

Land at Benedict Wharf, Mitcham

In the London Borough of Merton

planning application no. 19/P2383

Planning application

Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008 ('2008 Order').

Strategic issue

To consider any material changes to planning policy, planning guidance and site circumstance since the Deputy Mayor's resolution to grant planning permission on 8 December 2020.

Recommendation

That the Deputy Mayor, acting under delegated authority:

- Agrees that the policy and guidance changes since the Representation Hearing do not materially affect the resolution to grant planning permission made on 8 December 2020.
- Agrees with the draft wording of the Section 106 legal agreement and draft planning conditions noting that there have been changes to the wording in light of policy and guidance changes since the Representation Hearing.

Context

1. On 8 December 2020, the Deputy Mayor (under delegated powers) acting as local planning authority, resolved to grant outline planning permission in respect of London Borough of Merton planning application 19/P2383 – Land at Benedict Wharf, Mitcham - subject to conditions and the prior completion of a Section 106 legal agreement.
2. The Deputy Mayor also gave delegated authority for the Head of Development Management to negotiate the Section 106 legal agreement and to refer the application back to the Deputy Mayor in order to refuse permission should the Section 106 agreement not be completed by 8 April 2021.
3. A Holding Direction was issued by the Secretary of State on 7 December 2020. This Holding Direction prevented planning permission being issued until the Secretary of State considered the application and reached a conclusion on

whether the application should be called in for his own determination. The Secretary of State has decided not to call in this application. The Holding Direction was lifted on 18 May 2021.

4. There have been a number of update reports approved by the Deputy Mayor in respect of the date for completing the Section 106 legal agreement. These are summarised below:
 - On 1 April 2021, the Deputy Mayor approved an extension of this timescale to Friday 11 June 2021.
 - On 4 June 2021, the Deputy Mayor approved a further extension of this timescale to 31 August 2021.
 - On 24 August 2021, the Deputy Mayor approved a further extension of this timescale to 3 December 2021.
 - On 3 December, the Deputy Mayor approved a further time extension to 31 March 2022.

5. Subject to the comments below and the Deputy Mayor agreeing with the recommendation in this report, all of the Section 106 obligations agreed and set out in the Representation Hearing Report are included within the draft Section 106 agreement and all necessary conditions agreed.

Planning policy and guidance update

6. There have been a number of changes to policy and guidance since the Representation Hearing that must be considered, as discussed further below:
 - The revised National Planning Policy Framework (NPPF) was published on 19 July 2021. In addition to this, in January 2021, MHCLG published the National Design Guide and the National Model Design Code.
 - On 2 March 2021 the Mayor published his new London Plan (2021). This now becomes part of the statutory development plan and replaces the London Plan (2016) as the spatial development strategy for London and now has full force as part of the Development Plan. The London Plan (2016) is no longer a relevant material consideration.
 - On 19 January 2021, the London Boroughs of Merton, Sutton, Croydon, and Kingston submitted the Draft South London Waste Plan 2020 to the Secretary of State for Examination, in accordance with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Examination in Public (EiP) Hearing sessions were undertaken during September 2021. A number of main and minor modifications are proposed, which will be considered by the Inspectors in their recommendation. At the time of writing the Inspectors' final report has not been issued.
 - On 22 July 2021, Merton Council published their Stage 3 draft Local Plan – Publication Stage / Pre-Submission, in accordance with Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

- On 2 December 2021, the Merton Local Plan and Policies Map was submitted to the Secretary of State for Examination in Public (EiP).

