

## **Committee: Borough Plan Advisory Committee**

**Date: 1<sup>st</sup> July 2021**

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 the Borough Plan Advisory Committee consider the report and 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:

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- (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.
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#### **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 22<sup>nd</sup> June 2021, Merton's Cabinet resolved the recommendations in this report. Following the Borough Plan Advisory Committee, the decision will be considered by full council at their meeting on 7<sup>th</sup> July 2021
- 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%20Plan%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