **MM44** would set out the requirement for a design led approach to the site through the use of a Local Design Guide or Design Code based on the NDG and NMDC, whilst reflecting that at this stage, and on the basis of the Character Study, heights of around 15 storeys may be appropriate. The overall approach would then guide decisions on any applications that may come forward and, in their absence, the NDG and NMDC would be used. **MM39** is also required to remove reference to the principle of Britannia Point remaining as the pinnacle building within the cluster, given that this rigid cap is unsupported by the analysis available to us at this stage and is therefore not justified. However, the principle that any buildings on the site need to form a 'coherent cluster' with scales, layout and design seeking to minimise harm to the residential amenity of the occupants of adjacent dwellings remains.

#### Other considerations

269. There is a lack of space on the public highway but an identified need for significant additional cycle parking within Colliers Wood, and the allocation would provide an opportunity to facilitate this. However, as drafted the allocation does not effectively respond to this requirement, or clearly set out its parameters. Consequently, to secure the effectiveness of the Plan in these regards, **MM40** is required to refer to the provision of an appropriate amount of publicly accessible cycle storage and docking stations in proximity to the public highway.

270. This site is in close proximity to National Grid infrastructure. However, the significance of this proximity is not clearly reflected in the allocation, meaning that it is ineffective in this regard. Accordingly, in order to ensure that the Plan is clear and effective **MM41** is required, which emphasises effective liaison with National Grid on this matter.
271. It is likely that upgrades to water and wastewater networks would be necessary as a result of the anticipated amount of development on the site. However, the policy is unclear as to the types of infrastructure that may be affected, and consequently **MM42** is necessary. This MM would secure clarity and thus consistency with paragraph 16(d) of the Framework on this matter.
272. The Site Allocation makes reference to a Priority 'Area', not 'Zone' and the language is thus not in general conformity with the London Plan on this issue. **MM45** and **MM46** are therefore required to correct this and thus secure general conformity with the London Plan.

#### Site CW3 – Colliers Wood Community Centre

273. Colliers Wood Community Centre is a detached two storey building located on the High Street allocated for mixed use community and residential uses, with a range of 6-10 dwellings. It is not clear that the nature and scale of the site readily lends itself to on-site provision of play space, and as a result requirements in this regard are unjustified. Consequently, **MM47** is required, which deletes the requirement for the provision of on-site play space and would ensure the Plan is justified and its infrastructure requirements are clear.

#### Site CW5 – Priory Retail Park

274. Priory Retail Park is a substantial purpose-built single storey retail warehouse, with an element of MOL within the allocation boundary. However, as drafted the allocation fails to reflect the presence of MOL within the boundary, and the implications that this would have for any development proposals. The allocation is therefore unclear, ineffective and fails to secure general conformity with the London Plan (Policy G3) insofar as it expects MOL to be protected and its quality enhanced. Modifications **MM50**, **MM51** and **MM53** are therefore required, which ensure general conformity with the London Plan in these terms and secure an effective and clear response to the relevant MOL issues.
275. The allocation fails to point clearly to opportunities to enhance the part of the Pickle Ditch within the site boundary. The allocation is thus at variance with the Framework expectation that planning policies should contribute to and enhance the natural and local environment (per paragraph 174). Accordingly, **MM52** is required, which ensures that the policy requires enhancement of the Pickle

Ditch corridor and therefore contributes to enhancing the local and natural environment and provides clarity.

### Mitcham Site Allocations

#### Site Mi1 – Benedict's Wharf

276. The allocation is for a residential-led mixed use scheme, and the site received outline planning permission for such a proposal. Redevelopment of the site is dependent on the re-provision of the waste processing capacity on another site which is identified in the South London Waste Plan. The size of the site allows for a master planned approach which could contain tall buildings, in a manner consistent with the outline planning permission, supporting evidence for which indicates that buildings of around 10 storeys may be appropriate.
277. Neither a design-led approach to the site, nor the appropriate heights for potential buildings are set out in the allocation. Consequently, the allocation is not positively prepared, justified, effective or consistent with national policy relating to the efficient use of land and achieving well designed places. Neither is it in general conformity with the London Plan in terms of the definition of appropriate building heights on a site. Consequently, **MM56** is required, which requires a design-led approach through the use of a Local Design Guide or Design Code based on the NDG and NMDC, and sets out the appropriate heights expected.
278. The allocation anticipates that dwellings would be delivered on the site over years 5 – 10 of the plan period, but subsequent information from the site owner indicates that any delivery would take place later than that. The Plan, as drafted, is therefore unjustified and ineffective on this matter. **MM55** is therefore necessary, which incorporates the revised delivery timescales for the site to ensure that the allocation is justified and effective.