National Planning Policy Framework

7. A revised National Planning Policy Framework (NPPF) was published on 19 July 2021. The following changes to the NPPF are considered to be relevant to the application:

- Paragraph 7 (achieving sustainable development) – Reference to acknowledge the UK’s wider high-level commitment to pursue the 17 Global Goals for Sustainable Development to 2030, as a Member of the United Nations.
- Paragraph 8 (overarching planning objectives) – Minor amendments to paragraph (b) – the social objective – which now makes reference to creating well-designed, ‘*beautiful*’ and safe places.
- Paragraph 11(a) (the presumption in favour of development) – Plan-makers will be required to ‘*align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects.*’
- Paragraph 73 (housing supply) – Reference to ensuring the use of appropriate tools such as masterplans and design guides or codes to secure well-designed and ‘*beautiful*’ homes.
- Paragraph 96 (promoting healthy and safe communities) – Requirement for local planning authorities to work proactively and positively with public service infrastructure providers to plan for required facilities and resolve key planning issues before applications are submitted.
- Paragraph 110 (promoting sustainable transport) – Reference to the new National Design Guide and the National Model Design Code and the need for the design of streets, parking areas and other transport elements to reflect these documents.
- Paragraph 125 (achieving appropriate densities) – Reference to area-based character assessments, design guides and codes, and masterplans in creating ‘*beautiful*’ and sustainable places and these tools being used to help ensure that land is used efficiently.
- Paragraph 126 (achieving well-designed places) – Reference to the creation of high quality, ‘*beautiful*’ and sustainable buildings and places.
- Paragraph 128 (design codes) – Reference to the National Design Guide and the National Model Design Code in the context of planning authorities preparing design guides and codes. Design guides and design codes should be prepared by local planning authorities and should be consistent with the principles set out in the National Design Guide and the National

Model Design Code. Recognition that these tools can provide a local framework for creating 'beautiful' and distinctive places.

- Paragraph 128 (design codes) – Further detail on the preparation, spatial coverage and use of design guides and design codes, which should be based on effective community engagement and reflect local aspirations for the development of an area, taking into account guidance in the National Design Guide and the National Model Design Code. These national documents should be used to guide decisions on applications in the absence of locally produced design guides and design codes.
- Paragraph 131 – Reference to the important contribution of trees to the character and quality of urban environments and in relation to climate change mitigation and adaptation. Reference to planning policies and decisions ensuring new streets are tree lined unless there are clear, justifiable and compelling reasons why this would be inappropriate. Further reference to maintenance of new trees and that existing trees should be retained wherever possible.
- Paragraphs 161 (planning and flood risk) – Amendments to planning for flood risk and sustainable drainage which recognise the need to take into account all sources of flood risk when applying the sequential, risk-based approach. Further clarification to recognise the importance of improvements in green and other infrastructure to reduce the causes and impacts of flooding.
- Annex 3 (Flood risk vulnerability classification) added and amendments to Annex 1 (Implementation).
- It should be noted that the NPPF paragraph numbers in the Representation Hearing Report are those from the 2019 NPPF, which have been amended in the 2021 NPPF.

The National Design Guide and National Model Design Code

8. In January 2021, MHCLG published the following documents:
 - National Design Guide – Planning practice guidance for beautiful, enduring and successful places;
 - National Model Design Code – Part 1: The coding process.
 - National Model Design Code – Part 2: Guidance Notes
9. The National Design Guide sets out the 10 key characteristics of well-designed places which cover a range of matters relating to context; identity; built form; movement; nature; public spaces; uses; homes and buildings; resources; and lifespan. The National Design Guide forms part of the National Planning Practice Guidance.
10. Relevant matters relating to urban design, tree planting, public service infrastructure, flood risk and sustainable drainage and climate change were

addressed in the Representation Hearing Report, albeit not in the context of the 2021 NPPF. The outcome of the assessment against the material amendments to the 2021 NPPF is summarised as follows

