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# Merton Council

## Cabinet Agenda

### Membership

#### Councillors:

Mark Allison (Chair)  
Agatha Mary Akyigyina OBE  
Michael Brunt  
Tobin Byers  
Caroline Cooper-Marbiah  
Natasha Irons  
Rebecca Lanning  
Owen Pritchard  
Marsie Skeete  
Eleanor Stringer  
Martin Whelton

**Date: Tuesday 22 June 2021**

**Time: 7.30 pm**

**Venue: Council Chamber, Merton Civic Centre, London Road, Morden SM4 5DX**

This is a public meeting and attendance by the public is permitted. There will be a limited number of seats available for members of the public should they wish to attend, however we would encourage you to continue to watch online whilst Covid-19 restrictions remain in place. The meeting will be held in accordance with Government guidelines and any measures applicable at the time of the meeting.

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## Cabinet Agenda

**22 June 2021**

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| 3  | Minutes of the previous meeting  | 1 - 6     |
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| 7  | Adoption of Merton's draft Air Quality Supplementary Planning Document (SPD)   | 27 - 86   |
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| 9  | Expansion of Merton Medical Education Services and future of Lavender Nursery  | To Follow |
| 10 | SEN Provision at Whatley Ave, SW20   | To Follow |
| 11 | Joining the Lift the Ban Coalition   | 129 - 134 |
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| 15 | Inclusion of miscarriage and stillbirth as specified categories into the Bereavement/Special Leave Policy  | 199 - 202 |
| 16 | Exclusion of the public<br>To RESOLVE that the public are excluded from the meeting during consideration of the following report(s) on the grounds that it is (they are) exempt from disclosure for the reasons stated in the report(s). |           |

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**Note on declarations of interest**

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. For further advice please speak with the Managing Director, South London Legal Partnership.

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# Agenda Item 3

All minutes are draft until agreed at the next meeting of the committee/panel. To find out the date of the next meeting please check the calendar of events at your local library or online at [www.merton.gov.uk/committee](http://www.merton.gov.uk/committee).

## CABINET

22 MARCH 2021

(7.15 pm - 8.08 pm)

**PRESENT:** Councillors Mark Allison (in the Chair), Agatha Mary Akyigyina OBE, Mike Brunt, Tobin Byers, Caroline Cooper-Marbiah, Rebecca Lanning, Owen Pritchard, Marsie Skeete, Eleanor Stringer and Martin Whelton

**ALSO PRESENT:** Councillor Nick McLean (Leader of the Conservative Group) and Peter Southgate (Leader of the Merton Park Ward Independent Residents Group)

Ged Curran (Chief Executive), Hannah Doody (Director of Community and Housing), Chris Lee (Director of Environment and Regeneration), Louise Round (Managing Director, South London Legal Partnership and Monitoring Officer), Murray Davies (Contracts and procurement manager CFSF), David Keppler (Head of Revenues and Benefits), Roger Kershaw (Assistant Director of Resources), Barbara Batchelor (Head of Organisational Development and HR Strategy), Tara Butler (Programme Manager - Strategic Policy and Research), James Pierce (Learning and Development Adviser), Octavia Lamb (Policy and Research Officer (Labour Group)) and Louise Fleming (Democracy Services Manager)

### 1 APOLOGIES FOR ABSENCE (Agenda Item 1)

No apologies were received.

The Chair noted that Councillor Irons was currently on maternity leave and would be returning after the AGM. He thanked Councillor Brunt for providing maternity cover in her absence and announced that Councillor Brunt had been nominated as Mayor elect for the 2021/22 municipal year.

Councillor Brunt thanked the Leader for the opportunity to serve on the Cabinet and for his nomination as Mayor elect.

### 2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of interest.

### 3 MINUTES OF THE PREVIOUS MEETINGS (8 AND 22 FEBRUARY 2021) (Agenda Item 3)

**RESOLVED:** That the minutes of the meetings held on 8 and 22 February 2021 are agreed as an accurate record.

#### 4 REFERENCE FROM THE SUSTAINABLE COMMUNITIES OVERVIEW AND SCRUTINY PANEL: HGV'S (Agenda Item 4)

The Chair of the Sustainable Communities Overview and Scrutiny Panel presented the report which set out recommendations relating to the management of HGVs in the borough, roadwork maintenance, sustainable travel and school streets.

The Cabinet Member for Housing, Regeneration and the Climate Emergency thanked the Scrutiny Panel for their discussion and the residents groups who had made submissions to the Panel. Work had already been carried out in this area, and where resources were available, further work would be carried out although there would need to be a London-wide approach. He thanked the officers involved in the successful roll out of the School Streets programme which had made the environment outside schools safer and he would be working with other schools who had requested to be included in the programme going forward.

The Director of Environment and Regeneration advised that there was a great deal of activity across London to tackle air quality and road safety and his officers would consider positive ways to respond to the recommendations of the scrutiny panel within existing resources and utilising new emerging technology, with a further paper to Cabinet in due course.

The Cabinet Member for Women and Equalities addressed the effects of air pollution on health of the under-privileged in the borough.

The Cabinet Member for Adult Social Care and Public Health thanked the Scrutiny Panel for their discussion and addressed the HGV issue. HGVs were not the biggest contributor to air pollution in the borough and therefore it was important to retain a focus on all vehicle emissions.

The Chair thanked all for their contributions and it was

RESOLVED:

That the reference of the Sustainable Communities Overview and Scrutiny Panel be taken into account its reference set out in paragraphs 2.6 to 2.13 of the Cabinet report when making decisions on changes to Merton's road networks and associated resident communications.

#### 5 PUBLIC CONSULTATION ON PROPOSED PLANWIMBLEDON NEIGHBOURHOOD AREA AND FORUM (Agenda Item 5)

The Cabinet Member for Housing, Regeneration and the Climate Emergency presented the report which set out the statutory requirement to consult on proposal by PlanWimbledon to be designated as a Neighbourhood Forum for Wimbledon. A further report would be brought to Cabinet following the consultation in June, with a final decision being taken by the Council in July.

The Chair stated the importance of any successful designated Neighbourhood Forum to support the growth agenda and the Government's targets for new homes and the Cabinet Member advised that any plan submitted by the Forum would need to be in accordance with the London Plan and national planning policies and it was

RESOLVED:

1. That, considering the recommendations of the Borough Plan Advisory Committee (4<sup>th</sup> March 2021), the contents of the report be considered and that six weeks of public consultation can take place on PlanWimbledon's proposal to be designated as the Neighbourhood Forum for their proposed Neighbourhood Area of Wimbledon.
2. That approval for any amendments proposed to the consultation documents prior to the start of public consultation are delegated to the Director for Environment and Regeneration in consultation with the Cabinet Member for Housing, Regeneration and the Climate Emergency.

#### 6 ADDITIONAL RESTRICTIONS GRANT (DISCRETIONARY SCHEME) POLICY (Agenda Item 6)

At the invitation of the Chair, Bryan Raven, Managing Director of White Light Ltd, a local business in the borough, addressed the Cabinet on the difficulties faced by his business in the pandemic. He welcomed the support already received from the Council however was disappointed to not meet the criteria for the second phase and asked the Cabinet to make the proposed grant available to all businesses in the borough.

The Chair thanked Mr Raven for his contributions.

The Cabinet Member for Finance also thanked Mr Raven for his contributions and acknowledged the difficulties he and other businesses had experienced throughout the pandemic. He thanked the officers for their work on distributing the grants in phase one and presented the report which set out proposals for phase two. It was noted that there were insufficient funds to support all businesses in the borough and therefore it was felt that the grants should be focussed on those businesses where it could have the most impact. There would be two funding streams in phase two and it would be possible to redirect funding from one stream into the other if required to ensure all the money was allocated.

The Joint Deputy Leader and Cabinet Member for Performance, Recovery and the Local Economy added that it had been a difficult policy to draft and the focus had been to keep people in jobs to aid the economic recovery following the pandemic with a limited sum of money by focussing on small and micro business and those businesses employing Merton residents.

The Head of Revenues and Benefits advised that there could be further funding from the Government available if the Council could evidence that it had allocated the funding from the second phase by the end of June 2021.

The Chair welcomed this further announcement although noted that it would still be insufficient to support all businesses in the borough and it was

RESOLVED:

1. That the Additional Restrictions Grant Policy for Phase two be agreed.
2. That the Expanded Retail Relief Policy for 2021/22 (1 April 2021 to 30 June 2021) be agreed and authority to agree any future Section 47 business rates discretionary policies be delegated to the Director of Corporate Services in consultation with the Cabinet Member for Finance.

7 CONTRACT AWARD - SCHOOL MEALS CATERING SERVICE 2021  
(Agenda Item 7)

The Joint Deputy Leader and Cabinet Member for Children and Education presented the report which set out a proposal to award a contract for the provision of school meals at Merton's primary and secondary schools.

In response to a Cabinet Member question, the Contract Manager advised that schools had been encouraged to purchase vouchers rather than food parcels to support low income families in the school holidays.

The Chair thanked the Cabinet Member and officers for their contributions and it was

RESOLVED:

1. That the council award to Bidder A (as detailed in the Confidential Appendix to the Cabinet report) a contract for provision of the school meals catering service at Merton primary and special schools for a period of 3 years from 1 August 2021 with an option to extend for up to two further years at the discretion of the council.
  2. That authority be delegated to the Director of Children, Schools and Families to exercise, in consultation with the Cabinet Member for Children and Education, the council's option to grant one or more extensions of the contract term for any period up to two further years beyond the expiry of the initial contract term on 31 July 2024.
  3. Members are asked to note the new price charged for a school meal from 1 September 2021 will be £2.23 (currently £2.18) so that the estimated total value of this contract over the initial three year term will be approximately £11.5 million and over the extended term up to £19.2 million.
- 8 FINANCIAL MONITORING REPORT 2020/21 - JANUARY 2021 (Agenda Item 8)

The Cabinet Member for Finance presented the report which set out the financial monitoring information for January 2021 thanking the officers for all their work on the report and officers across the Council in their efforts to manage their budgets during



a difficult period. There had been a slight reduction in the adverse variance however the report set out the difficulties brought about by the pandemic and the impact would be felt into the following financial year.

The Assistant Director for Resources drew the Cabinet’s attention to the recommended amendments in the report and the announcement by the government that the Council would be allowed to spread the losses of business rates over a three year period, which would be reflected in the outturn report.

The Chair thanked all for their contributions and it was

**RESOLVED:**

1. That the financial reporting data for month 10, January 2021, relating to revenue budgetary control, showing a forecast net adverse variance at year-end of £2.6m be noted.
2. That the contents of section 4 of the report be noted and the adjustments to the Capital Programme in Appendix 5b be approved.

That the contents of Section 4 and Appendix 5b of the report be noted and the amendments to the Programme contained in the table below be approved:

	<b>Budget 2020- 21</b>	<b>Narrative</b>
	<b>£</b>	
<b><u>Corporate Services</u></b>		
FM Works to Other Buildings - De-Carbonisation Scheme	497,240	Grant Funded Scheme
<b><u>Environment and Regeneration</u></b>		
Cycle Route Improvements - Cycle access/parking	40,000	TfL/Dft Grant
<b>Total</b>	<b>537,240</b>	

3. That a £1.386m transfer from non-staffing budgets to staffing budgets within the Children’s Social Care and Youth Inclusion division of CSF for the financial year 2021/22 be approved. This will facilitate the smooth implementation of the restructure within this division.
9. **PROCUREMENT OF MULTIPLE APPRENTICESHIP STANDARDS (Agenda Item 9)**

The Cabinet Member for Finance presented the report which set out a proposal to award contracts for multiple apprenticeship standards and thanked the staff involved for their work. The proposals would enable the Council to meet its target of 2.3% of its workforce being made up of apprentices.

The Cabinet Member for Culture, Leisure and Skills welcomed the report and the contribution the proposals would make as part of the economic recovery from the pandemic by improving the skills of residents.

The Chair welcomed the report and it was

**RESOLVED:**

1. That the award of the contracts for Multiple Apprenticeship Standards across Lots 2, 3, 4, 6, 7, 8, 10, 11 & 12 to Suppliers E, H, J, K, N, O, Q, S, AB, AD, AE, AF, AH & AK, on an initial 3 year term from 31 March 2021, with extension provisions of up to a further 1 year be approved. The identities of the preferred and unsuccessful bidders are set out in Appendix A to the Cabinet report. The contract values for the proposed term are set out in Appendix D.
2. That the authority to exercise the extension provision is delegated to the Director of Corporate Services, in consultation with the Cabinet Member for Finance, and subject to continued funding and satisfactory supplier performance.

**10 EXCLUSION OF THE PUBLIC (Agenda Item 10)**

The Cabinet agreed not to refer to the exempt information contained in items 11 and 12 during consideration of items 7 and 9 and therefore the meeting remained in public.

**11 CONTRACT AWARD - SCHOOL MEALS CATERING SERVICE 2021 - EXEMPT APPENDIX (Agenda Item 11)**

The Cabinet did not refer to the exempt information contained in the exempt appendix and therefore the meeting remained in public. The minute is set out at item 7 above.

**12 PROCUREMENT OF MULTIPLE APPRENTICESHIP STANDARDS - EXEMPT APPENDICES (Agenda Item 12)**

The Cabinet did not refer to the exempt information contained in the exempt appendix and therefore the meeting remained in public. The minute is set out at item 9 above.

## **Committee: Cabinet**

**Date: 22<sup>nd</sup> June 2021**

Agenda item:

Wards: all

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

Lead officer: Director of Environment and Regeneration, Chris Lee

Lead member: Cabinet Member for Housing, Regeneration, and the Climate  
Emergency Councillor Martin Whelton

Contact officer: Future Merton Strategic Policy Manager, Tara Butler

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### **Recommendations:**

That Cabinet recommend that council resolve to:

- A. submit Merton's Local Plan and Policies Map to the Secretary of State for independent examination. This would be preceded by a statutory six-week consultation period between July and September 2021.
- B. Agree the timetable for production set out in section 5 of this report, which will amend Merton's Local Development Scheme.
- C. delegate authority to the Director of Environment and Regeneration, Chris Lee, in consultation with the Cabinet Member for Housing, Regeneration and the Climate Emergency Councillor Martin Whelton for changes to the documents between 23<sup>rd</sup> June 2021 and the receipt of the Planning Inspector's final report:

- 
- (i) to approve alterations to the plans for submission to the Secretary of State for independent examination and as necessary throughout the examination process arising from matters including responses to pre-submission public consultation, national or regional policy changes, additional relevant evidence and matters arising from the independent examination.
  - (ii) to consider and approve officers' response to comments received at the pre-submission public consultation, and associated alterations to the plans for their submission to the Planning Inspector via the Secretary of State.
- 

### **NOTE FOR APPENDICES**

For the purposes of the council meetings, the Local Plan is not fully formatted.

High quality formatting of the Local Plan, including final numbering and referencing, will take place after full council on 7<sup>th</sup> July 2021 using specialist software. By formatting the Local Plan after the committee cycle this means that amendments made at committee can be easily integrated into the Local Plan. Referencing will also take place at the same time as formatting.

The Local Plan and Policies Map is produced in PDF format for the purposes of Cabinet and Council meetings. If councillors would like to see a more detailed map of any part of the borough for the Policies Map, officers can produce close up maps on request.

To save on paper, for the purposes of the council meetings the Local Plan and Sustainability Appraisal will be available online and will be printed in paper copies on request to officers. Paper copies will also be available at the meeting venue.

## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. Merton's *Local Plan* is the detailed development plan for Merton, containing the overall borough-wide planning strategy and detailed planning policies and allocates sites for new development.
- 1.2. Merton's Policies Map is being revised at the same time, which will designate land for specific uses, such as open spaces, town centre boundaries, neighbourhood parades and nature conservation.
- 1.3. Once adopted, the plans and the map will be the main reference point guiding planning decisions in the borough, replacing Merton's *Sites and Policies Plan 2014* and Merton's *Core Planning Strategy 2011*.
- 1.4. The new Local Plan was started in late 2017; it has been prepared in line with statutory regulations, informed and improved by a total of nine months of public consultation, local and national research and the latest data from a variety of sources. The plans are in general conformity with the Mayor's London Plan 2021 and the National Planning Policies Framework 2019.
- 1.5. This report recommends that Cabinet recommends that council resolves to
  - submit the *Local Plan* and Policies Map to the Secretary of State for an examination in public by an independent Planning Inspector. This is preceded by pre-submission public consultation.
  - Agree the timetable for production set out in Section 5 of this report, which will amend Merton's Local Development Scheme.
  - delegate amendments to the documents that arise between 23<sup>rd</sup> June 2021 and the receipt of the Planning Inspector's final report to the Director of Environment and Regeneration, Chris Lee, in consultation with the Cabinet Member for Housing, Regeneration and the Climate Emergency, Councillor Martin Whelton.
- 1.6. On 01 July 2021, the cross-party Borough Plan Advisory Committee will consider the Local Plan.
- 1.7. Councillors are also considering the following reports in June /July 2021 as supplementary planning documents to help deliver the Local Plan:
  - Merton's air quality guidance
  - Merton's borough character study
  - Merton's small sites toolkit

## **2 DETAILS**

- 2.1. Every borough should have an up-to-date development plan to guide planning decision in their area. Currently (May 2021) Merton's statutory development plan is:

- The Mayor's London Plan 2021
  - Merton's Estates Local Plan 2018 (only for Eastfields, High Path and Ravensbury)
  - Merton's Sites and Policies Plan 2014
  - The South London Waste Plan 2012 (currently being revised and only for planning applications for waste management facilities)
  - Merton's Core Planning Strategy 2011
- 2.2. It is important that Merton has a Development Plan that is based on the most-up-to-date research for the borough, the most recent consultation feedback and is in conformity with the National Planning Policy Framework 2019 and the Mayor's London Plan 2021.
- 2.3. Without up-to-date planning policies, the NPPF and other material considerations can be used to guide local planning decisions, rather than adopted local council policy. This means that local issues may not be able to be adequately considered in decision-making, especially at planning appeals.

### **Summary of overall strategy**

- 2.4. The overall strategy and many of the amendments to it has arisen out of community consultation feedback, local Merton evidence and national / London-wide planning policies. The objectives have been reordered following consultation feedback.
- 2.5. Tackling the causes of climate change and its effects – Merton has adopted a Climate Change Strategy and Action Plan in 2020. The Local Plan has made tackling the causes of climate change and managing its effects one of the key strategic priorities and it is now embedded throughout the plan. This was strongly supported by responses at public consultation early in 2021 from all across the borough.
- 2.6. Recovery and resilience following Covid19 – the pandemic is changing the way we live our lives: where and how we want to work, shop, socialise, live and travel. It has also had a devastating effect on local businesses and jobs, and has rapidly accelerated changes to our high streets that had already started pre 2020. Together with other council strategies, projects and investments, the Local Plan is supportive of measures to embed recovery and improve the borough's resilience.
- 2.7. Places for people – this objective ensures Merton can meet its needs for new homes, including affordable homes, of the types and sizes for different households is a key part of Merton's Local Plan. This will be coupled by working with the voluntary sector, businesses, the NHS, Met Police, Transport for London and other partners to deliver social and community services, both by providing new infrastructure and repurposing under-used spaces. Other council strategies and projects – such as the emerging Housing Strategy and the Neighbourhood Fund for community infrastructure levy – contribute to this objective.
- 2.8. Good growth – the council wants to create the conditions for growth that helps with economic recovery and one of the Local Plan's objectives is ensuring it takes place in the most appropriate and sustainable locations. The council also wants to guide the benefits of this growth to meets the needs of Merton's communities and enhances the borough's unique character and appearance, thus achieving positive social, environmental and quality of life objectives as well.
- 2.9. Place plans and the 20-minute neighbourhood – promoting healthy streets through boosting local businesses and high streets, reducing pollution and supporting walking and cycling will all help to create a local neighbourhood where residents

can access the services they need within 20 minutes of their home. The new Local Plan will draw these considerations into planning decisions.

### **New planning policies**

- 2.10. The *Local Plan* contains new planning policies including
- policies to support delivering the boroughs' commitment to net zero carbon by 2050, including on smaller sites
  - detailed policies to guide planning applications for new homes, particularly affordable homes and associated infrastructure such as schools, crèches and other community facilities. This includes re-introducing the requirement to collect contributions towards affordable homes from smaller developments as well as large ones
  - policies to encourage walking and cycling, to manage parking and to consider the transport impacts of new development;
  - policies to protect open spaces, nature conservation areas and trees;
  - Policies to support our high streets, town centres and other business areas, including considering
  - policies to enshrine the importance of design considerations in new development, including high quality urban design, managing heritage assets and a specific approach to inform planning applications for tall buildings and basements;
  - policies to help mitigate flood risk, pollution and to improve the energy efficiency of new buildings, including seeking to retain and use additional funding from development to improve local community buildings.

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

- 2.11. The Local Plan allocates sites for new development. Every borough does this about every 10 years. It assists greatly with knowing where development might happen over the following 10 years, helping councils, their public sector partners, businesses and others recognise in advance where new homes and business opportunities might be, and plan for their investment as necessary.
- 2.12. In 2018 sites in the plan were proposed by a wide variety of organisations including private sector landowners, local residents, the council, the NHS, Transport for London and local community groups. Since then, officers have investigated each of these sites, undertaken the necessary research including three rounds of public consultation totalling nine months to help inform potential development scenarios.

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

- 2.13. The council has undertaken a very extensive review of the whole of the borough's area – regardless of ownership - to identify where specific land use designations should apply and to record these on a map, known as the Policies Map. Once adopted, the Policies Map 2021 will replace Merton's Policies Map 2014, illustrating where specific planning policies apply in the borough, for example where open space is protected in Merton, where are the boundaries of Merton's town centres, what parts of Merton are nature reserves and where industrial areas are.
- 2.14. These designations include:
- Town centre boundaries and industrial areas

- Metropolitan open land and other open spaces
  - Cycling and walking routes
  - Sites of Importance for Nature Conservation
  - Designations relating to the historic landscape including conservation area boundaries, archaeological priority zones and ancient monuments.
- 2.15. We would like to thank all the consultation responses we have received from individual residents, community groups and other Merton organisations on the policies map. Local people have a forensic and in-depth knowledge of their local area and it is thanks to them taking the time to engage with and improve the Local Plan, for example in mapping the specific boundaries of individual open spaces or defining borough wide cycling routes.

### **Delegated powers**

- 2.16. To ensure that the *Local Plan* and Policies Map can be delivered efficiently and effectively between pre-submission publication (July 2021), through the public examination to the receipt of the Inspector’s final report, officers are seeking delegated powers in consultation with Members to make changes needed to the document.
- 2.17. Guidance is clear that the council should consider the plans sound once it has decided to publish them in advance of submitting them to the Secretary of State. However, it is recognised that during the next five months, changes to the plans may be required, for example to update facts, improve clarity, usability and formatting, and to fix errors.
- 2.18. Government has introduced some significant changes to the planning system, including the expansion of what can be built without the need for planning permission (i.e. via permitted development rights or “prior approval”). More amendments to planning matters are proposed, including a Planning Bill and a new NPPF 2021. Government is also due to announce new building regulations, which may have a bearing on planning policies. Factual updates may be necessary to ensure that Merton’s *Local Plan* and Policies Map remain up to date during the six-month examination period.
- 2.19. It is recommended that the Council agree that authority be delegated to the Director for Environment and Regeneration, in consultation with the Cabinet Member for Environmental Sustainability and Regeneration to approve these alterations.

### **3 ALTERNATIVE OPTIONS**

- 3.1. The main alternative option is not to submit the plans to the Secretary of State. This is not recommended for the following reasons:
- 3.2. An up-to-date plan prepared using local evidence and guided by community consultation, is the most appropriate guide for local planning decisions. Merton’s Core Planning Strategy is 10 years old and some of the information it relies on is more than 20 years old (e.g. Census 2001). The older the plan, the easier it is to challenge whether or not the all of the policies it contains conform to the National Planning Policy Framework. The NPPF states that, in the case of out of date local planning policies, the NPPF can be used as a material consideration to guide

planning decisions in the borough instead of the local plan. This takes decision-making away from what is important locally.

- 3.3. The *Local Plan and Policies Map* makes the most effective use of up-to-date available evidence. Evidence that is more than 3 years old is considered out of date and is more easily subject to challenge by those objecting to the plan, either at examination or for planning applications.
- 3.4. Merton had prepared a wealth of evidence to support Merton's Local Plan, including a green infrastructure study 2020, a playing pitch strategy 2019, an indoor sports facility study 2020 a local plan viability study 2020, a housing delivery study 2021 and a strategic flood risk assessment 2020. <https://www.merton.gov.uk/planning-and-buildings/planning/local-plan-research> In total, preparation of evidence to support these plans, including community consultation, cost close to £750,000.
- 3.5. Not progressing with the plan at this time may mean revising this evidence, incurring significant additional costs.
- 3.6. In considering this issue, officers have also considered whether or not to pause work on Merton's emerging Local Plan in the light of government's proposed changes to the planning system and plan-making; officers are not currently recommending this approach. The reasoning for this is set out in more detail in Section 10 "risk ,management and health and safety implications" of this report.
- 3.7. Another alternative option is not to recommend delegating decisions to the Director in consultation with Members during the examination process and instead to require amendments to be considered via the councillor committee process. This approach is not recommended due to the significant amount of time it would add to the examination process, the committee cycle taking at least six weeks.
- 3.8. Once the plan has been submitted to the Secretary of State, the Planning Inspector manages the timetable for at least the next 12 weeks before, during and after the examination hearings. To ensure that Merton can respond to the Inspector's requests in an efficient and timely manner, it is recommended that decisions are delegated to the Director in consultation with Members. The Planning Inspector's fees are approximately £1,000 per day for each day of the hearing so this approach will also help to save resources.
- 3.9. There are also alternative options around amending or removing one or more of the policies, sites or land designations from within the plan.

## **4 CONSULTATION UNDERTAKEN OR PROPOSED**

### **Consultation undertaken**

- 4.1. Plan preparation started in 2017. Community feedback is vital to preparing a local plan and three different stages of public consultation have been carried out, totalling over nine months of engagement:
- 4.2. **A "call for sites" Stage 1 public consultation** took place between October 2017 and January 2018. This was the first stage, asking general questions about what sites or what policies the Local Plan might contain. Over 1,000 responses were received; far more than previous Local Plan consultations.
- 4.3. **A Stage 2 draft Local Plan public consultation** took place between October 2018 and January 2019. It contained draft policies, potential sites for allocation and land designations (e.g. town centre boundaries) Approximately 240 respondents raised over 1,500 separate points. The feedback we received was reported to Merton's Borough Plan Advisory Committee in March 2019 (see link to report: <https://democracy.merton.gov.uk/documents/s26977/04%20BPAC%20Local%20PI>)



[an%20and%20FW%20masterplan%20summary%20of%20consultation%20responses%20Mar2019.pdf](#)

- 4.4. All responses received to each stage of the consultation are also available online (with personal details removed) [www.merton.gov.uk/newlocalplan](http://www.merton.gov.uk/newlocalplan)
- 4.5. A **Stage 2a draft Local Plan public consultation** took place between 13<sup>th</sup> November 2020 to 1<sup>st</sup> February 2021. As set out in the report to the Borough Plan Advisory Committee in October 2020, Merton's Local Plan stage2a public consultation was conducted entirely online due to Covid19 restrictions. In line with the Coronavirus Planning Regulations, Merton's Statement of Community Involvement was amended to reflect this.
- 4.6. Although the consultation finished on 1<sup>st</sup> February 2021, the council continued to accept responses after the consultation date in recognition of the difficult situation people are going through with Covid19 and that the sustainability appraisal document was not visible without password protection online until 4<sup>th</sup> January 2021 due to an IT issue.
- 4.7. All of the consultation responses have been considered and the plan has been amended accordingly at each stage. The plan is accompanied by a Statement of Consultation, setting out what people and organisations told us about the plans, and what actions have taken place as a result of their comments.
- 4.8. During the course of the plan's preparation, officers have proactively engaged with community groups, other infrastructure providers, businesses and their representatives, landowners and developers, and councillors representing most of the borough's wards.
- 4.9. If the plan is resolved by councillors for submission to the Secretary of State, then it will be published for six weeks between July 2021 and September 2021 for local communities, businesses, landowners and any other interested parties to comment on the final plan. These comments, together with the final plan and associated supporting documents, would be submitted to the Secretary of State and be examined in a public hearing by an independent planning inspector.

## **5 TIMETABLE**

### **Next steps**

- 5.1. In July 2019 Merton's Cabinet resolved to amend the timetable for producing a Local Plan (known as Merton's Local Development Scheme)
- 5.2. As set out in Merton's Local Development Scheme 2019-22 the proposed timetable for the production of the Local Plan is:
  - 1<sup>st</sup> February 2021 – Stage 2a consultation finishes, consider comments
  - Spring 2021 – pre-submission publication
  - Summer (Quarter 3) 2021 – submission to the Secretary of State for independent examination
  - Winter (Quarter 4) 2021 – adoption
- 5.3. This report proposes a minor amendment to Merton's Local Development Scheme to have the following timetable:
  - 1st February 2021 – Stage 2a consultation finishes, consider comments

- *Summer 2021 (to start between July and September for six weeks) – pre-submission publication*
  - *Autumn (Quarter 3) 2021 – submission to the Secretary of State for independent examination*
  - *Winter (Quarter 4) 2021-22 – adoption (this date will be governed by the Planning Inspectorate and the length of the examination)*
- 5.4. The minor amendment to the timetable takes account committee cycles.

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

- 6.1. The financial resources for preparing the Local Plan have been from within existing resources, supplemented by successful bids to external resources such as the Mayor of London's Homebuilding Capacity Fund.

## **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. The Town and Country Planning (Local Development)(England) Regulations 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012 have both informed the statutory procedure to be followed before a Local Plan is submitted to the Secretary of State for independent examination. The Local Plan has been prepared in conformity with both sets of regulations as and when they applied.
- 7.2. Failure to adhere to the statutory procedure or a lack of robust evidence to support the plan may result in legal proceedings to challenge the validity of the plan.

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

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

## **9 CRIME AND DISORDER IMPLICATIONS**

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

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

- 10.1. There are several risks to the Local Plan project and a risk log is kept and regularly updated to help manage risks.
- 10.2. **Decision-making on related projects** – in June and July 2021 the council is considering a number of strategies and projects that help to deliver the policies within the Local Plan. These include supplementary planning documents (e.g. the Borough Character Study, Small sites toolkit, air quality guidance) or decisions that influence placemaking, resilience and the creation of new homes (e.g. Clarion Stock Transfer Agreement decision; Merton’s Housing Strategy; Merton’s Neighbourhood Fund). Decisions on each of these projects will influence the success and speed at which the Local Plan can be delivered.
- 10.3. **Risk on up to date Local Plan** - as set out in Section 3 of this report, there is a risk that planning decisions will be challenged where decision-makers are using a development plan that is more than 10 years old as the policy basis for planning decisions. There is also a risk that decision-makers in Merton will be expected to use the NPPF to guide detailed local planning decisions.
- 10.4. There is also a risk identified in not having an up-to-date Local Plan on the ability of the council to successfully bid for funding for new local infrastructure. If the new infrastructure is to be delivered through the planning system, the council’s ability to successfully deliver this may be called into question if the plan it is using to determine planning applications is more than 10 years old.
- 10.5. On 19th January 2021, the Housing Minister made a written statement to the House of Commons to set out the importance of maintaining progress to get up to date local plans in place, reiterating government’s deadline of December 2023 for this. It stated that is critical that work should continue to advance Local Plans through to adoption by December 2023 to help ensure that the economy can rebound strongly from the COVID-19 pandemic.
- 10.6. **Risk (and opportunity) of new planning system** – government has consulted on a Planning White Paper, new draft National Planning Policy Framework and made it clear that they intend to introduce a new planning system during this parliament. Some of this requires primary legislation and may take some time to establish; the Queens Speech on 11<sup>th</sup> May 2021 announced a forthcoming Planning Bill.
- 10.7. Officers have considered whether to advise councillors to wait until the new planning system is established or continue to develop Merton’s Local Plan. At the time of writing (June 2021) officers consider that work should continue on the pre-submission local plan. Considerations on this have been the considerable time and effort Merton’s communities have taken in helping to shape the draft Local Plan; government’s deadline of December 2023 for all authorities to have an up to date local plan in place and the dates of some of Merton’s current statutory planning documents and the resources used to support the draft local plan.
- 11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**
- Appendix 1: Merton’s Local Plan and Policies Map - submission version
  - Appendix 2: Merton’s sustainability appraisal of Merton’s Local Plan and policies map

To save paper, these documents are available online for everyone to view and will be printed for councillors on request by contacting the FutureMerton team on 020 8545 3837 or [future.merton@merton.gov.uk](mailto:future.merton@merton.gov.uk)

## **12 BACKGROUND PAPERS**

- 12.1. Written Ministerial Statement January 2021 <https://questions-statements.parliament.uk/written-statements/detail/2021-01-19/hcws720>
- 12.2. Government letters to Chief Planning Officers  
<https://www.gov.uk/guidance/planning-guidance-letters-to-chief-planning-officers#section>
- 12.3. NPPF 2019 and 2021 draft  
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>
- 12.4. MHCLG Planning for the future 2020  
<https://www.gov.uk/government/publications/planning-for-the-future>
- 12.5. Legislation relating to the preparation of Local Plans

## **Committee: Cabinet**

**Date: 22<sup>nd</sup> June 2021**

Wards: all

### **Subject: Adoption of Merton's borough character study and small sites toolkit as two supplementary planning documents to Merton's Local Plan**

Lead officer: Director for Environment and Regeneration, Chris Lee

Lead member: Cabinet Member for Housing, Regeneration and the Climate Emergency, Cllr Martin Whelton

Contact officer: Deputy FutureMerton Manager, Tara Butler

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#### **Recommendations:**

- A. That Cabinet adopt Merton's Borough Character Study and Small Sites Toolkit as two supplementary planning documents to Merton's Local Plan.
- 

## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. In January 2021 Merton's Cabinet approved six weeks of public consultation on Merton's draft Borough Character Study and draft Small Sites Toolkit as part of creating two new supplementary planning documents (SPDs) to Merton's Local Plan.
- 1.2. Following consultation feedback both draft SPDs have been amended and Cabinet are recommended to adopt both as supplementary planning documents to Merton's Local Plan

## **2 DETAILS**

### **Borough character study**

- 2.1. The Borough Character Study was started in March 2020. Using funding from the GLA's Homebuilding Capacity Fund, Future Merton commissioned architects Allies and Morrison Urban Practitioners to undertake a borough wide Character Study.
- 2.2. Once adopted, Merton's Borough Character Study will help support the Local Plan and will assist with assessing future planning applications. The role of the study is to highlight Merton's unique socio-economic, environmental and physical character and give design guidance to future development to enhance the borough's existing built environment character. It helps decision makers on planning applications to consider whether or not a proposed development would enhance, compliment or detract from the character of its surrounding area.
- 2.3. The approach uses physical features and socio-economic and environmental characteristics to consider the borough's character as six main neighbourhoods (Colliers Wood, Mitcham, Morden, Raynes Park, South Wimbledon and Wimbledon) with smaller areas of distinct character within them. The Borough Character Study sets out analysis on the

character of each of the smaller areas, with guidance as to how new developments could either repair, re-examine or re-imagine the area and highlights potential growth opportunities. It is similar to the Borough Character Study that was carried out for about two thirds of Merton a few years ago.

- 2.4. Please note that there are some minor amendments to be added before it is adopted:
- (i) Neighbourhood areas plan to be added to appendix plans.
  - (ii) Merton Park diagram (p. 70) to be amended to reflect updated boundaries.

### Small Sites Toolkit

- 2.5. Merton started preparing the Small Sites Toolkit in November 2019 using funding from the GLA's Homebuilding Capacity Fund.
- 2.6. The Small Sites Toolkit provides design guidance for development sites on sites up to 0.25 hectares.



- 2.7. Merton is characterised by small sites due to fragmented land ownership: lots of people own small amounts of land, such as houses with underused land, brownfield sites and undeveloped rooftops. High land values and property prices means assembling a large site is expensive in Merton. Small sites have the potential to provide steady and incremental growth within the borough.
- 2.8. For the past 15 years around 90% of the planning applications Merton has received for new homes have been on small sites. Small sites are crucial to providing much-needed homes incrementally but can be challenging to design in established urban areas like Merton. Merton's small sites toolkit sets out architectural and urban design principles specifically to address the opportunities and challenges of delivering small sites to improve the design quality of small developments across the whole borough.
- 2.9. Other boroughs are undertaking similar exercises: Croydon adopted their 'Suburban Design Guide' that focussed on small site development in April 2019, whilst consultation on Lewisham's Small Sites SPD closed on 7 June

2021. Neighbouring and nearby boroughs, such as Kingston are currently developing Small Sites guidance also.

2.10. The Small Sites Toolkit consists of three tools to encourage applicants to have a design led approach. They are:

**1. Design guidance:** structured on four main design principles.

- Made in Merton
- Putting People First
- High Quality Design
- Economical and Sustainable

**2. Design Case Studies:** a catalogue of successful and exemplar projects on small sites in similar contexts to Merton, that respond well to specific small site obstructions (overlooking, backland sites etc.)

**3. Design and Access Statement Template:** A template to guide applicants to produce (and think about) projects more from a design perspective. The template asks a series of questions for applicants to answer and guides applications to provide visual justification for design decisions.

2.11. Please note that there are some hyperlinks in the document (highlighted red) that are to be updated before final adoption.

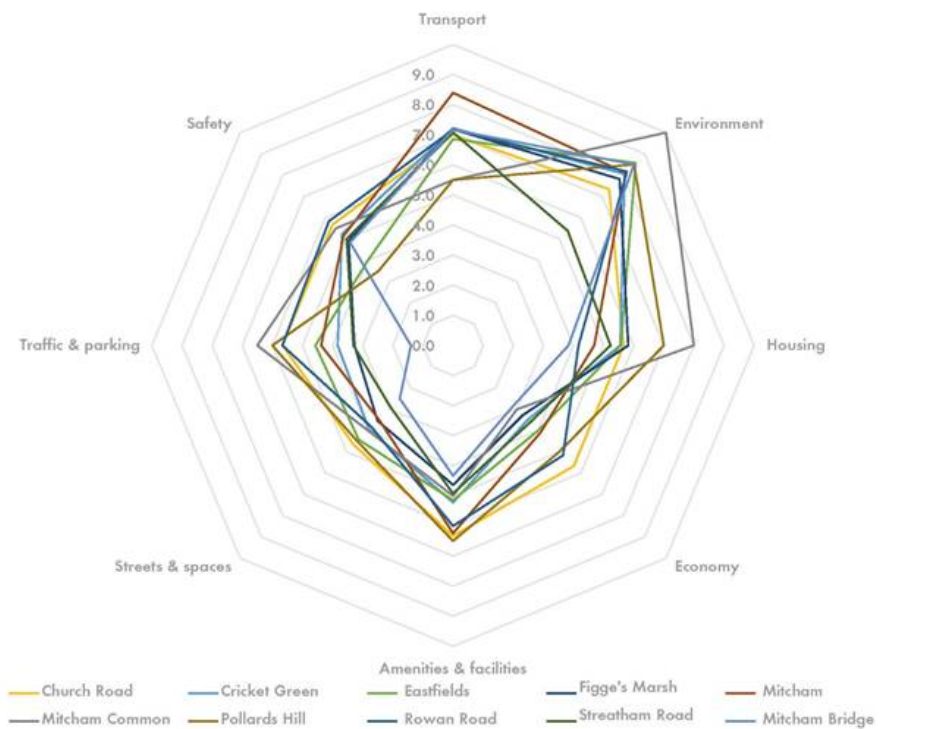
2.12. **Public consultation on the draft Borough Character Study and Small Sites toolkit SPDs**

2.13. In January 2021 Cabinet approved six weeks of public consultation on both the draft Borough Character Study and the draft Small Sites toolkit. Prior to this, officers had conducted extensive public engagement which informed and shaped the draft documents

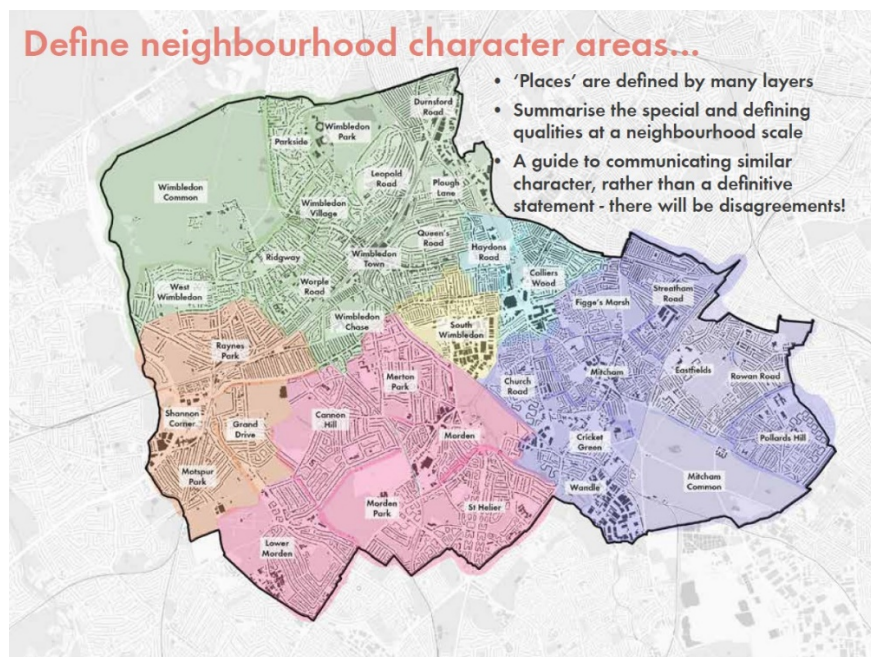
- **Summer 2020:** Feedback from the public engagement held in summer 2020 for the Housing Delivery Study (where over 2,000 residents responded) highlighted that 61% thought that homes should be built on underused small sites and that the top 3 priorities for future housing delivery are affordability (61%), quality of design (41%) and building sustainably (38%). This information was used to inform the draft Small Sites Toolkit
- For the draft Borough Character Study,
  - **July 2020** a community network survey in July 2020 that engaged with a representative selection of community organisations that provide a space for local groups. This survey asked respondents to describe the role, use and reach that their venues had in their neighbourhoods.
  - **September-October 2020** - A 6 week online survey took place that asked residents to comment on the perception of

neighbourhood boundary lines. In addition, the survey also asked residents to rate their neighbourhoods on 8 topics: transport, environment, housing, economy, streets & spaces, traffic & parking and safety. This survey received 415 responses. The next page shows an example of how respondents rated Mitcham.

- **November 2020** - A virtual workshop with residents' groups and individual residents on 17<sup>th</sup> November 2020. Residents and community group representatives were invited to participate by sending an invitation to community groups and to people who wanted to. The workshop was used to discuss boundaries and neighbourhood character.





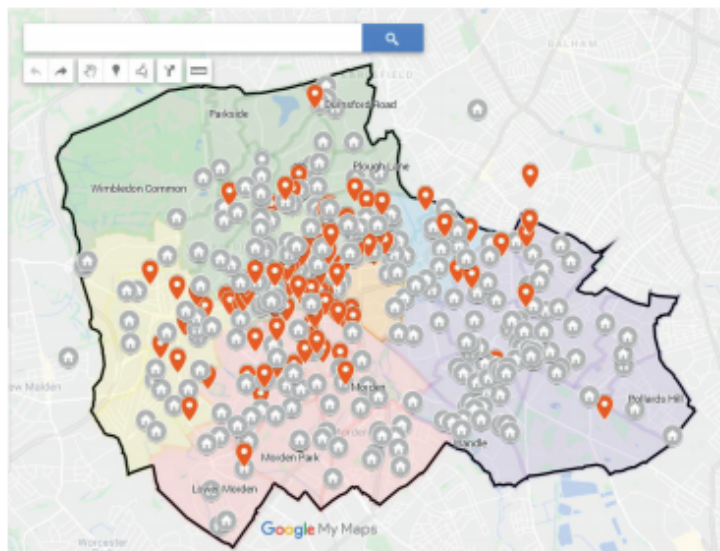


**February – March 2021 – statutory public consultation on draft SPDs**

- 2.14. Following Cabinet approval in January 2021, officers carried out six weeks of public consultation from 9<sup>th</sup> February to 23<sup>rd</sup> March 2021 on the draft Borough Character Study and on the draft Small Sites Toolkit in line with planning legislation for the creation of supplementary planning documents.
- 2.15. Due to Covid19 restrictions, engagement was carried out digitally on both documents. This included an online survey, information on the council's website, an online presentation at two community forums and a presentation to the Design Review Panel.
- 2.16. Formal written consultation emails were sent to local residents, businesses, residential groups and organisations, environmental stakeholders (e.g. Environment Agency) and other interested parties.
- 2.17. The consultation was featured in the My Merton e-newsletter which goes to circa 7,000 addresses. Emails were also sent to circa 700 stakeholders on Merton's Local Plan consultation database and circa 500 stakeholders on Merton Council's Consultation Database.
- 2.18. Future Merton presented the Borough Character Study to the Mitcham and Morden Community Forums on 25 March and 26 March 2021.
- 2.19. The consultation was also publicised via social media on the council's Facebook and Twitter accounts.
- 2.20. Over 100 responses were received to the formal consultation on the draft Borough Character Study SPD. A few more responses were received via the SurveyMonkey form (54) as opposed to email (51). The questionnaire on Survey Monkey asked for the participant's views on the sections of the SPD and some demographic characteristics. The feedback for each of the chapters is detailed in Appendix C to this report

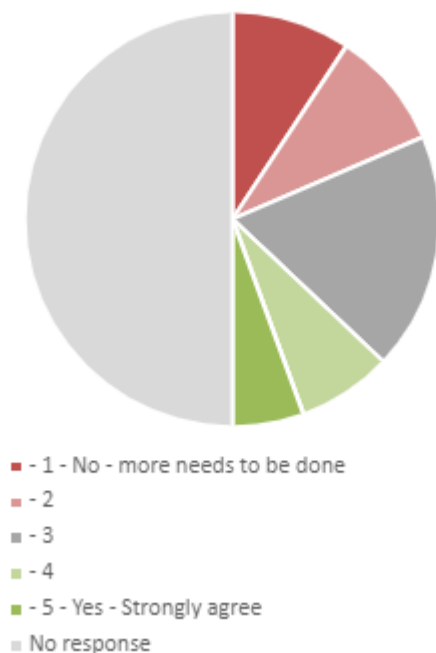
- 2.21. The map below (also in appendix C to this report) illustrates the geographical spread of responses to the online survey for the Borough Character Study. Three quarters of respondents were happy with the way the boundaries had been drawn, the red dots illustrate the clusters of respondents who wished the boundaries to be drawn differently. Their feedback has been used to amend the boundaries within the Character Study.