#### Site Mi3 – Burn Bullock and Mitcham Cricket Pavilion

279. The allocation seeks to secure community ownership and management of the land and buildings and restoration of the Burn Bullock supported by enabling development, to move towards removing the building from the Heritage at Risk Register. However, as drafted the policy does not reflect the proximity of Metropolitan Police assets, and it is therefore unclear how these matters will be taken into account. **MM57** is required to ensure effectiveness by making appropriate reference to the Metropolitan Police Service's operational facilities and need to engage and consult with that service.

280. The use of compulsory purchase powers is included in the monitoring framework (as modified), as a potential action should policies not be implemented as anticipated. It is also referred to as a measure to unlock stalled sites by virtue of the change made to the supporting text of Policy H11.2 by **MM162**. There are therefore no soundness reasons that would support further modification of Policy Mi3 to refer to the use of such powers specifically in relation to this site allocation.

#### Site Mi5 – Land at Canons Madeira Road

281. The allocation is for residential use providing 5 to 12 new dwellings and relates to a site within a conservation area. However, as drafted the allocation does not make appropriate reference to the relevant conservation area management plan meaning that the policy is ineffective as a result. **MM59** is therefore required to ensure that proposals have regard to The Canons Conservation Area Management Plan, which would secure the allocation's effectiveness.

#### Mi11 - Raleigh Park Gardens

282. This site is not within an area considered to be suitable for tall buildings as per the suggested clusters and allocations identified elsewhere in relevant modified Plan policies. Consequently, the identification of the site as one suitable for tall buildings in the allocation is erroneous, and unjustified. Accordingly, **MM61** is required to delete inclusion of the site being suitable for tall buildings and addresses this anomaly to ensure that the Plan is justified in these terms.

#### Site Mi16 – Mitcham Gasworks

283. The Mi16 site is a considerable brownfield redevelopment opportunity within the Borough and has the potential to supply a significant amount of dwellings. As drafted, it is unclear whether the site would be appropriate for tall buildings and what the likely scale of these may be. As a consequence, the Plan fails to be positively prepared, justified, effective or consistent with national policy. Neither is it in general conformity with London Plan policies in terms of tall buildings or site optimisation given the limited housing output anticipated for the site in the Plan as drafted.

284. As set out above, the Character Study is of a broad-brush nature that does not justify tightly defined maxima for individual sites. Nevertheless, it identifies the Gasworks site as one that is suitable for tall buildings and of a comparatively low sensitivity to other design-related considerations such as the presence of heritage assets. The Character Study also identifies the site as one that could provide a strategic landmark and that its character has the potential to be reimagined. Moreover, the historic function of the site and the presence both currently and previously of tall structures associated with that function give the



site a distinct presence in the context of the varied character and appearance of its surroundings.