11. The revised NPPF (2021) places a greater emphasis on the creation of well-designed, attractive places and the need for applicants and local planning authorities to make use of appropriate tools such as design guides and design codes to ensure high quality design, taking into account the model code and National Design Guide Planning Practice Guidance (PPG).
12. The outline planning application and the Representation Hearing Report have been considered against the above amendments to the NPPF (2021). As was set out in the Representation Hearing Report, the outline application is supported by an illustrative masterplan, design code and a series of parameter plans. The design code contains a number of mandatory design principles for the development covering a wide range of issues, including: the built form; building layout; streets; landscaping and amenity; and sustainability. These mandatory rules apply on a site wide basis, with supporting advisory design guidance. The final chapter of the design code contains character area design guidelines, including mandatory design requirements for five indicative character areas. Whilst a number of the parameter plans are indicative, the building heights plan is mandatory.
13. As set out in more detail in paragraphs 217 to 227 of the Representation Hearing Report, GLA officers considered that the content of the form and content of the design code, illustrative masterplan and parameter plans was acceptable and concluded that the application would comply with local and strategic urban design policies in the Development Plan. In terms of design quality, it should be noted that these matters are covered in various sections of the Representation Hearing Report, including the sections on layout, landscaping and public realm; height and massing; density; standard of residential accommodation; inclusive design; heritage; and healthy streets.
14. Overall, GLA officers concluded that the proposed layout, design, movement framework, height and massing proposals and housing quality and sustainability requirements set out in the design code would ensure high quality development and was an appropriate response to the site specific characteristics, location and surrounding context and the development opportunities and constraints.
15. Compliance with the design code and building heights parameter plan would be secured by condition and this would be assessed in detail at Reserved Matters Stage.
16. GLA officers consider that the design code and building heights parameter plan are in accordance with the NPPF (2021) requirement to secure high quality, well-designed and beautiful buildings and places. The content of the design code covers the ten characteristics of well-designed places and the associated design objectives, as set out in National Design Guide and the National Model Design Code and taking into account the specific circumstances of the site and surroundings and the proposed development.

17. The preparation of the design code has included appropriate public consultation with the local community as set out in Chapter 3 of the applicant's Design and Access Statement. The design code has also been reviewed by the Design Review Panel and where further clarifications were recommended by the Panel, these were addressed by the applicant, or were considered to be matters of detail which are going to be dealt with at Reserved Matters Stage.
18. Matters relating to flood risk and sustainable urban drainage was considered at paragraphs 303 to 308 of the Representation Hearing Report. The updates to the NPPF (2021) do not alter the conclusions of GLA officers on the acceptability of the proposals in relation to flood risk and drainage and further detailed conditions are included in the decision notice in respect of this particular issue.
19. The proposals would include extensive tree planting and urban greening as set out in paragraphs 216 to 227 and 309 to 322 of the Representation Hearing Report. This complies with the associated NPPF requirements set out above.
20. In terms of public service infrastructure, this issue is addressed at paragraph 380 to 386 of the Representation Hearing Report. The approach taken in the application is considered to be in accordance with the NPPF (2021) in respect of public service infrastructure provision.
21. In summary, the amendments to the NPPF (2021) were not considered at the time of the Hearing but are not considered to materially affect the recommendation to grant outline planning permission for the proposed development, as outlined in the Representation Hearing Report.

The London Plan (2021)

Background and context

22. At the time of the Representation Hearing (8 December 2020), the new London Plan was in Intend to Publish form and had been sent to the Secretary of State (SoS) alongside a schedule of the Panel Inspector's post-EiP recommendations, and the Mayor's response to them.
23. On 13 March 2020, the Secretary of State wrote to the Mayor setting out his consideration of the Mayor's Intend to Publish London Plan, and issued 11 Directions under Section 337 of the Greater London Authority Act 1999 (as amended). These Secretary of State Directions were considered in the Representation Hearing Report and taken into account as a material consideration to the extent that they are relevant to the application, as set out in paragraph 44, 51, 129, 131, 132 and 158.
24. Paragraph 42 of the Representation Hearing Report confirmed that the relevant policies in the Intend to Publish London Plan should be taken into account in accordance with the criteria set out in paragraph 48 of the NPPF. This states that the weight attached to relevant policies in emerging plans should reflect the stage of its preparation; the extent to which there are unresolved objections to relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the NPPF. With this in mind, paragraph 44 of the Representation Hearing Report stated that the emerging policies of the Intend to Publish London Plan are

considered to be consistent with the NPPF and can be given significant weight, other than those subject to Directions from the Secretary of State, which should be given less weight.