### Neighbourhoods review



- 2.22. The graphs in Appendix C shows the scores that respondents gave for each of their neighbourhoods for Transport, Environment, Housing, Economy, Amenities & Facilities, Streets & Spaces, Traffic & Parking and Safety. Respondents were also asked what they thought was special about the character of their neighbourhood and what needed improving. The example graph below illustrates this for the South Wimbledon neighbourhood.

South Wimbledon - Do you agree with the contents of this chapter?



2.23. For Merton’s Small Sites Toolkit, the main users of this supplementary planning document will be homeowners, SME builders to raise the quality of small sites development in Merton. Therefore, as part of the consultation on 12<sup>th</sup> March a workshop was held with twelve built environment professionals that consisted of developers architects, landscape designers and environmental consultants who specialised in small sites. Feedback included strengthening the draft toolkit on matters relating to climate change, carbon saving and greening sites and feedback was used to improve the draft SPD.

2.24. On 24<sup>th</sup> March Merton’s Design Review Panel reviewed both the draft Small Sites Toolkit and the draft Borough Character Study.

(i) Borough Character Study

The panel was generally positive about this study and recognised it’s potential as a long-term document to raise the quality of design. The document was complemented for being well illustrated, however it was suggested that a summarising shortened version would be helpful. The consultant is currently developing an interactive online version that summarises the report.

(ii) Small Sites Toolkit

The Design Review Panel were particularly positive about the Small Sites Toolkit, that it was well put together and could be an important tool in raising design standards in Merton on small sites.

The notes of the Design Review Panel meeting are found on the council’s website here: <https://www.merton.gov.uk/assets/Documents/Design-Review->

- 2.25. All consultation responses were considered in revising the draft Borough Character Study and Small Sites Toolkit for adoption.

### **3 ALTERNATIVE OPTIONS**

- 3.1. The alternative option for the Borough Character Study would have been to complete the Borough Character Study started in 2011. The 2011 Borough Character Study divided the borough into 36 neighbourhoods. Unfortunately, only about two thirds of the neighbourhoods were ever completed due to resource pressures and some of the information on the completed neighbourhoods is now out of date. In 2018 the council successfully bid for GLA Homebuilding Capacity fund to carry out whole borough character study, using up-to-date information, feedback gathered from current residents, based on up-to-date planning policies and guidance. Information from the 2011 work was used to inform the 2021 Borough Character Study.
- 3.2. There are no reasonable alternative options for the small sites guidance other than not to carry out the work. This would mean a lack of planning guidance on small sites, which typify development in Merton. The relevant GLA Homebuilding Capacity Funding would have to be returned to the GLA if the project was not delivered.

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

- 4.1. As set out in the body of this report.

### **5 TIMETABLE**

- 5.1. As set out in the body of this report.

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

- 6.1. Funding for the consultancy for both of these projects comes from the GLA's Homebuilding Capacity Fund.
- 6.2. Funding for some elements of the public consultation will come from existing resources.

### **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. This report is based on the process for Supplementary Planning Documents is set out in Part 5 of the Town and Country Planning (Local Planning) (England) Regulations 2012 and augmented by the [The Town and Country Planning \(Local Planning\) \(England\) \(Coronavirus\) \(Amendment\) Regulations 2020 \(legislation.gov.uk\)](#) and the [Town and Country Planning \(Local Planning, Development Management Procedure, Listed Buildings etc.\) \(England\) \(Coronavirus\) \(Amendment\) Regulations 2020 \(legislation.gov.uk\)](#)
- 7.2. The Borough Character study SPD and Small Sites Toolkit SPD are being prepared as two supplementary planning documents to Merton's Local Plan, including policy CS14 – Design, policies SPD1-D7 and the emerging local plan policies D5.1 to D5.5 and D5.8.

- 8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**
- 8.1. None for the purposes of this report.
- 9 CRIME AND DISORDER IMPLICATIONS**
- 9.1. None for the purposes of this report.
- 10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**
- 10.1. None for the purposes of this report.
- 11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**
- Appendix 1 – Borough Character Study SPD for adoption
  - Appendix 2 – Small Sites Toolkit SPD for adoption
  - Appendix 3 – consultation report on draft Borough character study
  - Appendix 4 – consultation report on the draft Small Sites Toolkit
- 12 BACKGROUND PAPERS**
- 12.1. NPPF 2019 and draft 2021
- 12.2. Planning White Paper 2020
- 12.3. National Planning Policy Guidance
- 12.4. London Plan 2021
- 12.5. Merton’s Core Planning Strategy 2011; Merton’s sites and policies plan 2014; Merton’s emerging Local Plan 2021

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## **Committee: Cabinet**

**Date: June 2021**

**Wards:** all.

**Subject:** Adoption of Merton's draft Air Quality Supplementary Planning Document (SPD).

**Lead officer:** Director for Environment and Regeneration, Chris Lee

**Lead member:** Councillor Martin Whelton, Cabinet Member for Housing, Regeneration, and the Climate Emergency

**Contact officer(s):** Ann Maria Clarke: Strategic Policy Planner, Future Merton  
Jason Andrews: Environmental Health Manager (Pollution team)

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### **Recommendations:**

That Cabinet adopts the Air Quality guidance as a supplementary planning document to Merton's Local Plan.

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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. This report recommends the adoption of the Air Quality Supplementary Planning Document (SPD).
- 1.2. In October 2020, Borough Plan Advisory Panel (BPAC) and Cabinet Resolved supported that a public consultation would take place on the draft Air Quality SPD.
- 1.3. During November 2020 – February 2021, a 11-week public consultation was held on the draft supplementary planning document, at the same time of the Local Plan consultation. Following feedback from the consultation lead to some amendments to the SPD. These are:
  - Moving text on Air Quality Focus Areas (AQFAs) Low Emission Neighbourhoods (LENs) and Clean Air Zones (CAZs) from chapter 9: Transport to chapter 1: Introduction
  - Added additional text on the link between air pollution and increased mortality from Covid -19.
  - Added supporting text on Smoke Control Areas in chapter 6: Development and building design principles.
  - Added further guidance on the role of trees in section 7: Air quality and green infrastructure.
  - Changes to chapter 9: Transport following comments from Transport for London (TfL) and Merton's Transport Planner.
- 1.4. Should Cabinet approve the adoption of Air Quality SPD, officers will arrange graphic design of the final document.

## **2 DETAILS**

- 2.1. Our environment can impact significantly on the health and wellbeing of the population and of all the environmental factors, air pollution has the greatest impact. Current evidence shows that air pollution is associated with cardiovascular disease, lung cancer, respiratory disease, asthma and stroke.

- 2.2. The planning system has a key role in protecting people from unacceptable risks to their health and wellbeing in providing an adequate protection to the local environment.
- 2.3. The purpose of this SPD is to help developers, Planning Application Committee, development agents, residents and other interested parties to identify air quality issues to be addressed by way of development proposals. The SPD outlines:
- Planning policy framework.
  - Explains why tackling poor air quality is important.
  - Emphasise the importance of air quality as a material planning consideration.
  - The role of green infrastructure and design in improving air quality.
  - Provides a step-by-step guidance on the process of Air Quality Assessments, how to carry them out and when development proposal will need to submit AQA (Air Quality Assessments).
  - The Council's approach to the use of planning conditions and S106 agreements in respect of air quality.
- 2.4. During the consultation, the Council used different methods of public engagement to maximise public involvement and raise public awareness of the consultation.
- A survey was conducted using Survey Monkey, the reason being it is a user friendly, recognisable and trusted portal. As well as Survey Monkey other consultation methods used for the consultation were:
    - Dedicated webpage with copies of the guidance and supporting documents.
    - Consultation details tweeted on Merton's Twitter account and information on the Council's Facebook page by Merton's Communication team
    - Consultation information was placed on the Council's website home page.
    - Formal written consultation letters and emails sent to residents, businesses, residential groups/organisations, environmental stakeholders e.g. Environment Agency, Thames Water and other interested parties.
- 2.5. At the close of the consultation 34 responses were received appendix A summarises in more details. The final document will be sent to a publisher/designer and will included pictures and other artwork.

### **3 ALTERNATIVE OPTIONS**

- 3.1. The alternative option is to not adopt the SPD, this option is not recommended.
- 3.2. The SPD builds upon and provide more detailed guidance about policies in Merton's emerging Local Plan. The SPD will be a material consideration in determining planning applications. More importantly, the Council made a commitment to produce the SPD in Merton's Air Quality Action Plan.



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

- 4.1. A summary of the comments received, and the actions undertaken are contained within Appendix A consultation statements for SPD final documents are available online via

#### **5 TIMETABLE**

- 5.1. N/A

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

- 6.1. The costs of preparing the SPD are covered in existing budgets. There are no further financial implications arising from this report.

#### **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. This report is based on the process for Supplementary Planning Documents is set out in Part 5 of the Town and Country Planning (Local Planning) (England) Regulations 2012 and augmented by Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020 (legislation.gov.uk) and the Town and Country Planning (Local Planning, Development Management Procedure, Listed Buildings etc.) (England) (Coronavirus) (Amendment) Regulations 2020.

- 7.2. The Air Quality SPD is being prepared a supplementary planning document to Merton's Local Plan:

- Emerging Local Plan Policy P.8.9 Improving air quality and minimising pollution -Air Quality/ Noise and vibration/ Light pollution/ Odours and fume control/ Land contamination/ Managing pollution from construction and demolition.
- Site and Policies Plan DMEP4 Pollutants.
- Core Planning Strategy policy CS15 Climate Change.

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

- 8.1. No implications. The SPD has been subject to a Strategic Environment Assessment (SEA) screening. The Council is statutorily required to consult with three government environmental advisor bodies namely the Environment Agency, Historic England and Natural England. The Council received comments from Natural England and the Environment Agency both, supported the findings of the SEA screening.

#### **9 CRIME AND DISORDER IMPLICATIONS**

- 9.1. No implications. The Metropolitan Police Service (MPS) were consulted. The Council did not receive any comments from the MPS.

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

- 10.1. No implications.

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

- Appendix 1 – Air Quality SPD for adoption
- Appendix 2 – Consultation report on the draft Air Quality SPD

- NPPF (National Planning Policy Framework) 2019 and draft 2021
- Planning White Paper 2020
- National Planning Policy Guidance
- London Plan 2021
- Merton's Core Planning Strategy 2011.
- Merton's sites and policies plan 2014.
- Merton's emerging Local Plan 2021

# London Borough of Merton

## Draft Air Quality Supplementary Planning Document (SPD) April 2021

Text in **red** are changes to the SPD following the public consultation and ~~strikethrough~~ text shows removal of text.

## Abbreviations

<b>AQA</b>	Air Quality Assessment
<b>AQAP</b>	Air Quality Action Plan
<b>AQDMP</b>	Air Quality and Dust Management Plan
<b>AQAF</b>	Air Quality Action Fund
<b>AQFA</b>	Air Quality Focus Area
<b>AQDRA</b>	Air Quality and Dust Risk Assessment
<b>AQMA</b>	Air Quality Management Area
<b>BEB</b>	Buildings Emission Benchmark
<b>CAZ</b>	Clean Air Zone
<b>CEMP</b>	Construction Environmental Management Plan
<b>CCHP</b>	Combined cooling, heat and power
<b>CHP</b>	Combined heat and power.
<b>CIL</b>	Community Infrastructure Levy
<b>CLP</b>	Construction Logistics Plan
<b>EPUK</b>	Environmental Protection UK (United Kingdom)
<b>GLA</b>	Greater London Authority
<b>IAQM</b>	Institute of Air Quality Management
<b>LAEI</b>	London Atmospheric Emissions Inventory
<b>LAQM</b>	Local Air Quality Management
<b>LEN</b>	Low Emission Neighbourhood
<b>LLAQM</b>	London Local Air Quality Management
<b>NO2</b>	Nitrogen dioxide
<b>NOx</b>	Nitrogen oxides
<b>NPPF</b>	National Planning Policy Framework
<b>NPPG</b>	National Planning Practice Guidance
<b>NRMM</b>	Non-Road Mobile Machinery
<b>PM</b>	Particulate matter
<b>PM10</b>	Particulate matter less than 10 microns in diameter
<b>PM2.5</b>	Particulate matter less than 2.5 micron in diameter
<b>SPD</b>	Supplementary Planning Document
<b>SPG</b>	Supplementary Planning Guidance
<b>TEB</b>	Transport Emissions Benchmark
<b>ULEZ</b>	Ultra Low Emission Zone

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Appendix A: glossary

Appendix B: London Atmosphere emission inventory for Merton

Appendix C: Location of Air Quality Focus Areas

Appendix D: EPUK/IAQM Air Quality Assessment Screening Criteria

Appendix E: Model Conditions

# 1. Introduction

- 1.1 This Supplementary Planning Document (SPD) has been produced by the London Borough of Merton to address the health issue of air quality and to provide a consistent approach for development proposals in the borough. This SPD is a material planning consideration when determining development proposals submitted for planning permission. **The SPD does not introduce new Local Plan policies but gives further detail and guidance to Merton's Local Plan policies.**
- 1.2 The purpose of this SPD is to help developers, decision makers, agents, residents and other interested parties to identify issues to be addressed in any development proposal application in which air quality will be important. The SPD relationship with other planning policies (national, regional and local) is illustrated in figure 1 below.
- 1.3 It should be read in conjunction with and within the context of the relevant policies in Merton's Local Plan, other development plan documents and other relevant SPD's and Merton's air quality documents and plans, where applicable.
- 1.4 This SPD covers a range of topics (such as design, transport, sustainability and planning obligations) and all sections should be read in conjunction with and within the context of, other planning documents.

Figure 1: The role of this SPD and its relationship to national, regional and local policy and guidance.



- 1.5 The term 'air pollution' refers to both those air pollutants such as odour and dust can influence human health and the natural environment which can influence the quality of life for those living or working near source.
- 1.6 This SPD applies to developments that may have an impact on air quality:
- All major development
  - Any development (including conversions) that introduces new exposure into areas of poor air quality; and
  - Smaller development that may emit odours, dust, smoke, and other fumes, for example, commercial kitchens and construction of basement developments.
- 1.7 Major Development includes any one or more of the following:
- a) Working of minerals or the use of land for mineral-working deposits.
  - b) Waste development.
  - c) The provision of dwelling houses where:
    - i. the number of dwelling houses to be provided is 10 or more; or
    - ii. the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
  - d) The provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more: or
  - e) Development carried out on a site having an area of 1 hectare or more.
- 1.8 The whole borough is an Air Quality Management Area (AQMA), since 2003. Boroughs are required to produce Air Quality Action Plans (AQAP) setting out the actions they are taking to improve local air quality; planning decisions should be in accordance with these action plans and developers should take any local requirements in Air Quality Action Plans into account. Merton's AQAP and Annual Status report can be viewed via the council's website [here](#).
- 1.9 It is strongly recommended that applicants always check whether there are any additional requirements regarding air quality and planning in a specific area within Merton such as:
- Air Quality Focus Areas (AQFAs),
  - Merton's Air Quality Focus Area (AQFA) can be found in Appendix C.
  - Clean Air Zones (CAZs)
  - Low Emission Neighbourhoods (LENs) or similar are all considered to be areas of special importance for air quality, where additional requirements apply.
  - **Smoke Control Area (SCA).**

### **Air quality designation areas in Merton**

#### *Air Quality Focus Areas (AQFAs)*

- 1.10 AQFAs are locations that not only exceed the EU annual mean limit value for nitrogen dioxide (NO<sub>2</sub>) but are also locations with high human exposure. AQFAs are not the only areas with poor air quality but they have been defined to identify areas where currently planned national, regional and local measures to reduce air pollution may not fully resolve poor air quality issues. AQFAs are distinct from Air Quality Management Areas (AQMA). AQMAs are declared by the London boroughs in response to modelled or measured existing exceedances of legal air quality limits.

1.11 AQFAs are defined based on GLA modelling forecasts that incorporate actions taken by the GLA and others as well as broader changes in emissions sources and are not intended to supplant the role of AQMAs in planning decisions. In practice developers will need to consider both designations where they overlap.

1.12 There is currently 4 AQFAs in Merton (see Appendix C). The list of Air Quality Focus Areas is updated from time to time as the London Atmospheric Inventory is reviewed and the latest list can be found via the in the [London Datastore](#) should always be checked.

1.13 Boroughs are required to produce Air Quality Action Plans setting out the actions they are taking to improve local air quality; planning decisions should be in accordance with these action plans and developers should take any local requirements in Air Quality Action Plans into account.

#### *Low Emission Neighbourhoods (LENs) and Clean Air Zones (CAZs)*

1.14 LENs and CAZ have been designated in locations where there are unacceptable air pollution and for AQFA and LENs high exposure, which needs to be reduced as quickly as possible to protect human health. Introducing new emission sources into these areas, or areas bordering and having an adverse effect on them.

1.15 All developments proposed in or next to these areas must play their part in ensuring that air quality in these areas does not worsen and must contribute towards an overall improvement in air quality. Therefore, development within these areas need to robustly demonstrate that the impact of both direct and indirect emissions can be fully mitigated. Combustion plants should be avoided in these areas. Buildings are expected to use electric space and water heating, preferably generated using renewable energy sources, such as solar power and heat pumps.

1.16 ~~All~~ We will seek for development in these areas to be development in these areas should be car-free, apart from dedicated spaces for disabled parking and use by a car club as well as appropriate servicing arrangements. No parking permit shall be issued in neighbouring CPZs (Controlled Parking Zone). All development in AQFAs, CAZs and LENs should be Air Quality Positive. Where this is not possible, additional contributions to the AQAF will be required.

1.17 In addition, development for use by groups of the population that are particularly sensitive to the health effects of air pollution should not be located within these areas to reduce the number of vulnerable people exposed to poor air quality and improve public health. These include, but are not limited to:

- Schools.
- Day care and pre-school facilities.
- GP surgeries.
- nursing homes.
- Care homes and sheltered accommodation.
- National Health Service facilities including hospitals, playgrounds and community centres.

1.18 Residential development in these areas will need to show that proven mitigation measures will be implemented to reduce the exposure of future residents to acceptable levels. If there is uncertainty about future air quality, mitigation measures must enable



annual mean concentrations to be reduced to at least 75% of the air quality objective or lower. Proposals should not incorporate STOR plant in these areas.

## Air quality in Merton

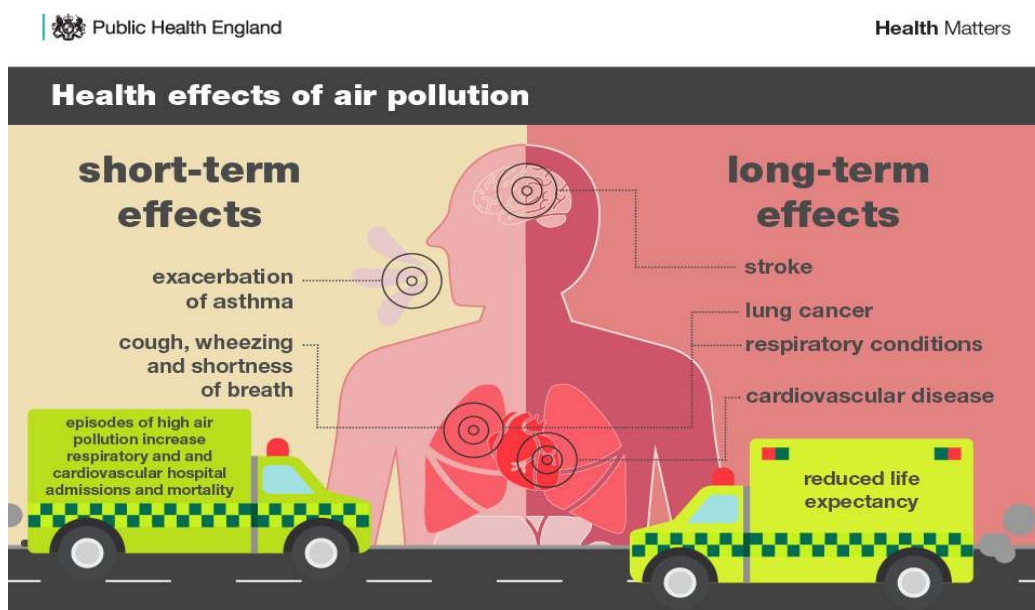
1.19 Pollution in Merton comes from a variety of sources. This includes pollution from sources outside of the borough and in the case of particulate matter; a sizeable proportion of this comes from outside London and beyond the UK (United Kingdom). Of the pollution that originates in the borough the main sources of NO<sub>2</sub> are transport (57.1%), domestic gas boilers (18.8%) and static non-road mobile machinery (11.6%).

1.20 The main sources of particulate matter are road transport (50.4%), re-suspended dust from roads and surfaces (19.9%) and static non-road mobile machinery (10.3%). In respect of the transport sources apportionment data for the borough shows that diesel vehicles contribute approximately 90% of the NO<sub>x</sub> emissions and 80% of the PM<sub>10</sub> emissions (based on 2013 modelled data). This supports the evidence from the dispersion modelling (Appendix B) which shows that the highest concentrations of both NO<sub>2</sub> and PM<sub>10</sub> are most strongly associated with the main traffic routes and road junctions within the borough.

## 2. Understanding air quality

2.1 Air pollution can adversely affect human health and has been linked to cancer, asthma, stroke and heart disease.<sup>1</sup>, diabetes, obesity, and possibly dementia. A 2018 study<sup>2</sup> carried out by The Royal College of Physicians, showed a link between the dementia and exposure to nitrogen dioxide (NO<sub>2</sub>) and toxic air particles. Patients living within the M25 in areas with the highest NO<sub>2</sub> levels were 40% more likely to develop dementia than those in areas with lowest levels, researchers said. Although, the Alzheimer's Research UK said the results should be treated with caution and further research is needed.

Figure 2: Health effects of air pollution



<sup>1</sup> British Heart Foundation: [https://www.bhf.org.uk/toxicair?qclid=EA1aIQobChMI9008nlSk5wIVSbDiCh0A3AymEAAYASAAEgLYC\\_D\\_BwE&gclid=aw.ds](https://www.bhf.org.uk/toxicair?qclid=EA1aIQobChMI9008nlSk5wIVSbDiCh0A3AymEAAYASAAEgLYC_D_BwE&gclid=aw.ds)

<sup>2</sup> Are noise and air pollution related to the incidence of dementia? A cohort study in London, England <https://bmjopen.bmj.com/content/8/9/e022404>  
The Royal College of Physicians, 2016, Every breath we take: The lifelong impact of air pollution. London. <https://www.rcplondon.ac.uk/projects/outputs/everybreath-we-take-lifelong-impact-air-pollution>

2.2 A study carried out by Kings College for London for Transport for London (TfL), found that long term exposure, is estimated to result in 9,400 premature deaths in 2010 in the capital: with added impacts due to short term pollution episodes.

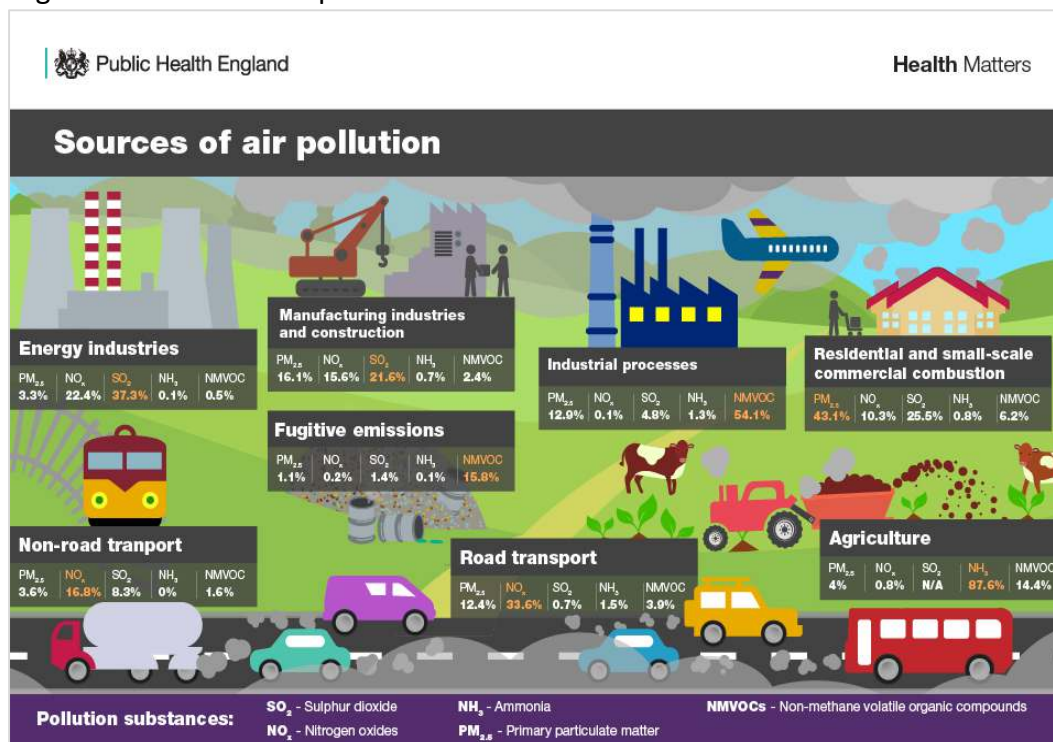
2.3 Air quality tends to be worst close to major roads, but emissions over a wide area contribute to the background pollution levels. Health effects can potentially occur below widely accepted international standards and goals. For some pollutants, such as particulate matter (PM), there is no known threshold below which health effects do not occur. Therefore, there is a need to reduce background levels as well as emissions from road traffic to protect human health.

Figure 3: Air pollution and inequalities



2.4 Air pollution is a worldwide issue that affects everyone, but always the most socioeconomically disadvantaged suffer most from the health effects of pollution. **Many of the areas with the highest levels of social deprivation are also the most exposed to air pollution and this link is also more pronounced for people from ethnic minority backgrounds.** Other groups disproportionately affected include older people, children, pregnant women, individuals with existing medical conditions, and communities in areas of higher pollution levels. **There is growing evidence of a link between air pollution and increased mortality from COVID -19. The government has acknowledged there is a link between air pollution and a person's risk of dying from COVID-19.**

Figure 4: Sources of air pollution



2.5 Between 2017 and 2025, the total cost of PM<sub>2.5</sub> and NO<sub>2</sub> combined is estimated to be £1.6 billion in models used in PHE's cost of air pollution project. The Environment Audit Committee has estimated that total health costs because of air pollution range between £8.5 billion and £20.2 billion a year. Poor air quality can also have an economic impact by reducing productivity among people of working age. Department for Environment, Food and Rural Affairs (Defra) estimated that in 2012, poor air quality cost the UK economy £2.7 billion through productivity loss. As with the evidence of harm the exact figures should be seen as estimates; what they demonstrate is that there are potentially significant economic benefits as well as health benefits to set against costs.

### What is particulate matter (PM)?

2.6 PM is a generic term used to describe a complex mixture of solid and liquid particles of varying size, shape, and composition. Some particles are emitted directly (primary PM); others are formed in the atmosphere through complex chemical reactions (secondary PM). The composition of PM varies greatly and depends on many factors, such as geographical location, emission sources and weather.

2.7 The main sources of manufactured PM are the combustion of fuels (by vehicles, industry and domestic properties) and other physical processes such as tyre and brake wear. Natural sources include windblown soil and dust, sea spray particles and fires involving burning vegetation.

2.8 PM is often classified according to by aerodynamic<sup>3</sup> size and referred to as:

- coarse particles (PM<sub>10</sub>; particles that are less than 10 microns (µm) in diameter)
- fine particles (PM<sub>2.5</sub>; particles that are less than 2.5 µm in diameter)
- ultrafine particles (PM<sub>0.1</sub>; particles that are less than 0.1 µm in diameter)

<sup>3</sup> The aerodynamic diameter of a particle is defined as that of a sphere, whose density is 1 g cm<sup>-3</sup> (cf. density of water), which settles in still air at the same velocity as the particle in question. This diameter is obtained from aerodynamic classifiers such as cascade impactors.

2.9 The size of particles and the duration of exposure are key determinants of potential adverse health effects. Particles larger than 10 µm are mainly deposited in the nose or throat, while particles smaller than 10 µm pose the greatest risk because they can be drawn deeper into the lung. The strongest evidence for effects on health is associated with fine particles (PM<sub>2.5</sub>).

### **What is nitrogen dioxide (NO<sub>2</sub>)?**

2.10 NO<sub>2</sub> is a gas that is produced along with nitric oxide (NO) by combustion processes. Together they are often referred to as oxides of nitrogen (NO<sub>x</sub>). Defra estimates that 80% of NO<sub>x</sub> emissions in areas where the UK is exceeding NO<sub>2</sub> limits are due to transport, with the largest source being emissions from diesel light duty vehicles (cars and vans). Other sources include power generation, industrial processes, and domestic heating.

## **3. Air quality legislation**

### **Environment Bill**

3.1 The Environment Bill was introduced to Parliament in October 2019 to ensure that the environmental impact of all legislation is considered before the UK (United Kingdom) exits the European Union (EU). The Environment Bill aims to replace the EU legislation and embed environmental accountability into any new legislation passed, but as it made its way through the House of Commons, it was understandably delayed by the outbreak of COVID-19.

3.2 The Bill brings about action to combat the environmental and climate crises we are facing and acts as a key vehicle for delivering the vision set out in the [25 Year Environment Plan](#). It sets a new and ambitious domestic framework for environmental governance and includes commitments to secure improvement on air quality, biodiversity, water and resource efficiency.

### **Clean Air Strategy 2019**

3.3 The strategy sets out comprehensive actions required across all parts of government and society to improve air quality. The strategy sets out how the government will:

- protect the nation's health.
- protect the environment.
- secure clean growth and innovation
- reduce emissions from transport, homes, farming and industry.
- monitor our progress.

3.4 The strategy is a key part of delivering the government's 25 Year Environment Plan.

3.5 [A Clean Air Zone Framework](#) was published by the Government in 2019 and replaces the 2015 Air Quality Plan, which reiterated the need for London to improve air quality.

## The Air Quality Strategy for England, Scotland, Wales and Northern Ireland

- 3.6 [The Air Quality Strategy](#) sets out air quality aims and policy options to improve air quality in the UK. The objectives are policy targets often expressed as a maximum ambient concentration not to be exceeded, either without exception or with a permitted number of exceedances, within a specified period.
- 3.7 Local authorities have a legal duty to work towards achieving these air quality objectives. These objectives were set in the 1990s, since when there has been significant new evidence on the health effects. In addition, in setting the objectives the Government took account of several factors, such as economic efficiency, practicality, technical feasibility and timescale of achieving them. For these reasons public health can be affected below these levels.

### London air quality plans and strategies

- 3.8 The Mayor of London has introduced a package of measures to achieve the statutory NO<sub>2</sub> limit values in London in the shortest possible time. This includes the [Ultra-Low Emission Zone \(ULEZ\)](#) Introduced in 2019 in central London and its extension in 2021 to the area within the North and South Circular roads in 2021. This ULEZ is equivalent to a Class D charging CAZ (Clean Air Zones) in the Clean Air Zone Framework.
- 3.9 All London boroughs are also planning to introduce charging CAZs. Merton Council supports the Mayor Clean Air Zones and is explore introducing CAZs in the borough.
- 3.10 [The Mayor's London Environment Strategy 2018](#) contains a list of measures to improve air quality. The aim is *"for London to have the best air quality of any major world city by 2050, going beyond legal requirements to protect human health and minimise inequalities"*.
- 3.11 The strategy includes setting new targets for PM<sub>2.5</sub> with the aim of meeting World Health Organization (WHO) guidelines by 2030, the establishment of zero emission zones from 2020, the introduction of an air quality positive development, the phasing out the use of fossil fuels to heat, cool and maintain London's buildings and the introduction of a low emission zone for non-road mobile machinery (NRMM).
- 3.12 The statutory framework for local air quality management is the National Air Quality Regulations and Part IV of the [Environment Act 1995](#). This remains in place and applies to all London boroughs. However, it was agreed with Department for Environment, Food and Rural Affairs (Defra) that, the relevant Local Air Quality Management guidance (LAQM) for London should differ from the rest of the UK in recognition of the challenges the capital faces.
- 3.13 Therefore, the Mayor of London ("the Mayor") in May 2016, launched a bespoke system for the capital - London Local Air Quality Management (LLAQM). The LLAQM is the statutory process by which London boroughs are required to review air quality in their boroughs. It has two main purposes:
- To encourage close working to help address this vital issue.
  - To decide if air quality objectives set within the Air Quality Regulations 2000 and the Air Quality (Amendment) Regulations 2010 are likely to be met in a certain area. The LLAQM, also drives improvements to achieve those objectives.

### 3.14

The key LLAQM requirements for boroughs are:

- To continue to monitor and assess air pollution in their areas.
- To ensure an Air Quality Management Area (AQMA) is declared and in place for any locations that are exceeding air quality objectives and EU (European Union) Limit Values.
- To ensure that a current and relevant Air Quality Action Plan is in place for all AQMAs (Air Quality Management Area). The Action Plan should be updated every five years at a minimum, and progress against this should be reported annually.
- To complete the annual monitoring and Action Plan update reports.

Merton's Local Area Quality Management plan and other air quality documents and plans can be viewed on council's website: [Air quality plans and reports](#)

### 3.15

To help the boroughs undertaken their LLAQM duties the Mayor has identified several areas where there are both high concentrations of air pollution and high public exposure. These are known as Air Quality Focus Areas (AQFAs).

#### **Low Emission Neighbourhoods**

### 3.16

The Mayor of London has introduced Low Emission Neighbourhoods (LENs) which are area-based schemes that includes a package of measures focused on reducing emissions and promoting sustainable living more generally. A LEN is delivered by a borough with support from TfL, the Greater London Authority (GLA) and the local community. LENs are focused on areas of high exposure to high pollution which can be reduced through local measures, and locations with high trip generation and the potential to reduce emissions in the wider road network.

## 4. Planning policy context

### 4.1

In assessing planning applications that may affect air quality in Merton or give rise to new exposure to poor air quality, the Council will have regard to policies in our Local Development Plan including this SPD, Merton's Air Quality Action Plan (AQAP), the London Plan, national planning policies and associated documents such as Supplementary Planning Guidance (SPG) and national planning guidance. The most recent version of plans and guidance documents, or equivalent, must be followed.

#### **Local planning policies**

### 4.2

Merton Council local plan looks to ensure that local environmental impacts of all new development proposals do not lead to detrimental effects on the health, safety and the amenity of existing and new users or occupiers of the development site, or the surrounding land. The Local Plan policy: *Improving air quality and minimising pollution*.

### 4.3

[Merton's Local Plan](#) promotes active travel, efforts to minimise single occupancy vehicle journeys, encouraging more electric vehicles use and supporting landscaping and planting. The Local Plan air quality policy focuses on the requirements for assessing air quality at the planning application stage. Furthermore, the policy states that, where necessary the Council will set planning conditions to reduce local environmental impacts and protect amenity on adjacent land uses to acceptable levels.

- 4.4 [Merton's Supplementary Planning Documents](#): Merton Council has produced several SPDs, each giving further guidance on planning policies within our Local Plan. All our SPDs draw upon relevant national, regional and local authority requirements and expectations for sustainable development and good practice. Merton's SPDs cover a range of topic such as basement development, sustainable drainage, housing and design. It is advisable to read and have regard to these Merton's SPDs depending on the nature and type of development proposal.
- 4.5 [Merton's Third Local Implementation Plan \(LIP3\)](#) is the Council's main transport strategy and sits alongside the council's Local Plan and other future strategies. The [Mayor's Transport Strategy \(MTS\)](#) requires London boroughs to produce a Local Implementation plan setting out how they will deliver the Mayor's transport objectives and MTS goals.
- 4.6 The LIP3 has an overview of the challenges and opportunities in delivering the Mayors' Transport Strategy within Merton. It sets how the Council will of Merton's transport objectives; a short- and longer-term delivery plan and a series of targets set by Transport for London (TfL), that we are working towards achieving. The LIP3 shows how Merton Council will work towards achieving the MTS (Mayor of London Transport Strategy) goals of:
- Healthy Streets and healthy people
  - A good public transport experience
  - New homes and jobs

### **Mayor of London strategies and Supplementary Planning Guidance (SPG)**

#### *London Plan*

- 4.7 The overarching plan for London is the Mayor's London Plan. It is the statutory Spatial Development Strategy for Greater London prepared by the Mayor of London ("the Mayor") in accordance with the [Greater London Authority Act 1999 \(as amended\)](#) ("the GLA Act") and associated regulations. **In February 2021, a new London Plan was adopted.**
- 4.8 The Mayor of London is obliged to produce [Mayoral Strategies](#) which, support the London Plan, covering topics such as housing, health inequalities, economy, skills and training, transport and culture. It is advisable to have regard all the Mayoral Strategies when submitting development proposals. The following paragraphs provides a highlight of the Mayoral Strategies - *it does not provide a full account of each strategy nor is the list exhaustive.*

#### *Environment Strategy*

- 4.9 This is the first strategy to bring together approaches to every aspect of London's environment, integrating the following areas:
- air quality
  - green infrastructure
  - climate change mitigation and energy
  - waste
  - adapting to climate change
  - ambient noise
  - low carbon circular economy

4.10 The overarching aim of the [Environment Strategy](#) is to reduce air pollution in London so that the health of all Londoners is improved. The strategy states that all new major development must be Air Quality Neutral (AQN). Development that meets or is better than the AQN benchmarks are considered to avoid any increase in NOx (nitrogen oxides) and PM emissions across London and are therefore “Air Quality Neutral.” This influences the background air pollution in London.

4.11 Larger developments have the potential to go further and improve local air quality by effective design. For example, by the provision of low or zero emission heating. This is considered to be Air Quality Positive development and the Mayor is committed to providing guidance for developers and others on the most effective approach to take to ensure a development is Air Quality Positive. This approach is consistent with the London Plan (2020), Policy SI 1 *Improving air quality*.

#### *Health Inequalities Strategy*

4.12 The London [Health Inequalities Strategy](#) sets out the Mayor's ambitions to improve Londoners' health and reduce health inequalities across the city. The strategy has 6 aims:

- Healthy children
- Healthy minds
- Healthy Places
- Healthy communities
- Health living

4.13 All the above aim to highlight the important of tackle London air pollution and reducing the causes of poor air.

#### *The transport Strategy*

4.14 The [Transport Strategy](#) says that transport does not only shape our daily lives and how we get around London – it can create new opportunities for Londoners and shape the character of our city. It points out that car dependency has contributed to an increase in poor public health across our city. Streets can often be polluted, congested and dangerous – unwelcoming places to walk or cycle. More sustainable modes such as the tube, rail and bus can be overcrowded, sometimes unreliable and indirect; meaning there is no appealing alternative to car use for many. The strategy details how the Mayor aims to change the transport mix across London, providing practical and attractive alternatives that will allow Londoners to reduce their dependence on cars. The Strategy as its golden thread has a Healthy Streets Approach focusing on:

- Healthy Streets and healthy people
- A good public transport experience
- New homes and job

#### *The London Food Strategy*

4.15 The [Food Strategy](#) recognises and emphasis that the way the food system works has a major influence on London's air quality. Our food supply depends on many sources and processes. As the London Environment Strategy highlights, for every two tonnes of food eaten in the UK, another tonne is wasted. Most of this ends up in landfill or is incinerated.



4.16 The whole food supply chain impacts the environment from production to transportation to packaging and the unused food that is thrown away. The food system is also a major determinant of London's air quality.

*Economic Development Strategy*

4.17 The [Economic Development Strategy](#), acknowledges that growth must not come at the expense of poorer air quality, higher greenhouse gas emissions, increased noise levels, unfair employment practices or greater inequality.

**Mayoral Supplementary Planning Guidance's (SPGs)**

In relation to air quality there are two that all development proposal must have regard to Sustainable Design and Construction and The Control of Dust and Emissions during Construction and Demolition SPGs (Supplementary Planning Guidance).

4.18 [Sustainable Design and Construction SPG](#): includes guidance on preparing air quality assessments, minimising emissions, addressing exposure to air pollution, air quality neutral requirements and emissions standards for combustion plant.

4.19 *On-site Combustion Plant*: The Sustainable Design and Construction SPG sets emission limits for certain combustion plant and requires the use of ultra-low nitrogen oxides (NOx) boilers. These limits for individual boilers must always be met. In addition, stack discharge velocities should be above the recommended minimum and be at right heights above nearby buildings. The emissions from any centralised onsite energy plant must form part of an Air Quality Assessment (AQA).

4.20 [The Control of Dust and Emissions during Construction and Demolition SPG](#), describes requirements for dust assessments, pollutant monitoring and standards. All Non-Road Mobile Machinery (NRMM) used during the course of the development that is within the scope of the GLA 'Control of Dust and Emissions during Construction and Demolition' Supplementary Planning Guidance (SPG) dated July 2014, or any successor document, shall comply with the emissions requirements there. The SPG requires developers to produce an Air Quality and Dust Risk Assessment (AQDRA) and sets out minimum emission requirements for non-road mobile machinery (NRMM).

4.21 Furthermore, the Council has a Local Code of Practice for Construction and Demolition Sites, this provides simple advice to developers on environmental controls required by the borough.

4.22 **Air Quality Neutral**: Calculation of emissions compared to the Air Quality Neutral (AQN) benchmarks must be carried out as part of the assessment of air quality impacts. If the AQN benchmarks cannot be met planning consent will be refused. Following the publication of the Government's Housing Standards Review in March 2015, the Air Quality Neutral benchmarks, and the on-site energy generation emission limits referenced below, cannot be required for developments that are residential only.

4.23 However, the Mayor of London and national government have legal obligations on compliance with the EU (European Union) limits for ambient air quality. To address those obligations, with respect to nitrogen dioxide (NO<sub>2</sub>), residential developers are strongly encouraged to ensure that emissions meet the AQN benchmarks.

4.24 **Air Quality Positive (AQP):** at the time of writing this SPD the Mayor of London had not produced guidance on Air Quality Positive development. Once one has been produced it must be used to inform the design and layout of large developments in Merton.

#### **National planning policy and associated guidance**

4.25 [The National Planning Policy Framework \(NPPF\)](#) requires that planning policies and decisions contribute to and enhance the natural and local environment by ensuring that new development proposals do not contribute to or have an adverse impact on the levels of air pollution. In addition, secure a good standard of amenity for all existing and future occupants of land and buildings. The national [Planning Practice Guidance \(PPG\)](#) provides general advice on the assessment of air quality.

#### *Other planning considerations*

4.26 [Building Regulations:](#) covers the construction and extension of buildings. It is advisable to check if approval is needed before constructing or changing buildings in certain ways.

4.27 **Planning condition:** planning permission can be granted subject to planning conditions. Conditions are a necessary tool to enhance the quality of a development and to mitigate adverse impacts that might otherwise arise. They can only be imposed where they are necessary, relevant to planning and the development, and are enforceable, precise and reasonable in all other respects.

4.28 Conditions relating to the air quality impact of a development will meet these requirements. A planning obligation (under Section 106 of the Town and Country Planning Act 1990 (as amended) may also be used as a site-specific mitigation mechanism. The NPPF states that "*Planning obligations must only be sought where they meet all of the following tests:*

*a) Necessary to make the development acceptable in planning terms.*

*b) Directly related to the development; and*

*c) Fairly and reasonably related in scale and kind to the development."*

#### **Community Infrastructure Levy**

4.29 CIL (Community Infrastructure Levy) is a charge on new development that is used to help fund the provision of infrastructure necessary to support development in Merton. The CIL operates through a charging schedule and from 31st December 2020 is supported by an annual Infrastructure Funding Statement which outlines the broad types of infrastructure that will be funded. The amount of CIL received and spent is monitored and reported on an annual basis. Further information on Merton's CIL can be found on the [CIL webpage](#).

4.30 Most developments where there is an increase in floorspace of at least 100m<sup>2</sup> will be required to pay the CIL (Community Infrastructure Levy). There is no specific air quality component to the CIL in Merton, but Infrastructure Funding Statements will identify a range of infrastructure investment which could mitigate the impacts of airborne pollution in Merton for example through the provision and improvement of open spaces, reduce the potential for emissions for example through decentralised energy facilities or transport and public realm improvements leading to a reduction in vehicular traffic in specific areas.

## **Planning obligations**

- 4.31 Planning Obligation (often called s106 agreements) are agreements with developers for the provision of site-specific mitigation measures necessary to ensure a development meets the requirements of the Local Plan and for affordable housing, local training, skills, job brokerage and the obligation of Merton's Air Quality Action Plan. Merton's [Planning Obligation SPD](#) explains how obligations are used.

## **5. Air Quality Assessments (AQA)**

### **AQA Scoping**

- 5.1 In line with Merton's Local Plan the Council requires all new developments to be at least 'air quality neutral.' Preferably developments should be 'air quality positive' and if necessary, to be accompanied by an air quality assessment. This is designed to manage and prevent further deterioration of existing poor air quality across the borough. The requirements for the assessment of air quality impacts on new developments are set out in the following paragraphs.

### **5.2 Scoping the need for assessment**

- major developments will need an Air Quality and Dust Risk Assessment (AQDRA) of the construction impacts.
- major developments that could have a significant negative impact on air quality during its operation will need an AQA (incorporating the AQDRA); and
- any development that will introduce new exposure to poor air quality will require an AQA.

### **Air Quality Assessments (AQA)**

- 5.3 The aim of an AQA is to find any significant impact on local air quality and/or disamenity due to dust and/or odour and/ or whether new development will introduce new exposure in an area of poor air quality. The contents of the AQA will depend on the nature of the proposed development.

- 5.4 An air quality assessment (AQA) must accompany planning applications as follows:
- major developments will need an air quality and dust risk assessment (AQDRA) of the construction impacts.
  - major developments that could have a significant negative impact on air quality during its operation will need an AQA (incorporating the AQDRA); and
  - any development that will introduce new exposure to poor air quality will.

- 5.5 In deciding whether an AQA is needed developers should use the following criteria:
- A development that introduces new exposure to unacceptable levels of air pollution. For example, residential development in an area where an air quality objective or World Health Organization (WHO) guideline value may be exceeded or where there is a known odour issue. This applies to developments of all sizes including single houses and conversion of existing buildings. The poor air quality may be due to:
    - a) Emissions from adjacent roads.
    - b) Emissions from a nearby industrial process or large boiler; or
    - c) The proposed development creating a street canyon or other similar effect which reduces the dispersion of emissions.
  - Any major development that meets the criteria for an AQA in the most recent Environmental Protection UK and Institute of Air Quality Management Guidance ("EPUK/IAQM Guidance"). Further details can be found in Appendix D.