285. Contextual analysis produced during the course of the examination ('Mitcham Gasworks Topic Paper' Document reference: LBM19) suggests, at this stage, that a design-led upper limit of 9 storeys could be appropriate, given the site's size and capacity to accommodate stepping up and transitional elements to form a coherent cluster. However, the Council's Design Review Panel supported taller elements being located within the site's central space, whilst expressing concerns about the height of perimeter buildings, in an indicative scheme with an upper limit of 10 storeys (per page 17 of LBM19). Moreover, the upper end of the housing delivery range for the site assumes height limits of 10 storeys (per 'Statement of Common Ground St William and Merton Council Matter 7 & 13 – Housing & Tall Buildings dated 22 May 2022' Document reference: 0D13m).
286. Accordingly, in the context of the housing delivery challenges set out above, and the consequent pressing need to optimise delivery on suitable sites, we consider that a 10-storey appropriate upper height limit would provide a justified starting point for the consideration of proposals. This would allow for consideration of whether a greater variety in the type and form of buildings could be appropriate, which could have the potential to enhance visual interest and to optimize the use of this previously developed site.
287. Critically, final heights for any proposals would have to be found acceptable using this design-led approach, given the limitations of the evidence base produced thus far in providing rigid height parameters for sites. The approach is to be informed by a Design Guide or Code which could be prepared by the applicants or the Council and would require community engagement in order to seek to reflect local aspirations. If this cannot be achieved, then the NDG and NMDG would be used to guide decisions on future applications. The changes to the policy and its supporting text which would give effect to these things would provide an approach to the site which is consistent with national policy and in general conformity with the London Plan.
288. Overall, these considerations, taken together with national and London Plan policies relating to site optimisation, lead us to the view that a higher indicative development capacity is justified in this case and should be introduced by way of a MM. That this capacity is *indicative* and expressed as a *range* emphasises that a design-led approach to the site would be a justified and effective way of securing an optimal development capacity.
289. Consequently, in order for the Plan to be positively prepared, justified, effective and consistent with national policy relating to making efficient use of land and achieving well designed places, **MM62** is required. This clearly establishes the

site as one suitable for accommodating tall buildings, sets out the design-led approach anticipated in the context of tall structures present and previously located at the site, defines an appropriate upper height, and includes a higher indicative development capacity. In doing so, the MM also achieves general conformity with the London Plan in these regards.

290. The allocation is unclear as to which structures are still present on the site. **MM63** is therefore necessary which clarifies this and thus secures consistency with national policy (at paragraph 16(d)).

### Raynes Park Allocations

#### Site RP2 – 245 – 247 Burlington Road, New Malden KT3 4NE

291. This mixed use site allocation comprises several buildings fronting Burlington Road. As drafted, the allocation erroneously identifies a proximity to a green corridor as a potential impact on environmental designations, which means the policy is unjustified. Consequently, **MM94** is required which deletes the reference to the green corridor and secures a justified policy.

#### Site RP3 – Burlington Road

292. The allocation is for a comprehensive redevelopment of the site incorporating, the provision of an equivalent amount of supermarket floorspace as exists currently taken together with the delivery of some 300 to 460 new houses. The wider context of the site is of development mainly less than three storeys. However, recent developments, such as Albany House and apartment blocks on Burlington Road and Malden Court, have marked a change in both the general scale and character of buildings in the site's environs. The size of the site means a range of tall buildings could be accommodated and planning permission for the redevelopment of the eastern half of the allocation anticipates the development of two blocks ranging in height between 7 and 15 storeys<sup>12</sup>.
293. However, the policy fails to recognise the potential for the site to accommodate tall buildings, and does not set out appropriate heights for these. It therefore fails to secure general conformity with the London Plan in these regards. Similarly, the lack of references to a design-led approach to these matters fails to secure consistency with the Framework in terms of securing well-designed places and making effective use of land. Accordingly, in order to secure consistency with the Framework and general conformity with the London Plan, **MM95** is necessary, which requires a design led approach through the use of a

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<sup>12</sup> APP/T5720/W/20/3250440.

local design guide or design code based on the NDG and NMDC, and sets out the appropriate heights that the site could accommodate.

294. The site is in an area of deficiency in terms of access to nature. Development on this site would be near to the Pyl Brook and therefore could have a positive impact in improving the biodiversity of that water course as part of a green corridor. The Policy fails to recognise this and in this way is inconsistent with the Framework (at paragraph 174) insofar as it expects planning policies to contribute to and enhance the natural and local environment. Accordingly, to ensure consistency with national policy in these terms **MM93** is required.

#### Site RP4 – 80 – 86 Bushey Road

295. This allocation is a part vacant, part retail, office and light industrial employment use. The site consists of large-scale retail sheds ranging between two and five storeys and open parking areas. Part of the site has been demolished. To the west is a new Next at Home store and the A3 'Beverly Way' dual carriageway and to the south is Bushey Road (A298). To the east of the site is a primary school and to the north, on the opposite side of Bodnant Gardens, are two-storey houses. The allocation is for a residential mixed use development.

