

## Committee: Cabinet

Date: 11 December 2017

Wards: All

### **Subject: Consultation on planning guidance for a transparent approach to development viability**

Lead officer: Chris Lee, Director for Environment and Regeneration

Lead member: Councillor Martin Whelton, Cabinet Member for Regeneration, Environment and Housing

Contact officer: Tara Butler, deputy FutureMerton manager

### **Recommendations:**

- 
1. That Cabinet supports greater transparency in assessing planning applications in Merton by approving a 6 week consultation on a draft *Development Viability* supplementary planning document on and the planning application validation checklist.
  2. That delegated authority is granted to the Director of Environment to approve these documents in consultation with the Cabinet Member for Environment, Housing and Regeneration and in consideration of the Borough Plan Advisory Committee's recommendations at their meeting in early January 2018.
- 

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

- 1.1. When developers apply for planning permission, they must provide an appraisal of the financial viability of their development if they want to justify why their particular scheme cannot afford to meet all the council's planning policies and still remain economically viable.
- 1.2. To ensure greater transparency and to help explain this complex process, it is proposed that the council drafts a short *Development Viability* supplementary planning document for 6-week consultation in early 2018.
- 1.3. This short document would signpost the Mayor of London's comprehensive viability guidance (published August 2017) and setting out any further essential details that are specific to Merton.
- 1.4. It is also proposed that, in its role as Local Planning Authority, Merton Council has a transparent and open approach to assessing planning applications by publishing development viability appraisals submitted with planning applications in Merton. This approach would also be subject to six-week consultation at the same time as part of a validation checklist, as approved by Cabinet in September 2016.
- 1.5. These documents are not attached to this report. Delegated authority is sought for the Director of Environment and Regeneration to approve these documents, in consultation with the Cabinet Member and in consideration of the Borough Plan Advisory Committee's advice at their meeting in January 2018.

## 2 DETAILS

### **Greater transparency in development viability – new Merton guidance**

- 2.1. Applicants provide development viability appraisals with many planning applications to justify why their particular scheme cannot afford to meet all the council's planning policy requirements, such as affordable housing.
- 2.2. National Planning Practice Guidance states "*The National Planning Policy Framework [2012] policy on viability applies also to decision-taking. Decision-taking on individual schemes does not normally require an assessment of viability. However viability can be important where planning obligations or other costs are being introduced. In these cases decisions must be underpinned by an understanding of viability, ensuring realistic decisions are made to support development and promote economic growth. Where the viability of a development is in question, local planning authorities should look to be flexible in applying policy requirements wherever possible*".
- 2.3. As the principle of development viability has been part of the NPPF since 2012, the London Plan and local planning policies [e.g. Merton's Core Planning Strategy CS8 housing choice] take forward this principle.
- 2.4. The most common matter that developers challenge as being economically unviable is the amount of affordable housing they can provide with their scheme.
- 2.5. Moving forward, the council is keen to increase transparency and accountability by ensuring that everybody has access to development viability appraisals for planning applications in Merton. Currently these documents are not published. This report recommends that the council consults for six weeks on the proposal publish development viability appraisals accompanying planning applications submitted to the council (in its capacity as Local Planning Authority) from 01 April 2018.
- 2.6. In August 2017, the Mayor of London adopted "*Homes for Londoners: affordable housing and viability supplementary planning guidance*" which applies to all London boroughs, including Merton.  
[https://www.london.gov.uk/sites/default/files/ah\\_viability\\_spg\\_20170816.pdf](https://www.london.gov.uk/sites/default/files/ah_viability_spg_20170816.pdf)
- 2.7. This is very comprehensive guidance, setting out the background, explaining inputs into viability assessments and setting out clearly what can be expected of applicants. It is also helpful for residents and others who are interested in development.
- 2.8. It is proposed to draft a short *Development Viability* supplementary planning document, supplementary to Merton's Core Planning Strategy, which will signpost to the Mayor's comprehensive guidance where appropriate and be supplementary to Merton's Core Planning Strategy.
- 2.9. In September 2016, Cabinet resolved to consult on Merton's list of requirements that planning applicants have to meet when submitting planning applications, known as the Planning Application Validation Checklist. This updated checklist would clearly set out that in its capacity as Local Planning Authority, Merton Council intends to publish in full development viability appraisals that are submitted with planning

applications. It is proposed that this consultation coincides with the consultation on Merton's draft *Development Viability* in early 2018.

- 2.10. It is recommended that Cabinet authorises delegated authority for the Director of Environment and Regeneration in consultation with the Cabinet Member for Regeneration, Environment and Housing to approve the consultation documents.

### **3 ALTERNATIVE OPTIONS**

- 3.1. One alternative option is for Merton not to produce development viability planning guidance. This is rejected as development viability is a complex matter where developers, residents and others often raise queries. This short document will help direct people to where they can find answers to their questions.
- 3.2. Another alternative option is for Merton to produce extensive development viability guidance. This option is rejected as the Mayor of London's development viability guidance is very comprehensive and already applies to all relevant developments within London, including in Merton. There is an opportunity to streamline planning guidance by referring to this matter and our proposed approach also reduces scope for confusion.
- 3.3. If Merton continues without an up to date validation checklist the planning authority will be in a weaker position as far as being able to assess planning applications in terms as policy compliance within statutory timeframes.

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

- 4.1. It is proposed to start an online consultation for six weeks in January 2017, following the Borough Plan Advisory Committee which will take place in early January 2018.

### **5 TIMETABLE**

- 5.1. Subject to Cabinet approval in December 2017, it is proposed to:
- Consult the Borough Plan Advisory Committee in early 2018
  - Seek delegated approval to consult for six weeks
  - Collate consultation results, consider issues raised, amend the document as appropriate and recommend adoption to Cabinet in March 2018

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

- 6.1. The matters that are subject of this report involve planning proposals that if implemented would result in more effective planning decisions in support of development that will increase income and improve the reputation of the council as far as governance surrounding planning.

## **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. In relation to the draft *development viability* supplementary planning documents the Town and Country Planning (Local Planning) (England) Regulations 2012 sets out the legislative requirements for the production of supplementary planning documents. The council will conduct the consultation in accordance with the principles in Merton's Statement of Community Involvement 2006
- 7.2. The legal and statutory implications of the validation checklist have already been considered by Cabinet at their meeting in September 2016  
<https://democracy.merton.gov.uk/documents/s14111/Report%20CIL%20and%20Validation.pdf>

## **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. N/A

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

- 11.1. National Planning Policy Framework 2012
- 11.2. National Planning Practice Guidance
- 11.3. Cabinet report on validation checklists: September 2016  
<https://democracy.merton.gov.uk/documents/s14111/Report%20CIL%20and%20Validation.pdf>
- 11.4. Mayor of London adopted "*Homes for Londoners: affordable housing and viability supplementary planning guidance*" which applies to all London boroughs, including Merton.  
[https://www.london.gov.uk/sites/default/files/ah\\_viability\\_spg\\_20170816.pdf](https://www.london.gov.uk/sites/default/files/ah_viability_spg_20170816.pdf)