- All mineral and waste developments requiring planning consent; and
- Development regulated under the Environmental Permitting (England and Wales) Regulation.

5.6 [The Institute of Air Quality Management](#) have produce several guidance to enhancing the understanding and development of the science behind air quality by promoting knowledge and understanding of best working practices. They have produced guidance air quality impacts on nature sites Guides covering:

- Impacts on designated nature conservation sites.
- Vicinity of demolition and construction sites
- Assessing odour for planning
- Assessing mineral dust impact for planning

5.7 The relevant IAQM (Institute of Air Quality Management) guidance document (or any updates) should be followed for developments that are likely to emit odours, new development that might be affected by existing odours, and mineral developments. Chapter 6 of EPUK/ IAQM's guidance on Land Use Planning and Development Control: Planning for Air Quality provides advice on undertaking an AQA. Developers required to produce an AQA for air pollutants, other than odour and dust, are recommended to instruct their consultants to follow this guidance (or future updates).

5.8 The relevant IAQM guidance document (or any updates) should be followed for developments that are likely to emit odours, new development that might be affected by existing odours, and mineral developments. Chapter 6 of EPUK/ IAQM's guidance on Land-Use Planning & Development Control: Planning for Air Quality provides advice on undertaking an AQA. Developers required to produce an AQA for air pollutants, other than odour and dust, are recommended to instruct their consultants to follow this guidance (or future updates)

5.9 When modelling the impact of road Appendices transport, it is important that realistic forecasts of future emissions are used. The Emissions Factor Toolkit (EFT) produced by Defra for LLAQM has tended to be optimistic and resulted in an underestimation of future NO<sub>2</sub> concentrations. All AQAs (Air Quality Impact Assessments) of traffic impacts must discuss the uncertainty of predictions of future concentrations (which relates to both the assumed rate of fleet turnover and the emissions from future vehicles which may not exist and therefore the on-road performance is not known) and use professional judgement to determine the likely significant effects, taking into account the need for a conservative approach.

5.10 Where a centralised boiler/combined heat and power/ combined cooling, heating and power plant is included in a development, the AQA should model the impacts using a proper dispersion model and provide technical data on:

- fuel type.
- emission characteristics including temperature at the flue exit, efflux velocity or volumetric flow rate, and concentration or emission rate (at standard conditions.
- if actual data provided state conditions).
- stack location and dimensions.
- building(s) location, dimensions and orientation to north.
- assumed operating hours.
- the maintenance regime; and
- the cumulative impact of traffic and energy plant emissions at receptors

5.11 The Council may impose a planning condition restricting the operation of the plant to the hours of operation assumed in the AQA. The EPUK/IAQM criteria should be used to assess the significance of the impact on air quality at individual receptors using the WHO guideline values, not the air quality objectives as the air quality assessment levels.

5.12 To determine the overall significance of the effect on public health the range of local circumstances and the uncertainty of the predicted concentrations should be considered. These include, but are not limited to:

- The existing and future air quality in the absence of the development.
- The extent of current and future population exposure to the impacts; and
- The influence and validity of any assumptions adopted when undertaking.
- The prediction of impacts

### **Merton's Air Quality Assessments (AQA) requirements**

5.13 The AQA should include the following:

- Site location and brief description of the proposed development as it relates to air quality, including any mitigation measures designed into the development.
- A description of all nearby sources of pollution likely to impact on the development, including emissions from nearby centralised boilers/CHP/CCHP.
- Outline of the relevant planning and air quality policy (include odour and dust when appropriate).
- Description of the assessment method with data presented.
- Location and description of all receptors used in the assessment. This should include any particularly sensitive receptors and may include ecological receptors.
- Assessment of the current air quality/ dust/odour in the vicinity of the proposed development.
- Prediction of the impact of the proposed development - for road traffic impacts this needs to include the future air quality both with and without the proposed development.
- An assessment of the impacts at individual receptors; description and quantification of further mitigation measures required to make the development acceptable in air quality terms.
- An assessment of the significance of the impacts after mitigation.
- An assessment of the cumulative impacts with other development during construction and operation.
- A statement as to whether the development is or is not consistent with the Merton's Air Quality Action Plan; and
- Conclusion of the assessment.

5.14 Where applicable, assessments should be carried out using a worst-case approach. For example, if certain parameters are unknown, reasonable worst-case assumptions should be used to ensure that the assessment results are conservative in nature. All AQA must be carried out by qualified air quality specialist in the case of, development that may be near or next to nature and open space the AQA must have input from a qualified ecologist. It is recommended that developers and/ or their air quality consultants agree with the council's Air Quality Officer the method and data to be used in the AQA prior to beginning the assessment.

## **Cumulative impact**

- 5.15 Developers must assess the cumulative impact of multiple air pollution sources from the new development e.g. the combined impact of traffic and energy plant. The developer must also assess the cumulative impact of the construction and operation of the proposed development with all consented developments nearby. Consideration of proposed but not yet consented developments may be required and developers should check with the Council's Air Quality Officer before beginning their assessment.

## **6. Development and building design principles.**

- 6.1 Merton Council requires the sustainable design principles as set out in the Local Plan to be incorporated with in all development proposals. In addition, the Sustainable Construction Checklist and the London Sustainable Design and Construction SPG should be built into the design of all proposed development. Design should ensure that:
- Emissions associated with the development are minimised.
  - Existing occupants are not exposed to increased levels of air pollution; and
  - Occupants of new developments will not be exposed to poor air quality.

### **Development Principles**

- 6.2 The following broad principles will be applied when considering development proposals for development that may have the potential to impact on air quality, result in an increase in the number of people exposed to poor air quality or cause disamenity. The development principles are:
- avoid during construction and operation of new development impacts on air quality to protect the health of people living and working in the borough.
  - avoid during construction and operation of new development adverse effects on local amenity of people living and working in the borough.
  - reduce to a minimum emission from new development, including from the associated road traffic, to improve air quality across the borough.
  - prevent development which is unacceptable in terms of air quality, odour, dust or other air emissions.
  - employ good air quality design.

### **Development Design**

- 6.3 All new development should be designed to minimise air quality impacts:
- The layout and design of all sites must consider the impact of poor air quality on existing and new receptors. The layout should set buildings as far from main roads as possible, avoid windows and habitable rooms fronting main roads and where possible use buildings as a screen against poor air quality.
  - Non habitable room and corridors in residential developments and communal halls, canteens, changing rooms etc in commercial or community developments such as schools and hospitals should be located front facing the main road.
  - The impact of existing sources of air pollution, including road traffic and exhaust from energy plants in adjacent building may affect air quality within a new development. This must be considered at the earliest stage of the design development and process.

## **Construction Phase**

- 6.4 The construction phase of major development can result in emission of air pollutants that adversely affects human health as well as dust that may lead to nuisance or disamenity. To ensure that emissions are well controlled all planning consents for major development will include relevant planning conditions to reduce such impacts. A contribution to any additional resourcing required by the Council to fulfil added regulatory duties associated with the development may be required.

## **Odour**

- 6.5 Development Proposals for major development that is likely to give rise to odour will need to include satisfactory evidence that there will not be an adverse impact on neighbouring land uses. In addition, any sensitive development proposed close to an existing odour source will also need to show that there will be no adverse impact on future users.
- 6.6 In the case of small-scale developments (e.g. commercial kitchens), evidence must be submitted to demonstrate that odour emissions will be controlled to prevent significant loss of amenity to neighbouring sensitive land uses. Typically, this will be by submission of a detailed ventilation scheme incorporating high level discharge and odour abatement. There should be no low-level discharge. Larger sources of odour must submit an odour assessment undertaken by a competent and qualified person. This must show that the proposed development is acceptable and will not intentionally affect the amenity of neighbouring land.
- 6.7 Where a development is proposed close to an existing source of odour the assessment must show that the users of the development will not be adversely affected by the development.

## **Building Ventilation**

- 6.8 Merton Council requires the impact of outdoor air pollution on indoor air quality in new developments be considered at the earliest stages of building and layout design process. This includes ensuring:
- Ventilation inlets and the location of opening windows are on higher floors away from sources of air pollution at the ground level, but also away from stationary sources such as combustion plant.
  - Air conditioning systems can be fitted with filters which filter particulates and NO<sub>2</sub>; the appropriate standard filter should be maintained following installation.

## **Biomass or Biofuel Boilers and Combined Heat and Power**

- 6.9 When sited and specified appropriately following the energy demands of the building, CHP systems and biomass or biofuel boilers can have benefits in terms of carbon emissions. However, they can give rise to significantly higher emissions of NO<sub>x</sub> and/or PM<sub>10</sub> emissions than regular gas boilers, and developers should ensure that the emission standards set in the Mayor's Sustainable Design and Construction SPG are not exceeded. The Sustainable Design and Construction SPG does not currently provide guidance where plant is <50kWth input. The Council would expect such plant to meet a NO<sub>x</sub> emission limit of <50mgNm<sup>3</sup> at 5% (dry gas) as a minimum.

6.10 When considering how to achieve, or work towards the achievement of, the renewable energy targets, the Council would prefer developers not to consider installing a biomass burner due to Merton's status as an Air Quality Management Area for fine particles and nitrogen dioxide.

6.11 Research shows that the widespread use of these appliances has the potential to increase particulate levels in London to an unacceptable level. As the CHP kWth input requirement increases, opportunities to achieve the required low NOx technology are more complex, for example the need for single catalytic reduction (SCR), which has a similar space requirement to the CHP and has on-going costs. Where the CHP requirement would require the use of SCR to meet the NOx emission standard, opportunities should be investigated to install smaller units with NOx abatement to meet the demand.

6.12 Where CHP, biomass or biofuel boilers are proposed, plant emissions must be evaluated as part of a detailed Air Quality Impact Assessment. Where permitted, the appliance will be required to meet high standards of air pollution control, with particular emphasis on:

- plant design and operation.
- pollution abatement equipment.
- the servicing and maintenance regime.
- fuel quality, storage and delivery; and
- exhaust stack height, to reduce the risk of increasing exposure.

6.13 Prior to CHP, biomass or biofuel plant coming into operation the following details must be submitted to and approved in writing by the Local Planning Authority; this will be conditioned within the planning permission:

- The results of an emissions test proving compliance with the emission and efflux velocity requirements of the Mayor Sustainable Design and Construction SPG.
- An equipment maintenance schedule demonstrating that the emission standard would always be met.

### **Generators**

6.14 Diesel generators have high emissions of NOx (nitrogen oxides) and PM10 and their use in the city is discouraged due to their negative impact on air quality. Where a secondary electrical power supply cannot be assured, where possible, alternate technology generators should be sourced for the building (e.g. gas fired or battery backup). For construction sites, a temporary building supply should be secured prior to the commencement of works to avoid the use of diesel generators on site.

6.15 Where permanent standby diesel generators are installed, they should be the newest Euro standard available and where possible, their use should be limited to life saving and emergency situations and testing only. Where generators are supplied for business continuity, abatement to reduce emissions should be investigated. The type, placement and use of the generator should be carefully considered at the planning stage in relation to up to date guidance.



6.16 Due to the air quality impact of generators and their potential to cause a statutory nuisance, the use of generators to supply the national grid at times of supply restriction and limitation is discouraged. Generator hierarchy overview:

- Source a secondary supply
- Alternate technology e.g. battery reserve / gas generators
- Diesel fuelled generators (newest Euro standard only)
- Lifesaving and testing only.
- Business continuity with abatement

### **Combustion Flues and Efflux Velocity**

6.17 A consideration of combustion flue location and emission discharge velocity is required at the planning stage to ensure appropriate provision has been made. All combustion plant (boilers, generators, CHP etc.) must end as a minimum at least 1 metre above the highest point of the building of which the plant serves, or as specified by the approved Air Quality Impact Assessment, unless agreed with the council. Regarding this requirement, consideration needs to be paid to the location of outside amenity space associated within the development and its neighbours.

6.18 The [Clean Air Act 1993](#) Chimney height approval needs to be sought where a furnace is burning liquid or gaseous matter at a rate of 366.4 kilowatts or more or burning pulverised fuel or any solid matter at a rate of more than 45.4 kilograms or more an hour. Flues associated with this plant should therefore be at the recommended heights above nearby buildings and installed at least 3m above any general access areas and should meet discharge velocities above the recommended minimum. Regarding CHP and biomass boilers, discharge velocity requirements are provided in Appendix 7 of Sustainable Design and Construction SPG, or any updates thereof.

6.19 *The whole of the borough is Smoke Control Area. The Clean Air Act says that 'you must not emit smoke from your chimney if you live in a smoke control area'. The Clean Air Act applies to all properties. Since May 2021, additional restriction of the sale of fuel types. The law also allows the Government to certify smokeless fuels and 'authorised appliances', which are expected not to emit dark smoke and can be used in smoke control areas. For more details about smoke control areas, smokeless fuels and authorised appliances please check the [Government website](#) or Merton's [Environmental Health team](#)*

## **7. Air quality and green infrastructure**

7.1 Green infrastructure will play a significant role in reducing exposure for many years to come as our transport system evolves. Whilst pollution from road transport is forecast to decrease significantly, an important source of ultrafine PM (the smallest particles) from road transport is the non-exhaust emissions associated with brake, tyre and road wear. In the long term, a reduction in traffic volume will be required to address these non-exhaust emissions.

7.2 The Mayor's Transport Strategy includes the ambitious target that 80% of trips in London are made on foot, by cycle or using public transport by 2041. Green infrastructure can help reliably reduce exposure to ultrafine PM emissions and their impacts on public health.

7.3 There are two key processes that explain how green infrastructure can protect people from pollution, dispersion and deposition.

7.4 *Dispersion:* Urban vegetation can reduce the amount of emissions people are exposed to. It does this by changing the speed and distance pollutants travel before they reach people. The further the distance the more the pollution is diluted with cleaner air – this process is known as dispersion.

7.5 *Deposition:* Urban vegetation typically removes a few per cent of emissions by a process called deposition. This refers to when pollution lands on the surface of the leaf and is removed from the air. This process is less important for reducing exposure to air pollutants in the urban environment than dispersion. When planning and designing, new development it is recommended must have regard to the Mayor of London guidance, [Using green infrastructure to protect people from air pollution](#). The guidance is divided into two parts:

- Street canyons: street with buildings on both sides
- Open roads: road with buildings only on one side, flanked by detached, single story buildings that are widely spaced and/or setback by a considerable distance.

Figure 5: The right green infrastructure

Street canyons		Open roads	
Where air quality at street level is better than above surrounding buildings: street canyons with little or no traffic.	Where air quality at street level is worse than above surrounding buildings: street canyons with moderate or heavy traffic.	Where priority is to protect people immediately at the roadside (e.g. pedestrians and cyclists)	Where priority is to protect people further away (e.g. children in a school playground bordering the street)
	All street canyons with moderate or heavy traffic	Canyons of this sort with height/width ratio < 2	A combination of hedge and dense line of trees can provide a taller vegetation barrier, offering protection over a greater distance downwind.
A dense avenue of trees can provide effective protection from polluted air above and create a clean 'green corridor' for active travel.	Addition of green open space to one side (opening the street canyon) is always beneficial.	A hedge or green wall between vehicles and people can reduce exposure in their immediate wake.	

Source: Using green infrastructure to protect people from air pollution.

### Green Roofs, Walls and Plants (including trees and shrubs)

7.6 As well as increasing biodiversity, plants can play a role in trapping fine particles (PM10 and PM2.5) found in the air we breathe. Research shows that plants with small leaves (which disrupt the flow of air) and fine hairs on their surface work best; however, leaves which cover a large surface or are grooved also provide surfaces upon which particles can be trapped. **A mature tree absorbs carbon dioxide at a rate of 48 pounds per year. In one year, an acre of forest can absorb twice the CO2 produced by the average car's annual mileage. Recent research<sup>4</sup> has shown that silver birch, yew and elder trees were the most effective at capturing particles, and it was the hairs of their leaves that contributed to reduction rates of 79%, 71% and 70% respectively.**

<sup>4</sup> <https://pubs.acs.org/doi/10.1021/acs.est.8b06629#>

7.7 The University of Surrey has published a guide which shows which species of tree are best for tackling roadside air pollution. Produced by air pollution experts from the University of Surrey's Global Centre for Clean Air Research (GCARE) literature review of research on the effects of trees and hedges on air pollution.

7.8 To help improve air quality, developers are encouraged to source trees and plants which have these characteristics to include in open spaces, on green walls and roofs. The choice of species should also have regard to future climate conditions. We recommend contacting the council's tree and landscape officer or Arboricultural Manager. Further guidance and information on tree and hedge planting can be found on the council's website [here](#).

### **Outdoor Private and Communal Space**

7.9 Roof gardens and terraces are becoming a common feature in London developments. The location of outdoor space in relation to sources of air pollution (for example busy roads and boiler flues) is an important consideration. Exposure should be minimised through right positioning and orientation of the space away from busy roads and combustion sources, where this also meets the requirements of the Local Plan to protect the amenity of neighbouring building occupiers.

### **Public Realm**

7.10 Where public realm forms part of the development this provides an opportunity to encourage low pollution areas where people can spend time away from busy roads. The development should therefore incorporate design (where possible) that provides low pollution routes through the development, so that these routes are taken instead of along busy roads. The public realm should ensure that recreational, seating and exercise areas are away from or screened from sources of pollution.

## **8. Construction**

### **Industrial and Commercial Premises**

8.1 The assessments on the impacts of industrial emissions will depend on the type of process and, may include the impact of the traffic associated with the development as well as the emissions from the process itself. All potentially significant impacts from major development on air quality must be assessed, typically using a dispersion model.

8.2 For smaller operations that may give rise to odours, dust, smoke, dust or other air emissions, including commercial operations such as nail bars and commercial kitchens, information on the pollution control systems may be sufficient. Development proposals that have air emissions will be required to provide evidence of the:

- Pollution control system.
- Maintenance schedule; and
- Management systems to mitigate the impact.

8.3 For developments not subject to the pollution control regime, planning consent will include a planning condition requiring the servicing and maintenance of the pollution control system.

## **Non-Road Mobile Machinery (NRMM)**

- 8.4 All Non-Road Mobile Machinery (NRMM) used during the development that is within the scope of the Mayor's Control of Dust and Emissions during Construction and Demolition SPG or, any subsequent amendment or guidance, shall comply with the emission requirements there.

## **Transporting Waste and Construction Materials**

- 8.5 To avoid congestion on the local road network, an outline [Construction Logistics Plan \(CLP\)](#) ~~may~~ will be required with the planning application. Advice on the preparation of a CLP is provided by Merton Council, Traffic and Highway team.
- 8.6 Deliveries at sensitive locations, for example close to schools, will need to avoid peak hours on grounds of both air quality and safety. Planning Consents for major developments will include a condition requiring the submission of a detailed CLP to be submitted for approval by the local planning authority. This will commit the developer to implement the plan for the duration of the construction works.
- 8.7 For development sites in and close to AQFAs, LENS and CAZs the Construction Logistic Plan should include.
- Consideration of alternative transport measures including transporting waste and construction materials to and from development sites by train ~~or water~~.
  - delivering materials over the 'last mile' by electric vehicles, or at times to be agreed by the local planning authority; and
  - Restrictions on the use of certain types of vehicles e.g. exceptionally large vehicles if they may add to local congestion, restrictions based on vehicle emission standards and/or other restrictions considered appropriate by the Council.

## **Operational Phase**

- 8.8 Merton Council requires the design principles as set out in the Local Plan and the Mayor's Sustainable Design and Construction SPG to be built into the design of all proposed developments. Design should also ensure that existing occupants are not exposed to increased levels of pollution and that occupants of new developments will not be exposed to poor air quality.
- 8.9 The London Plan requires all major developments to be air quality neutral and large developments to be air quality positive. Developers should look to mitigate the air quality impacts, preferably through on-site measures, but where this is not possible, through off-site measures. Developers will need to contribute to the borough's Air Quality Fund to mitigate any residual impacts. Planning consents for major developments will include one or more conditions requiring mitigation measures to make development acceptable in air quality terms. Developers may also be asked to submit a Delivery and Service Plan where applicable.

## 9. Transport

### Traffic reduction

9.1 Emissions from road traffic are the dominant source of elevated pollutant concentrations in London. Merton Council promotes modes of transport with low impacts on air quality in the Local Plan and [Merton's Transport Strategy: Local Implementation Plan](#) (LIP3), such as cycling and walking.

9.2 The Council will require development proposals to incorporate transport measures that will contribute to minimising poor air quality such as:

- Public transport infrastructure and/ or additional public transport services, including financial contributions for public transport improvements ~~(in addition to those required to mitigate transport impacts).~~
- All major development must have a travel plan. The travel plan must demonstrate how it will be maintained and how it will encourage all members of the development, residents, occupants, staff and visitors to travel sustainably. It must quantify emission reductions and air quality benefits.
- Developments should provide cycle parking in accordance with the **higher** standards set out in the London Plan as a minimum. Development proposals should demonstrate how cycle parking facilities will cater for larger cycles, those catering for the carriage of children and cycles adapted for disabled people. **All cycle parking must be designed in accordance with the [London Cycling Design Standards](#)**
- ~~Car club parking bays should be provided in all residential developments of 25 or more dwellings.~~
- **Residential developments will be expected to support car club use as an alternative to car ownership by funding a free trial use package for new residents and by allocating on-site parking space to car club vehicles where required. CoMoUK provides advice to developers on the level of provision for parking, at a rate of 1 per 25 dwellings, unless acceptable grounds can be given for alternative numbers.**
- **Developments should provide the minimum level of car parking necessary taking into consideration the sites accessibility by public transport (PTAL) in accordance with London Plan parking standards. Developments in areas with good transport accessibility including town centres be expected to be car free.**
- **Adopting Heathy Streets approaches and improvements to streets or the wider public realm and including Low Traffic Neighbourhoods.**

9.3 **Further details on the transport policy requirements can be found in Merton's Local Plan, London Plan and the NPPF.**

### Electric vehicles

9.4 To improve air quality in Merton, the number of low emission vehicles usage needs to increase substantially. At the time of this SPD, a government consultation on changings to the Building Reg. The plan is to transpose EU legislation under the EU Energy Performance of Building Directive (EPBD) to set minimum requirements for electric vehicles charging infrastructure in new and existing non-residential buildings. The changes would mean that every new residential building with an associated car parking space and every non-residential with more than 10 spaces will need to have at least one changing point and cable router for electric vehicle charging for on in five spaces.

9.5

Car parking should be provided with active and passive electric vehicle charging facilities consistent with the Local Plan and London Plan policies. Policy T6 Car parking ([London Plan 2020](#)) states that:

~~Where car parking is provided in new developments, provision should be made for infrastructure for electric or other Ultra-Low Emission vehicles in line with **Policy T6.1 Residential parking, Policy T6.2 Office parking, Policy T6.3 Retail parking, and Policy T6.4 Hotel and leisure uses parking.** All operational parking should make this provision, including offering rapid charging. New or re-provided petrol filling stations should provide rapid charging hubs and/or hydrogen refuelling facilities.~~

**Air Quality Focus Areas (AQFAs) Low Emission Neighbourhoods (LENs) and Clean Air Zones (CAZs) -**

**Section moved to chapter one.**

# Appendices

## Appendix A. Glossary

Air pollution	The presence of substances in the atmosphere that may cause harm to humans, and the natural or built environment. This includes nitrogen dioxide, odour and dust (including the smaller particles often referred to as particulate matter or PM).
Air Quality	A generic term referring to the level of pollution in the air.
Air Quality Assessment (AQA)	An assessment of the impact of a development on the levels of certain pollutants in the local area.
Air Quality Focus Areas	Air Quality Focus Areas as defined by the Greater London Authority in 2014, and any future designations.
Air Quality Management Areas (AQMAs)	Areas where the air quality objectives are likely to be exceeded. Declared by way of an order issued under the Section 83(1) of the Environment Act 1995.
Air Quality Objectives	Air quality targets to be achieved locally as set out in the Air Quality Regulations 2000 and subsequent Regulations. Objectives are expressed as pollution concentrations over certain exposure periods, which should be achieved by a specific target date. Some objectives are based on long term exposure (e.g. annual averages), with some based on short term objectives. Objectives only apply where a member of the public may be exposed to pollution over the relevant averaging time.
Exceedance	Concentrations of a specified air pollutant greater than the appropriate Air Quality Objective.
LLAQM.TG.16	London Local Air Quality Management Technical Guidance (2019). This document provides advice on how London local authorities should assess air quality.
Limit Values/EU limit values	The maximum pollutant levels set out in the EU Directives on Ambient Air Quality. In some cases, the limit value is the same as the national air quality objective but may allow a longer period for achieving it.
Major development	Development involving any one or more of the following: <ul style="list-style-type: none"> <li>(a) the winning and working of minerals or the use of land for mineral-working deposits.</li> <li>(b) waste development.</li> <li>(c) the provision of dwelling houses were. <ul style="list-style-type: none"> <li>(i) the number of dwelling houses to be provided is 10 or more; or</li> <li>(ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i).</li> </ul> </li> </ul>



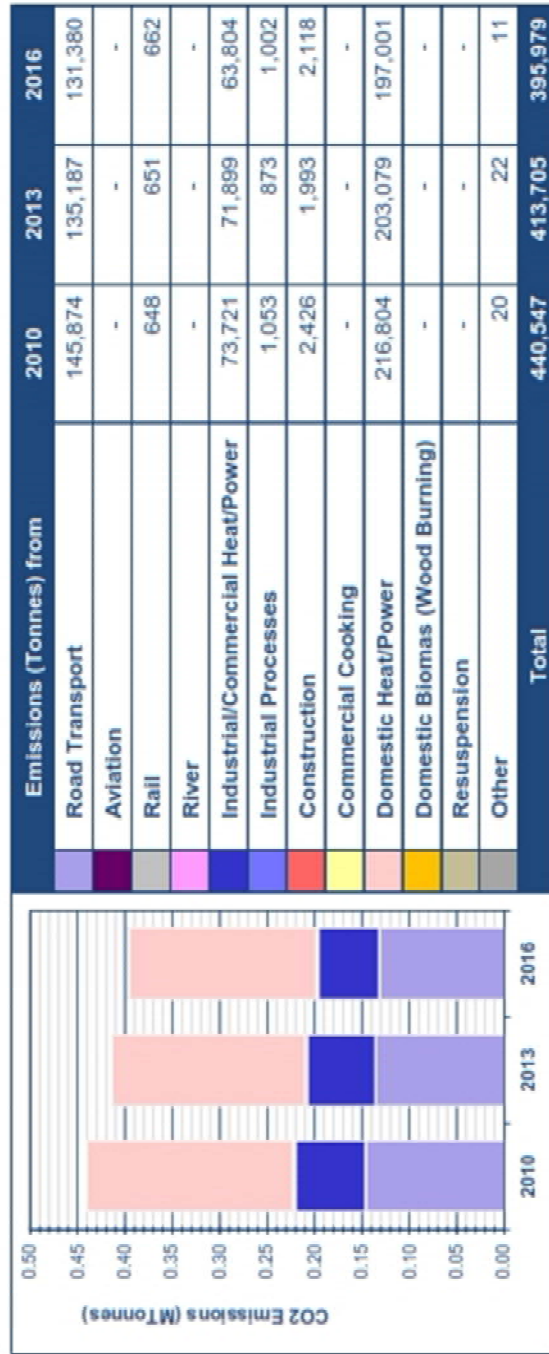
	(d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more: or (e) development carried out on a site having an area of 1 hectare or more.
Mitigation	Mitigation measures will minimise, but not necessarily remove, the air quality impact of a development.
National Air Quality Objectives	See Air Quality Objectives.
National Air Quality Strategy	The Air Quality Strategy for England, Scotland, Wales and Northern Ireland. The current version at the time of producing this SPD was published in July 2007, with a supplement published in May 2018.
NO <sub>2</sub>	Nitrogen dioxide
NO <sub>x</sub>	NO <sub>x</sub> = nitrogen oxides, which includes nitric oxide and nitrogen dioxide. Most pollution sources emit nitrogen oxides primarily as nitric oxide. However, once in the atmosphere nitric oxide is converted to nitrogen dioxide. Therefore, it is important to know the concentrations of both NO <sub>x</sub> and NO <sub>2</sub> .
Offsetting	Measures which 'compensate' for anticipated increases in pollution in the area but not necessarily at the exact area. This might be for example by funding more general measures in the Borough's air quality action plan.
Part A1, A2 and B Processes	Types of industrial processes which are regulated under the Environmental Permitting Regulations.
PM <sub>10</sub>	Particulate matter with a diameter of less than 10 microns.
PM <sub>2.5</sub>	Fine particulate matter with a diameter of less than 2.5 microns.
Receptor	A location where members of the public might be exposed to air pollution. Typically depends on the averaging period of the air quality objective as illustrated in Box 1.1 in LLAQM Technical Guidance (known as LLAQM.TG.16).
Sensitive receptor	A receptor where particularly vulnerable groups of the population spend significant time. These include children's nurseries, schools, playgroups, hospitals, GP surgeries/health centres/nursing homes and care homes.
Street canyon	A road with buildings either side which restrict the dispersion and dilution of the emissions.
Vulnerable groups of the population	Generally considered to be children, the elderly and those with pre-existing respiratory and cardiovascular diseases.  During demolition of buildings patients with diseases that suppress their immune system may be vulnerable groups due to the emission of fungal spores.

# Appendix B: London Atmospheric Emissions Inventory for Merton

Figure 6: CO2 emissions by source type

# LONDON ATMOSPHERIC EMISSIONS INVENTORY (LAEI)

## CO2 Emissions by Source Type - Merton



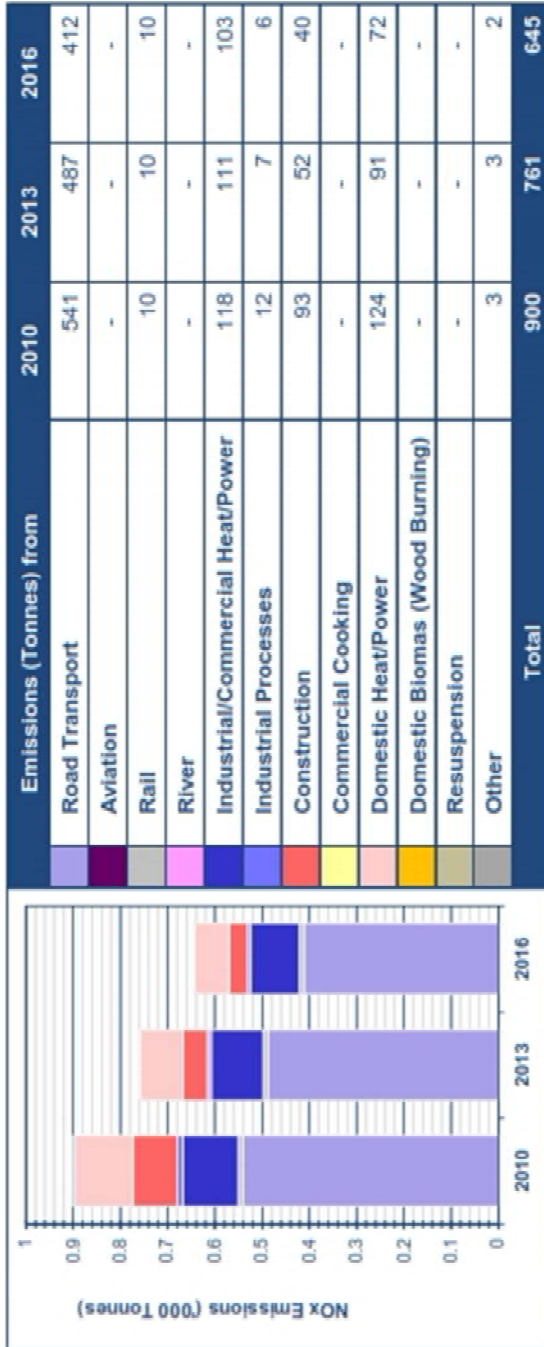
The bar chart represents emissions from each air pollution source stacked on top of one another, with the total stack height equalling total emissions from all sources across the Borough. The numbers in the table are those used to plot the graph and represent, for each year, the amount of pollutant emitted into the atmosphere (in tonnes/year).

- Industrial Processes: includes emissions from Part A1, A2/B processes, and from Non-Road Mobile Machinery (NRM) exhaust on industrial sites.
- Heat/Power generation: includes emissions from the combustion of gas, oil or coal in the Industrial/Commercial and Domestic sectors respectively.
- Construction: includes construction dust (PM) and NRM exhaust on construction sites.

Figure 7: NO<sub>x</sub> emissions by source

# LONDON ATMOSPHERIC EMISSIONS INVENTORY (LAEI)

## NOx Emissions by Source Type - Merton



The bar chart represents emissions from each air pollution source stacked on top of one another, with the total stack height equalling total emissions from all sources across the Borough. The numbers in the table are those used to plot the graph and represent, for each year, the amount of pollutant emitted into the atmosphere (in tonnes/year).

- Industrial Processes: includes emissions from Part A1, A2/B processes, and from Non-Road Mobile Machinery (NRMM) exhaust on industrial sites.
- Heat/Power generation: includes emissions from the combustion of gas, oil or coal in the Industrial/Commercial and Domestic sectors respectively.
- Construction: includes construction dust (PM) and NRMM exhaust on construction sites.

Figure 8: PM10 emissions by source

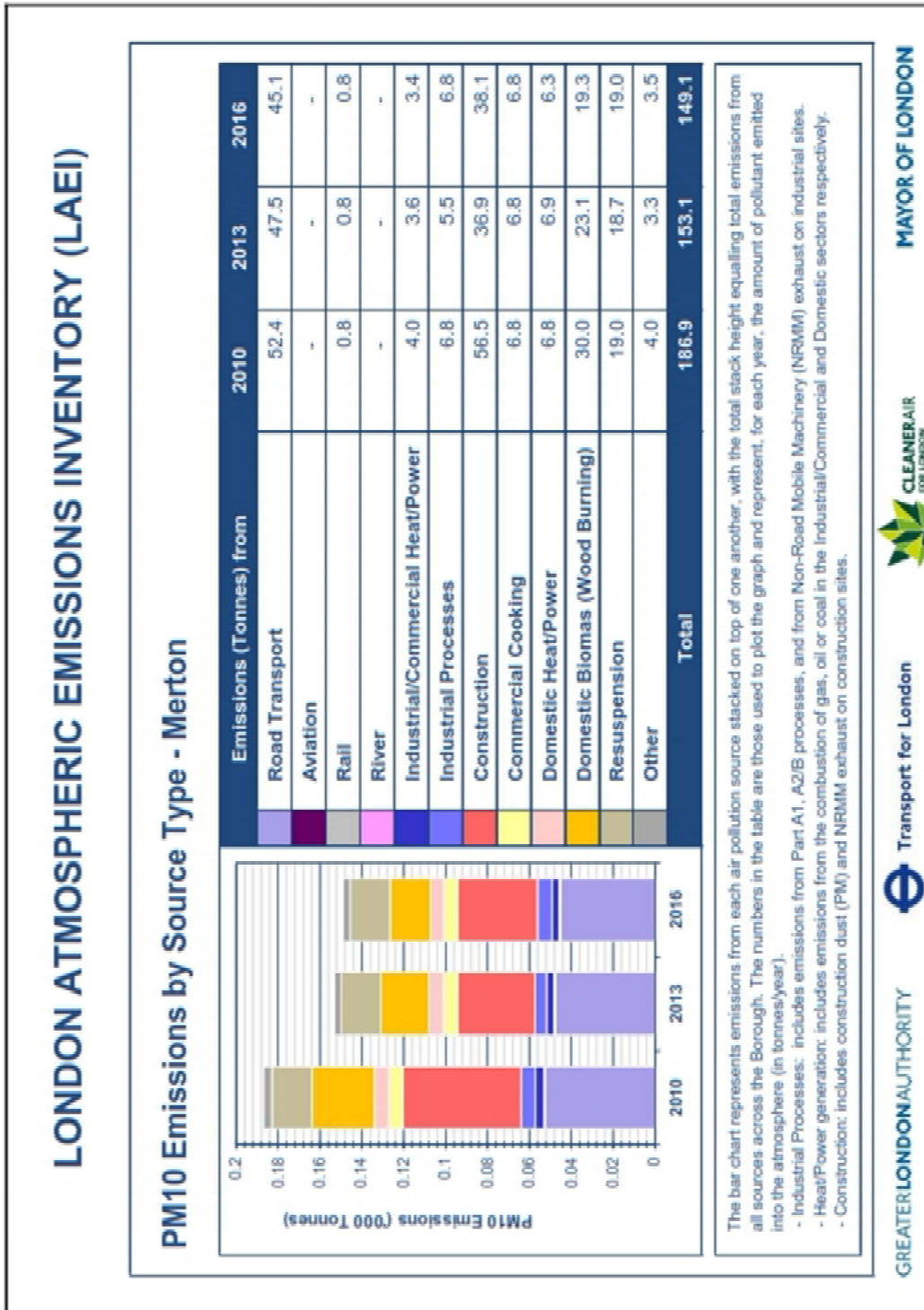
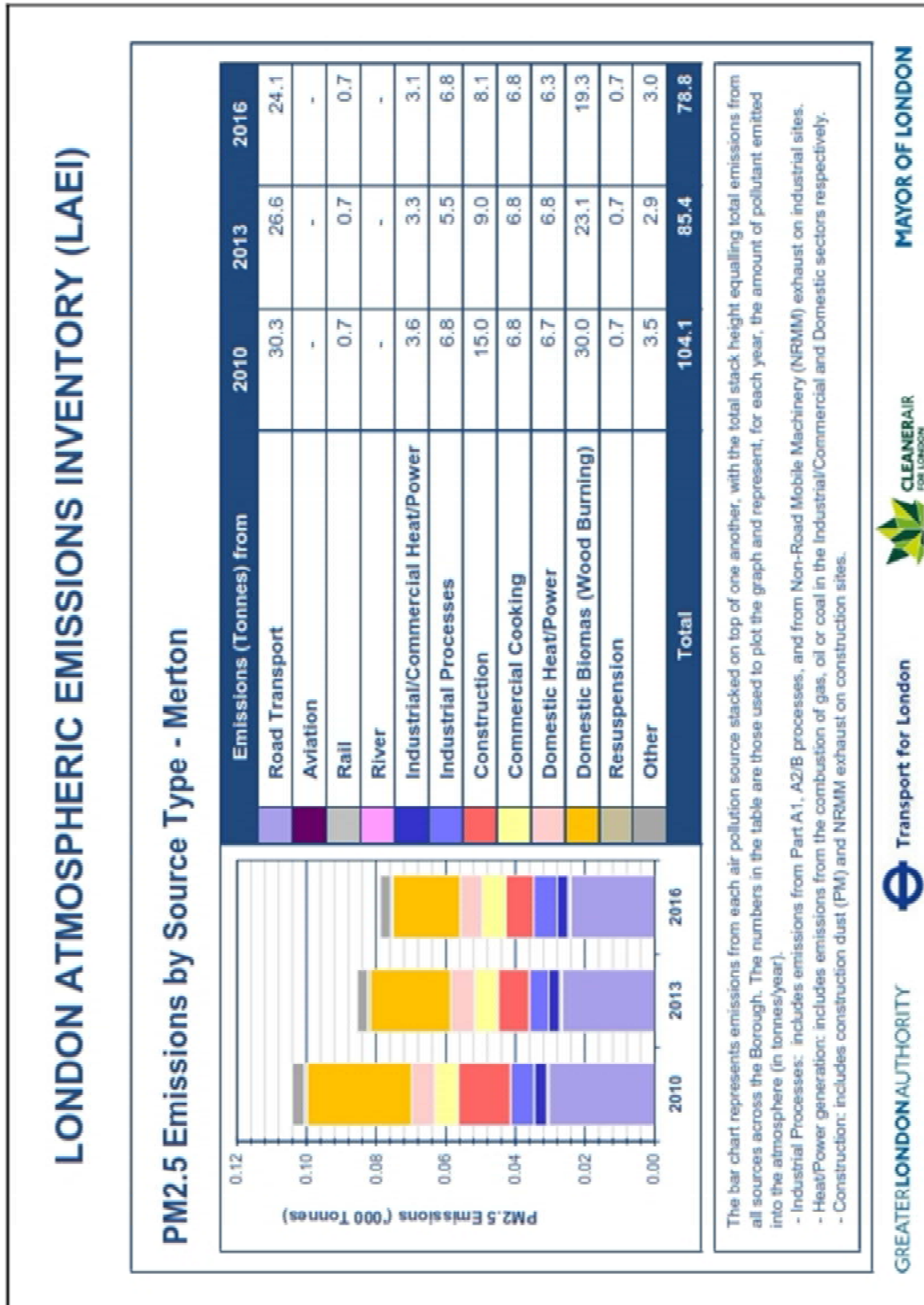


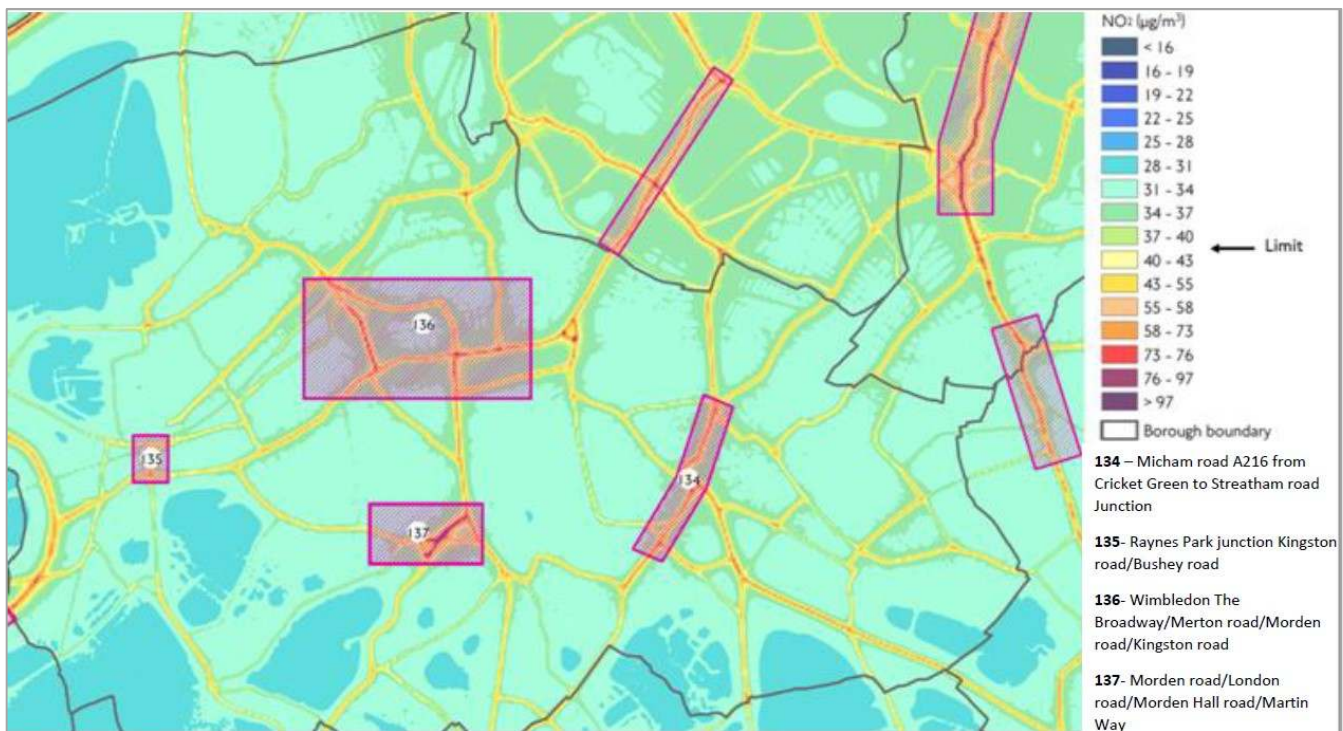
Figure 9: PM2.5 emissions by source



## Appendix C: Location of Air Quality Focus Areas

The Greater London Authority (GLA) identified Air Quality Focus Areas in 2014. These are locations that not only exceed the EU annual mean limit value for NO<sub>2</sub> but are also locations with high human exposure. The Focus Areas were defined to address concerns raised by boroughs within the Local Air Quality Management process and forecasted air pollution trends. This is not an exhaustive list of London's hotspot locations, but where the GLA believe the problem to be most acute.

Figure 10: AQFAs in Merton



## Appendix D: EPUK/IAQM Air Quality Assessment Screening Criteria

This appendix provides the EPUK/IAQM screening criteria for an air quality assessment as published in January 2017. This guidance is periodically updated, and the most recent version should be used. In the case of an assessment of the impacts of a development in the local area, a two-stage approach is suggested.

The first stage is intended to screen out smaller development and/or developments where impacts can be considered to have insignificant effects.<sup>5</sup>

The second stage relates to specific details about the proposed development and the likelihood of air quality impacts. Stage 1 requires any of the criteria under (A) coupled with any of the criteria under (B) in figure 11 below, to apply before it is considered appropriate to proceed to Stage 2.

If none of the criteria are met, then there should be no requirement to carry out an air quality assessment for the impact of the proposed development on the local area, and the impacts can be considered to have insignificant effects. Figure 12 below, sets out the Stage 1 criteria designed to remove the need to assess impacts arising from small developments.

Figure 11: Criteria to proceed to stage 2.

Criteria to Proceed to Stage 2
A. If any of the following apply: 10 or more residential units or a site area of more than 0.5ha; or more than 1,000 m <sup>2</sup> of floor space for all other uses or a site area greater than 1ha.
B. Coupled with either of the following: the development has more than 10 parking spaces the development will have a centralised energy facility or other centralised combustion process.

\* Note: Consideration should still be given to the potential impacts of neighbouring sources on the site, even if an assessment of impacts of the development on the surrounding area is screened out.

The criteria in figure 12 below, provide more specific guidance as to when an air quality assessment is likely to be needed to assess the impacts of the proposed development on the local area. The criteria are more stringent where the traffic impacts may arise on roads where concentrations are close to the objective.

The presence of an AQMA (Air Quality Management Area) is taken to indicate the possibility of being close to the objective, but where whole authority AQMAs are present and it is known that the affected roads have concentrations below 90% of the objective, the less stringent criteria is likely to be more appropriate. Where an air quality assessment is found as being needed, then this may take the form of either a Simple Assessment or a Detailed Assessment.

In other words, passing a screening criterion in figure 12 does not automatically lead to the requirement for a Detailed Assessment. If none of the criteria are met, then there should be no requirement to carry out an air quality assessment for the impact of the development on the local area, and the impacts can be insignificant. This should be agreed with the local planning authority.