296. The site owner confirmed that it will not be available for a predominant residential use and as a result the allocation as presented is neither demonstrably deliverable or developable and therefore constitutes an ineffective policy position. Consequently, to ensure the plan is effective, **MM97** is required to refer to the allocation as commercial (including retail, business and industrial uses where such uses are appropriate to a residential area). Further, that reference to the site deliverability for commercial, business and industrial uses is phased in years 0-5, with 10-15 years given as a timeframe for any residential elements that may come forward. This MM ensures the effectiveness of the policy in this regard.

297. The wording of the allocation does not reflect the site's location in a critical drainage area or the need to upgrade water infrastructure as part of any proposals that may come forward. It is unclear, unjustified and ineffective as a result. **MM98** is therefore necessary which refers to the need to address critical drainage area issues and **MM99** is required to make specific reference to upgrades to the water supply network infrastructure. These are necessary in order to ensure the Plan is justified and effective and in the interests of clarity.

## Morden Site Allocations

### Site Mo4 – Morden Regeneration Zone

298. The Morden Regeneration Zone allocation covers a large area. However, it is unclear how green infrastructure is anticipated to be integrated and how its design would be expected to contribute to air quality and drainage improvements. In this way the policy is inconsistent with the Framework (at paragraphs 92, 169 and 186) which requires plans to include policies that aim to achieve healthy places, that opportunities to improve air quality such as through green infrastructure should be identified, and that major developments should incorporate sustainable drainage systems. As drafted the allocation does not reflect the Framework's expectation that planning policies should ensure that developments create places with a high standard of amenity for existing and future users (per paragraph 130). The policy is also unclear as to how public transport initiatives may be funded, and does not set out the contributions expected from development – again contrary to the Framework (per paragraph 34).

299. Consequently, to address these soundness deficiencies, **MM81**, **MM83** and **MM87** are required, which make appropriate reference to the requirements relating to green infrastructure, residential amenity and planning obligations and thus secure consistency with the Framework.

### Site Mo5 – Morden Road Clinic and Morden Hall Medical Centre

300. The site is occupied by a GP practice and pharmacy consisting of a part single and part two storey building fronting Morden Road. The allocation is for a residential redevelopment of the site – potentially involving onsite reprovision of those health sector uses. As submitted, the site boundary shown in the allocation is erroneous and this impairs the effectiveness of the policy. Consequently, **MM88** corrects the site map and ensures the Plan is effective in this sense. The Framework sets out that planning policies should guard against the unnecessary loss of valued facilities and services (at paragraph 93). However, the allocation does not reflect the desirability of maintaining clinical capacity during any redevelopment and is ineffective and unjustified as a result. Consequently, **MM89** is needed in order to include this requirement and to ensure that the policy is justified and effective.

## Conclusion

301. For the reasons set out above, we conclude on this main issue that, subject to the recommended modifications discussed, the Plan's allocations are justified and effective.

### **Issue 13 - Does the Plan contain policies that are clearly written and unambiguous, would it avoid unnecessary duplication of policies, and does it constitute an effective and justified basis for decision-making?**

#### Heritage Assets

302. The Framework anticipates that plans should set out a positive strategy for the conservation and enjoyment of the historic environment (at paragraph 190). However, this is in the context of its expectation for policies to be justified (per paragraph 35(b)) and underpinned by relevant and proportionate evidence (per paragraph 31). Moreover, the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes duties on decision makers to have special regard to preserving listed buildings, their settings and any features of special interest (s16(2) and s66(1)); and to pay special attention to the preservation or enhancement of the character or appearance of conservation areas (s72(1)).
303. Taking these considerations together indicates that, where justified by relevant, and particularly site-specific evidence, policies in plans can seek enhancement of the significance of heritage assets. However, general policies which require significance to be enhanced as a result of any and all proposals that may affect heritage assets, go beyond both the exercise of relevant statutory duties, and the requirements set out in the Framework. Consequently, as presented, general policies in the Plan which seek conservation *and* enhancement are unjustified, and inconsistent with national policy and the 1990 Act.
304. Further, some of the detailed criteria are not effective and consistent with national policy in relation to all designated and non-designated heritage assets. Neither is it clear how non-designated assets would be identified and assessed. Moreover, the Plan's policies use terminology inconsistent with that used in the Framework particularly in relation to 'significance'. Whilst a material consideration, PPG is not part of the development plan and language used in Policy D12.5 requiring development proposals to accord with it are therefore unjustified. As drafted, supporting text relating to the retrofitting of heritage assets in the light of climate change considerations is unclear, and inconsistent with the Framework in these terms (at paragraph 16(f)) and insofar as the conservation of the historic environment is concerned (at Section 16).
305. Accordingly, to address these issues with Policy D12.5 and related elements of the Plan **MM8, MM227, MM228, MM229, MM230, MM231, MM232, MM233, MM234, MM235, MM236, MM237, MM238** and **MM266** are necessary. Taken together these MMs introduce appropriate wording and delete superfluous, unjustified and ambiguous text to secure effectiveness, justification and consistency with national policy.