25. On 10 December 2020, the Secretary of State wrote to the Mayor to provide a set of updated changes to the London Plan via Directions, these having been agreed with the Secretary of State following discussion with the Mayor.
26. The Secretary of State also issued two further Directions. In terms of the two further Directions, Direction DR4 (specifically regarding updated para 6.4.8 on Green Belt and Metropolitan Land) is not relevant to this particular application. However, Direction DR12 concerns Policy D9 (Tall Buildings), which is relevant, as discussed further below.
27. On 21 December 2020, the Mayor submitted to the Secretary of State his Publication London Plan with amendments designed to address all of the Secretary of State's Directions.
28. On 29 January 2021, the Secretary of State confirmed that he had no further matters to raise and that the Publication London Plan (December 2020) conformed with the previous Directions and could now be published.
29. On 2 March 2021, the London Plan (2021) was published. Accordingly, the London Plan (2021) now has full statutory weight requiring an update to the assessment originally undertaken as the previous London Plan (2016) has been superseded.

Updated changes to the Secretary of State's Directions on the London Plan issued by the Secretary of State on 10 December 2021

30. In terms of the Updated Changes since the Representation Hearing, of particular relevance to this Application are amended Directions DR2 (Policy D3 Optimising site capacity through the design-led approach). This is considered below. There were no updated changes to the Directions on industrial land, compared to the directions issued in March 2020.

Optimising capacity

31. Direction DR2 related to London Plan Policy D3. This policy seeks to optimise site capacity through the design-led approach, ensuring that development is of the most appropriate form and land use for the site. As a result of the Updated Changes, Parts B and C of Policy D3 now states that:

B Higher density developments should generally be promoted in locations that are well connected to jobs, services, infrastructure and amenities by public transport, walking and cycling, in accordance with Policy D2 Infrastructure requirements for sustainable densities. Where these locations have existing areas of high density buildings, expansion of the areas should be positively considered by Boroughs where appropriate. This could also include expanding Opportunity Area boundaries where appropriate.

C In other areas, incremental densification should be actively encouraged by Boroughs to achieve a change in densities in the most appropriate way. This should be interpreted in the context of Policy H2 Small sites.”

32. These updated Secretary of State changes in Direction DR2 do not fundamentally alter the overarching planning objectives or application of London Plan Policy D3.

33. In relation to density, the Representation Hearing Report (paragraph 196) concluded that:

“the proposed residential density was acceptable in this instance, taking into account various factors including the site location, setting, and PTAL, the sustainable transport improvements set out above in terms of walking, cycling and public transport and the surrounding infrastructure capacity. The density of the site has been appropriately optimised through a masterplanning and design-led process, which responds appropriately to the site’s opportunities and constraints, including the site’s close proximity to heritage assets to the north and the more unconstrained setting to the south, west and east. GLA officers are satisfied that the application has been subject to a sufficient degree of design scrutiny and consider that the density and proposed quantum of development to be acceptable, taking into account the proposed height, bulk and massing of the scheme and having regard to the associated impact on the surrounding area which would not give rise to unacceptable adverse or harmful impacts. GLA officers therefore conclude that the resultant density and quantum of development can be accommodated appropriately on the site. As such, the application accords with the relevant policies relating to density as set out in the NPPF, London Plan Policy 3.4, Policies D1; D2; D3 and D4 of the Intend to Publish London Plan, as well as further guidance in the 2016 Housing SPG.”

34. Taking into account the above updated Secretary of State changes to Parts B and C of London Plan Policy D3 (which now form part of the Development Plan following publication of the new London Plan), GLA officers remain of the view that the residential density of the proposed development is acceptable for the specific reasons set out above and that the application is in accordance with Policy D3 of the London Plan.