<sup>5</sup> Taking account of criteria published in a) The Town and Country Planning (Development Management Procedure) (England) Order 2010 – 2010 No. 2184 [(Wales) Order 2012, No 801(W11)] (HMSO), b) The GLA’s Supplementary Planning Guidance (SPG) on Sustainable Design and Construction (2014) and c) The Sussex Air Quality Partnership’s Air Quality and Emissions Mitigation Guidance for Sussex Authorities (2013) v January 2014. The latter still requires a calculation of emissions even if an assessment is not required.



Figure 12: Indicative Criteria for Requiring an Air Quality Assessment

The development will:	Indicative Criteria to Proceed to an Air Quality Assessment
Cause a significant change in Light Duty Vehicle (LDV) traffic flows on local roads with relevant receptors. (LDV = cars and small vans)	A change of LDV flows of: <ul style="list-style-type: none"> <li>• more than 100 AADT within or next to an AQMA</li> <li>• more than 500 AADT elsewhere</li> </ul>
Cause a significant change in Heavy Duty Vehicle (HDV) flows on local roads with relevant receptors. (HDV = goods vehicles + buses >3.5t gross vehicle weight)	A change of HDV flows of: <ul style="list-style-type: none"> <li>• more than 25 AADT within or next to an AQMA</li> <li>• more than 100 AADT elsewhere</li> </ul>
Realign roads, i.e. changing the proximity of receptors to traffic lanes.	Where the change is 5m or more and the road is within an AQMA.
Introduce a new junction or remove an existing junction around relevant receptors.	Applies to junctions that cause traffic to significantly change [how] vehicle[s] accelerate/decelerate, e.g. traffic lights, or roundabouts.
Introduce of change a bus station.	Where bus flows will change by: <ul style="list-style-type: none"> <li>• more than 25 AADT within or next to an AQMA</li> <li>• more than 100 AADT elsewhere</li> </ul>
Have an underground car park with extraction system.	The ventilation extract for the car park will be within 20 m of a relevant receptor, coupled with the car park having more than 100 movements per day (total in and out)
Have one or more substantial combustion processes. <i>*This includes combustion plant associated with standby emergency generators (typically associated with centralised energy centre) and shipping.</i>	Typically, any combustion plant where the single or combined NO <sub>x</sub> emission rate is less than 5 mg/sec <sup>28</sup> is unlikely to give rise to impacts, provided that the emissions are released from a vent or stack in a location and at a height that provides adequate dispersion. In situations where the emissions are released close to buildings with relevant receptors, or where the dispersion of the plume may be adversely affected by the size and/or height of adjacent buildings (including situations where the stack height is lower than the receptor) then consideration will need to be given to potential impacts at much lower emission rates. Conversely, where existing nitrogen dioxide concentrations are low and where the dispersion conditions are favourable, a much higher emission rate may be acceptable.

## Appendix E: Model Conditions

This appendix provides examples of standard conditions that may be included in planning

consents for prior commencement of development and prior to occupation.

Prior to commencement of development

### **Demolition and Construction Environmental Management Plan**

1. Prior to the commencement of development, including demolition, a Demolition and Construction Environmental Management Plan (DCEMP) shall be submitted to and approved in writing by the Local Planning Authority. The DCEMP shall include:
  - a) An Air quality management plan that identifies the steps and procedures that will be implemented to minimise the creation and impact of dust and other air emissions resulting from the site preparation, demolition, and groundwork and construction phases of the development.
  - b) Construction environmental management plan that identifies the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and other air emissions resulting from the site preparation, demolition, and groundwork and construction phases of the development.
  - c) Construction Logistics Plan that identifies the steps that will be taken to minimise the impacts of deliveries and waste transport.
2. The above plans shall not be written other than in accordance with TfL (Transport for London) Construction Logistics Plan Guidance and London Borough of Merton SPD 'Air Quality' and any later adopted guidance and policy.
3. The development shall not be implemented other than following the approved scheme, unless previously agreed in writing by the Local Planning Authority.

**Reason:** To ensure the development does not raise local environment impacts and pollution.

### **NRMM**

All Non-Road Mobile Machinery (NRMM) used during the development that is within the scope of the GLA 'Control of Dust and Emissions during Construction and Demolition' Supplementary Planning Guidance (SPG) dated July 2014, or any successor document, shall comply with the emissions requirements there.

**Reason:** To ensure the development does not raise local environment impacts and pollution

### **Electric Vehicle (EV) Parking**

Prior to the commencement of development, details and implementation programme of the electric vehicle parking spaces shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be implemented other and following the approved scheme; shall be fully installed prior to occupation and thereafter kept as approved.

**Reason:** To accord with the terms of the application and requirements of current policy and to minimise the impact of car travel on the environment.

### **Cycle parking**

No building/dwelling/part of the development shall be occupied until cycling parking facilities have been provided following detailed drawings to be submitted to and approved in writing by the Local Planning Authority, such drawings to show the position, design, materials and

finishes thereof.

**Reason:** To accord with terms of the application and to demonstrate that it is compliant with the current London Plan.

### **Ventilation system**

Prior to the commencement of development, a ventilation scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall:

- Identify measures to protect future users from external air pollution.
- Detail a maintenance scheme -The development shall not be implemented other and in accordance with the approved scheme; shall be fully installed prior to occupation and thereafter maintained in

Detail a maintenance scheme. The development shall not be implemented other and following the approved scheme; shall be fully installed prior to occupation and thereafter maintained in accordance with the approved scheme.

**Reason:** To promote good air quality design and to protect occupiers of the development from existing sources

Prior to occupation

### **Air Quality – Combustion Plant**

Unless otherwise agreed in writing with the Local Planning Authority, no boiler or Combined Heat and Power (CHP) shall be installed within the development hereby approved, other than one that incorporates and has installed abatement technology to reduce emissions to below 0.04 gNO<sub>x</sub>/kWh. 2. All systems shall be maintained in accordance with the manufacturer's instructions.

**Reason:** To minimise the NO<sub>x</sub> emission.

### **Emissions Control Scheme**

Prior to the occupation of any part of the development hereby approved, an emission control scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide details of measures to be implemented to minimise the direct and indirect emissions of air pollutants resulting from the development. The development shall not be occupied other than in accordance with the approved scheme.

**Reason:** To mitigate the impact of the development upon air quality.

### **Delivery and Service Plan**

Prior to the occupation of any part of the development hereby approved, a comprehensive delivery and service plan, to manage, co-ordinate and minimise all deliveries and services, including waste services, to all parts of the development, shall be submitted to and approved in writing by the Local Planning Authority. Where developers are encouraged to consolidate Delivery and Service Plans with other neighbouring premises servicing neighbouring properties. The scheme shall provide details of measures to be implemented and maintained to minimise and manage all deliveries and services to all parts of the development to. Central pick-up locations must be agreed, and personal deliveries discouraged. The development shall not be occupied other than in accordance with the

approved scheme.

**Reason:** To reduce the number of vehicles and emissions from vehicles for deliveries and services and to mitigate the impact of the development upon local air quality.

Consultation statement on the draft  
Air Quality Supplementary Planning  
Document (SPD) public engagement  
May 2021.

## 1. Introduction

- 1.1 On the 7<sup>th</sup> October 2020, [Cabinet](#) approved public consultation on the draft Air Quality SPD. The consultation started on 28<sup>th</sup> October and closed on the 8<sup>th</sup> December 2019. We received a total of responses of which 34 responses. The consultation was carried out in accordance to planning legislation temporary changes due to the Covid-19 pandemic.

## 2. Engagement methods

- 2.1 This section looks at the consultation and how the council raised awareness of the consultation. The consultation was carried out in line with Government Coronavirus guidance and Merton's Statement of Community Involvement (temporary COVID changes).

### **Raise awareness.**

- 2.2 The Council notified all the names of individuals, groups and organisations held on the Local Plan database<sup>1</sup>. These are made up of residents, businesses, faith, environmental, civil and community groups. The names on this database are persons who have indicated they wish to be consulted on planning development documents in accordance with General Data Protection Regulation (GDPR).
- 2.3 During the consultation, the Council ran consultation awareness messages on Merton Council social media platforms such as Facebook and Twitter. In addition, the Council placed adverts on Facebook. Residents/business who are signed up to the council's iConsult 'get involved' consultation platform also received notification of the consultation. The database has over 2000+ subscribers. Officers also raise awareness at stakeholder and partner meeting.

### **Building understanding, consult and communicate.**

- 2.4 We had a dedicated [webpage for the draft Air Quality SPD](#). Officers were available to virtually attend community groups/association meeting and forums. However, we did not receive any invitations or request to address such meetings.
- 2.5 Merton Councillors were briefed by way of Merton's democratic process of the SPD, its role within the context of planning and its importance to the health and wellbeing to all communities, businesses and planning. A dedicated Council officer was available to answer any questions on the document and consultation.

## 3. The online survey analysis of responses

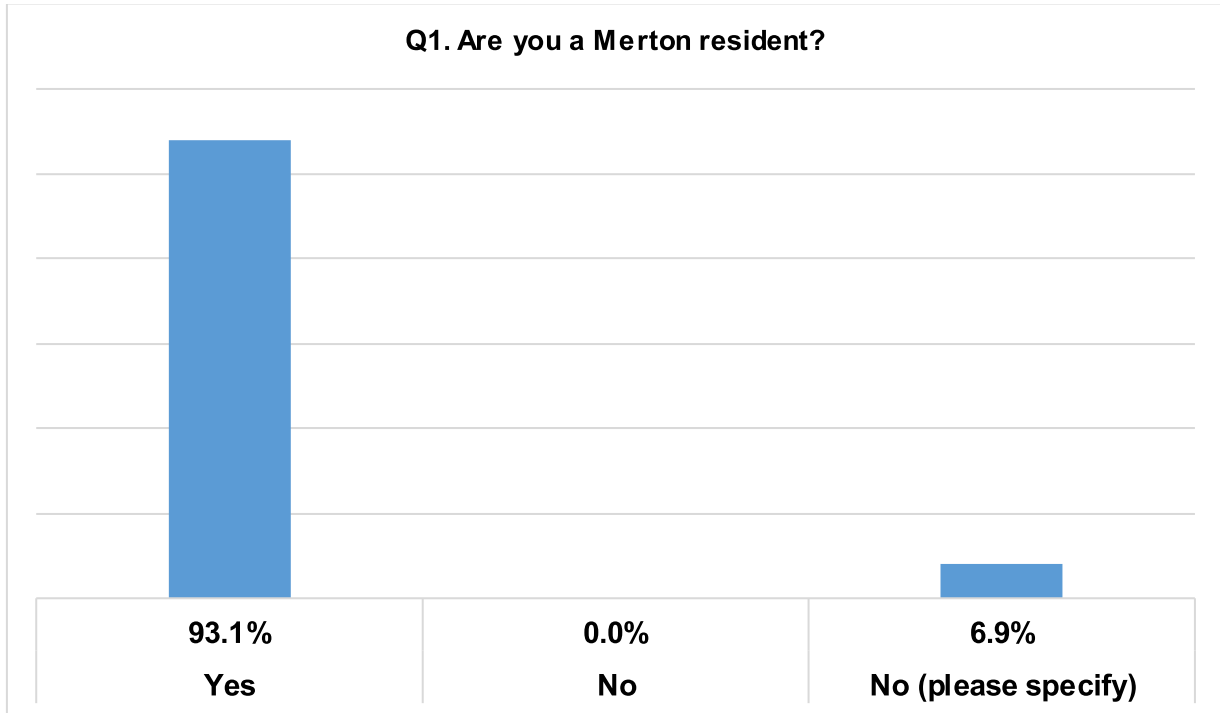
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<sup>1</sup> If you'd like to be added to our Local Plan consultation database.  
Email: [future.merton@merton.gov.uk](mailto:future.merton@merton.gov.uk)

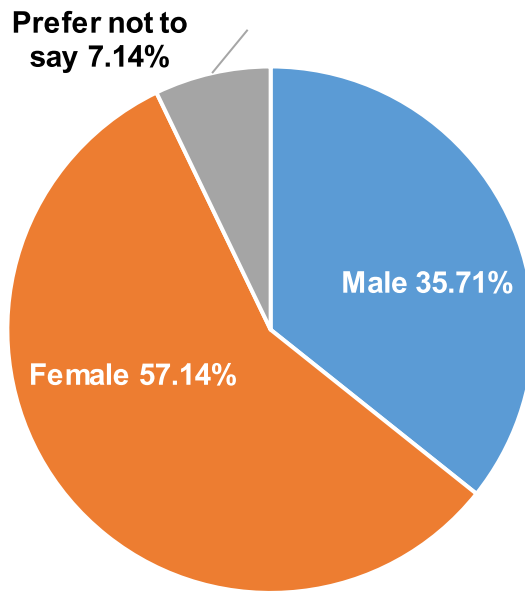
3.1 Some comments received were not for the scope of an SPD but were however, useful for the development of the new draft local plan.

3.2 The following section looks at the xx online response via Survey Monkey portal. We used this survey portal as it is easy to use on several platforms such as mobiles, tablets and it is a trusted portal.

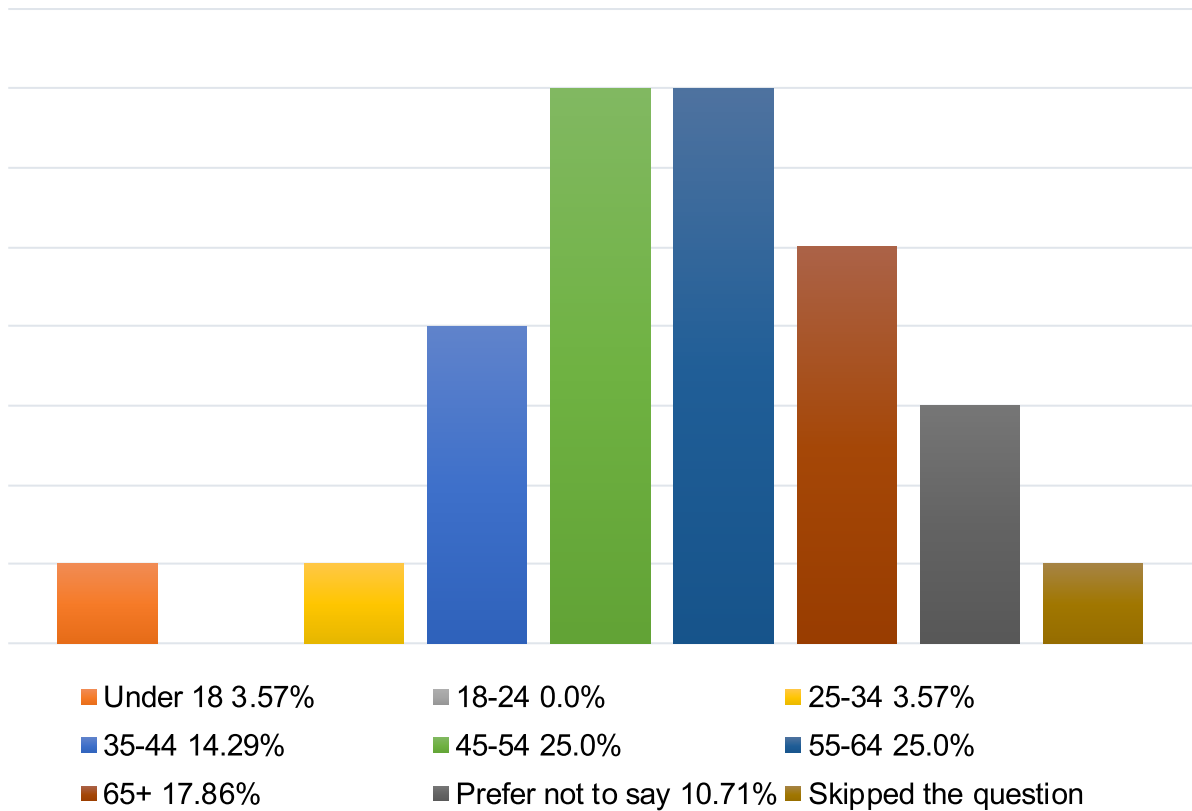
3.3



### Q2. What is your gender?

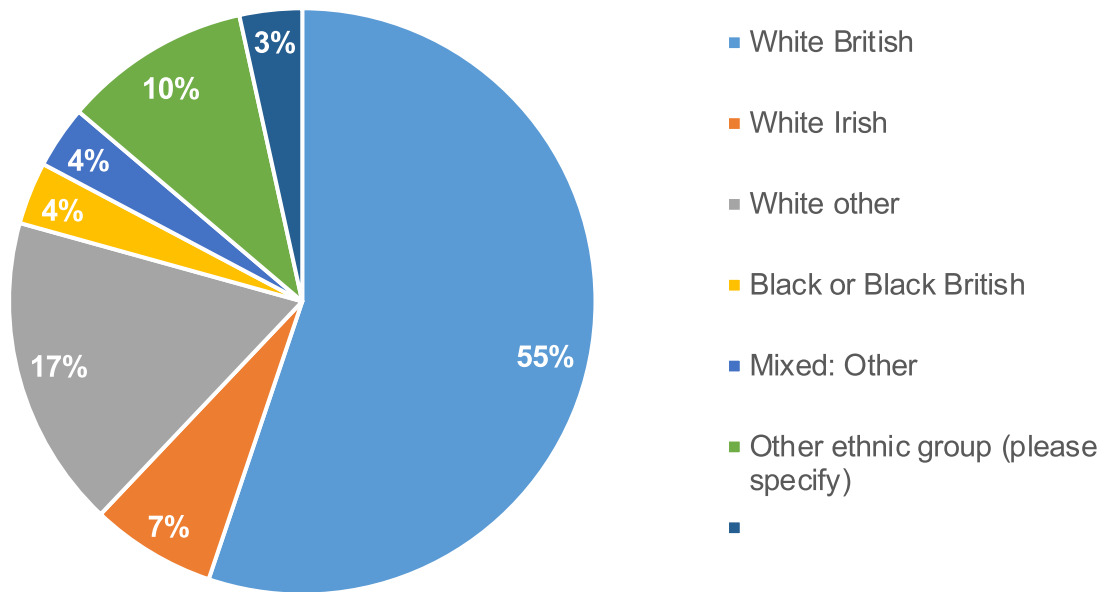


### Q3. What is your age group?





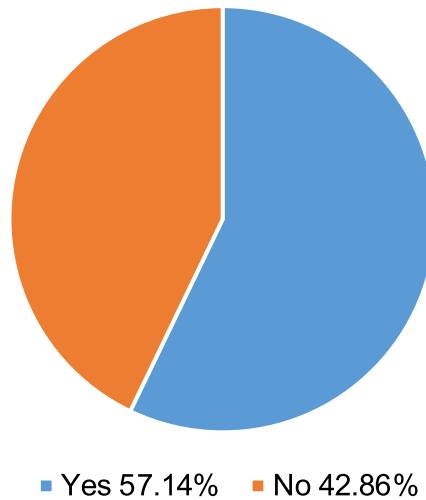
Q4. What is your ethnic group?



Q5. Do you have a disability or learning difficulty?

Answer Choices	Response (%)
Yes	0.0%
No	100.0%

**Q6. Would you like to be contacted by us about future planning document consultations? Responses**



3.4 Q7 and Q8 asks for personal details.

3.5 **Q9. Sections 1 - 4: provides an understanding of air pollution and national legislation and national, regional, local planning polices and guidance.**

3.6 Comments covered a range of areas/topics from Merton's Planning Application Committee, the need for more trees in Merton, cycling and cycling storage and climate change. The bullet points below are a summary of comments received –

- Merton regularly allows trees, shrubs and entire eco-systems to be removed for development in Wimbledon Village. With sites being filled with ever larger properties including basements, the amount of green space is constantly being reduced. The attitude of the PAC (Planning Application Committee) in this regard needs to change to prevent further climate change. Flooding because of basement excavation is commonplace and far more stringent policies are required with quick enforcement when rules are breached. S73 applications are just waved through - this should no longer be the case. 4.9 - Yes Merton - please do this!
- Imperative that Planning is refused if AQN (Air Quality Neutral) benchmarks cannot be met, including for residential developers.
- Most residential developments in Wimbledon Village result in an increase of over 100m<sup>2</sup> so the CIL (Community Infrastructure Levy) should be charged in all these instances. Not sure that this has happened thus far!
- Planning policies should include cycle storage provision including for tricycles, hand cycles, tandems, cycle trailers and other cycle options which promote inclusivity and practicality for cycle use. Plans should include provision for charging e-bikes which are known to improve the numbers of people aged 50+ who cycle.
- Planning approval should have a much stronger focus on sustainable/green building and zero carbon homes. For example, the CIL should be charged at a lower rate for home that are built to a zero-carbon standard. As well, given

that the majority of the air pollution in Merton is from vehicles, there needs to be much more education about this - along with policies that will reduce traffic and increase electric car usage.

- The Government has recently relaxed planning laws which does not improve air quality. Consent should not be given for parking places or paving front gardens.
- Yes, broadly speaking I support.

3.7 **Q10 Section 5: Air quality Assessments: Do you have any comments on this section?**

3.8 Comments covered a range of areas/topics from development proposals, the need for more trees in Merton –less cars and zero carbon. Summary below:

- "Major" developments and their impact on air quality are addressed in this section. However, I think that there should be much more attention paid to smaller developments.
- if such dense developments are to be put into residential neighbourhoods the new units/homes going in should be required to not produce any more pollution than that produced by the previous single-family home on the same site. This would require the building of zero carbon homes.
- Wood burning fireplaces and outdoor fire pits are increasing popular - and having 5-7 units burning wood rather than one family home adds even more to the pollution problem. That much scrutiny needs to be applied to these smaller developments in residential neighbourhoods.
- We need more trees and fewer cars.

3.9 **Q11. Section 6: Development and building design principles: Do you have any comments on this section?**

3.10 Comments covered a range of areas/topics from development proposals, concerns about paving over front gardens and wood burning fires. Summary below:

- We feel there could be further guidance on when and how the development principles in para 6.2 and the requirements in the construction phase set out at 6.4 would be applied in practice.
- Poor air quality caused by construction is often raised by residents, but it is unclear how this could be controlled by the SPD at a grant of planning application stage - construction management and logistics plans usually being agreed by condition.
- Obviously, the SPD could influence the officers charged with agreeing those plans, but residents are left powerless to challenge the actions of developers on these grounds. That said, we are pleased to see in para 6.4 the suggestion that contribution to any additional resources required for regulatory monitoring might be required.
- Heavy machinery is in use for the minimum possible time during developments (i.e. allow a longer working day). Deliveries outside of peak traffic hours a concern.

- There is a real lack of understanding about the impact of wood burning on air quality and with so many people being at home through the winter months and wanting to feel "cosy", there are genuine issues with smoke pollution/particulate matter. I believe that Merton should look at restricting outdoor burning of garden waste and that wood burning stoves in homes should be eliminated in any new builds. There should also be more education about how burning wood contributes to particulate matter pollution in Merton.
- Development Design - Disagree to include Canteens in this list - they should be away from the road and hopefully have outdoor space as well (in line with good Covid practice). Outdoor space would make Canteens a far better place to eat, mix and socialise.
- Please, no more paved front gardens.
- Provide safe, secure, preferably internal bike storage and other aids to journeys via active travel.
- Ban all basement extensions. The equipment used produces highly toxic particulate diesel fumes that pollutes the entire neighbourhood.
- Seems restrictive to put non-habitable rooms at front of building better to reduce outside sources of pollution or not build at all Biomass/biofuel should be discouraged. As should fossil fuels.

3.11 **Q12 Section 7 Green infrastructure: Do you have any comments on this section?**

3.12 Comments covered a range of areas/topics from the need of more trees in the borough, low traffic neighbourhoods, cycling routes and the need for more green infrastructure. Summary below:

- We agree with the importance of urban vegetation -We need more wild areas.
- Greenery is welcome. Should consider whether hard standings within developments (such as car parking) are absolutely necessary.
- Street trees are needed, more low traffic neighbourhoods, safe cycle routes - there is no safe cycling route to my school for me.
- Coordination with traffic plans is needed - there is no point in having green infrastructure when traffic flow inefficiencies immediately negate their effect.
- There should be more requirements for maintaining greenery in planning processes.
- Gardens should not just be paved over for cars.
- They should be requirements to maintain some level of plant life that can help reduce pollution. As well there should be a big educational campaign about the positive impact planted roofs, green walls, hedges and plants can have in trapping pollution.
- An easy "go to" list of top trees and plants for this purpose could be put together by the Planning Council. As well, the Borough of Merton should set some targets for increasing greenery that will help combat pollution. Many people are much more focussed on their homes and gardens given the COVID lockdown - it is an excellent time to education and support individuals to green their homes and communities.

- PAC needs to fully the role of green infrastructure and air quality by refusing planning applications that require the total annihilation of gardens, with developments taking up the entire plot so there is no room for re-planting. Retain as much of the vegetation as possible to help the ecosystems and the planet.

3.13 **Q13 Section 8 Construction: Do you have any comments on this section?**

3.14 Comments covered a range of areas/topics from construction spill over on the streets and banning extension of large homes. Summary below:

- Speed up construction times by cutting red tape.
- Improved exhaust systems in restaurants, deliveries out of normal daytime hours to improve traffic flows and reduce NO2 build up from waiting traffic.
- Paragraph 8.5: This is what I have been suggesting all along and would make a positive difference to the local access roads frequently used by lorries and skips. This should apply to all developments no matter how small, as they all use skips and lorries, scaffolding etc. School streets should be always avoided if possible.
- There should be a limit on how far people can extend their houses.
- There are no specifics about dust creating machines abound on construction sites and must be regulated - cutting machines, saws, grinders, and sanders should always be operated in airtight areas with filters.
- Ban extensions and developments of homes that are already huge. Merton Planning/Building Permit department has allowed a large extension and re-siting of the driveway, which will remove 2-3 public paying parking spaces. This constitutes a removal of parking fees that go to the council's public purse, for the benefit of one huge homeowner.
- Construction should be discouraged from spilling onto the public highway. Where this is unavoidable road space should be prioritised for pedestrians taking special account of those with mobility issues. Circuitous diversions to maintain "traffic flow" should be avoided.

3.15 **Q14: Section 9: Transport: Do you have any comments on this section?**

3.16 Comments covered a range of areas/topics from the need to encourage more walking and cycling, reducing electric vehicles, charging points for electric bikes, the number of cars on the roads and car free developments. Summary below:

- Sensible and achievable initiatives
- We should all walk, cycle and use public transport more. We should have more car hire schemes to discourage private ownership of cars.
- Fewer cars on the road - reduce congestion, safe bike storage, good lighting and surfaces on bike/pedestrian paths - for example, Morden Hall Park is poorly lit and very muddy.
- Too much focus on EVs (electric vehicles) which have a high environmental build cost, add to congestion, deposit tyre and brake particles and use

valuable pavement space with chargers. What is needed is massive provision for safe secure parking and charging of e-bikes and safe secure parking and storage of bikes in general.

- Nothing on cycling infrastructure. Focus on electrical vehicles which are not reducing particle pollution.
- No real answers on how traffic will be reduced.
- They have slowed traffic to 20 miles an hour, which causes more air pollution.
- Do not allow your younger council employees to produce mad plans to encourage cycling by 60–95-year-olds for their health and charge these senior Merton residents huge parking permit fees for parking on the street outside their homes, just because they cannot afford to buy a newer type of car. Wealthier residents are not affected by higher street parking fees; they have the resources to buy electric cars/ newer petrol cars, they have been allowed/encouraged by the council's Planning/Building Permit Department to pave over their driveways, for free parking (at the taxpayer's expense, since the parking revenue from street parking is no longer payable). Use means testing (annual income from tax returns) to determine street parking permit fees on a sliding scale.
- Given 7.2 The Mayor's Transport Strategy includes the ambitious target that 80% of trips in London are made on foot, by cycle or using public transport by 2041 - We need VASTLY reduced motor traffic levels as this massively (overwhelmingly) prevents people from cycling.
- Vastly improved secure cycle parking facilities everywhere to reduce the enormous levels of bike theft. Facilitating EVs will not reduce traffic levels and given that the existing vehicles will be on our roads for 20 years, it will not reduce pollution as congestion will remain extremely high. EVs are heavy and emit fine particles from tyres and brakes more than fossil fuel powered vehicles, Electric bikes/cargo bikes are hugely more efficient and should be massively encouraged.
- We feel that para 9.5 could be stronger in setting out the expectation that developments must demonstrate how they will result in an improvement in air quality (we are concerned that the reference to "must play their part in ensuring that air quality in these areas does not worsen" leaves open the door to developments that aim for the bare minimum). We are concerned by the implications of para 9.7 - the aim should be to improve these areas, not simply avoid certain development in these areas.
- Traffic flow should be aimed at speeding the flow of traffic out of the borough (i.e. longer phased lights at peak times for traffic heading out of the borough). Rigid enforcement of road works that block major arterial routes in the borough to avoid the situation where lights are erected on a Thursday Night /Friday, works begin (Hole dug) on Monday, repair Tuesday/Weds, hole filled on Thursday, road surface repaired on Friday, Lights taken down Monday/Tuesday. This farce is repeated regularly across the borough and regularly leads to long avoidable traffic delays and massively increased NO2 emissions. Work on major arteries should be 7 days a week as air quality is the most important factor.

- Again - the focus seems to be on major developments. Obviously, these are important, but small 3-10 home developments should also be held to a higher standard. These smaller developments triple and quadruple the number of cars on small residential streets. The cumulative impact of many of these smaller 3-10 home developments can be quite significant.
- The Transport section says "All developments proposed in or next to these areas must play their part in ensuring that air quality in these areas does not worsen and must contribute towards an overall improvement in air quality. Therefore, development within these areas need to robustly demonstrate that the impact of both direct and indirect emissions can be fully mitigated." But from what I have seen in our neighbourhood, these considerations are not coming into play.
- I do not think it goes far enough on private parking. High PTAL (Public Transport Accessibility Level) areas should aim to be car free. Some space for disabled/ shared ownership is ok but careful consideration is required to balance against greening requirements. Note PTAL can be inexact. It should be used as a guide with local knowledge of planners/committee members allowing discretion. Where there is doubt it should err on the side of caution as "all cars are bought to be driven" (as set out in 2019 parking consultation Q&A) and will contribute to congestion and particulate emissions.

## Other submitted responses

3.17 We received responses via email (not through the survey monkey portal) below is a summary of the comments.

### ***Wimbledon Park Residents Association***

- The opening part of the document contains an excellent account of the consequences of air pollution.
- In item 5.12 entitled The AQA (Air Quality Assessments) should include the following added requirement; The predicted modelling of air pollution should estimate the errors due to uncertainties of traffic flows and other variables as well as giving the correct statistical errors which arise in their analysis. The developer should also comment on these uncertainties. In particular, the developers should conform to paragraphs 7.536-7.546 and the associated tables in Technical Guidance LAQM.TG (16) of DEFRA.
- Merton should carry out a review of its Air Quality Focus Areas (AQFA) to see if they really are areas of high air pollution, have high numbers of receptors and are in places where important future developments that can contribute to air pollution are likely to be sited.
- The wording in 9.6 concerning parking permits seems very restrictive and one wonders if it holds in Merton's established AQFA's.
- It would have been good to see more information on air pollution resulting from residents burning wood fires in their homes, bonfires in their gardens and fire pits. How will Merton enforce, the weak existing restrictions to the maximum possible. Can one forbid fire pits, for example, and what can be done to further tighten control polluting fires in resident's homes, of which

there are still quite a few? The full enforcement of the forthcoming restrictions of sales of wood by shops and garages should be easy and it would be good to know how Merton is going to do this.

- It would be much better if Merton Council were to find sites further to the south where the waste could be processed close to where it is generated.
- It has become clear that the Waste processing sites in Weir Road have led, to exceptionally large numbers of waste carrying HGVs on local roads.

### ***Transport for London (TfL)***

- As well as requiring new developments to contribute towards public transport improvements there should be an expectation that developments will incorporate measures that support active travel and provide contributions towards active travel improvements where appropriate TfL welcomes the requirement to provide cycle parking in accordance with the London Plan as a minimum and the need to make provision for larger and adapted cycles. It would be helpful to clarify that cycle parking should be designed in accordance with the London Cycling Design Standards.
- The final bullet point should also state clearly that car free developments will be encouraged and where car parking is provided in new developments this should be minimised in line with policies in the Publication London Plan
- Additional bullet points could be added to state that the Healthy Streets Approach would be adopted for new developments and improvements to streets or the wider public realm and to highlight the role of Low Traffic Neighbourhoods in Merton
- Para 9.3 Electric Vehicles TfL welcomes the requirement for car parking to be provided with active and passive electric vehicle charging facilities consistent with the Local Plan and London Plan.
- Para 9.6-Air Quality Focus Areas (AQFAs), Low Emission Neighbourhoods (LENs) and Clean Air Zones (CAZs) TfL supports the requirement for all development in these areas to be car free although we would not want to see car free development limited to these designated areas. The car free requirement should be reflected in the Local Plan. TfL also supports the restriction on parking permits being issued in neighbouring CPZs.

### ***Merton Conservatives***

- The improvement of air quality (reducing NO<sub>2</sub> and PM<sub>10</sub>/PM<sub>2.5</sub>) must be a priority in every commercial or infrastructure-based planning approval, with neutral impact developments only being allowed by exception and after ensuring strong mitigation and/or greening measures. Rigorous monitoring must be carried out at all locations of poor air quality with the regular publication of relevant data, clearly set out for ease of quick reference by residents and developers to assess each site's suitability in terms of air quality and required measures to mitigate. For commercial, infrastructure based and residential developments, urban greening, plantings and an increase in tree cover must be ensured by condition, with the use also of



planters, rain gardens, living walls and other green infrastructure, as well as the protection and restoration of pocket parks.

- In the interests of the borough doing what it can to lead on mitigating climate change impact and encouraging wellbeing, ambitious levels and forms of sustainable travel must be maximised.
- Each planning application which seeks to add parking spaces should be mandated to have each space having a charge point installed. This will help the rapid transition to cleaner electric cars and mitigate the environmental impact of the development.
- The council should set out ambitious targets to deliver a high (majority) percentage of EV's in the borough within the term of the new Local Plan. Businesses seeking planning permission on the industrial estates and elsewhere should only receive planning permission if they can demonstrate that their vehicle movements do not add to air quality concerns, i.e. those with light or heavy goods vehicles should show how they intend to clean up their fleets, and what environmental measures they can contribute to the borough by way of S106, CIL or planning conditions.
- To encourage modal shift to cycling in the borough the council, business and any new developments should provide secure, covered and fit-for-purpose bicycle storage units and bicycle stands, including where possible suitable docking/charge-points for e-bikes. Larger developments should build in appropriate cycle lanes/paths on the site up to where it joins the public realm.
- Heating and powering homes is one of the main culprits of bad air quality (both indoors and outdoors), therefore planning applications should seek to only use the cleanest modern gas boilers which are future-proofed to take hydrogen gas (as the national gas network is likely to start having hydrogen blended in), or air/ground-source heat pumps.
- Where wood-burners, other biomass burners should be restricted as they are bad for air quality. Additionally, there should be a fabric-first approach in design so that homes are well insulated and do not add to pollution problems.
- Flats in particular face challenging indoor air quality, so developers building these in busy areas should by condition ensure there is mechanical air filtration/air-conditioning installed. This will make flats more liveable in busy areas.

### ***Environment Agency***

- We understand the SPD is focused on new development however several existing developments require upgrading and regular reviews to ensure business is not contributing to poor air quality. We have raised these issues and opportunities in our input to the South London Waste Plan to ensure high standards at all waste management sites.
- Close partnership working and joined up working and joined up enforcement actions to ensure high environmental standards and preventing poor compliance with planning and permitting regimes. A good example of this is the ongoing joint Merton Council and Environment Agency action days to address issues at industrial estates such as Weir Road and Willow Lane. Air Quality monitoring is ongoing in the Weir Road area following complaints and

we will continue to share this data, evidence with you, and agree joint actions to manage air quality issues.

- Ensuring businesses are aware and are adapting to climate change and impacts of longer drier summers which require adaption and promotion of urban greening in new development and retrofitting in existing developments.
- We recommend awareness raising to encourage residents and businesses to sign up for air quality alerts and air quality forecasts. <https://uk-air.defra.gov.uk/>
- Raising awareness on the potential for construction and demolition sites becoming illegal waste sites. We recommend the Air Quality Action SPD references this ongoing issue and the need for high standards and visible security on vacant sites to manage this and prevent sites becoming illegal waste sites through trespassers gaining access and creating illegal waste sites which the landlord can be responsible for clean-up costs.

**Committee: Cabinet**  
**Date: 22 June 2021**

Wards: all

## **Subject: Neighbourhood Community Infrastructure Levy Review**

Lead director: Chris Lee, Director of Environment and Regeneration

Lead member: Councillor Martin Whelton, Cabinet Member for Housing, Regeneration and the Climate Emergency

Contact officer: Tim Catley, Planning Contributions Manager

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### **Recommendations:**

#### **That councillors:**

1. Note the contents of the Neighbourhood Community Infrastructure Levy (CIL) Review report at Appendix 1.
  2. Endorse the approach to enhanced engagement with ward councillors in order to identify and deliver specific Ward Allocation Scheme investments before the 2022 local elections.
  3. To endorse that a wholesale review of the implementation of Neighbourhood CIL (to include the Ward Allocation Scheme and the Neighbourhood Fund) be carried out following the completion of the 3 years duration of the Ward Allocation Scheme in May 2022 and informed by the results of the Your Merton survey due in late 2021.
- 

### **1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1 Community Infrastructure Levy (CIL) is collected from all qualifying developments in Merton in accordance with Merton's CIL Charging Schedule. Government requires CIL to be spent on infrastructure to support the development in an area. 15% of Merton's CIL collected is Neighbourhood CIL to be spent with local communities. Merton Council devised two processes to do this: the Neighbourhood Fund (from 2018) and the Ward Allocation Scheme (from 2019).
- 1.2 This report has been brought before Cabinet to appraise members of the findings of the review into the spending of Neighbourhood CIL funding carried out throughout the Spring 2021.

- 1.3 The report also seeks members approval of the recommendations arising from the findings of the review.
- 1.4 One of the recommendations seeks additional support and flexibility for the implementation of the Ward Allocation Scheme and another seeks members endorsement for a wholesale review to be carried out once the 3 years duration of the Ward Allocation Scheme is completed after the local elections in May 2022.
- 1.5 Thank you to councillors for participating in the review. Your points raised have led to improvements that will be implemented now and a full review of Neighbourhood CIL in 2022.

## **2. DETAILS**

- 1.1 In accordance with the Community Infrastructure Levy Regulations 2010 (as amended) 15% of the Council's CIL receipts (received from development being constructed in the borough) must be spent upon addressing the demands that development places on an area. This 15% element of CIL income is commonly referred to as "Neighbourhood CIL".
- 1.2 The In September 2017 Merton's Cabinet approved governance for the allocation of Neighbourhood CIL to projects and introduced bidding rounds to provide fairness and transparency. The Neighbourhood CIL funding made available for bids from any person, community group, business or other organisation in Merton is known as "Merton's Neighbourhood Fund". To date bidding rounds have been held once a year with three rounds held so far (one each in 2018, 2019 and most recently from 12<sup>th</sup> May to 3<sup>rd</sup> July 2020) and with Cabinet approving allocations to supported bids.
- 1.3 On 19<sup>th</sup> January 2019 Cabinet resolved to allocate a portion of Neighbourhood CIL receipts to a separate initiative called the "Ward Allocation Scheme", allowing each ward £15,000 to spend on specific small scale public space projects. Cabinet agreed that the Ward Allocation Scheme would operate under separate governance arrangements to that agreed for the Neighbourhood Fund.
- 1.4 This report is concerning both the Neighbourhood Fund and the Ward Allocation Scheme.

### **The Neighbourhood CIL Review - Scope and Findings**

- 1.5 Following the introduction of the Ward Allocation Scheme in April 2019, councillors have sometimes raised concerns over its implementation, surrounding the uptake of the funding both in terms of the numbers of

wards that have benefited from delivered projects funded by the scheme and the majority of the allocation that remained unspent (the Covid19 pandemic severely disrupted at least one year of the three-year Ward Allocation Scheme 2019-2021 while officers and councillors were diverted to other issues).

- 1.6 In response to these concerns, officers decided to undertake a review of the implementation of Neighbourhood CIL spending in Merton. It was thought that this would enable the Ward Allocation Scheme to be looked at both in terms of specific issues that councillors might wish to raise but also in the wider context of the Neighbourhood CIL funding regime in Merton including the regulatory and policy framework within which both Ward Allocation Scheme and the Neighbourhood Fund sits.
- 1.7 The interim review report can be found at Appendix 1.
- 1.8 Section 3 of the report at Appendix 1 sets out the methodology, which includes information gathering, consultation and report preparation.

#### Information gathering

- 1.9 Paragraphs 4.1 to 4.12 of the report at Appendix 1 set out the information in terms of the performance of both the Ward Allocation Scheme and the Neighbourhood Fund, key facts as follows:

##### ***Ward Allocation Scheme***

- Only councillors can submit projects for the Ward Allocation Scheme; projects must be chosen from a fixed list to minimise project management spend and to avoid double-counting with what is already paid for within existing council contracts, particularly for greenspaces and highways.
- 55% of wards have submitted applications
- Only 8% of wards have spent any of their £15k allocations
- Only one ward, Lower Morden has spent their entire allocation.
- 80% of applications have been for projects falling under the responsibility of the Green Spaces Team, such as park benches, bins, bulb planting and play equipment.

##### ***Neighbourhood Fund***

- Anyone can submit a bid to Merton's Neighbourhood Fund; the bidding round is annual and the criteria were agreed by Cabinet in 2017, based on the Community Plan objectives
- Across three bidding rounds £5 m was available for bidders and £4.4m allocated, compared to £7.0m that was requested in bids.
- Distribution by project type: (see figures 10 and 11 in the review report at Appendix 1), there has been a wide range of investments

ranging from shopfront improvements, providing a heating system for a scout hut, and supporting charities such as Commonsense Community Development Trust, the Polka Theatre and Deen City Farm, supporting back-to-work / employability programmes, a community hub for BAME Voice and a digital awareness programme for carers via Carers Support Merton the need for which was shown by the onset of the Coronavirus Pandemic. In general, the Neighbourhood Fund has delivered projects that strongly support key community plan and neighbourhood priority areas including bridging the gap/social capital/town centre, economy and employability, public realm, travel, health and community facility investments.

**Consultation**

1.10 Paragraphs 4.14 to 4.41 of Appendix 1 set out the consultations carried out with councillors and officers key to the implementation of Ward Allocation Scheme and the Neighbourhood Fund. These included:

- A survey sent to all councillors
- Interviews with 6 councillors including the leaders of each of the political parties in the council, the Cabinet Member for Housing, Regeneration and the Climate Emergency, the deputy Leader of the council

1.11 27 responses were received to the Councillor survey.

1.12 Questions sought in the surveys and followed up in the interviews covered the following topics:

- the overall success of Ward Allocation Scheme and Neighbourhood Fund
- priorities for Neighbourhood CIL investment
- the existing Ward Allocation Scheme project list and ways that it could be improved.
- accessibility and promotion of Ward Allocation Scheme and Neighbourhood Fund

1.13 A summary of the findings expressed by councillors is set out in the following table:

Ward Allocation Scheme	General Neighbourhood CIL/Neighbourhood Fund
------------------------	--

<ul style="list-style-type: none"> <li>• <b>29% successful 63% unsuccessful</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>52% successful 45% unsuccessful (Neighbourhood Fund)</b></li> </ul>
<ul style="list-style-type: none"> <li>• Delighted (Lower Morden – playground surface repair, bulbs, benches)</li> </ul>	<ul style="list-style-type: none"> <li>• Good outcomes (Neighbourhood Fund – Bridging the Gap)</li> </ul>
<ul style="list-style-type: none"> <li>• <b>End to end officer resourcing needed - 87%</b></li> <li>• Easier form, transparency, updates, designated officer for each service, delays/frustrations</li> <li>• Suits time rich wards</li> </ul>	<ul style="list-style-type: none"> <li>• <b>All priorities are important</b></li> <li>• More needs to be spent where it is generated</li> <li>• Bidders put off / it's for minority interests &amp; pet projects / “a done deal”</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Wider scope - 83%</b></li> <li>• <b>more flexible - 52%</b></li> <li>• <b>more money - 61%</b></li> <li>• Projects “that excite”, less maintenance projects</li> <li>• Public realm, small corners/spaces, markets</li> <li>• Trees - planting, maintenance, street trees</li> <li>• Park wardens, neighbourhood police officers</li> <li>• Fly tipping</li> <li>• Climate Action Group projects</li> </ul>	<ul style="list-style-type: none"> <li>• <b>36.5% not accessible enough, 23% in the middle/not sure, 40.5% agree it's accessible</b></li> <li>• More guidance / form overly technical / onerous bid requirements/help for community groups needed</li> <li>• More promotion</li> </ul>

1.14 **Neighbourhood Fund conclusions:** Overall the Neighbourhood fund is viewed as a success, with some fantastic investments into schemes delivering on the Community Plan overarching objective of building social capital and bridging the gap. For example, see paragraph 4.31 of the review report at Appendix 1 for the case study of the Towards Employment programme that is benefiting from £110k investment and delivering fantastic improvements to the life chances of young adults in the borough.

1.15 **Ward Allocation Scheme conclusions:** It is clear from councillors who took part in the consultation that there's a majority view that it could do more to meet their expectations, whether it be scope, flexibility, funding or officer support and accessibility.

1.16 A theme that came through especially in interviews across both Ward Allocation Scheme and Neighbourhood Fund is that residents could do with more help in accessing funding including struggling with the technical asks of the Neighbourhood Fund application form, and that these accessibility problems were exacerbated during the past year of

lockdowns, when restrictions made it very difficult for everyone involved to progress proposals.

- 1.17 It was suggested that there are other constraints in terms of some wards inability to progress Ward Allocation Scheme proposals with a small number of wards with well-established community groups in a far better position to move proposals forward raising a question of fairness.
- 1.18 In the officer interviews responses picked up on issues with fairness given the difficulties resourcing the applications that have come in. The difficulty in resourcing applications to date puts into focus what would need to be done to provide the “end to end” support councillors are appealing for especially for the final year of the scheme with wards trying to make up time lost over the past year’s lockdowns due to the Coronavirus Pandemic.
- 1.19 In the interviews officers suggested initial investment in project delivery and engagement resourcing would be helpful to help provide the support for councillors to successfully deliver projects from the existing “menu” list of projects in the final year of delivery, and more outreach/support and promotion for the Neighbourhood Fund bidders in the upcoming 2021 bidding round.
- 1.20 Agreeing with the views of a number of key Cabinet members officer interviewees considered that priorities for Neighbourhood CIL investment could be reassessed with the findings of the Your Merton survey and that this could involve a review of the scope of the Ward Allocation Scheme after the completion of the current scheme next year.