306. Policy N7.1, which deals with general considerations relating to the South Wimbledon neighbourhood, does not refer specifically to heritage assets and in this way is inconsistent with the Framework's expectation that a positive strategy for the conservation and enjoyment of the historic environment would be set out in plans (per paragraph 190). Consequently, **MM101** is required to introduce an appropriate reference and thus secure consistency with the Framework in these terms.
307. Policy D12.8 'Digital Infrastructure' is not consistent with national policy in terms of the consideration of heritage assets and the sympathetic design of new electronic communications equipment (Section 16 and paragraph 115 of the Framework). Therefore, **MM256** is required to refer to where underground chambers cannot be utilised, a design-led solution which seeks to avoid harm to the significance of heritage assets should be pursued.
308. As submitted, the supporting text to Policy D12.11 relating to basements and subterranean designs does not contain reference to the assessment of such developments in terms of their effects to related heritage assets including in terms of structural integrity. The policy is ineffective and unclear (and thus inconsistent with paragraph 16(d) of the Framework) as a result. Moreover, it does not accord with national policy insofar as the conservation of heritage assets is concerned, introducing wording such as 'exceptional circumstances' in its supporting text, which is not consistent with the considerations set out in Section 16 of the Framework. Its requirements are also unjustified as a result of this. Consequently, **MM264**, **MM265** and **MM266** are therefore required, which introduce, and where relevant remove wording to secure clarity, ensure effectiveness, justification and consistency with national policy.

### Health and Wellbeing

309. Policy HW10.1 relates to health and wellbeing considerations. However, the policy is unclear as to what an integrated approach to these matters would entail, the outcomes that are sought, and how they relate to town and country planning. The policy is thus ambiguous and fails in its effort to achieve healthy places taking into account local strategies to improve health for all sections of the community, and is thus inconsistent with the Framework (at paragraphs 16, 92 and 93). It is also ineffective in its approach to these issues as a result. Accordingly, **MM127** and **MM128** are required which add additional clarification on the integrated approach to these matters and thus achieve effectiveness and consistency with national policy in these terms.
310. The Plan does not effectively address how incorporating dementia-friendly approaches into designs will be assessed and secured. Neither is the justification for this approach adequately reflected as the supporting text refers to out-dated demographic assumptions. As a result, this aspect of the Plan is

neither justified, nor effective nor is it clear how a decision-taker is to react to development proposals (and the policy is thus contrary to paragraph 16(d) of the Framework). Accordingly, new supporting text is required which references how developers could demonstrate dementia-friendly approaches and how these might be relevant to the Design Review process. Supporting text also needs to be altered to reflect the most up-to-date demographic information underpinning this matter. **MM130** and **MM131** are therefore necessary, which bring about these changes, and ensure that the Plan is justified, effective, and that its policies are clear and unambiguous in these regards.