Changes made through further Secretary of State Direction dated 10 December 2020

35. The Secretary of State Direction DR12 regarding Policy D9 (Tall Buildings) primarily sought to ensure that tall buildings are only brought forward in appropriate and clearly defined areas, as determined by boroughs. Intend to Publish London Plan Policy D9(B3) already stated that *“Tall buildings should only be developed in locations that are identified in Development Plans”*. However, the Secretary of State considered that the policy should go further and following his Direction, London Plan Policy D9(B3) now states that *“Tall buildings should only be developed in locations that are identified as suitable in Development Plans”*. (the new words inserted as a result of the SoS’s Direction are underlined and in italic). The Direction also introduced an expectation that, when boroughs are

defining what is considered a tall building in specific areas, this is “*not less than 6-storeys or 18 metres measured from the ground to floor level of the uppermost storey.*”

36. Pages 67 to 71 of the Representation Hearing Report provided a detailed tall buildings assessment. This considered London Plan (2016) Policy 7.7 (which is now not relevant) and Merton Local Plan but also took into account the requirements and criteria set out in Policy D9, as set out in the Intend to Publish London Plan. Paragraph 231 of the Representation Hearing Report set out the main requirements and criteria set out in Policy D9. Paragraphs 236 to 244 included a detailed tall buildings assessment, taking into account the visual, functional and environmental criteria. A detailed heritage assessment was also undertaken and is set out at paragraph 252 onwards in the Representation Hearing Report.
37. The Hearing Report reached the following conclusion in respect of tall buildings (paragraphs 423):
- “Whilst the application represents a departure from the Local Plan in relation to building heights, GLA officers do not consider that the height and massing of the proposed development would have an unacceptable impact on the surrounding area or that the proposals would detrimentally impact the distinctive character or visual amenity of surrounding townscape and landscape features, open spaces or negatively impact local views and the surrounding skyline, as demonstrated in the applicant’s HTVIA. Therefore, GLA officers consider that the proposed development otherwise complies with the qualitative assessment criteria set out in London Plan Policies 7.4, 7.6, 7.7, 7.8 and Policies D9, HC1 and HC3 of the Intend to Publish London Plan and Merton Local Plan Policy CS14, DMD2 and DMD4 and is, on balance, acceptable in this particular case.”*
38. As noted in the Representation Hearing Report, the application is in outline format and matters relating appearance, layout and scale are all reserved for future determination via Reserved Matters Applications and will need to be in accordance with the Design Code requirements. The tall buildings and heritage assessment has been undertaken on the basis of the maximum height parameter plan, illustrative masterplan, together with the applicant’s Heritage Townscape and Visual Impact Assessment, daylight sunlight and overshadowing assessment, supplemented by GLA’s overall assessment of the site and surrounding context. Further design and environmental detail will be scrutinised at Reserved Matters Stage in respect of architectural quality and materials and daylight, sunlight and overshadowing impacts, which has been secured via condition.
39. The cumulative impact of the proposed tall buildings was considered by GLA officers when undertaking the tall buildings assessment. There are no nearby permitted developments or live planning applications in the vicinity of the site which raise any particular concern in terms of the potential for cumulative impact. Hence, GLA officers do not consider that the proposal would give rise to any unacceptable cumulative functional, visual, heritage or environmental impacts.

40. In summary, whilst the Secretary of States further Direction of 10 December 2020 was not considered at the time of the Hearing (as this was issued two days after the Hearing), the overall assessment and conclusion set out in the Hearing Report respect of tall buildings remains the same and is not materially changed by the Directions and planning policy changes set out above. Namely, that the scheme proposes tall buildings which are not in a location which is considered suitable for tall buildings and therefore the scheme does not comply with Part B of Policy D9. However, GLA officers consider that the proposed development otherwise complies with the qualitative assessment criteria set out in Part C of Policy D9 for the reasons set out in detail in the Representation Hearing Report and is, on balance, acceptable.

Changes to London Plan Guidance

41. Of the relevant supplementary planning guidance (SPG) set out in paragraph 52 of the Hearing Report, the following SPGs was revoked upon publication of the London Plan (2021) and are no longer relevant:

- Land for Industry and Transport SPG (September 2012)
- Sustainable Design and Construction SPG (April 2014)

42. GLA officers consider that the revocation of these supplementary planning guidance documents does not alter the assessment or conclusion set out in the Representation Hearing Report.