### **Options and Recommendations**

- 1.21 Section 5 of the review report at Appendix 1 explores options for taking Neighbourhood CIL forward in Merton.
- 1.22 **Ward Allocation Scheme:** in terms of expanding scope of the scheme officers recommend that it would be premature to do this at the current time while it still has a year before it closes. It is clear that extra resourcing is required to help deliver schemes, but it is considered that this be best focused on supporting ward councillors in delivering the existing list of project types, with support both for project delivery and engagement to help claw back the time lost because of the Coronavirus Pandemic
- 1.23 Officers intend to use the existing Neighbourhood CIL allocations of £150,000 to Public Space project delivery and £50,000 for resourcing Ward Allocation Scheme implementation to fund the additional resourcing



to help support the delivery of schemes in its final year. On 14 January 2019 Cabinet approved £50,000 “to be set aside in case additional business resource is required to deliver allocations” (paragraph 2.17(b) of the Cabinet Report – Item 12 of the 14 January 2019 Cabinet meeting agenda). As stated above additional business resource is needed in terms of additional staffing to support the final year of delivery. On 7 September 2020 Cabinet approved £150,000 “investment into the Public Space section... to coordinate the delivery of successful Neighbourhood Fund, Ward Allocation and S106 projects...” (paragraph 2.25 of the Cabinet Report – item 6 of the 7 September 2020 Cabinet meeting agenda).

- 1.24 **Neighbourhood Fund:** There are also some immediate steps that can be made in terms of improving the accessibility of the Neighbourhood Fund, including encouraging peer to peer promotion via partner organisations active in the community to improve awareness of the funding and the possibilities and making the bid form more user friendly. Officers will implement these for the 2021-22 bidding round.
- 1.25 In terms of views including in response to calls for an expansion of scope of the Ward Allocation Scheme and how and where the Neighbourhood Fund is spent, officers recommend that a wholesale review would be better carried out after May 2022 to give the council a chance to reflect on the full implementation of the three-year Ward Allocation Scheme, the progress on the accessibility improvements for Neighbourhood Fund, and the findings of the Your Merton survey.

#### **Next steps/further work**

- 1.26 The wholesale review proposed for after the completion of the Ward Allocation Scheme in 2022 can build upon the findings of the current review.
- 1.27 The Your Merton survey results may help to prioritise both Ward Allocation Scheme and Neighbourhood Fund criteria and holding the further review in 2022 will facilitate this.
- 1.28 The 2022 review will pick up on further work not included in the review report at Appendix 1, including a survey of Neighbourhood Fund bidders and other borough approaches.

### **3. ALTERNATIVE OPTIONS**

- 3.1 The proposed recommendations and next steps was considered the best option in so far as it strikes the right balance between acting now and

allowing for the consideration of a fuller extent of issues and options for improving the delivery of Neighbourhood CIL spending.

- 3.2 Doing nothing in terms of actions to support the implementation of Neighbourhood CIL would be to lose sight of the issues raised and risk reputational damage and failing to maximise the potential benefits to the borough and its neighbourhoods.
- 3.3 Taking too far reaching actions too early, such as broadening the scope of the Ward Allocation Scheme or revising Neighbourhood Fund investment priorities risks putting too much pressure on resources struggling to claw back time lost in scheme delivery during the Coronavirus Pandemic and not allowing for a more comprehensive exploration of all the considerations and views including the findings of the Your Merton survey of all residents.

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

- 4.4 Consultation undertaken including the councillor survey and interviews is detailed in the body of the report and in Appendix 1
- 4.5 Further consultation will be carried out for the further review to be undertaken in 2022 as detailed in the body of the report.

#### **5. TIMETABLE**

- 5.1 The timetable of actions as set out in the body of the report is summarised as follows:
  - July 2021 – Neighbourhood Fund bidding round to include enhanced community engagement/promotion and bid form improvements
  - 31st March 2022 – Ward Allocation Scheme ends, data and experiences recorded/collated
  - Summer 2022 – Carry out full Neighbourhood CIL review including the Your Merton consultation results, latest legal requirements, further consultation with councillors and bidders.

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

- 6.1 Community Infrastructure Levy, 15% of which is used for the Neighbourhood Fund, is payable when CIL-liable developments start to be built, not when planning permission is granted.

- 6.2 The £150,000 for Public Space Neighbourhood CIL and £50,000 for Ward Allocation Scheme support is available for the stated purposes in paragraph 2.23.
- 6.3 Additional financial information is provided on both NCIL and SCIL in the body of the report and Appendix 1

## **7. LEGAL AND STATUTORY IMPLICATIONS**

- 7.1 The Council may apply Neighbourhood CIL funding by virtue of the Council Infrastructure Levy Regulations 2010 and the Localism Act 2011 respectively.
- 7.2 Government guidance states that local communities should be engaged and agree with local authorities how best to spend Neighbourhood CIL.

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

- 8.1 None for the purposes of this report.

## **9. CRIME AND DISORDER IMPLICATIONS**

- 9.1 None for the purposes of this report.

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

- 10.1 Managing risks connected with this project are set out in the body of this report, including in section 3 “alternative options”.

## **11. APPENDICES – the following documents are to be published with this report and form part of the report**

- APPENDIX 1 – LONDON BOROUGH OF MERTON NEIGHBOURHOOD CIL REVIEW REPORT (INTERIM) SPRING 2021

## **12. BACKGROUND PAPERS**

[AGENDA ITEM 4 CABINET MEETING 18 SEPTEMBER 2017 – NEIGHBOURHOOD COMMUNITY INFRASTRUCTURE LEVY GOVERNANCE](#)

[AGENDA ITEM 12 CABINET MEETING 14 JANUARY 2019 – NEIGHBOURHOOD COMMUNITY INFRASTRUCTURE LEVY WARD ALLOCATION SCHEME](#)

INFRASTRUCTURE DELIVERY PLAN NOVEMBER 2020 (FOR DRAFT LOCAL PLAN) [Merton Draft Infrastructure Delivery Plan 2020.pdf](#)



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# London Borough of Merton Neighbourhood CIL Review Report (interim)

Spring 2021

Version control:

Version 0.3	Draft - Internal circulation	24 May 2021
Version 0.4	Draft – internal amends	26 May 2021
Version 0.5.1	Cabinet Version – appendix added (ideas and approaches)	22 June 2021 Cabinet

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DRAFT

## 1 Executive Summary

1.1 Since 2018, Merton's Neighbourhood Fund has successfully allocated over £4 million towards supporting the borough's community facilities, local charities, green spaces, streetscapes, town centres and neighbourhood parades in response to growing demand on the council's infrastructure from new development. The smaller Ward Allocation Scheme has been supporting councillors to deliver park improvements, bulb planting, local clean ups and community grants within their wards. This funding forms a portion of the Community Infrastructure Levy (CIL) income which the council collects through the planning system from new development in the borough.

1.2 This review aims to assess the performance of the Neighbourhood Fund and Ward Allocation Scheme now they have been in operation for 3-4 years and investigate whether this approach is the best way of spending CIL in the community. An overview and background of the two funding streams will be provided to define the context, differences (including strategic CIL), processes and priorities including project examples.

1.3 The aim and methodology chapter provides a breakdown of the intended process for the review including the scope, comparisons with the various approaches taken by other boroughs across London and how consultation of a range of key stakeholders has been undertaken to understand issues from different perspectives and potential solutions.

1.4 The review findings provide a summary of the performance of the two funds based on how the proportion of CIL has been allocated and spent, including the number of requests received and approved feasible bids including by type and location across the borough to correlate with where CIL income has been received. Consultation findings provide key insights from the stakeholders and is presented through a SWOT analysis of the Ward Allocation Scheme and Neighbourhood Fund including cross-cutting issues and solutions that feed into the discussion and future options.

1.5 Detailed options analysis is undertaken in the discussion section in response to the SWOT analysis findings before final recommendations are made to suggest improvements that the council can make through Cabinet, policy changes, officer tools and further work to be carried out to assist in making the spending of CIL easier to deliver better community infrastructure outcomes.

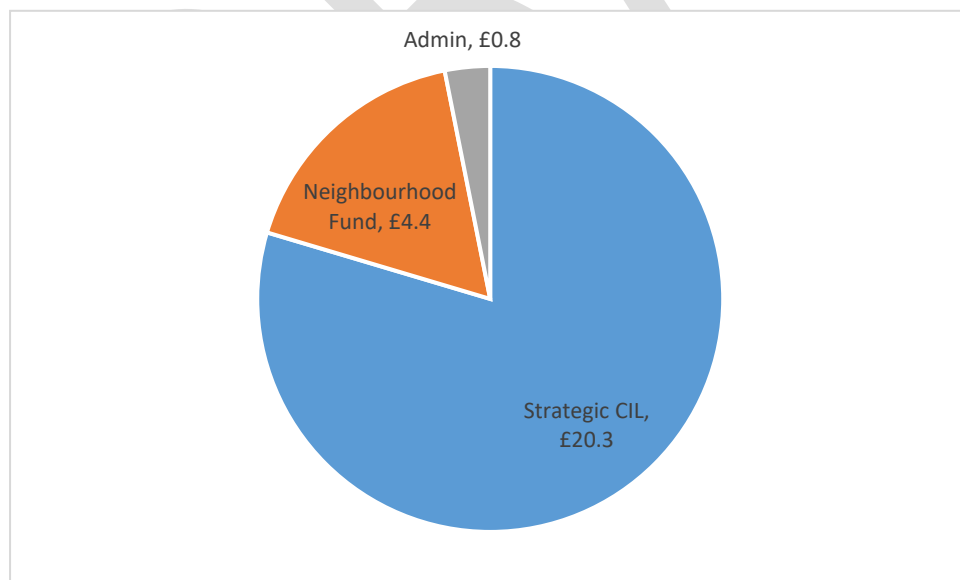
## 2 Introduction

2.1 Since 2014, the council has been collecting the Community Infrastructure Levy (CIL) associated with new development in Merton through the planning process under the CIL Regulations (2010). CIL helps to fund infrastructure in the borough such as local schools, parks, paths, open spaces and healthcare facilities and aims to address the increased demand from new developments. This review focuses on the neighbourhood component of CIL, to be explained below, in terms of performance to-date, issues, ideas and opportunities for improvement of local infrastructure spending and outcomes in Merton related to new development and ward-based projects.

2.2 As shown in Figure 2, the neighbourhood component comprises 15% of annual CIL income for Merton. This is legislated by the government whose published Planning Practice Guidance states communities need to be engaged in deciding how best to prioritise spending these funds with consideration of where development is taking place. Ultimately in a unitary authority like Merton the CIL Regulations dictate that it is for the council to decide how Neighbourhood CIL is to be spent to address the demands that development places on its area. Development phasing, infrastructure delivery and strategic objectives are key considerations that inform the council's coordination of local infrastructure needs. The council will use Neighbourhood CIL receipts to deliver projects across the borough where it considers necessary to deliver strategic priorities to support development pressures, demands and opportunities.



Figure 2: 3 Year CIL Breakdown (£m)



2.3 Current neighbourhood approaches to CIL in Merton are the Neighbourhood Fund and Ward Allocation Scheme to support local projects. The table below aims to provide a comparison between the different CIL pots with this review focusing on the two neighbourhood approaches. Whilst the Neighbourhood Fund is the main pot of Neighbourhood CIL funding, the Ward Allocation Scheme (£300k) is a sub-pot of this 15% allocation.

Table 1: CIL pot comparisons

	Strategic CIL (£20.3m 2019-21)	Neighbourhood Fund (£4.4m 2018-20)	Ward Allocation Scheme (£15k/ward March 2019-22)
What can it fund?	Must fund infrastructure (e.g. roads, schools, or NHS)	Not restricted to infrastructure (e.g. social capital support)	Small-scale public realm bids
Scale of funding	Funds new, or improved, development-related infrastructure	Local projects to support development demands	Ward-based projects
Process for funding approval	Capital bidding process – generally major projects with longer timeframes	Cabinet approval process - deliverable short-term projects without onerous ongoing costs	Local projects chosen from a pre-determined set list to reduce maintenance costs
Bidding process	Competitive bidding on infrastructure priorities	Open bidding – borough-wide	Agreed by all 3 ward members
Delivers	Infrastructure Delivery Plan - linked to Local Plan	Local priorities, Community Plan, Climate Action Plan	Local priorities, Community Plan, Climate Action Plan

## Neighbourhood Fund

2.4 Under the CIL Regulations, a portion (15%) of CIL can be spent on neighbourhood projects which led to the creation of the Neighbourhood Fund by Cabinet in September 2017. This followed public consultation (November 2016-January 2017) by the council to determine local priorities across the borough. Each year, an open bidding round calls for bids from the community and council staff for local projects that address the impacts of development and the priorities which are as follows:

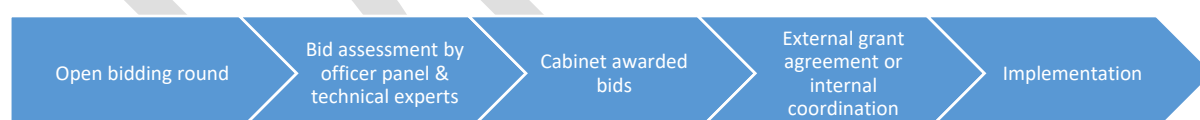


Figure 3: Neighbourhood Fund process

- **Community Facilities:** to support improvements to community facilities such as libraries and leisure centres and to support walking and cycling;
- **Green Spaces:** improvements to green space such as recreation grounds and nature walks;
- **Streetscapes:** improvements to the look and feel of residential streets such as roads, pavements and other landscape features; and
- **Town Centres & Neighbourhood Parades:** initiatives such as new pavements, planting and shopfront improvements.

2.5 The bids are assessed by a panel of officers in consultation with infrastructure providers and council decision makers against the Neighbourhood Fund criteria before recommendations are submitted to Cabinet to decide on the awarded bids for that year. Since 2018, over £4.4 million has been allocated to a wide range of projects supporting local charities, community groups, local

facilities, greenspaces, green economy, heritage and culture and town centres. For more details, refer to Chapter 4 of this report.

### Ward Allocation Scheme

2.6 Following a pilot project, the Ward Allocation Scheme was formally set up in January 2019 as a means to allow councillors to fund small scale projects within their ward using CIL funding. £300,000 was allocated from the Neighbourhood Fund so each ward had £15,000 to spend within the electoral term (by March 2022). This was provided to complement the borough-wide Neighbourhood Fund and allow local wards to fund their own public realm projects.

2.7 The scheme was set up as a set list of projects (refer to Table 2) that were straightforward to implement and maintain and delivered once agreed by all ward members and deemed feasible by officers. Pooling across wards was also allowed to provide flexibility in the scheme for larger projects if needed.

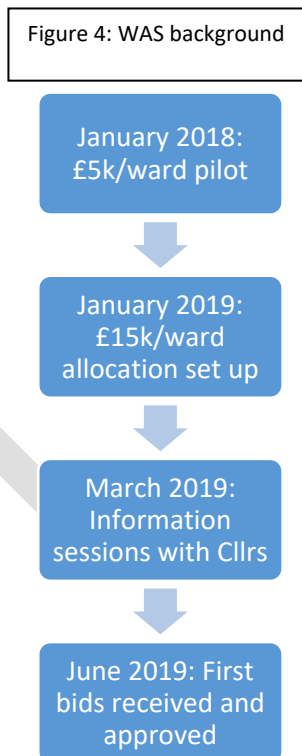


Table 2: Ward Allocation Scheme Projects

Bulb planting	Highway & public right of way improvements
Supporting volunteer clean ups	Footway & street structures (decluttering, renewal and vegetation clearance)
Painting street light columns	Park bins (painting or replacement)
Park fence railings (painting or renewing)	Seating in park (new provision)
Installing playground equipment (within £15k budget)	Deep cleaning pavements
Grants to community groups	Alley-gate schemes

2.8 By limiting resourcing costs, the intention was for more of the funds to be spent directly on local initiatives. Whilst the council has existing large contracts with Veolia (waste, cleaning), IdVerde (greenspaces) and FM Conway (highways, street lighting), the set list of projects include ‘out-of-



Figure 5: Ward Allocation Scheme Process

contract’ projects that would otherwise not be delivered by the council. Figure 4 below shows the process from when all ward councillors submit their agreed bid to an officer check to ensure feasibility and maintenance implications before proceeding to delivery.

### 3 Aim & Methodology

#### Scope

3.1 This review aims to assess the performance of the Neighbourhood Fund and Ward Allocation Scheme since inception and investigate whether when taken together this approach is the best way of spending Neighbourhood CIL. The intention is to explore options for improvement based on key issues, ideas and opportunities raised through stakeholder consultation and review of other London borough's approaches to align with government guidance and policy.

3.2 As outlined in the original Cabinet report (September 2017) for the Neighbourhood Fund, a review would be undertaken on the council's priority themes after at least three years. After three successful bidding rounds, now is a good opportunity to look at the performance of the Neighbourhood Fund as well as the related Ward Allocation Scheme which is two years through its prescribed implementation period ending March 2022.

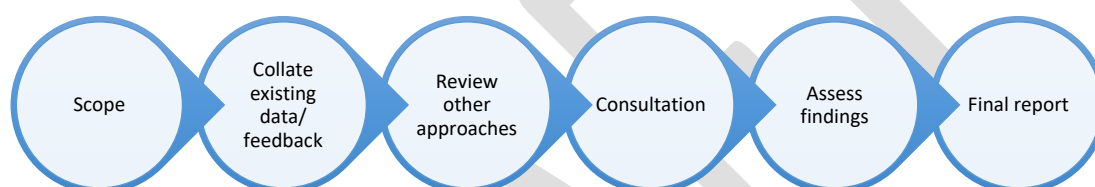


Figure 6: Review Methodology

3.3 The diagram above steps through the intended methodology of the review from initial scoping and collation of existing information to reviewing other borough approaches and consulting key stakeholders before reviewing the findings and providing final recommendations within this report.

#### Review of other approaches

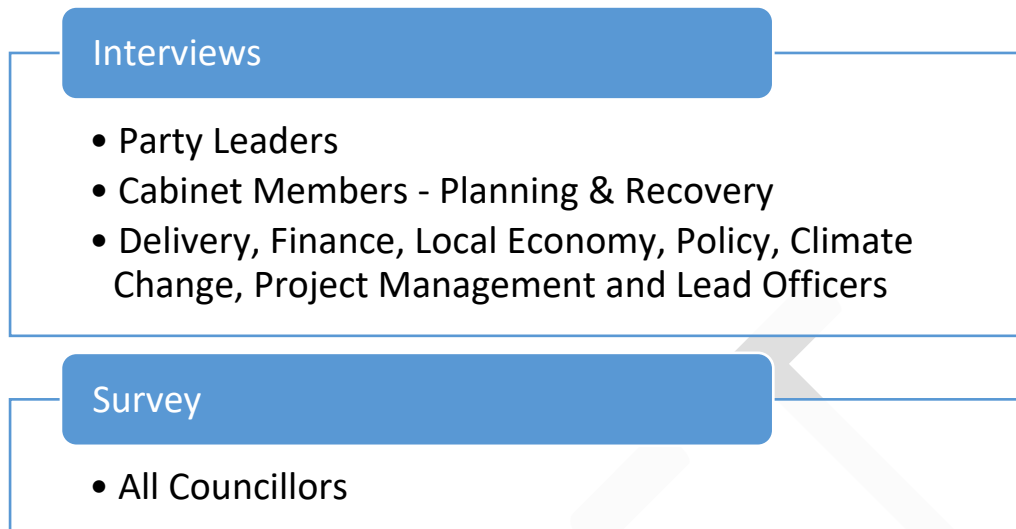
3.4 Merton is a member of the London CIL Coordination Group and CIL Planning Officers Society (POS) Group. This promotes knowledge sharing at regular meetings hosted by Transport for London and POS between various councils across London and the south-east to discuss different approaches, experiences and learnings such as local CIL spending.

#### Consultation

3.5 A range of stakeholders have been consulted through interviews and surveys to ascertain firsthand feedback on the operation of the Neighbourhood Fund and Ward Allocation Scheme to-date including issues and opportunities and related priorities and links to council policies such as the updated Community Plan.

3.6 This consisted of virtual interviews on MS Teams with party lead councillors, Cabinet Members for planning and Covid-19 recovery and key council officers involved in the planning, prioritisation and delivery of neighbourhood projects. This was complemented by Survey Monkey insights where all councillors were encouraged to provide feedback. Figure 7 below summarises the stakeholders consulted.

Figure 7: Stakeholders



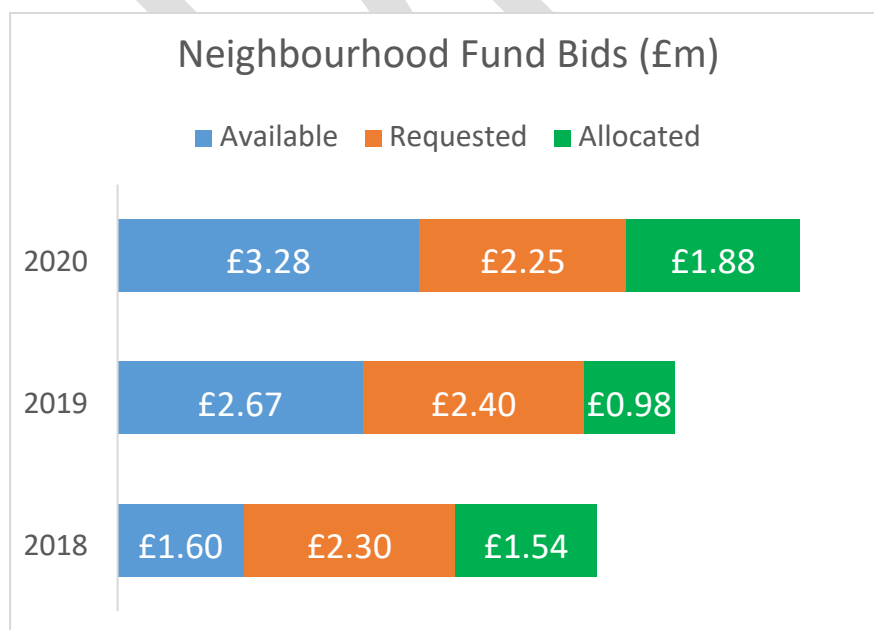
## 4 Review Findings

### Neighbourhood Fund implementation facts & figures

4.1 As shown in Figure 8, the available funds have increased over the past few years from £1.6m (2018) to £3.28m in 2020 and this can be attributed to the significant CIL income the council has received from major schemes like the Wimbledon Stadium development.

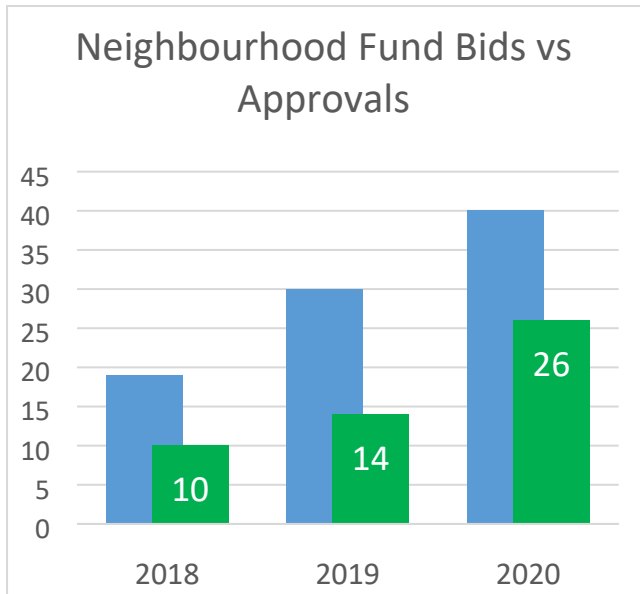
4.2 Interestingly, the quantum of requested funding has been consistently around £2.3m, but Figure 9 shows more bids are actually being received each year. Fortunately, to-date there have been no refusals given due to insufficient funding, just those that didn't meet the criteria, but this will need to be considered moving forward based on forecasting CIL income from major schemes and when they are implemented meaning that the council may need to prioritise between competing bids.

Figure 8: Neighbourhood Fund bids



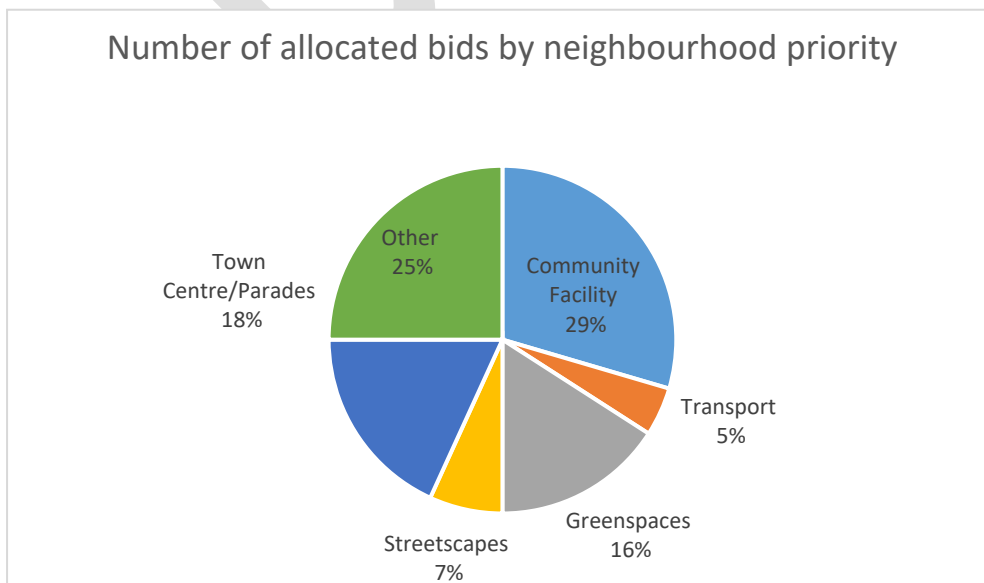
4.3 Whilst 2019 had the lowest allocation of approved bids (£0.98m), this was mainly due to only 41% of bids meeting the criteria including a lack of demonstrated deliverability and limited wider public benefit. Between 2018 and 2020, both the amount of funding and number of bids increased in terms of allocations due to a major bid in coordination with the Morden Town Centre regeneration and the unique impacts around the pandemic which brought additional interest from community groups such as BAME Voice, Uptown Youth, Carers Support and Citizen’s Advice. Figure 9 confirms growing interest in the Neighbourhood Fund.

Figure 9: Bids and approval comparison



4.4 Community Facility bids comprise the main type of allocated bids such as the Polka Theatre upgrade, Deen City Farm improvements and supporting Commonsense Community Development Trust. This is closely followed by other bids which is broken down in Figure 11. As the parade façade and related public realm improvements are a key council priority tied to development areas they make up the largest financial proportion of bids (£1.8m – 41%) covering Colliers Wood High Street, The Broadway, Haydons Road and Bramcote Parade.

Figure 10: Type of bids by number





4.5 As there have been a number of 'other' bids it is worth considering how they relate such as the London Borough of Culture which provided a great opportunity to bring the community together through a festival of film screenings across Merton, Q&A with filmmakers and even a virtual reality event with match-funding from the GLA. Green Economy bids such as Sustainable Merton's community champions, Library of Things and Community Fridge Network help with local outreach to directly address the climate emergency as per the Climate Strategy and Action Plan.

Figure 11: Other bid types

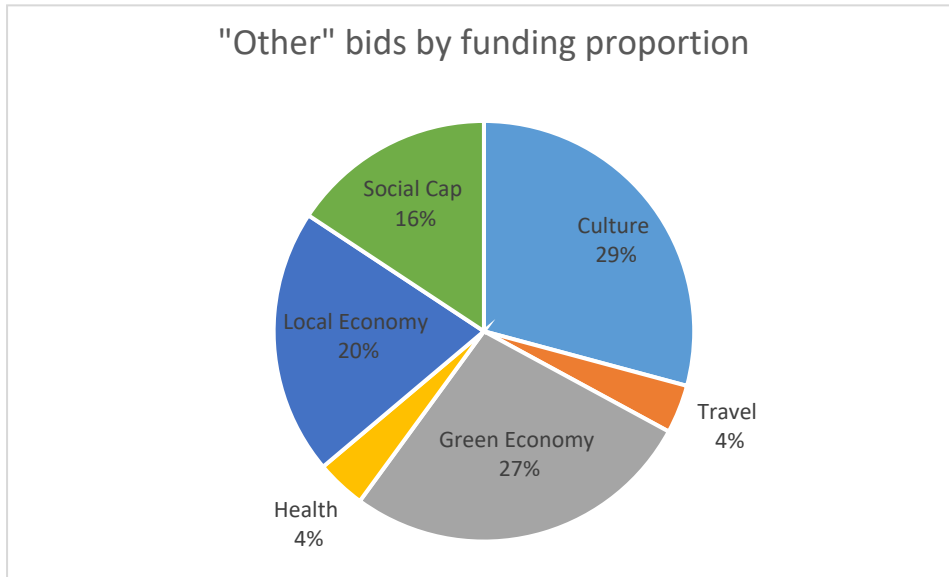
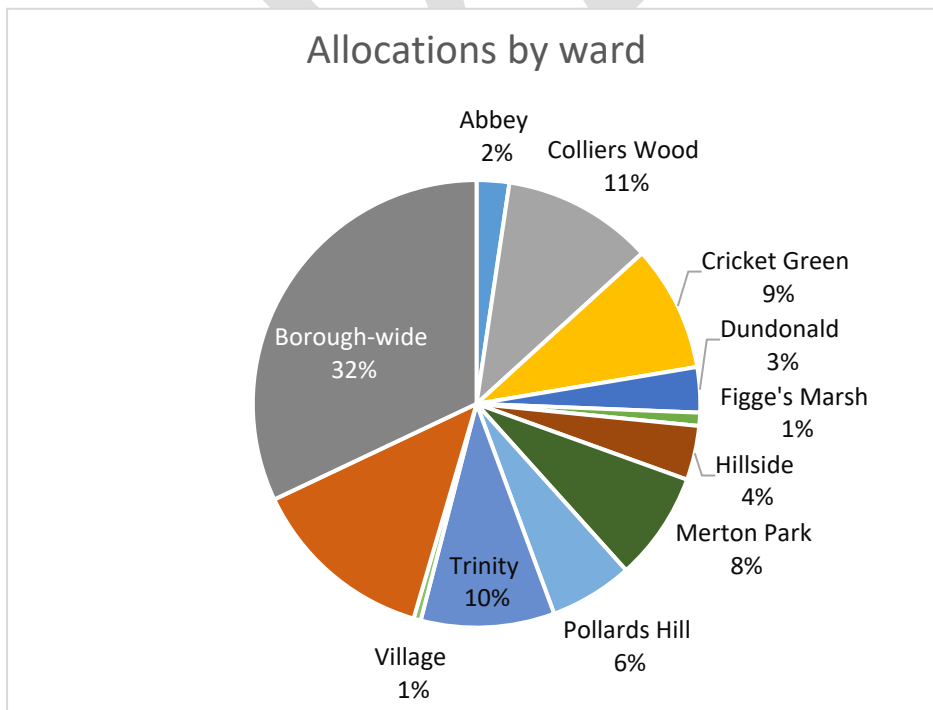
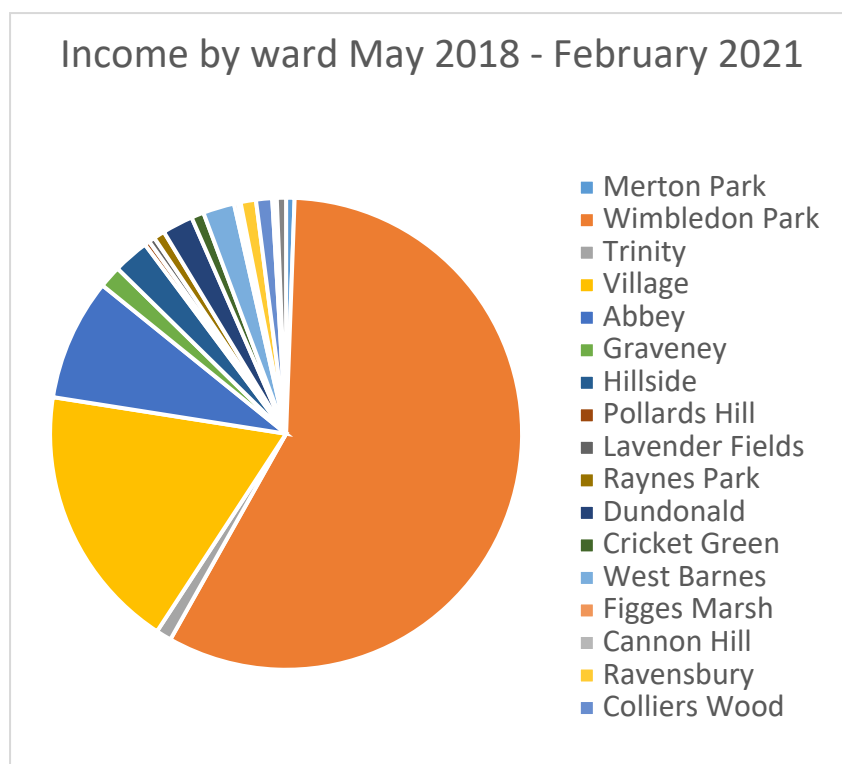


Figure 12: Allocations by ward



4.6 Figure 12 reflects the location of allocated bids by ward with the highest being for bids that provide borough-wide benefits such as the previously mentioned London Borough of Culture, community champions but also additional resourcing for greenspaces. Wimbledon Park has the highest allocation due to parade and local parks investment in line with the stadium development.

Figure 13: CIL Income



### Ward Allocation Scheme implementation facts & figures

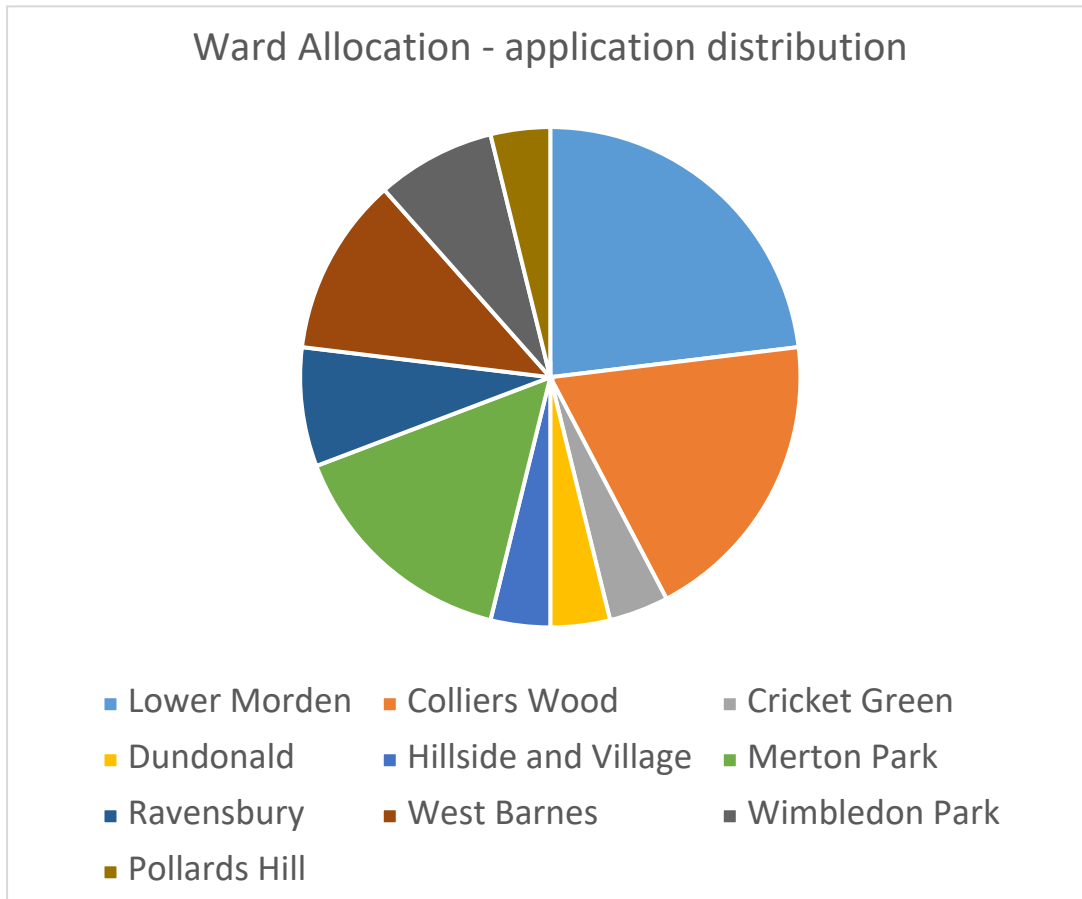
4.7 As of April 2021, 45% of wards have not submitted a bid request under the Ward Allocation Scheme. Only 5 wards spent WAS in FY2019/20 and FY2020/21. 3% of the overall allocation has been spent in first two years to show the scheme has struggled to get member interest and make it easy for them to deliver local public realm projects.

Table 3: Ward Allocation Scheme Summary

Ward	Budget	Bids Received	Spend FY 19-20	Spend FY 20-21	Pending	Total	Available
Abbey	£15,000	N	£0			£0	£15,000
Cannon Hill	£15,000	Y	£0			£0	£15,000
Colliers Wood	£15,000	Y	£0	£3,278	£7,281	£10,559	£4,441
Cricket Green	£15,000	Y	£0		TBC	£0	£15,000
Dundonald	£15,000	Y	£0		TBC	£0	£15,000
Figges Marsh	£15,000	N	£0			£0	£15,000
Graveney	£15,000	N	£0			£0	£15,000
Hillside	£15,000	Y	£0		£15,000	£15,000	£0
Lavender Fields	£15,000	N	£0			£0	£15,000
Longthornton	£15,000	N	£0			£0	£15,000
Lower Morden	£15,000	Y	£3,036	£11,712		£14,748	£252
Merton Park	£15,000	Y	£441	£1,025		£1,466	£13,534
Pollards Hill	£15,000	Y	£0		£1,384	£1,384	£13,616
Ravensbury	£15,000	Y	£2,883			£2,883	£12,117
Raynes Park	£15,000	N	£0			£0	£15,000
St Helier	£15,000	N	£0			£0	£15,000
Trinity	£15,000	N	£0			£0	£15,000
Village	£15,000	Y	£0		£15,000	£15,000	£0
West Barnes	£15,000	Y	£0			£0	£15,000
Wimbledon Park	£15,000	Y	£1,900		£13,100	£15,000	£0
			<b>£8,260</b>	<b>£16,014</b>	<b>£50,381</b>	<b>£76,040</b>	<b>£223,960</b>

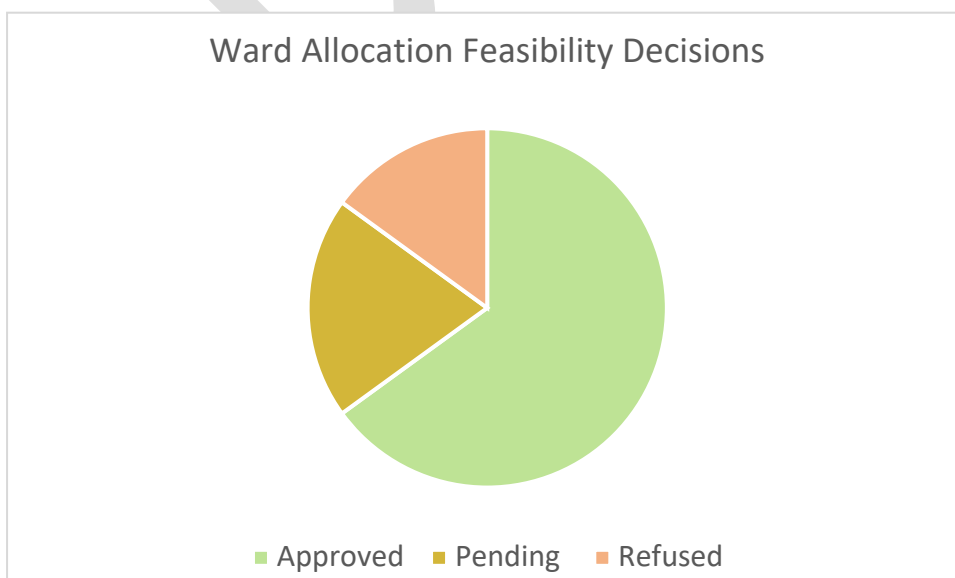
4.8 Figure 14 identifies the wards where funding has been allocated the most such as Lower Morden, Colliers Wood and Merton Park. As mentioned previously, Lower Morden have spent almost all of their allocation whereas most wards are yet to spend theirs.

Figure 14: Ward distribution



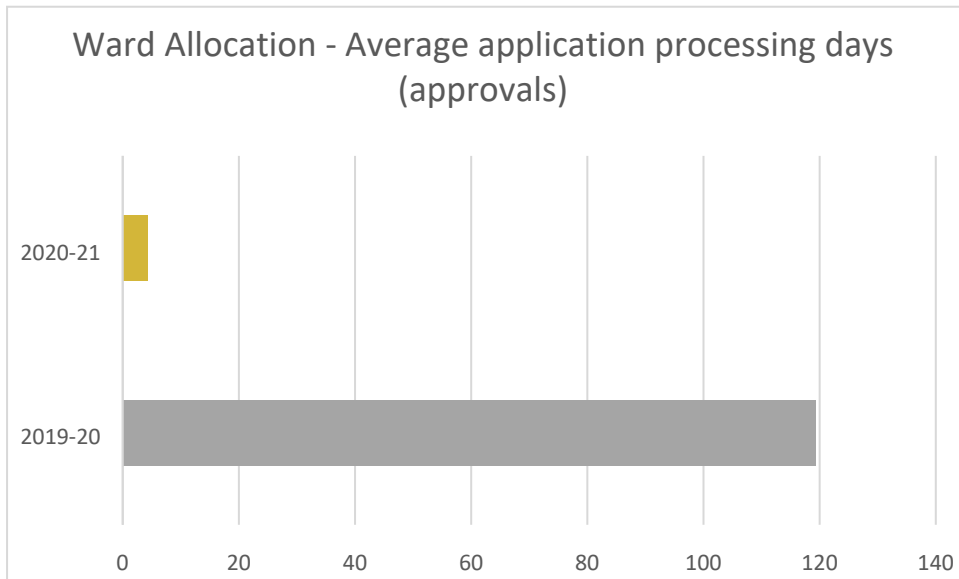
4.9 The graph below shows that most of the applications received for feasibility checks have been approved but it is noted that out of scope requests have been excluded in this instance.

Figure 15: Ward Allocation Decisions



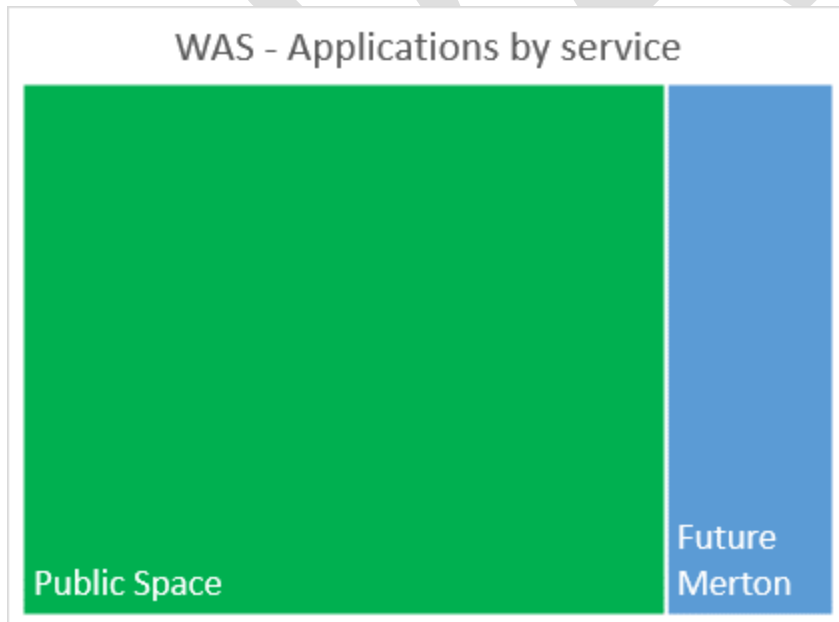
4.10 Teething issues have been experienced in initial schemes which resulted in delays in approving feasibility but recent projects are being approved in a timely manner as shown below.

Figure 16: Ward Allocation processing



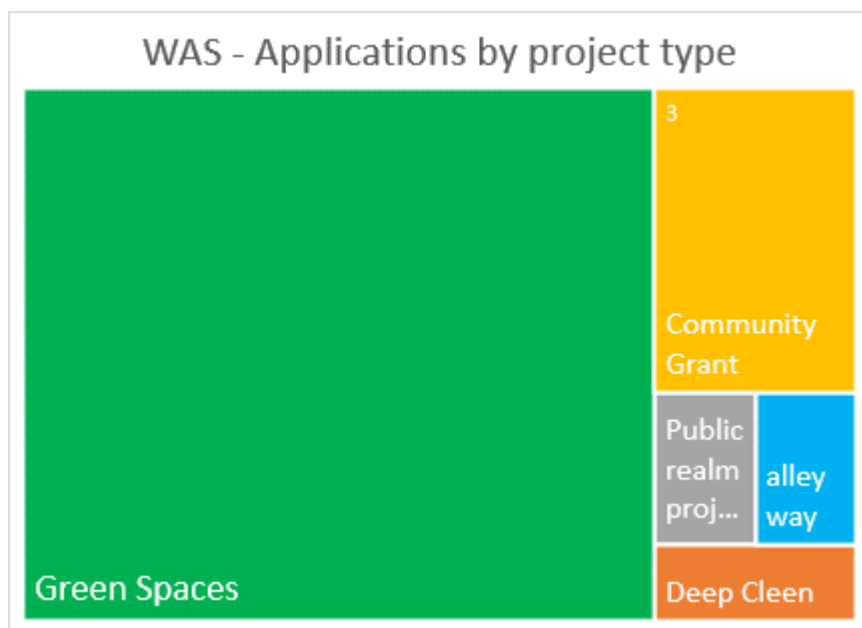
4.11 Almost 80% of applications are related to the Public Space team which has put a lot of pressure on them to deliver whilst impacting on their standard delivery needs such as other strategic CIL and capital projects.

Figure 17: Council delivery team



4.12 Related to the above, Green Spaces is the common project type received such as playground upgrades, benches or railing improvements. This is followed by community grants to local organisations to deliver projects and clean ups themselves.