311. Policy HW10.2 relates to the delivery of healthy places. Its overall thrust is consistent with the Framework insofar as it states that planning policies should aim to achieve healthy places (at paragraph 92). However, the way in which it would do this is unclear, its broadly worded requirement for the submission of health impact assessments is unjustified, and the approach does not clarify how local strategies to improve health would be taken into account and supported contrary to paragraph 93 of the Framework. These things, taken together, also result in an ineffective policy position.
312. Accordingly, to address these soundness deficiencies **MM132**, **MM134** and **MM135** are required. Taken together these modifications clarify the policy, introduce a justified approach to health impact assessments and ensure that local strategies would be taken into account and supported. They would therefore secure effectiveness, justification, and consistency with national policy on this matter.
313. Policy HW10.2's restrictions on the location of hot food takeaways in the vicinity of schools is not in general conformity with the London Plan (Policy E9). Moreover, the policy is neither justified nor effective insofar as it sets a requirement for hot food takeaways to operate in compliance with the Healthier Catering Commitment, a matter that is not relevant to planning and is not therefore likely to be something that could be secured by condition at the application stage. **MM133** is necessary to rectify these matters, which alters the wording to ensure consistency with the London Plan and to ensure that the reference to the Healthier Catering Commitment is justified and effective.
314. The importance of considering health and wellbeing matters in the design of developments is not adequately reflected in Policy D12.1 of the Plan. As a result, the Plan does not clearly or effectively address the Framework requirement (at paragraph 130) for planning policies to ensure that developments create places which promote health and well-being. In order to ensure clarity and effectiveness **MM194**, **MM197** and **MM198** are consequently required to ensure that consideration is given to designs that promote active lifestyles and that health and wellbeing considerations are taken into account.

## Noise

315. The Plan's approach to consideration of noise and vibration is not clear in terms of the references to associated guidance on these matters. Accordingly, to achieve clarity, **MM320** and **MM321** are required to make reference to the Council's commitment to produce a Noise and Vibration SPD. This would provide detailed guidance on the implementation of Policy P15.10 along with reference to consideration of relevant Department of Environment Food and Rural Affairs guidance on the control of odour and noise from commercial kitchen exhaust systems.

## Control of Pollution, Air Quality and Land Stability

316. Several policies in the Plan contribute to reducing and/or mitigating the impacts of air pollution. Policy P15.10 refers to 'Improving air quality and minimising pollution' but this is neither a clear nor an effective title for a policy that also encompasses land stability. **MM308** is therefore required to change the policy name to 'Air Quality, Pollution and Land Stability' which would ensure clarity and effectiveness.

317. Policy P15.10 does not adequately refer to how pollution, contamination and land stability would be considered at the application stage. It also fails to ensure that sites are suitable for their proposed uses as a result, contrary to paragraphs 183 to 188 of the Framework. Neither is it clear what evidence is likely to be taken into account in assessments of air quality effects or the type of developments that would be captured by the policy, meaning that it is ineffective, unjustified and unclear. Given the criticality of some of these elements to the design and construction methods of proposals, the Framework's encouragement (at paragraph 40) of effective pre-application engagement is a relevant consideration, but this is not reflected in the Plan. Moreover, the policy does not reflect Policy SI1 of the London Plan or its associated guidance, which states that development plans should seek opportunities to identify and deliver further improvements to air quality.

318. **MM309, MM311, MM312, MM317, MM314, MM315, MM316, MM318, MM319** and **MM322** are therefore necessary to introduce text relating to investigations and reports to inform the assessment of the suitability of sites; clarify the things to be taken account in an assessment of air quality; set out the type of developments that the policy relates to; and add clarification on the use of conditions. In doing so they achieve consistency with national policy, general conformity with the London Plan, justification and effectiveness. We have altered the wording of **MM315** post-consultation to reflect recent legislative changes and factual updates. These amendments do not alter the effect or intent of the MM as consulted on. Consequently, no parties would be materially prejudiced as a result of us making the changes at this stage.



319. Two criteria in the policy that are more generally applicable to the consideration of pollution, contamination and air quality issues are incorrectly placed within the text so that it appears they only relate to construction and demolition activities. It follows that it would not be evident how a decision maker should react to proposals as a result, contrary to national policy (per paragraph 16(d) of the Framework). To rectify this, **MM310** is required, which re-orders the criteria and achieves consistency with the Framework.
320. The policy's requirements relating to construction and demolition are drafted in a way which requires compliance with documents that are not part of the development plan, and this is unjustified. Moreover, the wording lacks clarity about the activities which the guidance relates to, and when it should be taken into account. It follows that **MM313** is needed which rephrases the relevant criteria in a way that adds clarity on these matters and refers to guidance documents in a justified way.