43. The following London Plan Guidance has been adopted following the Representation Hearing:

- Public London Charter (October 2021)
- Be Seen' Energy Monitoring Guidance (September 2021)

44. The following draft London Plan Guidance was published for consultation following the Representation Hearing:

- Good Quality Homes for all Londoners (October 2020)
- Circular Economy Statement Guidance (October 2020)
- Whole Life-Cycle Carbon Assessments (October 2020)
- Urban Greening Factor (September 2021)
- Sustainable Transport, Walking and Cycling (September 2021)
- Air Quality Positive (November 2021)
- Air Quality Neutral (November 2021)

45. The following pre-consultation London Plan Guidance was published following the Representation Hearing:

- Fire Safety LPG (March 2021)
- Optimising Site Capacity: A Design-led Approach LPG (October 2020)
- Housing Design Standards LPG (October 2020)

46. The adopted, draft and pre-consultation draft guidance documents are not considered to alter the recommendation outlined in the Representation Hearing Report. However, changes to planning conditions and Section 106 obligations have been secured in response to this guidance, as discussed below.

Merton Council

Draft Merton Local Plan

47. In relation to the draft Merton Local Plan, it should be noted that the Stage 2a draft Local Plan (Reg 18) was published in November 2020 for public consultation. This version of the draft Local Plan was considered at the time of the Representation Hearing, as noted in paragraph 55 of the hearing report.
48. On 22 July 2021, Merton Council published their Stage 3 draft Local Plan – Publication Stage / Pre-Submission, in accordance with Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. In relation to the site, the Stage 3 draft Local Plan (July 2021), the main substantive changes compared to the previous draft site allocation published in are:
- Approach to tall buildings - the identification of the site as having potential to contain taller buildings given its size, with heights to be determined via a masterplanned approach.
 - Further site-specific requirements set out in relation to green infrastructure, transport infrastructure and utilities and the constraints associated with the adjacent tram line and overhead pylons and the adjacent and nearby ecological and open space designations. These matters were considered in detail in the Representation Hearing Report, with relevant conditions and obligations proposed.
49. On 2 December 2021, the Merton Local Plan and Policies Map was submitted to the Secretary of State for Examination in Public (EiP). The Local Plan submission documents comprise:
- Merton's Stage 3 (Re 19) Local Plan and Policies Map (July 2021)
 - Proposed Main Modifications to the Merton Local Plan (30 November 2021)
 - Proposed Additional Modifications to the Merton Local Plan (30 November 2021)
 - Merton's Local Plan incorporating proposed modifications (30 November 2021).
50. In relation to Mitcham and the proposed Benedict Wharf Local Plan site allocation (Ref Mi1), the draft Local Plan submission and proposed modifications (30 Nov 2021), limited changes are proposed compared to the Stage 3 (July 2021) version, mainly comprising factual updates and clarifications.
51. A number of changes are proposed to Policy D12.6 on tall buildings via the proposed main modifications. These changes seek to ensure general conformity with London Plan Policy D9 on tall buildings, in consultation with GLA officers. The key changes include:
- A local definition of tall buildings being a minimum of 21 metres from the ground level.

- Clarification within Part 1 of Policy D12.6 that tall buildings are only acceptable in defined locations. This list of potentially suitable locations includes site allocation Mi1 Benedict Wharf.

52. The new Local Plan can be reviewed [here](#). The draft Merton Local Plan (2021) now carries a degree of greater weight as a material consideration given that it has now been submitted to the Planning Inspectorate for EiP and is therefore more progressed in the plan-making process, compared to the November 2020 Regulation 18 version considered at the time of the Representation the Hearing.

53. The approach to tall buildings is relevant. The Local Plan position is now clear that tall buildings (defined as being greater than 21 metres in height) could be potentially be suitable on the site, subject to compliance with the qualitative criteria set out in Policy D12.6. This qualitative criteria is broadly in line with London Plan (2021) Policy D9. GLA officers consider that the application accords with the criteria set out in both Merton draft Local Plan Policy D12.6 and London Plan (2021) Policy D9.

54. Given that the EiP has not yet been undertaken, limited weight can be given to the draft Local Plan at this stage. The modifications to the draft Local Plan do not alter the overall conclusions reached by GLA officers in the Representation Hearing report.