Figure 18: Ward applications by type



4.13 There have been a number of out of scope and/or vague requests and/or request without all three ward member agreement which take up a lot of officer time and reduce the ability to coordinate and deliver other schemes. Some out of scope examples include fox extermination and restoring public realm. A lot of these are more extensive bespoke projects than can be resourced from £15,000, which would have to include more of the funding to be spent on project management. These projects may be better suited to alternative funding streams or be unfeasible noting the need for improved understanding and tools between officers and councillors in order to manage expectations and seek appropriate funding streams.

#### Other borough approaches

4.14 A initial 'light touch' review of London boroughs based on accounts at pan London and England network group meetings indicates a mix of approaches from ward-based, to zone and borough-wide methods of assessing and spending Neighbourhood CIL. For example Hackney are moving to a single pot like Merton's Neighbourhood Fund to provide greater flexibility instead of the zoned approach as funds were not getting spent as intended. Unfortunately a more comprehensive review of boroughs was not possible during the current review timeframes. See recommendation 4 in paragraph 6.1 which proposes a comprehensive survey of other London borough approaches as part of a review following the completion of the Ward Allocation scheme in 2022.

#### Consultation findings

4.15 Through interviews and surveys, councillors provided feedback to the review along with key council officers. The Neighbourhood Fund is generally viewed as being successful with a number of wide-ranging projects being delivered but improvements can be made, such as the bidding process and increasing exposure. Whereas the Ward Allocation Scheme has clearly struggled with limited small-scale projects from members due to a range of factors to be detailed below.

## **Ward Allocation Scheme**

4.16 As highlighted earlier in the report, there has been a clear lack of ward spending and delivered projects which (not including the pandemic impact) councillors have put down mainly due to difficulty in negotiating the process, not being able to meet the criteria and implementation delays.

### Strengths

4.17 The key strength of the ward scheme is that it is only open to councillors to direct local CIL spending into their wards from ring-fenced CIL funds. Pooling between wards is also allowed for larger projects, where agreed, and has been explored by some members such as for the Wimbledon Hill Road Green Link between Hillside and Village wards. Lower Morden was the only ward to use up practically all of its £15,000 allocation on a playground surface repair, park benches and bulb planting.

### Weaknesses

4.18 Feedback from councillors and key officers outlined that being restricted to a set list of projects was the main issue. This has led to councillors requesting out of scope projects to be priced up before being denied, resulting in frustration on all sides. Even though the set list contains 'out of contract' maintenance-type works (i.e. not generally delivered by the council), some councillors compared it to maintenance and preferred more exciting projects for their constituents. Members noted it was not clear what could be applied for and difficulty in accessing or completing the online intranet application form.

4.19 Officer support, implementation delays and financial transparency were also noted due to councillors being passed on between different departments, officers not responding, or keeping members updated, in a timely manner. As the ward projects are 'out of contract' there is a tendency for officers and contractors not to have the resources to deliver as quickly as "in contract" projects resulting in slow implementation. Due to the lag time in council receiving quotes or invoices from our contractors, such as invoicing through Croydon (IdVerde invoices Croydon for Merton spends and these invoices cover all work within a given set of months and aren't split by project or funding type), this makes it difficult to provide up-to-date financial records on the schemes.

4.20 As mentioned above, members would prefer more exciting projects and believe the current process to be too restrictive and the criteria too difficult to meet. Whilst some noted that this scheme was not tied to where CIL income is generated, the Neighbourhood Fund and larger strategic CIL pots are used to focus some of the spending on areas that are affected by development, whether it be on small scale immediate neighbourhood projects in the vicinity of development or large borough wide projects where the impact and demands of development extend across multiple parts of the borough and beyond. This will be discussed further later in the report. The final point of weakness relates to councillor agreement that is needed for all ward schemes and is especially an issue in wards where councillors do not all belong to the same political party which may result in no project being delivered.

### Opportunities

4.21 To make it easier for members, there are a few options that will be raised here and discussed in the next chapter in detail. These include:

- a) a clearer line of communication between councillors and the officers coordinating the scheme and delivering projects;

- b) a new form that is easily accessible and submitted (including FAQs);
- c) exploring how the set project list can be improved whilst managing on-going financial risks to the council;
- d) ensuring lists can be appropriately resourced so that the projects can be delivered without affecting service delivery; and
- e) annual reports, newsletters or similar would be helpful to share successes and give members ideas for their wards as well as greater transparency of funds to be, or already, spent.

4.22 As we recover from the impacts of Covid-19, opportunities to use ward funding could be explored to promote a green recovery and related projects in line with the Climate Strategy and Action Plan. There was strong support for ward funding to be used as match funding to deliver a wider range of projects through local community group or school-led initiatives which could be paired with the Neighbourhood Fund, Strategic CIL, Section 106 or external grants such as lottery or crowdfunding for instance.

4.23 Bids that require technical officer input or competing priorities may be best served when recommended by the officer to relevant ward members instead, ensuring those in greatest need are prioritised and are able to be delivered efficiently as opposed to a range of bids that may not be able to be delivered due to resourcing or technical constraints. Key projects such as tree planting, active transport, playgrounds and highway works were raised by members and need to be prioritised in a strategic manner to enable efficient delivery where needed most.

4.24 Other opportunities raised through consultation include officer support for wards that are less organised or are yet to submit any bids towards the end of the electoral period with potential ideas to spend their ward allocation such as the key late summer planting window, pooling, trees in highways or match funding with local organisations.

#### Threats

4.25 Covid-19 has had a significant impact on delivery of projects in 2020 and may well continue to do so. This will have resourcing implications, as combined with the pre-existing backlog of Green Space CIL projects including Neighbourhood Fund and ward bids, making it difficult to deliver park-related bids. As Green Spaces have been allocated funding for extra resourcing and are currently hiring for the position, it is hoped this enable swift delivery of existing and upcoming projects moving through the second half of 2021 and into 2022. Being the final financial year of the ward allocation (ends 31 March 2022), there will be a flurry of activity and officers will need to manage expectations and potentially direct councillors towards more deliverable schemes within the electoral period.

4.26 As ward schemes require agreement between all councillors, this may prove to be a roadblock such as in Cannon Hill where three separate parties are represented. For split wards where two or three parties are represented and cannot come to an agreement the ward allocation may need to be split to ensure the funds do not go unspent but the lesser amount will impact on what may be delivered for the ward.

Strengths	Weaknesses	Opportunities	Threats
Ward councillors decide	Low take up/spending	Engaging members	Ongoing covid issues
Lower Morden delivery of small park improvements	Set list too restrictive "doesn't excite"	Community/school bid	Resourcing
Supports active public space improvement groups (C.W.)	Unhelpful for less active ("time poor") communities	Publicise spending	Ward priorities vary
	Not clear to members	Link to exciting bids	Timing - final year
Aligned with election period	Criteria too difficult	Recovery & green bids	Split wards
Pooling across wards	Limited value		
list of projects more deliverable	Lack of engagement	Accessible form	
	Not tied to CIL income	Match funding – trees	
	Less organised wards	Tech officer ideas	
	Implementation delay	Crowdfunding ideas	
	councillor agreement	Reach less organised	
	Invoicing delays/bal.	Late summer planting	
	Off-list queries/quotes		
	Site visits/repeat		

### Neighbourhood Fund findings

4.27 As highlighted earlier in the report the Neighbourhood Fund has been relatively successful and is a view shared by most stakeholders consulted. The flexibility and open bidding nature has allowed for a wide range of community bids to be delivered including social capital projects that have borough-wide benefits such as the Polka Theatre or other community facilities ensuring they provide outreach programmes for local kids or others in need and maintain accessibility for school groups. Deen City Farm has also benefited through an upgraded horse riding area, lighting and weatherproof paths which can result in reduced operating costs and therefore annual revenue grant cost savings for the council.

#### Strengths

4.28 As the fund is well established there are a number of exciting projects that have been delivered including the London Borough of Culture in partnership with the Mayor of London to provide a range of themed film screenings across the borough, including Q&A's with filmmakers to connect with the community and a range of cultural events including a virtual reality event that allowed locals to experience Merton's history through immersive technology. Another highly successful project benefitting from Neighbourhood Fund investment is the Towards Employment programme, as set out in more detail in the case study below.

4.29 Other key projects delivered by the council or in progress include upgraded shopfront parades in Wimbledon (Queen's Road & The Broadway), Colliers Wood (High Street), Mitcham (Bramcote Avenue) and Haydons Road which relates to the Wimbledon Stadium development which has been the council's main CIL revenue generating scheme to date.



4.30 The key difference to other CIL funding streams is that the Neighbourhood Fund is flexible, not being restricted to just infrastructure, and an open bidding round. This allows anyone to submit a bid and it can include social capital initiatives such as our support for local community organisations (Commonside, Upton Youth, MVSC Youth and BAME Voice) in relation to volunteers, support services, medical referrals, mental health and job assistance such as STEM-related and up-skilling opportunities for local kids and job seekers. Community examples focused on physical upgrades include the Merton Priory Trust's Chapter House performance space, Age UK Merton's upgraded facility and South Mitcham Community signage. These projects help to address many of the Community Plan's strategic objectives, namely the overarching goal of bridging the gap.

4.31 As new developments increase the borough's infrastructure needs, Local Economy and CSF officers have reiterated the positive and long-lasting impacts Neighbourhood CIL provides as gap funding by meeting immediate increased social needs such as increased job opportunities for local residents and at risk youths. But this also leads to long-term social impacts with an improved local economy, less people needing to access government benefits, safer communities and reduced related impacts and costs to the council in the long-term. Towards Employment is the council's highly successful programme as set out in the following case study.

### ***Case Study – Towards Employment (Neighbourhood Fund investment)***

*The highly successful Towards Employment programme was set up by Merton Council's Children, Schools and Families (CSF) department in July 2020 with initial gap funding (£60,904) from the Neighbourhood Fund. The programme provides young people (YP) in Merton with local employment, apprenticeship and training opportunities with priority being given to those most in need of support.*

*Over 120 Merton residents have been engaged to-date, of which:*

- *83% of YPs identify as BAME;*
- *59% of YPs reside in Merton's most deprived wards (Cricket Green, Figges March, Lavender, Pollards Hill, Ravensbury and St Helier);*
- *Circa. 6% have declared a SEN; and*
- *Circa. 5% have declared being in care.*

*One of the main outputs of the programme was its key involvement of 30 Merton YPs in the widely circulated 'Create Not Hate' campaign in partnership with Trevor Robinson OBE and his leading ad firm, Quiet Storm to develop job skills and industry contacts for the YPs. They used the increased awareness of institutional racial bias as a creative vehicle for our diverse YP to develop related short films (broadcast on ITV news), billboards across London, t-shirts and other media to share personal experiences and shine a spotlight on the topic of race but also to provide opportunities for YPs and the need for greater diversity in the advertising industry.*



Billboards that were across London. Photo credit: Create Not Hate



YP at Quiet Storm offices in Soho taking part in graphic design master class

*Other key parts of the programme include the provision of CV, application and interview preparation support (56 YPs). 27 job interviews have been secured to-date including 17 job or apprenticeship starts during lockdown and 12 YP have undergone construction skills certification scheme (CSCS) card training.*



YPs working with Quiet Storm on the Create Not Hate campaign. Photo credit: Create Not Hate

*In terms of current and future projects, Towards Employment has job-clubs and employment pathways being set up with the railway industry (potential HS2 jobs), Groundworks and guaranteed interviews at Just Eat utilising their electronic bikes to assist with fleet decarbonisation goals. The team is also working with Met Police to deliver 3 sessions on YP's experiences with Stop and Search to be filmed for social media and potential broadcast.*

*The seed funding provided by the Neighbourhood Fund (£114k over two years) helped CSF win additional funding (circa. £200k external grant funding) showcasing the financial return on investment by being able to secure this funding for the benefit of Merton residents. Without the CIL funding, the Towards Employment team would not exist, have been able to achieve the above or be in a position to bid and evidence capacity to upscale and keep supporting the young people of Merton and the associated impacts this has on the families of Merton and related council support services.*

### Weaknesses

4.32 Accessibility has been one of the key themes arising out of the consultation, as the current bidding process tends to favour established groups who have the time, resources and experience with submitting well-prepared and detailed bids. The bid criteria is in place to ensure bids are transparently selected, deliverable, meet CIL regulations and do not generate unsustainable financial burdens on the council but the process has been described as onerous by some members. They have said the complex application form puts off grassroots bidders and is overly time consuming for time-poor constituents.

4.33 Therefore, this is being reviewed to see how it can be improved along with increasing exposure of the fund to attract more bidders from across the community to submit their ideas and others who have been unsuccessful in the past and reignite their interest in the fund. Some comments have been received in terms of the bid form being too long and other comments stated that some questions are too similar. Such comments will be addressed through improvements to the bid form that strike a better balance between accessibility and deliverability & statutory compliance with the CIL Regulations. Lastly, the grant agreements and timing of external grant payments has been an issue in the past but has improved each year and a simpler agreement using a Policy team template will streamline the agreement process and allow funds to be released earlier.

## Opportunities

4.34 Covid-19 recovery, including local economy and employment support, are key Merton priorities in upcoming funding rounds and the Neighbourhood Fund will look to support the nexus between them and existing priorities such as addressing development demand, the Climate Emergency and Bridging the Gap to provide a more flexible form of funding than other direct Covid-support national/regional/local funding streams. In late 2020, Merton was able to support carers, citizens advice and home schooling IT bids related to the impacts of Covid, plugging a funding gap not covered by other funding streams.

4.35 Consultation outlined better linking of major developments to local bids as one area that can be improved on beyond just the Wimbledon Stadium development. Over the next ten years Estate Regeneration schemes, Benedicts Wharf and Morden Regeneration will provide over £40 million of CIL to address demands represented by all of Merton's investment priorities and stretching across all areas of the borough and beyond. With the Estate Regeneration Schemes already being implemented, demands are already being felt and while Neighbourhood Fund Cabinet reports highlight the link between strategic developments and recommended investments, more could be done to promote these linkages so that our communities can understand the basis for investment decisions.

4.36 As previously mentioned, a simplified bidding process will help bidders who are less experienced and time poor in order to compete with established bidders. By targeting a wider range of bidders across the borough and beyond, we can tap into new entrants with new ideas and hopefully continue to attract unsuccessful bidders through updated and clearer guidance. This could include a bi-annual newsletter which was raised as an idea to share progress on CIL funded projects and showcase successful projects to get councillors, officers and bidders examples of what is being delivered.

4.37 Green Spaces, playgrounds, outdoor gyms and trees were important topics discussed and will need to be investigated further as there are significant constraints to delivery. The Neighbourhood Fund provides a great opportunity to address the Climate Emergency and this has occurred with previous Sustainable Merton bids to support community volunteers sharing advice on waste, air quality, energy and food as well the Community Fridge bid that was vital during 2020 and a Library of Things bid to promote the sharing economy based in Morden.

## Threats

4.38 As lockdown restrictions are eased, Covid-19's impacts may return which threatens to delay or defer Neighbourhood Fund projects and recovery efforts in Merton as it has done last year. Resourcing is a constant issue that needs to be managed and balanced between expectations and what can be delivered by the council and its contractors especially with the backlog of Green Spaces schemes that are yet to be delivered. Officers have advised that this also impacts on the council's ability to deliver capital projects which has negative impacts on the council and scrutiny implications. Parade refurbishments have become very popular with interest for more but resourcing is again an issue together with procurement complexities/delays and there needs to be a balance between growing expectations and strategic prioritisation of areas most in need. Scope creep is a factor to be considered in all bids but especially the parades based on initial schemes which should result in better informed estimates for future projects.

Strengths	Weaknesses	Opportunities	Threats
Good outcomes so far	Accessibility to all suits time rich	Covid recovery – econ.	Covid delivery
Well established		Promote big development investment links	Resourcing – impact capital delivery
Flexible projects	Fairness/repeat bids	Support bidders	Technical input
Open bidding	Onerous bidding	Target less involved	Parade capacity
Bridging the gap	Member interest low	Newsletter - successes	Scope creep
Social capital	Grant agreement time	Climate focus	
Pollards Hill Lighting – estate	Failed bid frustration	Tree strategy/carbon	
Morden TC	Suit established group	Active travel	
Borough-wide zone flexibility	Shorter bid form	GS & public realm – outdoor activities	
	Similar questions in bid form	'Paid for' branding	
		Employment support	
		NF as gap funding	
		Private tree planting	
		Social media/priority engagement	

### Cross-cutting priorities and issues

4.39 Stakeholders were asked to reflect on the original priorities from 2017 as they guide CIL spending for both the Neighbourhood Fund and Ward Allocation Scheme as per the CIL Regulations. In terms of the existing priorities, there was a general consensus that they are all still vitally important (including community facilities, town centres and streetscapes) but the borough's green spaces narrowly topped the survey which is understandably being valued higher in the wake of the pandemic. This was reflected in the record number of parks-related bids in the 2020 Neighbourhood Fund bidding round (30%) and ward scheme bids for trees, benches, green links, and play and fitness equipment for all ages and a new Morden Recreation Ground community multi-sport pitch that was later approved as a strategic capital CIL bid.

4.40 When the existing priorities were compared with related themes such as the updated Community Plan, new Climate Strategy and Action Plan and Covid recovery, they all ranked highly to cement their ongoing significance. Survey feedback identified support for local economy and the high street recovery, local environment and youth activities as the key themes that stood out. Councillor and officer interviews reiterated the immediate need to address Covid recovery by helping our town centres to rebound and supporting job and volunteer placement programmes such as Towards Employment as many in the borough are being affected, especially those early on in their careers.

4.41 Certain issues such as accessibility to bidders and councillors, ease of bidding, officer support and resourcing have arisen between both funding streams which illustrate they need to be addressed to enhance neighbourhood outcomes and ensure this CIL funding remains successful for local residents. Potential solutions have been raised earlier in this section and they will be analysed further in the Discussion before making final recommendations.

## 5 Discussion

5.1 Based on the lack of spend and consultation findings, it is clear the Ward Allocation Scheme has struggled to engage with members and allow them to deliver the types of projects they want to deliver. This has to be balanced with what can be delivered and is sustainable for the council moving forward, especially the related financial and lifetime impacts related to new assets. An easier process that councillors understand, entices them to be involved and have sufficient officer support to deliver projects efficiently, especially in its final year, will enable projects to be delivered smoothly.

5.2 Whilst the Neighbourhood Fund has been relatively successful, the review points to where it can still be improved such as improving accessibility in the community and to support the borough's recovery by attracting a wider range of bidders, be better linked to major developments and ensure strategic direction is provided for key priorities.

5.3 The key Ward Allocation Scheme issues identified through the review are:

1. Difficulty for Members to make viable bids;
2. Only 20% of wards delivered a project;
3. Strict set-list of projects; and
4. Resourcing and officer support.

5.4 The key Neighbourhood Fund issues include:

5. Ensuring fit-for-purpose CIL community funding;
6. Accessibility and exposure of the fund to the wider community;
7. Maintaining relevance of priorities and themes; and
8. Delivery and resourcing.

### Options

5.5 Based on the review findings, this section assesses potential key options in response to the issues identified in relation to the two CIL funding streams. Options should not be viewed as either/or proposals and it's possible to consider a combination of proposals across multiple options to form the basis of future approaches.

#### Ward Allocation Scheme Options

5.6 **Option 1 – make more of existing:** The biggest issue holding the scheme back has been the difficulty for councillors to make viable bids due to a range of factors such as not being clear what can be applied for, the strict scope of works and criteria which was set up with the intention to prioritise small scale public realm projects which were not by covered by existing council contracts. However, clearly this has made it hard for bids to be made. To address this the following options are proposed:

- a. Promote funding opportunities through schools or community groups:  
This has been proposed as a great 'existing way' to deliver projects in partnership with local organisations which may be easier delivered by external parties.
- b. Directing enquiries to more appropriate funding streams:  
As a number of enquiries relate to complex bids that exceed the £15,000 threshold, they may be better delivered through the Neighbourhood Fund or Strategic CIL funding.

- c. Promoting match or gap funding options:  
Similar to the above options, this can help get more complex projects off the ground with potential additionally and option to deliver something greater.
- d. Accessible and simplified bid form and website FAQs:  
One of the key issues is when forms are not submitted to formalise all ward Members' support and answer FAQs but there have been access issues too.

**5.7 Option 2 – synchronisation/timetabling/help for struggling wards:** Prior to this review, only Lower Morden, Colliers Wood, Ravensbury, Merton Park and Wimbledon Park (20%) had spent some (or in Lower Morden's case, practically all) of their allocation highlighting the low number of bids that have been submitted and subsequently delivered. Recent interest has helped but this will need to be balanced out over the final electoral year. These options are:

- a. Technical officers to provide councillors with ideas or project windows:  
Certain projects like planting can only occur at certain points in the year so in some instances it would be best where technical officers can provide Members who may opt in with shovel ready projects or delivered ideas avoiding lengthy consultations.
- b. Split ward funding:  
For wards that are in a clear deadlock where it is a split party ward, their £15k allocation may have to be split evenly (£5k each) between the 3 local councillors to avoid no spend at all.
- c. Strategic prioritisation to manage expectations for popular projects:  
Tree planting and playground works are understandably in demand but have numerous cost, maintenance, resourcing and physical constraints to be considered.
- d. Support quieter or less organised wards:  
Similar to the officer input option previously, some wards have no or limited grassroots organisation or have made no bids so will need extra support. E.g. officer-led outreach or ward pooling.

**5.8 Option 3 – list expansion, "league table" promotion, contingency pot:** The pre-selected set-list of projects has proved to be a stumbling block which was reflected in the consultation feedback with calls for an expansion of the scope that needs to be balanced with relative constraints but here are some options:

- a. A Contingency pot:  
This was proposed as a small fund for completely unforeseen costs.
- b. Newsletter to provide transparency on latest projects and successes:  
A tool that could be used to track spending and engage in friendly competition to see who can do the best for their local area and give others a reminder or idea.
- c. Investigate set list expansion:  
Other viable in-demand projects like table tennis courts could be added

**5.9 Option 4 – focus on technical and coordination officer resourcing:** Resourcing and officer support is a key issue, especially with the high number of Green Spaces requests and their limited capacity each year which is now a backlog that is also affecting capital delivery which will need to be addressed through the following:

- a. A single point of contact to project manage delivery and invoicing:  
This was the top survey response to avoid lengthy project delays or risk of slipping through the cracks and proactive management of issues as they arise.
- b. Improved coordination between FutureMerton coordinators and infrastructure providers and contractors:  
Also note that there has only been a low number of bids to-date so these issues could be exacerbated if more wards start bidding given we are in the last year of the scheme. This could lead to more significant backlogs to-date and so accountability and coordination needs to be managed better.
- c. Sufficient resourcing:  
As seen with Green Spaces, additional funds can be allocated where needed but unforeseen staffing changes has had an impact and there is a backlog of projects.  
Whilst some neighbourhood funding was allocated towards resourcing, at the time of writing this is yet to be implemented but was in progress in terms of recruitment a new member of staff.

#### Neighbourhood Fund Options

**5.10 Option 1:** This fund is striving to increase its accessibility and exposure so that a wider range of bidders are encouraged to apply each year to keep increasing the breadth and range of bids and ideas we receive. For example last year's round included bids from Wimbletech CIC, Living Streets and a parkrun in the borough. Some options include:

- a. Engaging with the least active wards:  
Whilst the Neighbourhood Fund is set up to benefit the borough we can use our networks to target areas that are yet to bid such as St. Helier, Longthornton or Graveney;
- b. Targeting more local businesses:  
Considering recent setbacks, there are likely to be many bids but using our Local Economy contacts might be very valuable in upcoming rounds.
- c. Merton Connected networks:  
Maximising the use of our partner's networks such as Merton Connected which is the rebranded Merton Voluntary Service council and its revamped database.
- d. Encourage bidders to re-apply and avoid bidder burnout where possible:  
Improved communications, forms, transparency and feedback to ensure unsuccessful bidders know what they need to re-apply in future rounds.
- e. Perceptions of fairness and attracting new bidders:  
There are some established organisations such as the Polka Theatre, Sustainable Merton and Deen City Farm who have successfully bid more than once. While these funding bids were all justified and met the criteria for award, this can detract from the perception of fairness. Organisations such as the Climate Action Group will help



coordinate a panel of community representatives to pull in ideas and help them to make a bid.

- f. Use Your Merton to connect with more residents;
- g. Bid survey form filter, idea vs. developed bid form

#### 5.11 **Option 2:** Maintaining relevance of priorities and themes; and

- a. Simplifying wording of current priorities
- b. Formalise Climate Strategy & Action Plan into priorities or criteria or reference it clearer from the Community Plan?
- c. Neighbourhood priorities survey
- d. Community Plan - Covid Recovery, high streets & employment support  
These will be reviewed following the Your Merton survey
- e. Popular NCIL projects such as parades, public realm improvements, play areas and trees may need to have strategic prioritisation to manage expectations and provide proactive prioritisation

#### 5.12 **Option 3:** Delivery and resourcing.

- a. Resourcing, staffing and backlog in greenspaces projects
- b. Officer support, prompting and technical advice;
- c. Newsletter, promotion and branding

### **Cross-cutting**

5.13 **Overall issues and options** – One of the key topics of this review is to ensure the approach to CIL funding is the best way to spend CIL funds in terms of distribution geographically. The council may wish to consider alternative ways of allocating funding, for example spending the funding in the ward where it is generated, however this would ignore the fact that development demands cut across wards and extend across the borough and beyond. It also would fail in many ways to make good and effective use of Neighbourhood CIL which is very flexible to address these wide-ranging demands, providing funding for projects that can't benefit from Strategic CIL, S106 funding or other government funding streams. Accordingly rather than changing the current approach in terms of allocating Neighbourhood CIL flexibly across the borough to meet development demand, plus a Ward Allocation scheme, to only spending Neighbourhood CIL in the immediate area/ward where the funding was generated, the council should consider the following options in terms of the overall approach to Neighbourhood CIL spending:

- Refresh Neighbourhood CIL investment priorities based on Your Merton survey findings (due late 2021) and community plan objectives and strategies arising from it
- Follow a programming approach, for example using a multi-year programme with a different theme or set of themes every year that could be voted on by the council, i.e. streetscapes Y1, parks Y2, street cleaning Y3, pooling resources making it more economical.
- Consider the future of ward based allocations exploring whether the Ward Allocation Scheme model can be adapted as proposed above and/or whether there can be an element of a

limited pot of funding to be tied for expenditure in the more immediate area of the development from which the CIL is paid.

- Improve the accessibility and understanding of the overall approach and provide more support for stakeholders in navigating through the bid forms and understanding the priorities and criteria for investment decisions so that they can focus their efforts on the right funding source and make the most of their limited time.

## Options round up

5.14 Following discussions with management and lead Cabinet Members, it is clear that the focus for the next year should be to deliver the Ward Allocation Scheme as efficiently and effectively as possible in its final year. Accordingly given the backlogs in council delivery teams and the expected rush from Wards to spend Ward Allocation Funding before the local elections in May 2022, there has been a direction to focus on delivering from the existing list of Ward Allocation Scheme projects and that this will be supported by investing in officer resources in terms of engagement and technical delivery.

5.15 Accessibility of both the Ward Allocation Scheme and the Neighbourhood Fund will be focussed on for the next year so investments are made where needed most and not only for projects put forward by those best placed to do so. In particular with respect to the Neighbourhood Fund accessibility is of utmost importance given challenges faced by our communities recovering from the impacts of the Coronavirus Pandemic and it is clear that the areas that need investment most and where outreach should occur is in supporting the local economic recovery and investments into social capital and the public realm to support healthy lifestyles and rebuild communities.

5.16 It is considered that a more in-depth and wide-ranging review of Neighbourhood CIL should be carried out following the end of the Ward Allocation Scheme in March 2022. This will give officers a chance to assess the implementation of the Ward Allocation Scheme across its full three-year duration after more than a year after we have emerged from the second national lockdowns and the expected rush from wards in the final run-in to the elections has occurred. It will also enable existing ward councillors to maximise the benefits of the three-year Ward Allocation Scheme and, from May 2022 enable any new ward councillors to help shape the new process within their wards. It will also enable officers to assess the findings of the Your Merton survey to help reassess resident's priorities for investment post Covid, and take note as to the success of investments into accessibility and promotion. By this time more reports and feedback from bidders (successful and unsuccessful) will be available and a survey of other boroughs can be carried out. This further material will add value to the review so that the issues can be assessed in more depth and assessed in the context of Neighbourhood CIL implementation across the country.

## 6 Recommendations

6.1 Recommendations for the council arising out of the review are as follows:

### Ward Allocation Scheme

1. Implement enhanced engagement with councillors to identify and resource the delivery of Ward Allocation Scheme investments from the existing list of prescribed projects by the end of the scheme in March 2022.

2. Look to utilize existing Neighbourhood CIL allocations for both Public Space and Ward Allocation coordination to help resource implementation of Ward Allocation Scheme for the final year of its duration, and take the pressure off the delivery of strategic projects using other funding such as Merton Capital, Neighbourhood Fund, Strategic CIL and other external grants.

#### Full Review of Neighbourhood CIL in the summer of 2022

3. Carry out of a full review of the implementation of Neighbourhood CIL (to include the Ward Allocation Scheme and the Neighbourhood Fund) following the completion of the Ward Allocation Scheme in 2022.
4. Your Merton findings and monitoring of final year of WAS to feed into Review in 2022. Also other councils & bidders survey.

#### Accessibility and Promotion

5. Carry out a series of improvements to the promotion of the Neighbourhood Fund accessibility of both Ward Allocation Scheme and Neighbourhood Fund application forms.

## 7 Conclusions

7.1 It is clear that there have been some successes in the implementation of Neighbourhood CIL in Merton during the review period, however that there is still much to do. The review has picked up areas for improvements in the short term for the Ward Allocation Scheme focusing on resourcing the delivery of projects from the existing list of items including helping to meet councillors wishes in that regard.

7.2 Accessibility is a matter to be looked at for more attention looking at breaking the barriers for members of the community in terms of the difficulties with the Neighbourhood Fund bidding form or using partner organisations to promote the achievements of CIL to get the message out to communities and individuals that have found it difficult to access or benefit from funding in the past especially in the most deprived parts of the borough, that there is this pot of funding and to provide guidance for prospective grassroots/community bidders.

7.3 Moving forward there is an opportunity to carry out a wholesale review following the completion of the Ward Allocation Scheme and the 2022 local elections to assess the implementation of that scheme together with the improvements to accessibility of the Neighbourhood Fund and to refresh priorities for Neighbourhood CIL investment picking up on the findings of the Your Merton survey of residents. The review could also look at how other councils are approaching spending Neighbourhood CIL and seek to establish a refreshed basis for Merton to take this funding forward to help support the demands development places on the borough.

## 8 Appendices

### 8.1 List of Neighbourhood CIL ideas for investments & approaches – from councillor and officer interviews and surveys

- High Street and local economy support
- Employment, skills, training related bids – expand CSF Towards Employment to older age groups, also need in west so across borough, skilled workforce = prosperous borough
- Volunteering programmes employment pathways, green economy/climate action plan linkage opportunities as below
- Improved connectivity - network blackspots (SCIL bid) - alternative funding due complexity
- Green Economy support for waste reduction, build low carbon skills, encourage green business, green and local products and promoting reuse
- Meanwhile uses - high streets improve vitality
- Market days, street closures to traffic
- Train station mural
- Active travel schemes, school behaviour change, LTNs
- Technical officer-led ward projects for wards that wish to opt-in
- Park improvements and links on webpage to refer to a potential 'Parks strategy'
- Healthy communities theme post-covid/outdoor gyms strategy
- Improved walking routes
- Heritage trail - Merton Park
- Tree planting programme/greening/wilding/biodiversity support
- Parklets and greening streets/planting verges
- Conversion of disused buildings in parks to cafes or community facilities
- Water supply for local community groups to maintain gardens
- Community/school vegetable garden
- Bollards or similar to protect grass verges
- Water fountains
- Pollards Hill community centre and roundabout improvements
- Improved access on alleyways
- Step free access to library
- Filling pot holes
- Tree maintenance
- Project Coordination - technical capacity/support (incl. £150k public space bid)
- Donations/part funding of school or community grants or match/crowdfunding

## **Committee: Cabinet**

**Date: 22 June 2021**

Wards: All

## **Subject: Joining the Lift the Ban Coalition**

Lead officer: Chris Lee

Lead member: Councillor Marsie Skeete, Cabinet Member for Women and Equalities

Contact officer: Evereth Willis, Equality and Community Cohesion Officer

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### **Recommendations:**

- A. That Cabinet consider if Merton Council should join the Lift the Ban Coalition to give the right to work in any occupation for everyone waiting for more than 6 months for a decision on their asylum claim.
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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. In London, there are at least 4975 people seeking asylum.
- 1.2. Since 2002, people seeking asylum have only been able to apply for the right to work after they have been waiting for a decision on their asylum claim for over a year, and only if they can be employed into one of the narrow, highly-skilled professions included on the Government's Shortage Occupation List. Whilst awaiting the outcome of their asylum claim, many are left destitute and rely on charitable support.
- 1.3. Refugee Action (a leading organisation in the Lift the Ban Coalition) estimate that allowing asylum seekers to work full time would reduce the Government's financial burden and benefit the UK economy by £97.8 million per year.
- 1.4. In February 2020 Merton committed to becoming a 'Borough of Sanctuary' for Asylum Seekers and Refugees; thereby making the borough a safe and welcoming place for new migrants.
- 1.5. A number of local authorities who are, like this council, a 'Borough of Sanctuary' are members of the 'Lift the Ban' coalition believing that this policy change would improve the independence and dignity of asylum seekers.
- 1.6. In recognition of being a borough of sanctuary, Merton Council could consider joining the Lift the Ban Coalition to support the campaign to give everyone waiting for more than 6 months for a decision on their asylum claim the right to work whilst awaiting as assessment of their immigration status.
- 1.7. Cabinet is therefore asked to consider endorsing that Merton supports the Lift the Ban campaign.

## **2 DETAILS**

- 2.1. As at 13 May there were 4975 Asylum Seekers living in Contingency hotels in London and 95 of them are currently in Merton. Asylum seekers have their accommodation and subsistence costs met by the Home Office.

### **Legislative Framework**

- 2.2. There is often confusion between the terms Asylum Seeker and No Recourse to Public Funds and it is important to make a distinction between two circumstances.
- 2.3. An Asylum Seeker is defined as a person who has made a claim to the UK Government for protection (asylum) under the United Nations Refugee Convention 1951 and is waiting to receive a decision from the Home Office on their application or from the Court in relation to an appeal.
- 2.4. Asylum seekers are provided with accommodation and support to meet their essential living needs if they would otherwise be destitute whilst their claim is considered. This cost is met by the Home Office.
- 2.5. Support consists of fully furnished and equipped accommodation with no utility bills or Council Tax to pay, and a cash allowance to cover the cost of essential living needs.
- 2.6. No Recourse to Public Funds (NRPF) refers to people from abroad who are subject to immigration controls and, as a result of this, have no entitlement to welfare benefits, social housing or financial support from the Home Office. However, individuals with NRPF whilst not eligible for public funds might still be eligible for council assistance under:
- (A) Section 17 of the Children's Act 1989, which puts a duty on local authorities to safeguard the welfare of children in their area and to promote their upbringing by their families. To support this local authorities may provide assistance in kind, accommodation and/or money.
- (B) The Care Act 2014 – but only if the Human Rights Act is engaged. Those subject to immigration control with the meaning of section 115 of the Immigration and Asylum Act are now excluded from care and support under the Care Act.

### **Lift the Ban**

- 2.7. People seeking asylum are entitled to a Subsistence Allowance of £5.66 per day whilst they await the outcome of their asylum claim. Asylum seekers may wait for many months for a decision on their immigration status. Thus many asylum seekers may struggle to support themselves and their families. Their financial insecurity makes them vulnerable to destitution, isolation, and exploitation.
- 2.8. Often asylum seekers were skilled professionals in their home countries, but when they reach the UK they find themselves unable to work and contribute economically to society.
- 2.9. Allowing Asylum Seekers to work would restore people's dignity and self-worth if the migrants were given a chance to earn a living and assimilate to life in their places of sanctuary.
- 2.10. Merton is a borough that supports refugees and to date we have supported two faith groups in the borough to sponsor a refugee family through the

Community Sponsorship scheme, a third family is due to be sponsored shortly too.

2.11. In becoming a borough of sanctuary, the council motion called on Cabinet to do the following:

1. Declare Merton to be a “Borough of Sanctuary”
2. Work with community groups and the Compact Board to develop a co-ordinated framework to support and help and support refugee, migrant and asylum seekers in Merton.
3. Continue to work with organisations in the borough who support refugees and asylum seekers in the borough.
4. Challenge anti-refugee and anti-migrant attitudes wherever they are found.
5. Lobby the government to reform No Recourse to Public Funds so that people are no longer blocked from fully participating in society for years while they wait for their status to be resolved.

2.12. The fifth commitment mentioned in 2.12 (5) above calls on Cabinet to lobby the Government regarding those with NRPF. Asylum seekers are not currently able to fully participate in society and therefore it may be prudent for Cabinet to consider joining the coalition seeking to lift the ban and lobby the government for this policy change. Other local authorities have endorsed the campaign including Lewisham Council that joined the coalition in July 2019 and passed a motion to join the Lift the Ban Coalition.

### **3 ALTERNATIVE OPTIONS**

3.1. Merton may decide not to join the Lift the Ban coalition and continue to work with local charities to provide support to individuals and families awaiting the outcome of their asylum application. However, not joining the campaign may be viewed as Merton not being fully committed to being a borough of sanctuary.

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

4.1. The Cabinet Member for Women and Equalities met with representatives of Merton Citizens and Citizens UK to discuss the council joining the Lift the Ban coalition

### **5 TIMETABLE**

5.1. None.

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

6.1. There is no cost to joining the Lift the Ban campaign. The council will be publicising information about being part of the campaign and any cost will be within existing budgets.

6.2. Giving asylum seekers the right to work may result in migrants being less reliant on charity and able to make a financial contribution to their accommodation and day-to-day expenses.

## **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. The Council has the power to take the action set out in this report under the general power of competence contained in the Localism Act 2011 and also having regard to its duty under section 149(1) (b) of the Equality Act 2010 to advance equality of opportunity between people sharing particular protected characteristics and those who do not.
- 7.2. In relation to any publicity activity relating to the Lift the Ban Coalition, the Council should have regard to the Code of Recommended practice on Local Authority Publicity issued under section 2 of the Local Government Act 1972. It is noted that the Code contains the following provisions which would appear to support the activity contemplated:

*31. Publicity by local authorities may seek to influence (in accordance with the relevant law and in a way which they consider positive) the attitudes of local people or public behaviour in relation to matters of health, safety, crime prevention, race relations, equality, diversity and community issues.*

*32. Local authorities should consider how any publicity they issue can contribute to the promotion of any duties applicable to them in relation to the elimination of discrimination, the advancement of equality and the fostering of good relations.*

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

- 8.1. These can be significant for individual families as well as more widely within the community.
- 8.2. Currently asylum seekers are left destitute whilst awaiting the outcome of their claim with the Home Office. Allowing asylum seekers to work will contribute to restoring their dignity and feeling of self-worth. Their financial insecurity makes them vulnerable to destitution, isolation, and exploitation. Being financial independent will help to reduce poverty and inequality experienced by many migrants.
- 8.3. Allowing asylum seekers to work my help to better integrate them into society. Being able to work also helps to improve migrants' English, acquire new skills and develop social contacts.

## **9 CRIME AND DISORDER IMPLICATIONS**

- 9.1. None.

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

- 10.1. None.

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

None

## **12 BACKGROUND PAPERS**



- 12.1. Lift the Ban Local Authority Engagement briefing  
[Lift-the-Ban-Local-Authority-Engagement-Briefing-V2.pdf](#)

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## Committee : Cabinet

Date: 22 June 2021

## Subject: Capital Letters

Lead officer: Steve Langley, Head of Housing

Lead members: Councillor Martin Whelton, Cabinet Member for Housing, Regeneration and the Climate Emergency

Contact officer: Steve Langley ext. 3712

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### Recommendations:

- (a) To approve the decision to become a member of Capital Letters (London) Ltd.
- (b) To note that the main reason for joining Capital Letters is to increase housing supply for vulnerable homeless households, given the acute shortage of social housing nominations.

### 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report sets out the reasons for joining the Pan London Capital Letters (London) Ltd, which will collaboratively procure new properties on behalf of London boroughs, supported by the Ministry of Housing, Communities & Local Government (MHCLG).
- 1.2 The housing pressures on low-income households in Merton and in London generally have never been greater and it is necessary to develop new and innovative pathways to increase housing supply. Officers have been working on new models which would enable better outcomes for homeless / at risk households. The result of which is Capital Letters.
- 1.3 This pressure has been increased because of Covid 19 and the anticipated increase in homelessness applications following the ban on evictions being removed (31st of May 2021), the furlough scheme ending and redundancies / job losses potentially increasing.
- 1.4 We can also expect demand for suitable private rented sector accommodation increase from other statutory agencies, thus creating a very competitive housing market. These agencies include the Home Office and its partners as they seek to procure suitable dispersed accommodation

(known as Operation Oak) for vulnerable Asylum seekers living in unsuitable hotel accommodation. We need to be able to respond to this competition collectively with other London Boroughs so as to maximise our prospects of obtaining supply and it is felt that Capital Letters is the vehicle to achieve this objective.

- 1.5 Tackling homelessness is a key priority at all levels, locally, sub-regionally, regionally and nationally. Overall, the amount of social housing in England has reduced by about 270,000 units over the past 20 years. The number of homes owned by local authorities has more than halved from just under 3.5 million 20 years ago. This is due to Right to Buy sales, Large Scale Voluntary stock transfers to housing associations. Merton transferred its housing stock in March 2010.
- 1.6 Even more than before a more coordinated effort is required from councils to source an improved supply of suitable accommodation for homeless/threatened with homeless households.
- 1.7 The size of the private rented sector has doubled since 2002 and accounts for about 4.7 million (one in five) homes.
- 1.8 While some social housing is being built, there is insufficient new housing to meet housing need nationally.
- 1.9 Merton has no social housing stock and is reliant upon housing associations and agreed nomination rights to meet housing need. Whilst Merton holds no stock it remains responsible to meet housing need, including the most acute form, i.e. homelessness.
- 1.10 There continues to be a high demand for accommodation, where at 31<sup>st</sup> March 2021, there were 9125 households waiting on the Council's Housing Register and 197 households in expensive temporary accommodation. At the same time only 191 housing association homes were made available for letting through agreed nomination rights to housing associations in the period April 2020 to March 2021.
- 1.11 There is a greater reliance on the private rented sector in Merton for both temporary and permanent housing solutions and a key challenge in Merton is affordability. The Local Housing Allowance (LHA) rates are the maximum amount of Housing Benefit that can be claimed by tenants who rent a home from a private Landlord. Some people need to apply for the housing element of Universal Credit instead. Private rents in Merton are above the LHA rates and tenants must make up the shortfall from their other income.
- 1.12 Waiting for an offer of a social housing tenancy in Merton is increasingly not a realistic option and we are likely to end our homelessness duty with an offer of a private rented sector property. Despite all efforts to secure more

properties in Merton, households often have to be housed elsewhere, where housing is more affordable.

## **2. CAPITAL LETTERS AS A HOUSING SOLUTION**

### **2.1 Company Structure and Governance**

- 2.1.1 Capital Letters is a company limited by guarantee, wholly owned by the London Boroughs, of which there are currently 20 members. There are no shareholders or dividends, and all surpluses are reinvested in the company. Participating boroughs are limited liability members.
- 2.1.2 The company was registered at Companies House in December 2019, supported by London Councils and the London Housing Directors Group, with funding from government of £37.8 million.
- 2.1.3 Capital Letters is a “Teckal” company. The company is controlled by participating authorities but could be awarded contracts and services without the requirement for a competitive tender process involving external parties in accordance with the Public Contracts Regulations 2015, although the Council must ensure compliance with its own internal contract standing orders requirements.
- 2.1.4 The activity of the company is being supported by a digital Property Listing Platform (PLP). The system is operational and allocating properties to existing member boroughs.
- 2.1.5 The Law firm Trowers and Hamlin have drafted the Articles of Association which is included as an appendix to this report.
- 2.1.6 Joining Capital Letters would hopefully enable Merton to secure more private rented properties in London or as close to the borough as is practicable, thus reducing lengthy waits in nightly paid accommodation and possibly the need to make such placements in the first instance, although this is unlikely to be the outcome in the first instance.
- 2.1.7 Member Boroughs also have the option (if they so choose) of transferring some or all of their existing private sector leased properties into Capital Letters, which as a private Landlord is eligible for 100% LHA from the DWP, which is higher than the rate for borough let temporary accommodation which is currently 90% of 2011 LHA levels.
- 2.1.8 Merton has one private sector leased dwelling at Hall Place, 5 Church Road, Mitcham which is an 81 room homeless hostel.
- 2.1.9 If Merton were to become a member of Capital Letters, then detailed discussions would need to take place regarding transferring that arrangement either through the novation of the existing contract or by a new contract between the owners (Rooms and Studios) and Capital Letters. However, implementation of these changes may be complex, and much will

- depend on our preferences, the preferences of the owners and existing legal arrangements. This would need to be part of a separate conversation after Merton joins Capital Letters if that is the agreed way forward.
- 2.1.10 The decision to transfer Hall Place is not a key consideration for joining Capital Letters and unless the Council could be assured of its ability to continue to have 100% access to vacant units at this site this would not be pursued. Currently this option is not recommended for further consideration.
- 2.1.11 The Council would continue to be responsible for undertaking affordability and suitability assessments, in accordance with the provisions of the Housing Act 1996 Part 7. This includes the allocation of households to the properties that Capital Letters Procure.
- 2.1.12 There is no membership fee required to join Capital Letter. However, as set out in the report the Council will continue to be responsible for the costs of placements into the Private Rented Sector and Landlord incentives paid to Capital Letters. However, the payment of incentives to Landlords is already a common practice for Merton and forms part of its homelessness prevention strategy. Section 2.4 of this report sets out the incentive schedule for Capital Letters in more detail.