## Design

321. The Plan's Good Growth principles set out high level principles to be taken account of in the design of new developments. However, in the light of the Plan's above-cited policies relating to climate change and the Framework's expectation that policies should support appropriate measures to ensure the future resilience of communities to climate change, the lack of specific reference to ventilation measures is unjustified and ineffective. Consequently, **MM3** is necessary which includes ventilation as a relevant design consideration and ensures that the Plan is justified and effective on this matter.
322. Strategic Policy D12.1 seeks to deliver well-designed and resilient neighbourhoods. The policy sets out a number of criteria, which development should achieve, but its wording is unclear and ineffective, and its requirement to accord with "best practice guidance" outside of the development plan is not justified. A similar lack of clarity and justification relating to guidance documents and other considerations is included in Policy D12.2, and this is also unjustified. Consequently, **MM192, MM193, MM194, MM195, MM196, MM200** and **MM201** are required. These MMs ensure an effective and justified position on these matters, delete unnecessary text, and make appropriate references to relevant guidance and policies in the interests of clarity.
323. Taken as a whole, the policies lack clarity on expectations relating to design guides and codes and the design outcomes that policies should be looking to achieve, contrary to section 12 of the Framework. Policy D12.2 also includes unnecessary repetition of criteria found elsewhere in the Plan, which should be avoided according to the Framework (at paragraph 16(f)). The policies also fail to set out the contributions that would be expected from developments in terms of the provision, maintenance and management of public realm – again contrary

to the Framework (at paragraph 34). They are consequently inconsistent with national policy in these terms and ineffective in securing the design outcomes it expects. Furthermore, in relation to the provision of amenity space, the Plan does not achieve general conformity with the requirements of the London Plan's qualitative design aspects of housing developments set out in Table 3.2.

324. Some criteria set unjustified requirements, which would be difficult to achieve including through requiring designs that would totally avoid the need for future remedial intervention and that restrict the scope of design consideration to 'urban and building' designs. A lack of clarity about the scope of the Urban Design policy and the locational characteristics of sites that some of its criteria relate to result in a policy, due to its apparently wide focus, that is unjustified. The policy also lacks clarity in the relevant guidance to be taken into account when seeking to integrate cycle parking into designs.
325. Accordingly, **MM199, MM202, MM203, MM204, MM205, MM206, MM207, MM208, MM209, MM210, MM211, MM212, MM213, MM214, MM215, MM216, MM217, MM218, MM219, MM221, MM222, MM223, MM224** and **MM226** are required which make amendments to avoid unnecessary repetition, and refer to a number of considerations such as amenity, private outdoor space, appropriate materials, minimum space standards, design and access statement requirements, and design guides and codes. They also set out justified ways of referring to relevant guidance documents in a clear way. They therefore achieve a national policy compliant, effective and justified approach that achieves general conformity with the London Plan in these terms.
326. Policy D12.3 relates to the design quality of new development including residential amenity considerations. However, it fails to secure general conformity with the London Plan requirements (Policy D7) relating to their overall accessibility. **MM220** is therefore required which introduces supporting text that ensures these considerations would be taken into account in a way that secures general conformity with the London Plan and effectiveness.
327. The Plan's approach in Policy D12.4 to alterations and extensions to existing buildings contains unnecessary and repetitive requirements and lacks clarity on design and amenity considerations. For these reasons it is inconsistent with the Framework (at paragraphs 16(f) and 130). To ensure consistency with national policy **MM225** is required, which deletes unnecessary repetition, and introduces text relating to relevant design considerations.
328. The control of advertisements is addressed by Policy D12.7. Under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 the Council must consider applications for advertisement consent only in the interests of amenity and public safety. Policy D12.7 takes in wider considerations and is therefore unjustified. For soundness, **MM255** alters the

wording to focus more tightly on amenity and public safety considerations and achieves justification in these regards.