## **2.2 Details and Current Operating Environment**

- 2.2.1 When a household approaches the Council in housing need, the Housing Needs team makes a formal assessment against a number of criteria as prescribed in homelessness legislation. If it is not possible to prevent homelessness, and the household has met the legislative criteria, there is a statutory duty to secure suitable accommodation for the household.
- 2.2.2 The demand for affordable housing in Merton continues to be one of the major challenges that the Council faces with high demand being primarily driven by households being evicted from the Private Rented Sector (PRS).
- 2.2.3 Since the implementation in April 2018 of the Homelessness Reduction Act 2017, there has been an increase in the number of homelessness presentations. The growing number of applications and our obligations within the legislation means that we must explore ways of increasing the number of properties available to us to discharge our duties to homeless households.
- 2.2.4 Due to the lack of supply of social housing the Council is using the power to meet new demand from homeless households with accommodation in the Private Rented Sector (PRS). Because there is an insufficient supply of PRS accommodation that is affordable in Merton. Some homeless households are therefore still placed in temporary accommodation, or in PRS accommodation outside of Merton.
- 2.2.5 Different types of temporary accommodation are used in Merton to house homeless households including bed and breakfast accommodation (B&B),

- homeless hostels, private sector leasing (PSL), and nightly paid accommodation.
- 2.2.6 There are currently 9125 households on the housing register, waiting for social housing in Merton. Of these, 197 homeless households are living in temporary accommodation at the end of March 2021. The Council is therefore exploring various initiatives to increase housing supply, which will be set out in its housing investment strategy (housing strategy).
- 2.2.7 But as long as there is such a mismatch between the demand and supply of social housing, we also need to take steps to ensure the supply of suitable, affordable private rented accommodation.
- 2.2.8 Capital Letters will sit alongside any new initiatives that are developed and focus on the procurement of private rented sector offer (PRSO) properties in or nearer to Merton for the prevention and relief of homelessness and to end a main homelessness duty.
- 2.2.9 This means that Capital Letters will complement rather than be in competition with existing Council initiatives, as some procurement will continue to be handled in-house after joining Capital Letters. Of the 197 households in temporary accommodation at the end of March 2021, 65% are accommodated using temporary accommodation nightly paid agreements.

### **2.3 Why a change is needed - Demand and Supply**

- 2.3.1 There is a desperate shortage of housing which is affordable to Merton's population. This initiative seeks to increase supply for a number of households in need of help and is expected over time to reduce the costs the Council incurs in procuring expensive nightly paid accommodation. However, Capital Letters is not intended to be the silver bullet to resolve the Council's housing shortage but can be seen as one of a number of initiatives being developed as a way of increasing housing supply for vulnerable households within the private rented sector.
- 2.3.2 Whilst the Council is exploring alternative options on how best to increase housing supply many of these will take some time to reach fruition. The Council will shortly publish a new Housing Strategy which will set out a housing vision and objectives to be achieved over the next five years, including how best to work with partner housing associations to increase affordable and suitable accommodation and how best to use its own housing assets and land availability.
- 2.3.3 Homeless households are spending an increasingly long period of time in Temporary Accommodation waiting for social housing. Depending on the size of the property required, some of these waits can be lengthy.

- 2.3.4 Recently, the housing pressures on low-income households in London have perhaps never been higher as a result of COVID-19. This includes the 'everyone in' principle and the associated work on eliminating rough sleeping. In addition, there is an anticipated increase in homelessness now that the ban on evictions is removed, the extended Section 21 notice period reducing from 6 months to 4 months, the furlough scheme ending, and redundancies potentially increasing.
- 2.3.5 Due to this high level of demand for affordable accommodation, the significant financial impact and its likely continuation, even more than before a more coordinated effort is required from councils across London to source an improved supply of suitable accommodation to meet demand.
- 2.3.6 Capital Letters is one of the initiatives which will help to increase the supply of private rented accommodation, reduce the cost of this accommodation, and reduce the need for households to be accommodated out of the borough. This pan-London initiative should achieve economies of scale and reduce the competition between boroughs for this type of accommodation.
- 2.3.7 It is hoped that Merton will benefit significantly from the numbers of properties to be procured by Capital Letters, thus reducing homelessness costs. Additionally, the procurement of private rented sector properties offers the opportunity to discharge housing duty.
- 2.3.8 The activity of the company is being supported by a digital Property Listing Platform (PLP). The system is operational and allocating properties to existing member boroughs.
- 2.3.9 Capital Letters is a company limited by guarantee, wholly owned by the London Boroughs, of which there are currently 20. The company is registered at Companies House in December 2019, supported by London Councils and the London Housing Directors Group, with funding from government.

## **2.4 Incentives**

- 2.4.1 A fundamental part of Capital Letters is that they work in partnership with members to reduce costs, act as a market disruptor, seek to provide efficient services and dampen landlord's expectations of incentive payments. They have agreed a standard incentive package with all members which is applied pan-London and is also adopted by their in-house teams if they continue to procure in addition to Capital Letters. This is an integral part of their business as Capital Letters officers, known as negotiators, procure "blind" – they don't need to know which borough a particular property will be offered to as their system's algorithm determines this. They focus on negotiating the best deal within the agreed incentives package envelope. Incentive rates are kept under regular review to ensure they remain appropriate for the environment. Any changes are developed in partnership with members.



## 2.4.2 Capital Letters incentives package 2020/21

The table below shows the incentive payments the Council will need to pay to Capital Letters on a successful letting.

<b>1 year</b>	<b>2 years</b>
1 bed *£1000	*£2000
2 bed = £2000 + (discretionary £1000) <b>= £3000 max</b>	Existing £4000 + (discretionary £500) = <b>£4500 max</b>
3 bed = £2500 + (discretionary £1000) <b>= £3500 max</b>	Up to max of <b>£5000</b> as per current agreement (£4000 + discretionary £1k)
4 bed = <b>£3000 max</b>	Up to max of <b>£4500</b> - decreased incentive from 5k

\*Pan London Agreed Rates as of 23/06/2020

2.4.3 The main financial benefit to Merton is from the top slice from MHCLG for 2 bed units and above on a two-year AST. Assuming a cost of £4K incentive to secure a dwelling, the Council would receive £750 back in top slice from MHCLG budgets. The table set out in section 7 seeks to provide the detail on costs and benefits for 100 properties split across 1, 2 and 3 bedroom homes. The table further demonstrates that the Council would need to pay out £360K in incentive payments but would receive back £120K top slice from the MHCLG budget. This is only available to the Council if we are a member of Capital Letters.

2.4.4 Capital Letters is supported by a grant from MHCLG, allocated from the 'Homelessness Prevention Grant. £37.8 million was initially allocated until 2021-22 and spread over 4 years. Capital Letters are in discussions with MHCLG about extending the grant. The grant from MHCLG is used to support three key areas of activity:

(a) Grant for member boroughs to contribute towards the cost of private rented sector (PRS) placement incentives for landlords. It is common for councils to offer an incentive payment for new landlords. In Merton, incentive payments can range from £1,000 to £4,000 depending on the bedroom size and type of property. Each property procured by Capital Letters and let by the Council will attract a grant payment.

(b) Grant for member boroughs to contribute towards top up payments made to landlords for Private Sector Lease (PSL) properties – currently £15 per week for each 3-year lease procured by Capital Letters. There is often a shortfall between the cost of leasing a property and the amount that can be claimed back through Housing Benefit. In Merton's case this would apply

only to its private sector lease dwelling at Hall Place, which at the present time is not recommended.

(c) Central costs to enable the company to operate including corporate service staffing costs (Executive Team, HR, Finance etc) and for additional procurement staff (to increase property procurement), tenancy sustainment staff, IT and premises.

2.4.5 The author of this report proposes that funding is sought for 2 new posts within Capital Letters using the MHCLG Homelessness Prevention Grant by transferring funds on an annual basis to Capital Letters for the company to directly recruit to these posts. For the first year up to £102k to be transferred to cover the cost of the salary and all on-costs/overheads. Capital Letters increase salaries in April each year based on the rate approved by the Board. The new staff will be directly employed by Capital Letters on their terms and conditions.

2.4.6 This cost should be offset by reductions in the costs of procurement which benefit from the MHCLG top-sliced grant contribution available to Capital Letters. The Council's current in-house Team which consists of 3 officers will continue to procure emergency accommodation, allocate to Hall Place, and some private rented sector offer (PRSO) properties where an existing landlord that they already work with prefer to have a direct relationship with the Council and not capital letters. They will also continue to facilitate the relationship between landlords and homeless households who find their own private rented accommodation as a housing solution. Officers will continue to provide housing management for those households in temporary accommodation, such as Hall Place which includes the administration of rent accounts, housing benefit entitlements etc. They would also continue to be responsible for undertaking affordability and suitability assessments and for allocating households to the properties that Capital Letters procure.

2.4.7 Over the last three financial years, the in-house Team secured the following number of total private rented sector offers (PRSO) which was used for the prevention and relief of homelessness and to end a main homelessness duty:

	2017/18	2018/19	2019/20	2020/21
<b>RDS Lettings</b>	70	45	41	71

2.4.8 Whilst there is an opportunity to second one member of our staff to Capital Letters, and therefore reduce the need for 2 officers to be recruited at Capital Letters, then a more detailed consultation would need to be had with the officer and trade union. We would also need to consider how the gaps

in continuing to deliver a service in house as previously described would be maintained.

- 2.4.9 Merton had not sought to join Capital Letters earlier as it wanted evidence of its concept and current performance. This has been achieved. Capital Letters commenced operations in June 2019, although it took a while to establish the detailed operational arrangements. The period until March 2020 was spent developing working processes and procedures. As a result, Capital Letters is now fully operational, with all processes and procedures in place and a functioning IT system which means that Merton would benefit from the opportunity immediately on joining.

The following boroughs have become members of Capital Letters:

Barking & Dagenham  
Bexley  
Brent  
Camden  
Croydon  
Ealing  
Enfield  
Greenwich  
Hackney  
Hammersmith & Fulham  
Haringey  
Harrow  
Havering  
Lewisham  
Newham  
Tower Hamlets  
Redbridge  
Southwark  
Waltham Forest  
Westminster

- 2.4.10 The target for each Housing Negotiator employed by Capital Letters is 100 properties per year, although this is pro rata depending on when they commence employment with Capital Letters. In principle this performance would yield 200 placements for Merton, subject of course to the availability of suitable homes. Therefore, membership of Capital Letters will enable Merton to secure more PRS properties than historically procured, as set out in paragraph 2.4.7. In addition, these properties will be within or close to Merton in London. The properties will be used for the prevention and relief of homelessness or to end a main homelessness duty. This will reduce the need to place families in temporary accommodation or in PRS accommodation further away or outside London.

2.4.11 Capital Letters set an annual target for each member based on the number of staff contributed at the start of the financial year (or pro rata for part-years). The boroughs also confirm what type of properties and bedroom size they require for each year. This is then divided into a monthly rolling target. Properties are procured by Housing Negotiators “blind” (i.e., they don’t know which Borough the property will be offered to); the properties are inputted into the computer system and the algorithm determines which Borough the property will be offered to. The first criteria is based on geography – which borough is the property located in; they also use an estimate of one hour travel on public transport during peak time to determine location. The second criteria is the fulfilment of the borough’s monthly target. If the target has been met, then the property is offered to a neighbouring borough.

2.4.12 Capital Letters’ Area Managers meet with each member monthly to review performance and target achievement. If a monthly target is not met, it rolls over into the next month, which then prioritises the Borough for allocations. The algorithm can also be manually overridden to ensure members receive their fair allocation of properties and/or to meet specific needs such as adapted properties.

2.4.13 Capital Letters also provides a tenancy sustainment service, for tenancies which are arranged directly by them. This is an integral part of the offer, enabling households to successfully maintain their tenancies, thus avoiding repeat homelessness, whilst also giving landlords confidence about the security of their income and condition of the property.

2.4.14 If Merton decides that it will join Capital Letters, then the subsidy from the MHCLG grant and the associated tenancy sustainment service should result in cost reductions, especially when extrapolated over a significant number of placements, and improve outcomes for homeless households.

### **Capital Letters Performance and Future Business Plans**

2.4.15 Council Officers have consulted with Capital Letters and can confirm that currently:

- 55 Housing Negotiators have been employed by Capital Letters.
- 10 Tenancy Sustainment Officers and 2 Area Managers recruited
- 1806 properties offered to member boroughs.
- 1131 properties have been let.

Capital Letters have an ambitious 3-year corporate strategy, where they say that by 2022/23, they will have:

- Recruited 150 staff.
- Extended membership to 25 London boroughs
- Procured 26,000 properties.
- Supported 8,000 people to sustain their tenancies.
- Achieved 4,000 homes in management.

### **3 ALTERNATIVE OPTIONS**

#### **3.1 There is the option not to join the company.**

This would result in a lost opportunity to access MHCLG grant funding and thus alleviate the costs of providing accommodation, to increase the procurement of accommodation and move away from expensive nightly paid temporary accommodation and to enable the placement of households closer to Merton.

Boroughs who do not join Capital Letters will still have properties procured by Capital Letters in their area. Although Capital Letters abides by the agreed Inter Borough Accommodation Agreement (IBAA) rates, there is nevertheless a risk that landlords and agents will prefer to work with Capital Letters rather than within individual boroughs because of the profile it has, and because of the more streamlined ability to let properties across London with one organisation rather than with a number of different boroughs.

#### **3.2 There is the option to deliver the service in house by increasing the housing team.**

Over the last three years the Council's in house team have been successful in increasing housing supply by 227 properties. These properties have assisted the Council in discharging its statutory housing duties, now referred to as ending the prevention and relief duties as set out in the Homelessness Reduction Act 2017. Whilst this performance is very positive and demonstrates officer commitment to preventing homelessness, the current operating model is unlikely to be sufficient to meet the challenges that will most definitely emerge into the future i.e., increased levels of homelessness.

If the Council were of the opinion that it would prefer to further develop the service in house, then it would need to increase the levels of staffing available to the team and recognise that even with the increased levels of staffing the resilience required to deliver and compete in an ever changing housing market could prove challenging.

For these reasons this option is not recommended. The table below sets out the additional costs if we were to increase staffing capacity within the current team and aim to deliver a service equivalent to Capital Letters.

To secure 100 - 1/2/3 bed properties in/out of the borough for example it will cost as follows:

<b>Proposal</b>	<b>£</b>
Housing Manager ME15 FTE X 1	62,670
Housing Negotiators ME9 FTE X2	80,160
Rent Deposits	360,000
Non- Pay Items	21,000
<b>Total</b>	<b>523,830</b>

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

- 4.1 Capital Letters has been developed in conjunction with and supported by MHCLG, GLA, London Councils, the 33 London Boroughs, including the London Councils' Housing Directors Group and London Councils' Leaders Group.
- 4.2 Consultation with homeless households is not planned at this current time. Capital Letters would only procure within London, in areas where the existing housing Procurement officers are already active, meaning there should be minimal effect on service users.

#### **5. TIMETABLE**

- 5.1 The Capital Letters' governance process requires boroughs to secure internal approval to join the company so the Borough Representative Body can confirm their membership. However, the actual date of implementation will be designed to suit London Borough of Merton's internal timescales and operational arrangements.

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

It is difficult to accurately forecast the exact cost reduction for the use of temporary accommodation because any calculation involves a significant number of assumptions, unknowns and variables i.e. we have no way of knowing how many homeless households will apply to the Council and be eligible for a statutory placement into temporary accommodation. On the demand side of the equation it is unknown how many properties of which size and type will become available in any given month. This uncertainty has always existed to some degree but the Covid 19 pandemic has added a number of unknowns into the picture which include the lifting of the ban on evictions and the "everyone in" principle.

However, what we can be clear about is the main financial benefit of joining the company is to access MHCLG funding and increase the number of properties sourced to reduce the need for High-Cost Temporary Accommodation, thereby

saving money in the General Fund. For the sake of clarity, the funding from MHCLG would be a top slice of £750 for every completed letting for dwellings of 2 bedrooms or more, thus recirculating rent deposits back into the homelessness prevention budget.

Temporary accommodation is expected to cost the Council £5m gross in 2020/21 and approximately £2.1m net, reflecting housing benefit income, and client contributions and personal payments. The actual costs of providing temporary accommodation is not covered by the subsidy through central government's subsidy formula.

There continues to be considerable pressure on the temporary accommodation budget. This pressure is likely to continue through increased activity in homelessness episodes because of legislative changes, Covid-19 and the "everyone in" principle and the reduction in housing association homes available for nomination.

The tables that follow below sets out how the MHCLG top slicing would work if 100 properties were to be relet via Capital Letters. It can be seen from the table that the Capital Letters programme is self-funding and there should be no net cost to the Council.

Option to Secure 100 Properties							
Number of Beds	1 Bed Properties		2 Bed Properties		3 Bed Properties		Total
<b>Cost per lease agreement</b>	£2,000		£4,000*		£4,000*		
<b>No. of Lease Agreements</b>	20		30		50		100
<b>Financial Benefit per lease</b>	NIL		£750		£750		
	Year 1	Year 2	Year 1	Year 2	Year 1	Year 2	Total
<b>LBM's Costs-Incentive Payments</b>	40,000	-	120,000	-	200,000	-	360,000
<b>LBM Gain-MHCLG Top Slice portion back to the LBM</b>	Nil	Nil	(22,500)	(22,500)	(37,500)	(37,500)	(120,000)
<b>(Surplus)/Deficit</b>	40,000	-	97,500	(22,500)	162,500	(37,500)	240,000

\*- excluding the additional discretionary payments.

**NOTE:** With the proposed two officers cost at £102k and a target of 100 properties each, the MHCLG top slice would be in the region of £240k, with a net benefit to the Council of circa £140k.

## **7. LEGAL AND STATUTORY IMPLICATIONS**

Where the Council determines under the provisions of the Housing Act 1996 Part VII (as amended) that a person/household is eligible for assistance, homeless, in priority need and not homeless intentionally, it has a duty to secure suitable accommodation (unless it refers the applicant to another authority under the local connection provisions): s193(2), s206(1).

The suitability of accommodation is governed by s210 of the 1996 Act, the Homelessness (Suitability of Accommodation) Order 1996 (SI 1996/3204) and by the Homelessness Code of Guidance for Local Authorities. 3.8. When discharging their housing duties under Part VII, an authority must, so far as reasonably practicable, secure that accommodation is available for the applicant's occupation in their own district: s208(1) of the 1996 Act. 3.9.

The Localism Act 2011, in force in England on 9 November 2012, introduced provision for the Council to discharge its housing duty to statutory homeless households by offering a tenancy in the private rented sector. Any private rented sector offer must be suitable and must comply with the provisions of the Homelessness (Suitability of Accommodation) Order 1996.

Where a Local Authority is under a duty to perform a function then within prescribed parameters the Local Authority can arrange for the function to be delivered by a third-party contractor or a company established by the Local Authority or within which the Local Authority has an interest. A company can be established where a number of Councils are members/shareholders.

Traditionally section 111 Local Government Act 1972 is relied upon as the power for establishing companies and entering into contracts. This is the power to *“do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions”*. The Localism Act 2011 also introduced a general power of competence for local authorities to do anything that an individual may do, which would include the formation of companies.

Capital Letters as per the main body of the report is a duly established Local Authority Trading Company with governance arrangements in place to admit new 'members'. As the company has been set up under Regulation 12 of the Public Contracts Regulations (a Teckal Company), if the Council is admitted as a new



member to the company, this will enable the Council to obtain services from it without the need to procure or go out to the market.

The Council may therefore join the existing Local Authority members of Capital Letters as a limited liability member subject to entering relevant arrangements and executing prescribed legal documents to formalise its membership. Further legal advice may be required with regards the contents of articles of association that are attached to this report.

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

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- a. The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.
- b. The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and.
- c. Foster good relations between those who have protected characteristics and those who do not.

'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Merton residents in respect of socio-economics and health determinants.

The provision of high-quality private sector accommodation close to family and support will have a positive impact on the quality of life for households with protected characteristics.

### **Health and Wellbeing**

The implementation of Capital Letters will benefit the health and well-being of vulnerable residents. Capital Letters seek to secure affordable better quality private rented properties on the open market. There will be an emphasis to rehouse households in Merton which will reduce the upheaval for children and their school placements.

Housing Officers will support the health and well-being agenda to ensure that the former homeless household will have access to health services (including mental health) recognising the impact that homelessness and the Covid 19 pandemic can have a long-lasting effect.

## **9. CRIME AND DISORDER IMPLICATIONS**

None for the purposes of this report.

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

There are a number of risk implications in joining Capital Letters which would need to be considered, alongside actions mitigating those risks.

The Council is proposing to use the company to secure PRS properties for the prevention and relief of homelessness or to end a main homelessness duty. This is a proportion of the overall homelessness function activity which will still be undertaken in-house and this risk has been mitigated by retaining Procurement staff in Housing Needs Service to ensure that existing supply can be maintained.

If Capital Letters does not work, the Council can cease to be a Member of the Company by serving six months' written notice to do so.

The company encounters financial difficulties and ceases to operate: The Company has been established as a private company limited by guarantee, owned and managed by the boroughs who constitute limited liability members of the company. The risk to the Council is minimal as the liability is limited to £1. The company is required to have sufficient funds to cover their credit and any redundancy costs if they cease to operate. The company is also Teckal compliant, meaning that it complies with Contracts Regulations and European Law. The rights over the properties and responsibilities towards the households would need to be negotiated with Capital Letters and the legal owners of the properties and this would be done in accordance to the framework of the homelessness legislation and the Councils duty to the household.

## **11. APPENDICES – the following documents are to be published with this report and form part of the report**

1. Articles of Association



Articles of  
Association - Capita

## **12. BACKGROUND PAPERS**

N/A

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## Committee: Cabinet

Date: 14<sup>th</sup> June 2021

Wards: ALL

**Subject:** Award of Contract for the supply of Temporary Agency Workers for the London Borough of Merton

Lead officer: Caroline Holland, Director of Corporate Services

Lead member: Tobin Byers, Cabinet Member for Finance

Contact officer: Ruth Poulter, HR Contract Manager

### ***Exempt or confidential report***

*The following paragraph of [Part 4b Section 10 of the constitution](#) applies in respect of information within this appendix and it is therefore exempt from publication:*

*Information relating to the financial or business affairs of any particular person (including the Authority holding that information).*

*Members and officers are advised not to disclose the contents of the appendix.*

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### **Recommendations:**

- A To award the new contract for the supply of temporary agency workers for a period of 2 years with a 2 year potential extension, starting from 13<sup>th</sup> December 2021 at an estimated value of £13m per annum.
- B To implement a vendor neutral solution, as currently in place, when the current Contract for the supply of temporary agency workers on 13<sup>th</sup> December 2021
- C In accordance with Contract Standing Orders (CSO 24.3) that authority be delegated to the Director of Corporate Services to exercise, in consultation with the Cabinet Member for Finance, the council's option to grant the extension of the contract term for any period up to two further years beyond the expiry of the initial contract term on 13 December 2023.

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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1 The purpose of this report is to explain the procurement process for a new temporary agency worker managed service contract and to recommend that Cabinet approves the award of the contract to Bidder A.
- 1.2 The procurement was conducted as a further competition exercise under Lot 1(a) of the MSTAR3 Framework Agreement and the new contract will enable further improvements to be made in terms of overall contract performance resulting in further efficiency gains and direct cost saving opportunities to be realised.
- 1.3 The London Borough of Merton has had a successful contractual

relationship with Bidder A (the incumbent) for the vendor neutral management of agency worker supply since the current contract started in December 2014.

## **2        DETAILS**

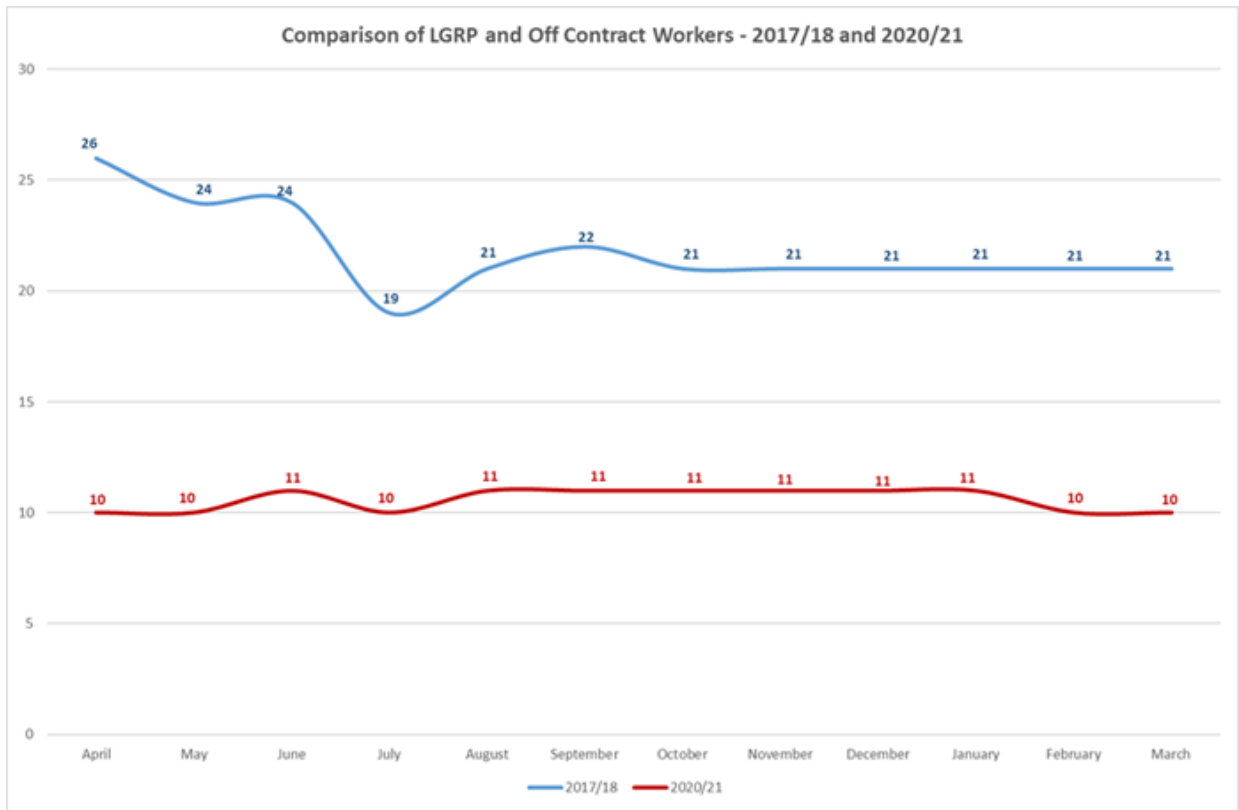
- 2.1. This report will outline the key features and benefits of this recommendation and the impact that this will have on overall improvements in service quality, cost control and value for money. The council needs to ensure that it retains a flexible solution to adjust to the challenging needs to reduce costs, improve efficiencies and at the same time create further controls in terms of governance and compliance relating to the management of agency worker supply.
- 2.2. The successful supplier operates as a neutral managed service provider which ensures that all Agency Workers are engaged on fair and equitable terms and conditions and that assignment requests are responded to by a variety of contracted suppliers who will compete for business on a level playing field thus supporting and promoting the Councils need to engage with SME suppliers and localised Agency Workers.
- 2.3. During the COVID-19 pandemic, it has highlighted that using a neutral vendor for our recruitment is incredibly beneficial. Merton Council did not have any issues with recruiting any temporary workers; we have a strong relationship with colleagues and all the agency suppliers, whereas some Councils have struggled with recruitment using master vendors. A Neutral Vendor Managed Service is an unbiased provider of temporary staff, instead of filling roles directly themselves, they manage supply chains of agencies and local SMEs giving all agencies on their supply list fair access to all roles released.

The vendor neutral service also manages all contracted staff providers on behalf of the Council and this has provided clear improvements in terms of visibility and control, compliance and governance as well as implementing a range of demand management and workforce planning initiatives via this business model.

The successful supplier also offers a “payroll only” service, which allows Merton Council to process invoices and make payments to workers whose roles have been deemed as inside IR35, but were not signed up with an employment agency initially. This then mitigates the risk of fines from HMRC and ensures that we are working within the IR35 legislation.

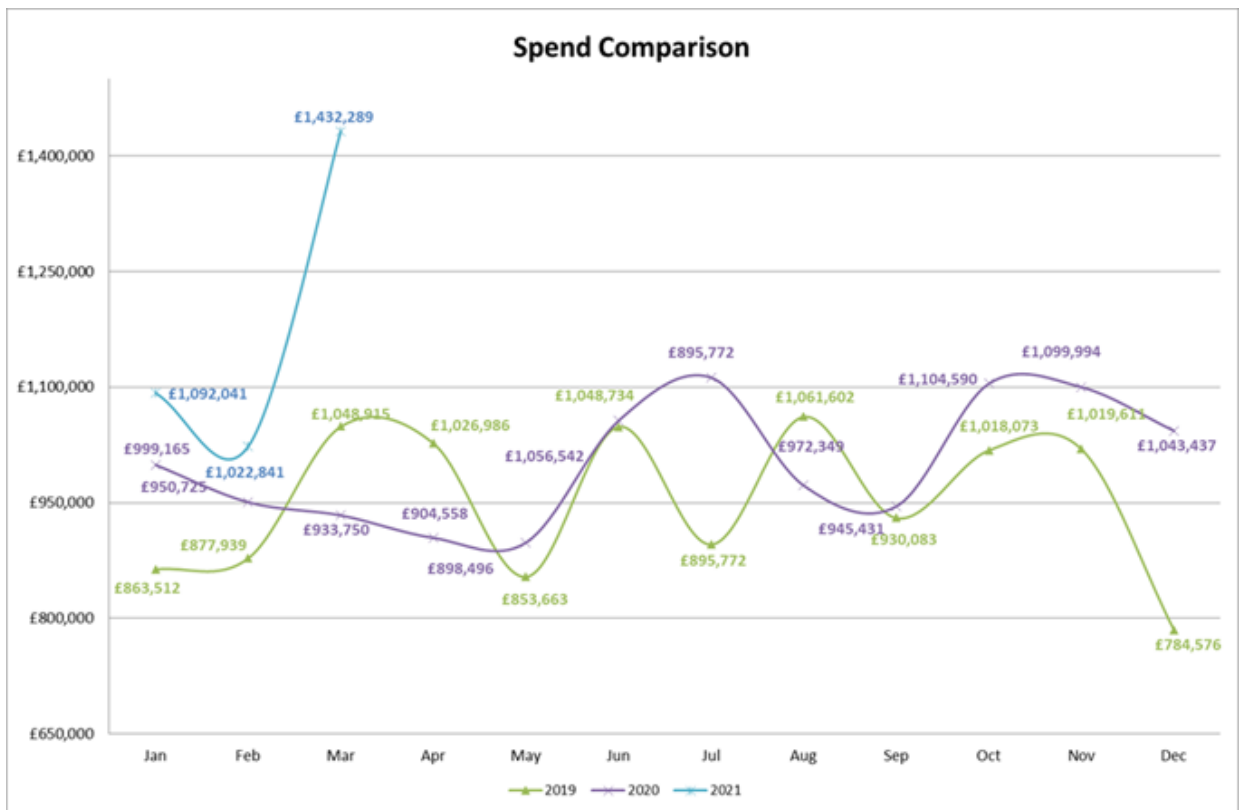
The proposed service will include Statement of Works (or SOW) which is a formal Project that defines the entire scope of the work involved for a vendor clarifies deliverables, costs, and timeline. This allows the managers to set a price for the project which is paid on deliverables only and therefore negates the option to extend assignments thus saving the Council money.

- 2.4. During the current contract, Merton Council introduced an interim category, meaning that we are now able to fill and recruit a number of hard to fill roles and senior roles which had historically gone via the Local Government Resourcing Partnership (LGRP) framework and off-contract agencies. Since introducing the interim category we have been able to keep the costs of recruitment down by using the current supplier in the first instance for all roles as their margins are lower than off-contract and LGRP.
  
- 2.5. The below table outlines the decrease in the number of agency staff being engaged via off-contract agencies and the LGRP framework since the beginning of our current contract period. This has, in turn, reduced the risk to Merton by not using agencies who are not IR35 compliant and allowing us to reduce the off-contract spend and lower our costs.



2.6. Overall monthly spend over the last 4 years, as you can see from the graphs the spend has increased this is due to a number of factors such as COVID 19, as the numbers have increased due to extra roles being created to combat COVID 19 issues and an increase in Interim and Temporary Workers

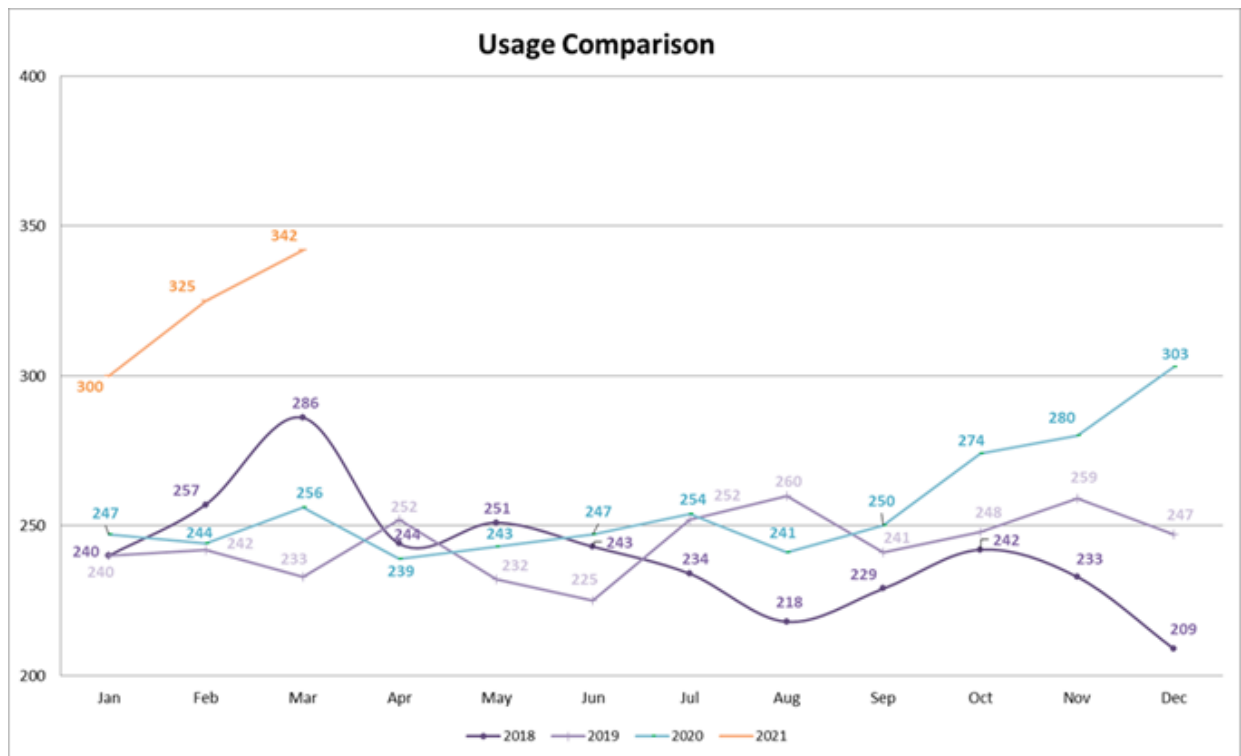




No of Interim Workers over the last 4 years.

	2017/18	2018/19	2019/20	2020/21
<b>April</b>	150	129	139	150
<b>May</b>	147	136	138	162
<b>June</b>	151	140	124	163
<b>July</b>	147	144	143	164
<b>August</b>	145	133	143	160
<b>September</b>	153	132	140	155
<b>October</b>	153	142	147	179
<b>November</b>	156	135	148	186
<b>December</b>	143	131	155	196
<b>January</b>	140	122	158	194
<b>February</b>	146	127	150	210
<b>March</b>	137	139	161	214

No of temporary Workers over the last 4 years.



- 2.7. The ITT was published on 08<sup>th</sup> March 2021, with a submission deadline of 12 Noon 06<sup>th</sup> April 2021. The Invitation to Tender (ITT) was published via the London Tenders Portal, and advertised to suppliers signed up to the ESPO framework agreement. A total of 3 submissions were received, and the evaluation of the bids was carried out in line with the evaluation methodology of the tender.
- 2.8. Of the 3 tenders received, 1 was disqualified which meant 2 tenders were deemed compliant and therefore in contention to be awarded the contract.
- 2.9. Suppliers were asked to submit their answers to the Method Statements questions along with their price quotes on the pricing schedule and Part B tender submission. Suppliers who failed to submit these documents were disqualified from the process, and would not be progressed to stage 2 and 3 – quality assessment and price assessment. A total of one supplier did not submit part B tender submission document and were in turn disqualified.
- 2.10. The tender evaluation comprised of three stages: the first of which was a compliance check, on a pass/fail basis; the second was the quality and technical evaluation in line with the methodology prescribed in the tender; and the third was the assessment of price.
- 2.11. The tender evaluation was carried out by a panel of four officers, all from the Learning and Development team. Each compliant tender was evaluated individually by each member of the evaluation panel to undertake the quality and technical evaluation. Details of the evaluation questions, scoring criteria and weightings can be found in Appendix B.
- 2.12. The panel, along with an officer from Commercial Services, met on the 30<sup>th</sup> April 2021 to discuss individual scores and comments for each question in order to arrive at an agreed, moderated score.

- 2.13. The names of the bidders and their respective scores are included at Appendices A, B and respectively.
- 2.14. The procurement documents states that the contracts would be awarded to the highest ranked bidder. The documentation also stated that the contracts would be awarded on the basis of the most economically advantageous tender to the Council, based on a 50% Quality and 50% Price split.
- 2.15. The bids were evaluated against the following seven Method Statement questions and a system demonstration to assess the quality of each bid:

No	Quality Questions	Weighting
Q1	What mechanism would you have to make sure the cv's supplied match the specification requested by the ordering manager?	5%
Q2	The supply for the following roles has proven to be problematic in the past for the Council <ul style="list-style-type: none"> <li>• Qualified Social Workers</li> <li>• Interim (IT Specialist)</li> <li>• Lawyers</li> <li>• Public Health</li> <li>• Engineering &amp; Surveying</li> </ul> <p>How will your organisation provide cover for these roles at short notice ?</p>	5%
Q3	What are your organisation's process for managing the risks associated with the below and the associated cost to the Council. <ul style="list-style-type: none"> <li>• Pension Auto Enrolment</li> <li>• Apprenticeship Levy</li> <li>• IR35 Legislation</li> </ul>	5%
Q4	Supply a detailed implementation project plan (from contract award to contract start) June 2021 to December 2021	5%
Q5	How will your organisation support local suppliers to engage with localised workforce?	5%
Q6	Statement of works are now being used more, how would you integrate this into current the requirements. E.g.: identify what roles could be statement of works, speak to managers and train managers on SOW. Can you confirm how virtual training is given to the managers and what this involves, we need training to be interactive and engaging.	5%

Q7	<p>The Council's ordering managers will be required to add a reference number on each order which corresponds to the permanent vacant post. The suppliers' system must be able to supply reports incorporating this reference number:</p> <p>Suppliers are required to provide sample reports as the below in their bid response.</p> <ul style="list-style-type: none"> <li>• List of current assignments reports</li> <li>• Submitted timesheet report</li> <li>• List of unapproved timesheets</li> <li>• Cost Code and hours worked report</li> <li>• Screen shot of an assignment to show pre and post parity pay and charge rates as displayed on assignment ( PAYE &amp; LTD)</li> </ul>	5%
System Demonstration	<p>Each task has been given a percentage of 3% weighting.</p> <ul style="list-style-type: none"> <li>• Task 1 – Create an order (access for our own position numbers on orders)</li> <li>• Task 2 – approve a timesheet</li> <li>• Task 3 – Extend an assignment.</li> <li>• Task 4 – Running MI Reports</li> <li>• Task 5 – Statement of Works function</li> </ul>	15%

The table below summarises the evaluation outcomes for each supplier we received bids for.

Bidder	Pass/Fail	Quality Score	Quality Weighting	Price	Final Weighted Score	Rank
Bidder A	PASS	32.0	50%	50.00%	100%	1
Bidder B	PASS	32.0	50%	27.42%	77%	2

### 3 ALTERNATIVE OPTIONS

- 3.1. During the COVID-19 pandemic, it was highlighted that using a neutral vendor for our recruitment was incredibly beneficial. Merton Council did not have any issues with recruiting any temporary workers whereas some Councils struggled with recruitment using master vendors.
- 3.2. A Neutral Vendor Managed Service is an unbiased provider of temporary staff, instead of filling roles directly themselves, they manage supply chains of agencies and local SMEs giving all agencies on their supplier list fair access to all roles released.

- 3.3. Therefore the best option for Merton Council was to run a further competition on Lot 1(a) via ESPO on the MSTAR3 framework so we could continue with the neutral vendor option. We looked at other frameworks Crown Commercial and YPO, however we found the ESPO framework more suitable and flexible to Merton Council's specific requirements.

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

- 4.1 An evaluation working group was formed in April 21 made up of 4 members from HR. The procurement board which is representative of the council departments have considered the options presented in a business case report to them in January 2021.

#### 5. **TIMETABLE**

##### 5.1

<b>Event</b>	<b>Date</b>
Invitation To Tender	4th March 2021
Deadline for receipt of clarifications	29 <sup>th</sup> March 2021
Deadline for receipt of Tenders	6 <sup>th</sup> April 2021
Evaluation of Tenders	7 <sup>th</sup> April – 27 <sup>th</sup> April 2021
Approval at Procurement Board	18 <sup>th</sup> May 2021
Cabinet	14 <sup>th</sup> June 2021
Notification of contract award decision	15 <sup>th</sup> June 2021
"Standstill" period	15 <sup>th</sup> June – 25 <sup>th</sup> June 2021
Confirm Award of Contract agreement	26 <sup>th</sup> June 2021
Target service commencement date	13 <sup>th</sup> December 2021

The successful supplier will provide an implementation plan immediately after the contract is awarded, as the successful supplier is the current supplier, we will not have to complete a full implementation, however we will updating the c.net system which comprises of a data cleanse on all current job roles, specs and rates and a line manager cleanse. We are also introducing a statement of works function and therefore training for hiring managers and other stakeholders will be part of the implementation plan and offered to all officers as required.

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

- 6.1 Merton currently spends approximately £13m a year on temporary agency workers, although we have seen an increase in numbers and spend last year and this year due to COVID 19.

The agency workers' spend is not solely linked to the number of temporary workers engaged within Merton but to the workers' pay rates. The agency mark-up added onto the candidates' pay rate is a fixed fee, which means regardless of the pay to the candidate the charge rate will stay the same which ultimately benefits the Council in cost savings.

It should be noted that reducing the temporary workforce will not necessarily reduce the contract spend due to the increase in rates of pay to the workers, but there is regular review of highly paid interims at both a management level and at Member level, by the Standards & General Purposes Committee.

Cost reductions can only be achieved by either reducing the number of agency workers being hired or reducing their pay rates. The charge rates in the current contract are at a level that some agencies are already refusing to provide services to the Council. Lowering the charge rates further for a new contract would put the Council at risk of not being able to fill vacancies. A new contract is therefore unlikely to produce a saving compared to the current contract terms.

The cost of agency staff via the new contract will continue to be funded by the teams utilising those staff. Where the contract is used on behalf of CHAS, the cost of those staff will be recharged to CHAS via invoices raised by LBM. The value of spend via the contract will vary depending on the level of usage throughout the contract term.

Finance have carried out a credit check and also reviewed accounts and other financial information held at Companies House for the successful supplier and have no concerns regarding the company's financial stability.

## **7. LEGAL AND STATUTORY IMPLICATIONS**

- 7.1 The framework (ESPO MSTAR 3) is available for the Council to call off as local authorities are identified in it. The Council should ensure that the call off contract is awarded during framework. The Framework has been extended until 10<sup>th</sup> April 2023.
- 7.2 In order to be compliant with Contract Standing Order 12, the Council must ensure that it follows the process stated in the framework for conducting the mini-competition / tender under the framework. The Council should retain and document proof of compliance with the mini-competition rules.
- 7.3 The Council is required to publish details of the award on Contracts Finder as required by regulation 108 of the Public Contracts Regulations 2015 and enter the details in the relevant contract register in accordance with Contract Standing Order 32.

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

8.1 Analysis of the current temporary agency workers' profile shows that ethnicity, age and gender are varied, confirming no group will be disadvantaged as a result of letting the contract

Equalities requirements has been included in the specification – e.g. meeting standards regarding employment of traditionally disadvantaged groups having equalities policies and procedures in place, and a proactive approach to recruitment of under-represented groups throughout the supply chain.

The successful supplier must, in carrying out its functions, have due regard to the need to eliminate unlawful discrimination and harassment and to promote equality of opportunity in relation to disability, race and gender and the need to take steps to take account of disabilities, even where that involves treating the disabled more favourably than others (section 49A Disability Discrimination Act 1995; section 71 Race Relations Act 1976; section 76A Sex Discrimination Act 1975).

**9. CRIME AND DISORDER IMPLICATIONS**

9.1 There are no crime and disorder implications relating to the subject of this report

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

10.1 There is no risk awarding the contract under Lot 1(a) of the MSTAR3 Framework Agreement

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

- POTENTIAL SAVINGS.

**12. BACKGROUND PAPERS**

12.1 None

*Appendix A through to D (Commercially Sensitive Information)*

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## **Committee: Cabinet**

**Date: 22 June 2021**

Wards: All

## **Subject: Appointment of Committees and Proposed Changes to the Constitution**

Lead officer: Louise Round – Managing Director of the South London Legal Partnership

Lead member: Leader of the Council

Contact Officer: Amy Dumitrescu– Interim Democracy Services Manager (020 8545 3357) [democratic.services@merton.gov.uk](mailto:democratic.services@merton.gov.uk)

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### **Recommendations:**

That the Cabinet:

- A. agrees to appoint two Cabinet members and two substitute members to the South West London Joint Waste Management Committee;
- B. agrees to appoint two Cabinet members, to the Wandle Valley Regional Park Trust;
- C. agrees to appoint the Leader of the Council to the South London Partnership Joint Committee;
- D. agrees to delegate to the Chief Executive the authority to fill vacancies on the bodies detailed at recommendations A and F on the nomination of the group with a vacant position;
- E. agrees a revised Part 3C of the Constitution – Responsibility for Executive Functions set out in Appendix A;
- F. agrees the scheme of delegation attached as Appendix C in so far as it relates to functions which are the responsibility of the executive; and
- G. agrees a revised Part 4D of the Constitution - Cabinet Procedure Rules as set out in Appendix B;
- H. Authorises the Managing Director, SLLP, to make any minor or consequential amendments to appendices A-C as in her opinion reasonably necessary.

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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. To appoint to those bodies for which the Cabinet has the responsibility
- 1.2. To agree changes to those parts of the constitution which are the responsibility of the Cabinet as the body in which executive functions vested.

## **2 DETAILS**

- 2.1. The Cabinet has previously agreed to establish some joint committees with other councils and a subcommittee to deal with matters relating to Merantun Development Ltd. It now needs to appoint representatives to those bodies as well as to the Wandle Valley Regional Park Trust which was established in 2012.

- 2.2 In July last year, the Standards and General Purposes Committee agreed to carry out a review of the Council's constitution and appointed a cross party member working group to oversee that process. The working group has met on several occasions since then and the Standards and General Purposes Committee will consider a number of proposed changes to the constitution at its meeting on 28 June with a view to making recommendations to full Council on 7 July.
- 2.3 However, a number of the changes which have been considered relate to matters which are executive functions and under the provisions of section 9E of the Local Government Act 2000 the responsibility of for agreeing them lies with the Leader. He may decide that decisions in relation to those matters shall be taken by the Cabinet as a whole, a cabinet subcommittee, an individual cabinet member or officers. Or he may choose to exercise them himself. Under the current arrangements, the Leader has decided that the majority of decisions should be taken either by the Cabinet or officers although the Cabinet member for Housing, Regeneration and the Climate Emergency has been given delegated authority to take decisions in relation to traffic management orders. Accordingly, Cabinet is being asked to approve the proposed changes to relevant parts of the constitution.

### **Part 3C – Responsibility for Executive Functions**

- 2.4 Appendix A comprises a revised version of part 3C of the constitution and sets out more clearly than is currently the case which decisions can only be taken by the Cabinet as a whole. In all other cases, decisions may be taken by officers but this does not prevent the Cabinet for taking such decisions itself should they choose or should officers refer a matter to the Cabinet for decision. The matters which are reserved for Cabinet are:

***“(g) Functions Reserved to the Cabinet:***

- i. Proposing to the Council a strategic policy framework, and the individual strategies making up that framework;*
- ii. Identifying priorities, and recommend them to the Council;*
- iii. Proposing the Council's budget, and recommend it to the Council, including the level of Council Tax;*
- iv. Leading on the political direction of the Council as a whole, and relevant areas of responsibility in particular, within the guidelines and policies approved by the Council;*
- v. Considering major policy changes, and making appropriate recommendations to Council;*
- vi. approving the acquisition of all land and buildings that have been referred for decision by the Chief Executive;*

- vii. *agreeing Compulsory Purchase Orders;*
- viii. *agreeing the award of contacts worth £2million or more.*
- ix. *taking decisions in relation to CHAS 2013 Ltd on those matters reserved for cabinet in the delegation matrix forming the schedule to the shareholders agreement between the Council and CHAS 2013 Ltd;”*

2.4 The revised version of part 3C now includes the terms of reference of the South London Partnership and the South London Waste Partnership Joint Committee which are established and appointed to by Cabinet but which are not currently referred to in the constitution. Reference to the Merantun Developments Subcommittee have been removed in light of the decision last December to seek the voluntary strike off of the company.

### **Scheme of Delegation to Officers**

2.5 The overall approach of the current constitution to delegations to officers is to provide that unless something is specifically reserved for a member body, it is by default delegated to officers. However, these provisions are currently spread across a number of parts of the constitution and as a result can be quite hard to follow. It is also difficult to understand what the parameters of that officer decision making are. Accordingly, it is proposed to bring all the delegations into one composite scheme, regardless of whether the functions in question are executive functions or non-executive functions. The proposed draft scheme of delegation is at Appendix B. The Cabinet is being asked to approve it insofar as it relates to executive functions. Full Council will then be asked to approve it in relation to non-executive functions. If adopted, the new scheme will replace parts 3E (scheme of delegation by cabinet), 3F (scheme of delegation by Full Council) and part 7B (Scheme of delegation to officers by chief executive) of the constitution.

2.6 The proposed new scheme is a move away from the current scheme which has all authority vested in the chief executive who onwardly delegates to chief officers. There is no legal requirement to structure delegations in this way and it is common practice to set out in broad terms which chief officers, including directors, have responsibility for which areas of council business.

2.8 Provisions allowing for urgent decision taking by officers are included, to be exercised in consultation with the relevant cabinet member. Such decisions will still need to be taken in accordance with the access to information rules contained in part 4B of the constitution.

2.9 The scheme of delegation in the constitution is complemented by departmental management schemes, setting out “onward delegations” and financial limits for decision taking within departments. If the proposed new scheme of delegation is approved, these will be reviewed to ensure they are consistent with that scheme and reflect changes in structure/

## **Cabinet Procedure Rules**

- 2.10 Part 4 of the constitution contains a number of sets of procedure rules which govern the conduct of meetings of different bodies. At appendix C is a revised set of Cabinet Procedure Rules which form part 4D. The changes are largely drafting changes to ensure consistency. Rule 1.5(c) has been expanded to clarify the legal position in relation to the right of non-cabinet members to attend cabinet meetings when the press and public have been excluded because exempt or confidential meeting is being discussed. In such cases non-cabinet members are entitled where it is necessary for the performance of their roles to have access to the information in question.

### **3 ALTERNATIVE OPTIONS**

- 3.1. The Cabinet has a discretion over whether it appoints to any of the committees or agrees the changes referred to in the recommendations

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

- 4.1. The cross party working group has been consulted on the proposed changes to Part3C and the proposed new scheme of delegation.

### **5 TIMETABLE**

- 5.1. If approved, the appointments to committees referred to in this report will come into effect immediately. It is proposed that the changes to the constitution will come into effect following the full Council meeting on 7 July 2021.

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

- 6.1. None

### **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. The legal implications are set out in the body of this report.

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

- 8.1. None for the purpose of this report.

### **9 CRIME AND DISORDER IMPLICATIONS**

- 9.1. None.

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

- 10.1. None.

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

Appendix A: Proposed revised Part 3C of the constitution  
Appendix B: Proposed new scheme of delegation  
Appendix C: Proposed revised Cabinet Procedure Rules (Part 4D of the constitution)

## **12 BACKGROUND PAPERS**

12.1. Tracked changed versions of appendices A-C

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## Part 3 –C

### RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

#### 1 RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

Other than those matters reserved to the Council under Article 4 and Part 3A (Responsibility for Local Choice Functions) and those functions which as a matter of law may not be executive functions, all other remaining functions are allocated as executive functions.

##### 1.1 Cabinet

- (a) **Membership:** The Leader will appoint between 1 and 9 councillors to the Cabinet, from among whose number shall be appointed a Deputy Leader(s). The cabinet portfolios are set out in part 3-D.
- (b) In accordance with section 9E of the Local Government Act 2000, the Leader has responsibility for deciding how and by whom executive functions should be discharged.
- (c) The Leader has delegated all executive functions to the Cabinet; and the Cabinet will:
- (i) take all necessary action to ensure that the Council's net revenue and capital expenditure is targeted to be at, or below, approved levels at the end of each financial year;
  - (ii) with respect to each Council service:
    - consider standards of services and service delivery;
    - review and monitor services, using measures of performance and setting targets;
    - make changes in service delivery, in the light of comparative performance data;
    - take account of the recommendations of best value and other reviews, together with other Overview and Scrutiny recommendations.
- (d) The Leader has also delegated some executive functions to officers in accordance with the scheme of delegation set out in part 7. Apart from those functions listed in paragraph (g) below, either the Cabinet or officers may exercise the functions listed in the scheme of delegation to officers.
- (e) Nothing in this part, 3-C shall prevent the Leader exercising any executive function him or herself.

- (f) Subject to paragraph 4 below, the Leader has decided that the following functions shall only be exercised by the Cabinet may not be exercised by officers:

**(g) Functions Reserved to the Cabinet**

- i. Proposing to the Council a strategic policy framework, and the individual strategies making up that framework;
- ii. Identifying priorities, and recommend them to the Council;
- iii. Proposing the Council's budget, and recommend it to the Council, including the level of Council Tax;
- iv. Leading on the political direction of the Council as a whole, and relevant areas of responsibility in particular, within the guidelines and policies approved by the Council;
- v. Considering major policy changes, and make appropriate recommendations to Council;
- vi. approving the acquisition of all land and buildings that have been referred for decision by the Chief Executive;
- vii. agreeing Compulsory Purchase Orders;
- viii. agreeing the award of contracts worth £2million or more.
- ix. taking decisions in relation to CHAS 2013 Ltd on those matters reserved for cabinet in the delegation matrix forming the schedule to the shareholders' agreement between the Council and CHAS 2013 ltd;

## **2. Joint Committees**

The Cabinet has agreed, pursuant to regulation 9 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 to participate in the following joint committees:

### **2.1 South London Partnership**

#### **Role and Purpose of the Joint Committee:**

- (a) To form collaborative South London views on issues affecting economic growth, regeneration and competitiveness



- (b) To undertake activities which promote and improve economic growth and wellbeing in the South London area
- (c) To determine strategic objectives and barriers to growth for the local area and develop solutions
- (d) To take on additional responsibilities and funding delegated from Government where the Committee judges this to be in the area's best interests.
- (e) The aim of the Joint Committee will be collaboration and the Terms of Reference would not prohibit any of the Member Councils from promoting economic wellbeing in their own areas either in addition to, or independently, from the Joint Committee
- (f) The detailed terms of reference are set out in the Joint Committee's constitution

### **Membership**

The Leader is the Council's representative in the South London Partnership.

## **2.2 South London Waste Partnership Joint Committee**

**Membership:** 2 Councillors from the London Boroughs of Croydon, Kingston, Merton and Sutton (the "participating councils")

**Functions:** To make arrangements for the disposal of waste, provide places for the deposit and disposal of waste and to advise Participating Councils on the delivery and separation of waste. The detailed functions are set out in Schedule 1 of the constitution of the joint committee operating under the name of the South London Waste Partnership.

## **3. Delegations to Individual Cabinet Members from the Leader of the Council**

The Cabinet Member for Housing, Regeneration, and the Climate Emergency shall have delegated authority to approve the making of any order relating to traffic management or car parking.

## **4 Urgency**

- 4.1** Notwithstanding that a decision is reserved for decision by the Cabinet in accordance with 1.1(g) above, a decision may be taken by the Chief Executive or appropriate Director where it is urgent. An urgent decision may only be made where, taking into account the Council's public interests, the Monitoring Officer considers that it cannot reasonably be deferred until the next scheduled meeting of the Cabinet.
- 4.2** Urgent decisions may only be taken after consulting the Leader and the relevant cabinet member;
- 4.3** In the case of emergencies, the Chief Executive is authorised to approve all reasonable expenditure and/or undertake all reasonable actions after consultation with the Leader of the Council unless such consultation is not practicable.

# SCHEME OF DELEGATION OF POWERS AND FUNCTIONS TO OFFICERS

Approved by the Council on xxxxxxxx on the recommendation of the Standards and General Purposes Committee on xxxx and, insofar as it relates to the exercise of executive functions, by the Cabinet on xxxxxxxx.

## 1. INTRODUCTION

The Scheme of Delegation provides information on the arrangements for the delegation of authority to officers to carry out the Council's various functions and sets out those functions which have been delegated to officers. It should be read alongside other Council wide procedures and related documentation.

Decisions must be taken in accordance with the Access to Information Procedure Rules set out in part 4B of the constitution and the principles set out in this scheme.

The list of officers designated as proper officers for the purposes of various pieces of legislation governing local authorities is attached as schedule two.

## 2. POWERS OF DELEGATION

Delegations of non-executive functions to officers from Council, committees and sub-committees are made under Section 101 of the Local Government Act 1972. In the case of licensing and gambling, the delegations derive from Section 10 of the Licensing Act 2003 and Section 154 of the Gambling Act 2005.

Executive functions are delegated to officers by the Leader of the Council or the Executive under Section 9 of the Local Government Act 2000 (as amended by the Local Government and Public Involvement in Health Act 2007 and the Localism Act 2011

This Scheme does not delegate:

- any matter which by law may not be delegated to an officer; and
- any matter which is specifically excluded from delegation by this scheme, or reserved for decision by the Council, the Leader or Cabinet or a committee or sub-committee.

## 3. BASIS OF DELEGATION AND RECORDING, IMPLEMENTING AND ACCOUNTING FOR DECISIONS

Where a function has been delegated to an officer, the person or body making the delegation may at any time resume responsibility for the function and may exercise the function despite the delegation.

An officer may refer a delegated matter to the person or body that has made the delegation if it is likely to be particularly controversial or raises issues of policy which Members would more appropriately determine or could expose the Council to major corporate risk which cannot be contained within directorate budgets.

An officer may refer a delegated matter to the Chief Executive if it raises issues of corporate priorities or the co-ordination of various functions of the authority. The Chief Executive has delegated authority to act in respect of any matter referred to her in this way

#### **4. CONFLICTS OF INTEREST**

Every officer is responsible for (a) identifying whether he/she has any personal interest in any matter which is under consideration and (b) notifying the authority (including under section 117 of the Local Government Act 1972).

Where an officer has a personal interest in any matter, he/she shall not participate in that matter and will refer the matter to his/her line manager.

Where the Chief Executive is unable to act on a matter because of a conflict of interest, the matter shall be discharged by such other Director as the Chief Executive may determine for this purpose.

Where a Director is unable to act on a matter because of a conflict of interest, the Chief Executive shall discharge the matter herself or allocate the matter to another officer.

Where the Monitoring Officer is unable to act on a matter, it shall be determined by the officer designated as Deputy Monitoring Officer.

#### **5. THE CONTEXT FOR THE EXERCISE OF FUNCTIONS**

The Chief Executive, Directors and other Chief Officers are authorised to discharge all the functions of the authority within their areas of responsibility as defined in section 8 below. Each Director is required to maintain an internal "scheme of management" for their directorate, providing more detailed information about delegated decisions and how these will be taken.

In the absence of the Chief Executive, the functions of Chief Executive and Head of Paid Service shall be the responsibility of the Director nominated by the Chief Executive.

#### **6. GENERAL CONDITIONS AND LIMITATIONS**

In taking any decision, each Officer must ensure that:

- (a) they have acted in a considered, well informed and defensible manner which is in the best interests of the Council and its residents;
- (b) all decisions are made with a full understanding of Council policy relating to the decision;
- (c) all decisions are made with an awareness of relevant legal obligations including equality requirements and a clear assessment of the impact of the decision on those affected;
- (d) all decisions are made in accordance with relevant spending limits, financial regulations and contract standing orders; and
- (e) all decisions made are consistent with the Council's budget strategy

The obligation to ensure that these issues are properly understood rests with each decision maker. Officers shall ensure that they have taken advice on procedural, legal and financial requirements from the appropriate department or other professional advisers.

This Scheme of Delegation describes broad areas of responsibility rather than detailing specific statutory functions. The Chief Executive shall be responsible for coordinating the discharge of the Authority's functions between the various officers.

Where the name of a post is changed, or its relevant functions become vested in a different post, any of the delegated powers possessed by the post shall be retained by the renamed post or transferred to the different post as the case may be. This includes any delegated powers vested in a post by resolution of the Council, the Cabinet or a committee/sub-committee unless a decision is made by the delegating body to the contrary. The Monitoring Officer may make amendments to this scheme from time to time to reflect such changes.

## **7. GENERAL DELEGATION TO CHIEF EXECUTIVE AND ALL DIRECTORS**

The Chief Executive and all Directors shall have the power to take all lawful action consistent with overall Council policy to deliver agreed strategy, plans and policy within their area of and without prejudice to the generality of the foregoing, to take the following actions:

- (a) to incur expenditure on the Council's behalf within the sums approved by Council and in accordance with the financial regulations;
- (b) to procure goods and services consistent with the Council's procurement strategy and contract standing orders, up to a value of £2million in each case;
- (c) to agree the operational arrangements associated with all partnerships/partnering arrangements and ensure that appropriate governance frameworks and arrangements are established and are operating effectively;

- (d) to deal with the following human resources matters:
  - (i) to put in place staffing and management arrangements for the delivery of services which are consistent with the Council's staffing policies and to comply with management policies and procedures;
  - (ii) to create, delete or amend posts within approved budget provision
  - (iii) to authorise the suspension and termination of employment for any reason of employees of the Council, subject to the application of the appropriate procedures, including the Officer Employment Procedure Rules set out in Part 4H and with the advice of the Head of Human Resources where necessary;
  - (ii) to approve adjustments to salary including accelerated increments, recognition payments, honoraria, market supplements and other awards in accordance with schemes approved by the Council;
- (e) to lead and manage the operational delivery of services in a way which ensures their effective performance in accordance with all relevant management policies;
- (f) to submit bids for funding in consultation with the relevant Cabinet Member where this does not imply an ongoing or requires match funding that cannot be met within Directorate budgets;
- (g) to agree virements within the budget and policy framework and in accordance with the Financial Regulations;
- (h) to serve or place any necessary statutory or other notices;
- (i) after consultation with the Monitoring Officer, to authorise the institution, defence of or appearance in criminal or civil proceedings in relation to any matter for which they are responsible;
- (j) the award of settlements under £10,000 arising from the Local Government Ombudsman's recommendations;
- (k) to review and recommend changes in the fees and charges for services and to approve inflation only increases in discretionary charges of in consultation with the Director of Corporate Services; and
- (l) to respond to consultations by other bodies in relation to matters which might affect the functions of the Council where the issues are in line with existing policy (where appropriate, in consultation with the relevant Cabinet Member);
- (m) to make applications for planning permission, building control consent and other approvals in respect of building works;

## **8. AREAS OF SPECIFIC RESPONSIBILITY**

The areas of delegated responsibility of each Director are detailed in the Schedule to this scheme. The authorisations include the power to do anything which facilitates, is incidental or conducive to the exercise of the relevant authority.

## **9. DETAILED SCHEMES OF MANAGEMENT**

Each Director is responsible for establishing an internal scheme of management for their own department. Under this scheme, Directors may delegate functions allocated to them to other officers. In the Environment and Regeneration Department there is an additional scheme of management, which governs decision making in respect of the Regulatory Services Partnership between the Council and the London Boroughs of Richmond and Wandsworth.

A copy of the internal scheme of management will be made available on the Council's intranet site and be available for public inspection. The scheme will be reviewed annually.

## **10. CHIEF EXECUTIVE'S ROLE**

For the avoidance of doubt, the Chief Executive is authorised to determine anything which is not covered by this scheme.

The Chief Executive may allocate or re-allocate responsibility for functions between officers as necessary for the effective discharge of those functions or to cover absence of particular officers.

The Chief Executive may take a decision on any matter with in the area of specific responsibility of other officers set out in section 8 below provided it is not reserved by statute for decision by a specified officer.

In the absence or inability to act of the Chief Executive for any reason, the other directors shall authorised to exercise any of the powers vested in him or her by this scheme of delegation.

## **11. URGENT DECISIONS AND EMERGENCIES**

The Chief Executive and each Director in respect of his or her specific responsibilities, may take urgent decisions on matters even if those matters have been reserved for decision by Council, Cabinet or Committee, as long as the matter in question is not prevented by any statutory provision from being taken by officers.

A decision is to be treated as urgent if in the reasonable view of the Monitoring Officer it cannot reasonably be deferred until the next scheduled meeting of the relevant decision making body. Urgent decisions may only be

taken after consulting the Leader of the Council or relevant cabinet member in the case of an executive function or chair of the appropriate committee or sub-committee in respect of non-executive function. Where the Leader or chair is unable to act, the nominated deputies are authorised to act on their behalf.

In the case of emergencies, the Chief Executive is authorised to approve all reasonable expenditure and/or undertake all reasonable actions after consultation with the Leader of the Council unless such consultation is not practicable.

Such decisions shall comply with the requirements of the Access to Information Procedure Rules set out in Part 4B of this constitution.



## **SCHEME OF DELEGATION TO OFFICERS**

### **AREAS OF SPECIFIC RESPONSIBILITY**

#### **A. THE CHIEF EXECUTIVE**

The Chief Executive shall:

- (a) be the Head of the Paid Service (Section 4 of the Local; Government and Housing Act 1989) and undertake:
  - (i) the overall corporate management and operational responsibility for the Council (including overall management responsibility for all staff);
  - (ii) the overall provision of professional advice to all parties in the decision- making process (the Cabinet, Overview and Scrutiny Commission and its Panels, the Council and other committees); and
  - (iii) together with the Monitoring Officer, all functions in respect of maintaining the Constitution, advising whether Cabinet decisions are within the budget and policy framework, and overall advice to councillors and officers in their respective roles;
- (b) be entitled incur expenditure and delegate responsibility to incur expenditure in the event of a civil emergency
- (c) designate “Proper Officers” for the purposes of particular statutory functions from time to time and so authorise them to perform the functions of such a person under relevant legislation unless such designations are required to be made by a resolution of the Council.
- (d) take decisions in relation to CHAS 2013 Ltd on matters which are the responsibility of the Council as shareholder and which have not been reserved for decision by the Cabinet. Such decisions to be taken in consultation with the Director of Corporate Services and Monitoring Officer, together referred to as the Shareholder Panel

#### **B. DIRECTOR OF CHILDREN, SCHOOLS AND FAMILIES**

The Director of Children’s Services is the statutory officer under Section 18(1) of the Children Act 2004 and has authority in respect of all matters relating to the education of children and young people, the safeguarding of vulnerable children and for promoting the general wellbeing of children and families and services including but without limitation:

- (a) Children’s Social Care;

- (b) Children, Youth and Family Services;
- (c) Schools: Provision and support; and
- (d) Policy, performance and resources in these areas.

### **C. DIRECTOR OF COMMUNITIES AND HOUSING**

The Director of Communities and Housing is the statutory officer for adult social services under Section 6(A1) of the Local Authority Social Services Act 197B, the Care Act 2014 and has authority for all matters relating to the care and support of vulnerable adults, safeguarding of vulnerable adults, housing and cultural services, including but without limitation:

- (a) Strategic commissioning & resources for adult social care;
- (b) Transformation and independence for adults;
- (c) Joint arrangements with health service bodies
- (d) Policy and performance in these areas;
- (e) Acting as receiver and administer receivership cases;
- (f) All matters relating to Public Health
- (g) Homelessness and regulation of private sector housing
- (h) Libraries and lifelong learning including further and higher education
- (i) Acting as Caldicott guardian

### **D. DIRECTOR OF ENVIRONMENT AND REGENERATION**

The delegated authority of the Director of Environment and Regeneration shall relate to the following:

- (a) Planning, development and building control and trees, save for those matters reserved to the Planning Application Committee pursuant to section 7 of the Scheme of Delegation from Council contained in part 3B of this Constitution;
- (b) Street scene, including inspection, enforcement and street cleansing services;
- (c) Highways including street trading;
- (d) Traffic and Parking;
- (e) Leisure, Parks, Sports, and Cultural Services;
- (f) Waste and recycling services;
- (g) Crematoria and Cemeteries;

- (h) Acting as the Chief Licensing Officer for matters that fall to the council as Licensing Authority;
- (i) Other licensing matters, including but not limited to, matters under the London Local Authorities Act 1990 (as amended), London Local Authorities Act 1991, Scrap Metal Dealers Act 2013, Local Government (Miscellaneous Provisions Act 1982, Animal Welfare Act 2006, Animal Boarding Establishments Act 1963, Zoo Licensing Act 1981, Riding Establishments Acts 1964 and 1970, Breeding of Dogs Act 1973;
- (j) Functions in respect of commercial and residential regulatory services, environmental health, trading standards, private sector housing oversight and regulation and the promotion of safer communities as set out in the scheme of management for the Regulatory Services Partnership between the Council and the London Boroughs of Richmond and Wandsworth;
- (k) Regeneration programmes;
- (l) Housing policy and supply;
- (l) Property Services, Asset Management (other than responsibility for the management of Council occupied premises);
- (m) Functions of the enforcement authority for purposes of Health and Safety at work;
- (n) Community Safety and CCTV; and
- (o) Passenger transport and fleet management

## **F. DIRECTOR OF CORPORATE SERVICES**

The Director of Corporate Services is the statutory officer for finance and the proper administration of the Council's financial affairs under sections 115, 146 and 151 of the Local Government Act 1972, section 114 of the Local Government and Finance Act 1988 and as such has authority for the following matters, including but without limitation:

- (a) Exercising corporate Council functions in relation to finance services, revenues and benefits, including benefits fraud, the Council's fraud strategy and associated arrangements, debt recovery, the governance framework, treasury management including borrowing, insurance and associated risk management, internal audit,
- (b) Carrying out the Council's functions as administering authority under the Local Government Pension Scheme;
- (c) Administering trust funds and charitable funds as required by the Council;
- (d) Overseeing the management arrangements for: the Council's information technology services; human resources; procurement advice/support; payroll; information governance, legal and electoral services and emergency planning; customer services and facilities management;

- (e) Exercising the functions of the registering authority pursuant to the Local Land Charges Act 1975;
- (f) Registration services for purposes of births marriages and deaths including civil partnerships and naming ceremonies;
- (g) Deciding upon methods of capital financing;
- (h) Writing off irrecoverable debts and charges due to the Council;
- (i) Approving the commencement of a new capital schemes not already provided for in the budget up to a value of £50,000;
- (j) Agreeing the release and/or the reduction of any Bond and to authorise the service of the notice of release/and reduction;
- (k) Providing support for elected members of the Council and democratic processes; and
- (l) Acting as Senior Information Risk Owner for data protection purposes

## **G. DIRECTOR OF PUBLIC HEALTH**

- (a) All the functions of the statutory Director of Public Health to take steps to improve health in accordance with section 73A and 73B National Health Services Act 2006

## **H. MONITORING OFFICER**

The Managing Director of the South London Legal Partnership is the statutory Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.

The Monitoring Officer has delegated authority to do the following:

- (a) to take any action to implement any decision taken by or on behalf of the authority, including the signature or service of statutory and other notices and any document. The Monitoring Officer may authorise any other officer to take such action.
- (b) to institute, defend, settle or participate in any legal proceedings in any case where such action is necessary, in the view of the Monitoring Officer to give effect to decisions of the authority or in any case where s/he considers that such action is necessary to protect the Council's interests or those of the residents of Merton;
- (c) to arrange for any legal proceedings to be conducted by any solicitor or barrister employed within the South London Legal Partnership including appearances before any court or tribunal in which the officer has rights of audience;
- (d) to instruct counsel, solicitors or other experts for legal proceedings, public inquiries, or other matters involving the Council;
- (e) to give undertakings to any court or tribunal on behalf of the Council and to give solicitor's undertakings where appropriate and within the rules and guidance issued by the Law Society

- (f) to enter objections to any proposal affecting the Council, the Council's area or the inhabitants of the Council's area;
- (g) to be the Senior Responsible Officer (SRO) with regard to the Regulation of Investigatory Powers Act (RIPA) and to nominate Authorised Officers to determine RIPA requests;
- (h) to be the Council's Data Protection Officer under the Data Protection Act 2018
- (i) to ensure the lawfulness and fairness of decision-making, provide support to the Standards and General Purposes Committee, receive complaints about breaches of the Members Code of Conduct, conduct investigations in consultation with the Independent Persons designated under the Localism Act 2011;
- (j) to authorise, in consultation with the Chief Executive or the relevant Director, the payment of any award of damages, compensation and costs made by any court or tribunal against the Council;

**PROPER OFFICERS****STATUTORY OFFICERS AND PROPER OFFICER FUNCTIONS****1. Statutory Officers**

Legislation requires local authorities to appoint certain officers with statutory responsibilities. These appointments and the officer to whom the council has allocated responsibility are listed below.

<b>Title/Description</b> (and statutory derivation)	<b>Officer appointed</b>
Head of Paid Service (Section 4 – Local Government & Housing Act 1989)	Chief Executive
Monitoring Officer (Section 5 – Local Government & Housing Act 1989)	Managing Director , South London Legal Partnership
Officer responsible for financial administration (Section 151 – Local Government Act 1972)	Director of Corporate Service
Director of Children’s Services (Section 18 – Children Act 2004)	Director of Children, Schools and Families
Director of Adult Social Services (Section 6–Local Authority Social Services Act 1970)	Director of Communities and Housing
Director of Public Health (Section 73A – National Health Service Act 2006)	Director of Public Health *
Scrutiny Officer (Section 31 – Local Democracy, Economic Development and Construction Act 2009)	Head of Strategy, Policy and Partnership

\*Director of Public Health must be appointed by the authority *acting jointly* with the Secretary of State

**2. Proper officer functions**

The following officers are appointed proper officers and will carry out functions in relation to the statutory provisions specified. This list is not necessarily exhaustive and any omission shall not affect the validity of any action or decision taken by the proper officer.

<b>REPRESENTATION OF THE PEOPLE ACT 1983</b>	
Section 8 – registration of electors	Chief Executive
Section 28 – The Acting Returning Officer at an election of a Member of Parliament	Chief Executive
Section 35 – The Returning Officer at an election of London Borough councillors	Chief Executive
<b>LOCAL GOVERNMENT ACT 1972</b>	
Section 83(1) – The officer to whom a person elected to the office of Councillor shall deliver a declaration of acceptance of office on a form prescribed by rules made under Section 42 of the Act	Chief Executive
Section 83(3)(b) – The officer before whom a declaration of acceptance of office of chair of council or deputy chair of council may be made	Chief Executive
Section 84 – The officer to whom written notice of resignation of elected office shall be delivered	Chief Executive
Section 86 – To declare any vacancy in any office under this section	Chief Executive
Section 88(2) – The officer by whom a meeting of the council for the election of the vacant office of chairperson of the council may be convened	Chief Executive
Section 89(1)(b) – The officer to whom notice in writing of a casual vacancy occurring in the office of councillor may be given by two local government electors for the Borough	Chief Executive
Section 96 – The officer to whom general notices and recording of disclosures of interests under Section 94 should be given	Monitoring Officer
Section 99 and Schedule 12 – To give notice and send summonses in respect of any council meeting	Chief Executive
Section 100A(6) – To give public notice of any meeting to which the public are entitled to attend, provide copies of agenda and facilities for the press	Chief Executive
Section 100B(2) – The officer to exclude from committees, sub-committees, council or cabinet meeting agendas any information to be dealt with in a meeting from which the public are likely to be excluded	Monitoring Officer

Section 100B(7)(c) The officer to supply to any newspaper copies of documents supplied to members of committees, sub-committees, council or cabinet meetings in connection with an item for consideration. The officer to supply to any newspaper copies of documents supplied to members of committees, sub-committees, council or cabinet meetings in connection with an item for consideration	Monitoring Officer
Section 100C(2) The officer to prepare a written summary of proceedings of committees, sub-committees, council or the cabinet from which the public were excluded	Head of Democracy and Electoral Services or Scrutiny Officer as appropriate
Section 100D(1)(a) The officer to prepare a list of background papers for reports considered by committees, sub-committees, council or the cabinet	Monitoring Officer
Section 100D(5) The officer to determine which documents constitute background papers and Section 100H – ability to charge for the provision of such documents	Monitoring Officer
Section 100F(2) The officer to decide which documents are not, by virtue of containing exempt information, required to be open to inspection	Monitoring Officer
Section 100G – To maintain a register of the names and addresses of members and membership of committees, lists of delegations and the like	Head of Democracy and Electoral Services
Section 115 – The officer to whom money properly due from officers shall be paid	Director of Corporate Services
Section 146 – The officer to make statutory declarations and issue any certificate with regard to securities held by local authority companies	Director of Corporate Services
Section 151 – The officer to be responsible for the proper administration of the authority's financial affairs (and to issue a report to members if there is or is likely to be unlawful expenditure or an unbalanced budget)	Monitoring Officer
Section 223 – Authorising officers to attend court and appear on behalf of the council under Local Government Act 1972 and the County Courts Act 1984	Monitoring Officer
Section 225(1) – The officer to receive and retain statutory documents on behalf of the authority	Monitoring Officer
Section 229(5) – The officer to certify photographic copies of documents	Monitoring Officer
Section 233 – The officer to receive documents required to be served on the authority	Monitoring Officer



Section 234(1) and (2) – The officer to authenticate documents on behalf of the authority	Monitoring Officer
Section 238 – The officer to certify printed copies of bylaws	Head of Democracy and Electoral Services / Scrutiny Officer as appropriate
Section 248 – The officer responsible for the keeping of the roll of freemen	Monitoring Officer
Schedule 12 [paragraphs 4(2)(b) & 4(3)] – The officer responsible for the receipt of notices regarding address to which summons to meetings is to be sent	Monitoring Officer
Schedule 14 [paragraph 25(7)] – The officer responsible for the certification of true copies of resolutions	Chief Executive
Schedule 29 [paragraph 41] – The officer responsible for the exercise of functions under Sections 9(1) & (2), 13(2)(h) and (3)(b) and 20(b) of the Registration Services Act 1953 (Proper Officer)	Chief Executive
<b>LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b>	
Section 41 – The officer to certify copies of any resolution, order, report or minutes of proceedings of the authority as evidence in any legal proceedings	Monitoring Officer
Section 16 – Notices requiring details of interest in land	Any Officer of the Council
<b>LOCAL GOVERNMENT AND HOUSING ACT 1989</b>	
Section 2 – The officer to hold on deposit the list of politically restricted posts and Section 2 – provision of certificates as to whether a post is politically restricted	Monitoring Officer
Sections 15-17 (and regulations made thereunder) – The officer to receive notices relating to the membership of political groups	Monitoring Officer
<b>LOCAL GOVERNMENT ACT 2000</b>	
The officer responsible for ensuring a proper record is made of cabinet decisions and that the document comprising the authority's forward plan is published in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000	Head of Democracy and Electoral Services
To establish and maintain the members' register of interest (Section 81 LGA 2000) and ensure it is available for public inspection	Monitoring Officer
To ensure that copies of the constitution are available for inspection	Head of Democracy and Electoral Services

To make payments of relevant allowances in accordance with the council's members allowances scheme	Head of Democracy and Electoral Services
To defray expenses of any members making official and courtesy visits, receptions and entertainment of distinguished persons visiting the Borough	Chief Executive
<b>LAND CHARGES ACT 1975</b>	
Section 19 – The officer to act as Local Registrar as defined in Section 3 of the Land Charges Act 1975	Monitoring Officer
<b>NATIONAL ASSISTANCE ACT 1948 AND NATIONAL ASSISTANCE (AMENDMENT) ACT 1951</b>	
Proper officer to seek an order for removal of persons into care	Director of Communities and Housing
<b>REGISTRATION OF SERVICES ACT 1953</b>	
Proper officer for births, deaths and marriages	Chief Executive
<b>LOCAL GOVERNMENT ACT 2003</b>	
Section 25 – Requirement to report to council annually on the robustness of estimates and the adequacy of the proposed financial reserve	Director of Corporate Services
<b>PUBLIC HEALTH (CONTROL OF DISEASES) ACT 1984, FOOD SAFETY (GENERAL FOOD HYGIENCE) REGULATIONS 1995 AND THE MILK AND DAIRIES (GENERAL) REGULATIONS 1969</b>	
Requirement to appoint a suitably qualified person as the council's medical advisor on environmental health and proper officer for notifiable disease	As may be appointed from time to time by the Director of Environment and Regeneration or Director of Public Health
<b>CIVIL EVIDENCE ACT 1995</b>	
To certify council records for the purposes of admitting the document in evidence in civil proceedings	Monitoring Officer
<b>CRIME AND DISORDER ACT 1998</b>	
Section 12 – to apply for the discharge or variation of a Child Safety Order	Director of Children, Schools and Families
Sections 17 and 37 – to have regard to effect of the exercise of any function on the need to prevent crime and disorder and offending by children and young persons	The Chief Executive and Directors
<b>CRIMINAL JUSTICE AND POLICE ACT 2001</b>	
Delegated power to authorise officers to enter premises and seize items where the council has a power of seizure under this Act and to perform other related duties (return and security of seized items)	The Chief Executive and Directors

<b>LOCAL GOVERNMENT FINANCE ACT 1988</b>	
Section 114 – The officer to be responsible for the proper administration of the authority’s financial affairs (and to issue a report to members if there is or is likely to be unlawful expenditure or an unbalanced budget)	Director of Corporate Services
Section 116 – Notification to the council’s auditor of any meeting to be held under Section 115 of the 1988 Act (meeting to consider any report of the Chief Finance Officer under Section 114)	Director of Corporate Services
Section 139A – Provision of information to the Secretary of State in relation to the exercise of his powers under this Act as and when required	The Chief Executive and Directors
<b>LOCAL GOVERNMENT CONTRACTS ACT</b>	
Certification of relevant powers to enter into contract	The Chief Executive, Monitoring officer, Director of Corporate Services
<b>LOCAL AUTHORITY CEMETERIES ORDERS 1977 (SI 1977 OF 204)</b>	
Schedule 2, Article 10, Part 11.1(1) – To appoint an officer for the purpose of signing the Grants of Exclusive Right of Burial Deeds on behalf of the burial authority  Note: It is not necessary for that deed to be executed under seal	As may be appointed from time to time by the Director of Environment and Regeneration
<b>OTHER MISCELLANEOUS PROPER OFFICER FUNCTIONS</b>	
Any other miscellaneous proper or statutory officer functions not otherwise delegated by the authority	Chief Executive or his/her nominee
<b>NATIONAL HEALTH SERVICE ACT 2006</b>	
Section 2B – the exercise by the authority of its duty to take steps as it considers appropriate for improving the health of the people in its area	Director of Public Health
Section 111 – the exercise by the authority of any functions prescribed by Secretary of State in relation to dental public health	Director of Public Health
Section 249 – the exercise by the authority of its duty to cooperate with the prison service with a view to improving the exercise of their respective functions in relation to securing and maintaining the health of prisoners	Director of Public Health
Schedule 1 – the exercise by the authority of any of its functions as set out in Schedule 1	Director of Public Health
Section 6C(1) – the exercise by the authority of any of the Secretary of State’s public health functions, which it is required to carry out by regulations issued by the Secretary of State	Director of Public Health

Section 7A – the exercise by the authority of any of the Secretary of State’s public health functions, which are delegated to it by the Secretary of State	Director of Public Health
Section 73A(1)(d) – the exercise by the authority of any of its functions that relate to planning for, or responding to, emergencies involving a risk to public health	Director of Public Health
Section 73A(1)(e) – the exercise by the authority of its functions under section 325 Criminal Justice Act 2003 (cooperating with “responsible bodies” in relation to the assessment of risks posed by certain offenders	Director of Public Health
Section 73A(1)(f) – the exercise by the authority of such other functions relating to public health as may be prescribed	Director of Public Health



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## Part 4 – D

# **CABINET PROCEDURE RULES**

## **1. THE CABINET**

### **1.1 Cabinet Decisions**

The arrangements for the discharge of executive functions are as set out in the executive arrangements adopted by the Council and set out in Part 3C and the Scheme of delegation to Officers in Part 7. These provide for executive functions to be discharged by:

- (a) the Cabinet as a whole;
- (b) a Cabinet committee or sub-committee;
- (c) an individual Cabinet member;
- (d) an officer;
- (e) joint arrangements;
- (f) another local authority.

### **1.2 Sub-Delegation**

- (a) Where the Cabinet, a Cabinet committee or sub-committee, or an individual Cabinet member is responsible for an executive function, they may delegate further but not to a non-cabinet member.
- (b) Unless the Leader directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a Cabinet committee or sub-committee or to an officer.
- (c) Unless the Leader directs otherwise, a Cabinet committee to whom functions have been delegated by the Leader may delegate further to a sub-committee or to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.
- (e) Portfolio descriptions of Cabinet members are set out in Part 3 – D of this Constitution

### 1.3 Conflicts of Interest

Cabinet members shall act in accordance with the Council's Code of Conduct for Councillors in Part 5 of this Constitution.

### 1.4 Meetings of the Cabinet

- (a) The Cabinet shall meet according to the dates determined by the Cabinet. As Chair of the Cabinet, the Leader shall, in consultation with the Chief Executive, convene additional meetings, cancel or reschedule meetings, as necessary, to enable the efficient and smooth operation of Cabinet business. Any changes to Cabinet dates which will impact on the Overview & Scrutiny Commission will be agreed in consultation with the Chair of the Commission and the Leader of the Opposition.
- (b) Meetings of the Cabinet will be held in the Civic Centre or another location to be agreed by the Leader. Meetings will begin at 7:15 p.m., unless determined otherwise and shall last no more than three hours.
- (c) Meetings of the Cabinet shall be open to any councillor, the media and the public. If the business under consideration is exempt or confidential as determined under the Access to Information Rules set out in Part 4 of this Constitution, then the meeting will not be open to the media or the public. If in the reasonable opinion of the Leader a councillor who is not a member of the Cabinet requires access to the information under discussion in any part of a meeting during which members of the public have been excluded, that councillor shall be permitted to remain in the Cabinet meeting during that time,
- (d) The Leader or Chair of a Cabinet committee or sub-committee may invite a non-Cabinet Council member to participate in the debate on an item of business but such member will not have any right to vote on the matter.
- (e) Notice of Cabinet, Cabinet committee or sub-committee meetings will be given and the agenda and papers for each meeting will be available in compliance with the Access to Information Rules set out in Part 4 of this Constitution.

### 1.5 Quorum

The quorum for a meeting of the Cabinet, Cabinet committee or sub-committee shall be three members of the Cabinet, one of whom shall be the Leader or a nominated Cabinet member. For a Cabinet committee or sub-committee meeting, the quorum shall be three councillors or one third of the membership of the relevant Cabinet committee or sub-committee, whichever is the larger.

## 2. CONDUCT OF CABINET MEETINGS



## 2.1 Chairing of Cabinet Meetings

If the Leader is present he/she will preside. In his/her absence, then his or her nominee shall preside.

## 2.3 Conduct of Business

At each meeting of the Cabinet the following business will be conducted:

- (a) apologies for absence;
- (b) declarations of interest, if any;
- (c) consideration of the minutes of the last meeting;
- (d) matters referred to the Cabinet (whether by the Overview and Scrutiny Commission or by the Council) for reconsideration by the Cabinet in accordance with the call-in provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (e) consideration of reports from the Overview and Scrutiny Commission or panels
- (f) other matters set out in the agenda for the meeting,

## 2.4 Consultation

All reports to the Cabinet from any Cabinet member or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny panels, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration. So far as possible Cabinet Members will consult with the relevant Overview and Scrutiny panel(s) before responding to consultations by outside bodies.

## 2.5 Inclusion of Items on the Cabinet Agenda

- (a) There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by the Overview and Scrutiny Commission. In addition to any Best Value reviews, there may be up to 4 items referred for reconsideration by the decision-maker in accordance with the call-in procedures and up to 2 other reports from the Overview and Scrutiny Commission, per Cabinet meeting, unless agreed otherwise by the Leader.
- (b) The Chief Finance Officer and/or the Monitoring Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties

- (c) Otherwise the agenda for Cabinet meetings will be drawn up by the Chief Executive in consultation with the Leader of the Council.

**Committee: Cabinet**

**Date: 22 June 2021**

Wards: ALL

**Subject: Inclusion of miscarriage and stillbirth as specified categories into the Bereavement/Special Leave Policy**

Lead officer: Caroline Holland

Lead member: Councillor Tobin Byers

Contact officer: Liz Hammond – Interim Head of HR. 0208 545 3152

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**Recommendations:**

- A. Cabinet to note the inclusion of miscarriage and stillbirth as specified categories into the Bereavement/Special Leave Policy. This would allow those staff members suffering the grief of miscarriage or stillbirth to have up to 5 days (10 with Directors discretion) paid leave.

**1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

Cabinet are asked to note the implications and benefits of introducing miscarriage and still birth as a specified category to Merton's Bereavement/Special Leave policies. This would allow those staff members suffering the grief of a miscarriage or still birth to have up to 5 days (10 with Director approval) paid leave in order to allow them the opportunity to grieve.

**2. DETAILS**

- 2.1 In February 2020 it was agreed that staff members who were suffering from the birth of a premature baby (a baby born less than 36 weeks before it's due date) would be able, under the special leave policy, to have up to 5 days (10 days with Director approval) paid leave. This was to recognise that these premature babies were likely to suffer from on-going medical problems and it would allow our staff members to have additional time to care and bond with their babies once they were released from hospital.
- 2.2 Barking and Dagenham announced on the 12<sup>th</sup> May that they are the first London Council to allow 5 days paid leave for their staff members who may be suffering from miscarriage or stillbirth. Recognising that the grief that these staff members will feel will be significant.
- 2.3 This is also a policy that is widely recognised in New Zealand.
- 2.4 The reality is that any staff members suffering from miscarriage or still birth are very likely to be absent from work under the sick pay policy. Legitimising miscarriage and stillbirth as a reason for paid leave will demonstrate Merton's care and consideration for their staff who are suffering a genuine bereavement.

This would apply to either partner and the miscarriage could occur at any stage of the pregnancy.

- 2.5 Barking and Dagenham are also offering support to these staff to enable them to return to the workplace by offering a buddy system.
- 2.6 Under UK law there is no obligation for employers to give someone bereavement leave if they or their partner loses a baby before the 24<sup>th</sup> week of pregnancy. If a staff member experienced a miscarriage after 24 weeks this would be referred to as a premature stillbirth if the baby did not survive. The staff member would be required to take 2 weeks leave under the maternity policy as there is a requirement to take 2 weeks leave after delivery. This however, would not be extended to the partner of the pregnant woman.
- 2.7 The proposal has been agreed at senior management level and this will be proactively communicated to staff as a positive initiative and as part of a suite of initiatives that are aimed at supporting the mental health and wellbeing of our staff.

### **3. ALTERNATIVE OPTIONS**

- 3.1 The Council could have decided not to adopt this criteria amendment to the Special Leave Policy. However, the reality will be that if a staff member is genuinely bereaved at having a stillbirth or miscarriage they would probably be absent under the sick leave policy

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

The Trade Unions will see this as a positive move to Merton supporting the health and wellbeing of our staff.

### **5. TIMETABLE**

This initiative will be immediately introduced.

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

It is difficult to tell what the financial impact of this initiative might be as it is unknown how many staff might have experienced miscarriage or stillbirth or where their partners have experienced stillbirth and miscarriage in any year. To our knowledge there was only one staff member who experienced a stillbirth in 2020.

### **7. LEGAL AND STATUTORY IMPLICATIONS**

Whilst there is no legal obligation to provide any form of bereavement leave to a pregnant woman or their partner who is less than 24 weeks pregnant, the addition of this criteria to the Special Leave Policy, if introduced, would extend a

bereavement provision to any miscarriage or stillbirth and not only to the pregnant woman but also their partner.

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

8.1 N/A

**9. CRIME AND DISORDER IMPLICATIONS**

9.1 N/A

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

10.1 Miscarriage, particularly where it happens early on in the pregnancy is often overlooked as a bereavement but the prospective parents will no doubt feel genuine grief at their loss, this will magnify itself as the pregnancy progresses and to a situation where the birth results in a stillbirth. The health and wellbeing of our staff is a high priority and legitimising their need for some time away from the office, as opposed to them having to claim sick leave demonstrates the organisation's empathy for a very genuine bereavement. The amount of time required may depend on how far the pregnancy has developed but the Manager would have the discretion of allowing up to 5 days (up to 10 with Director approval).

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

N/A

**12. BACKGROUND PAPERS**

N/A

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