329. Policy D12.9 relates to the design of shop fronts and signs. The lack of supporting evidence for the policy's very restrictive approach to the installation of shutters means that this element is not justified, and does not provide an effective basis for consideration of relevant applications. Furthermore, the policy's wording relating to shop front design is complicated, confusing and thus ineffective, and unjustifiably requires development to be in accordance with SPD. In order to address these soundness concerns, **MM257** and **MM258** are needed, which set out a less restrictive approach to shutters, and delete superfluous text in relation to shopfront design. These MMs secure a justified and effective approach to these matters.
330. Policy D12.10 on dwelling conversions refers to climate change considerations, but does not cross-reference this to the comprehensive suite of climate change policies set out elsewhere in the Plan, which begs the question whether differing standards would apply to such proposals. It is therefore ambiguous, and it would not be evident how a decision-taker should react to development proposals as a result. **MM259** therefore inserts the necessary text that dwelling conversions should seek to minimise carbon emissions in accordance with the Plan's policies on Climate Change removing ambiguity and securing consistency with the Framework (at paragraph 16(d)) on this matter.
331. Policy D12.11 relates to basements and subterranean design but is not justified or effective as it does not set out restrictions on the extent of basements in terms of size. Neither is it clear how effects on amenity space requirements, or flooding considerations would be taken into account. Consequently, to ensure the policy is effective and justified, **MM260**, **MM261**, **MM262** and **MM263** introduce criteria and supporting text on these matters.
332. The supporting text for basement and subterranean applications is not clear in how it will consider flood risk from all sources, including sewer flooding. Neither is it clear how the construction phase of development would be assessed and controlled. Accordingly, **MM302** and **MM303** are required to reflect flood risk implications, and to set out that site specific ground investigation information and drainage/construction traffic management plans are to be submitted for basement development applications.

#### Other Soundness Matters - Consistent use of language

333. The Plan is inconsistent in its use of words and phrases such as 'should', 'must' and 'required to', and this inconsistency results in an ambiguous and ineffective policy suite in these terms. Consequently, **MM1** and **MM2** are necessary which

ensure that consistent and unambiguous terminology is employed throughout the Plan in the interests of its effectiveness.

334. Several phrases in the Plan are terms of art or other technical phrases, the meanings of which may be unclear. Lack of explanation of these results in ambiguity contrary to paragraph 16(d) of the Framework. Consequently, **MM354**, **MM355**, **MM356**, **MM357**, and **MM358** are required, which provide additions to the Glossary where such terms would benefit from additional explanation to ensure clarity and thus consistency with the Framework in these terms.

### Conclusion

335. The reasons set out above lead us to the conclusion on this main issue that, subject to the MMs recommended, the policies would be clearly written and unambiguous, would avoid unnecessary duplication and would constitute an effective and justified basis for decision-making.

### **Issue 14 – Are the Plan's monitoring arrangements effective?**

336. Regular monitoring is required to be undertaken in relation to key monitoring indicators and targets identified in the Plan. These are then used to assess the effectiveness of the Plan's policies as part of the Council's Annual Monitoring Report.

337. Although monitoring is referred to in the Plan, it does not set out how each of the chapters of the Plan will be effectively monitored according to the individual objectives. As submitted the Plan does not contain a detailed monitoring framework setting out the indicators against which the performance of the Plan's policies and proposals could be measured, including the range of actions that might be taken if policies are not being implemented as envisaged.

338. Consequently, the Plan would not be effective in such terms and MM is required which would see the inclusion of a new chapter, a monitoring policy and a table of indicators, targets, triggers and contingencies, based on the Plan's thematic chapter areas. The effectiveness of the policies would be monitored against a range of key performance indicators detailed in the Council's Monitoring Framework. The Authority Monitoring Report (AMR) will be the main mechanism for assessing the Plan's performance and effectiveness. Accordingly, to ensure that monitoring of the Plan is effective **MM350** makes these necessary insertions.

339. We have made amendments to **MM350** post-consultation to ensure that it includes an effective set of measures relating to sport, recreation and town centre matters. These changes are relatively minor in nature, and the relevant

matters were adequately covered in consultation on the Plan. We consider that no material prejudice would occur as a result of our including them at this stage.

### Conclusion

340. For these reasons, and subject to the recommended MM, we conclude on this main issue that the Plan sets out effective arrangements for monitoring.

### **Overall Conclusion and Recommendation**

341. The Council has requested that we recommend MMs to make the Plan sound and capable of adoption. We conclude that the Duty to Co-operate has been met and that with the recommended MMs set out in the Annexes the Plan satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

*RJ Aston GJ Fort*

INSPECTORS

This report is accompanied by annexes containing the Main Modifications.

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