Merton Supplementary Planning Documents

55. Local Plan has not changed since the original resolution was made. Since the Representation Hearing, Merton Council has adopted the following new Supplementary Planning Documents:

- Air Quality SPD
- Merton Character Study SPD
- Merton's Small Sites Toolkit SPD

56. The SPDs are material considerations when determining applications. The SPDs do not introduce new Local Plan Policy but instead provide further detail and guidance on existing Local Plan policies. The Small Sites Toolkit SPD is not considered to be relevant to this application given its size of the site.

The Air Quality SPD

57. The Air Quality SPD provides additional guidance on implementing existing Local Plan policies when considering Air Quality Assessments. It sets out principles by which new development should address in line with Merton Local Plan Policy DM EP4 both at the design stage, during construction and on operation, as well as other related matters such as green infrastructure and transport.

58. These issues were considered in the Hearing Report paragraph 324 to 334. The SPD does not introduce any new planning requirements or alter the overall conclusion in respect of air quality of the range and wording of the proposed conditions.

The Merton Character Study SPD

59. The Merton Character Study SPD provides an understanding of the characteristics and qualities of different places within the borough to inform context-led development. The purpose of the SPD is twofold. It aims to support and inform the implementation of the draft Merton Local Plan and any neighbourhood plans by helping to inform a character and 'place-based' approach to managing growth in the borough. The SPD is also intended to inform decisions on planning applications. In this context, the SPD aims to ensure proposals positively respond to the local context and ensure high quality context-led development.
60. The SPD advises on the prevailing character of different areas of Merton in terms of land uses, building typologies, heights, urban form and layout and public open space, setting out important characteristics of different neighbourhoods and describing how these have evolved over time.
61. Chapter J of the SPD provides a range of urban design principles for different typologies of development, ranging from low, medium, high density residential and mixed use forms of development, including perimeter and non-perimeter layouts, linear typologies and tall buildings.
62. The guidance on tall buildings aims to define what is considered tall in Merton in terms of the London Plan Policy D9. The SPD states that the London Plan benchmark of 6-storeys and 18-metres is appropriate in Merton. Page 135 of the SPD sets out a framework for considering character-led tall buildings in Merton. This covers matters relating to site selection, site sensitivities, site suitability, environmental factors, context, urban design principles, visual impacts, architectural design principles and issues relating to safety, management and active ground floor frontages and public realm.
63. As noted above, the Representation Hearing Report included an assessment of the site characteristics and surrounding context, which was informed by site visits and a detailed desk-top urban design and contextual assessment, informed by the applicant's Design and Access Statement and Heritage Townscape and Visual Impact Assessment. Matters relating to density, urban design, layout, landscaping and public realm, tall buildings, residential quality and typologies and heritage impact considered in detail in the Hearing Report.
64. Whilst the Merton Character Study SPD was not taken into account at the time of the Hearing Report, GLA officers consider that the adoption of the SPD does not materially alter the conclusions in respect of urban design, density or tall buildings, as set out in the Hearing Report. GLA officers consider that the outline planning application supporting design code and parameter plan accord with the principles set out above in relation to ensuring context-led high quality development and that the recommendation to grant planning permission for the scheme is consistent with this guidance.

Draft South London Waste Plan

65. The Planning Inspectors held public hearings on the Draft South London Waste Plan (SLLP) on 1st and 2nd September 2021. Following the hearings, the Inspectors have issued a post hearing letter. This requires the four London boroughs (Croydon, Kingston, Merton and Sutton) to assemble all the Main Modifications into the SLWP and the associated sustainability appraisal and to then undertake post hearing public consultation for seven weeks. This post hearing public consultation, subsequent receipt of Inspectors reports and each Councils' consideration of adoption will now happen after the May 2022 local elections. Further information on the SLWP can be found [here](#).

Other material considerations

First Homes

66. On 24 May 2021 a Written Ministerial Statement (WMS) was published in relation to First Homes. First Homes are a Discount Market Sale (DMS) housing product which meet the NPPF definition of affordable housing. To qualify as First Homes within London, homes should have a minimum 30% discount to market value secured in perpetuity through S106 agreement. On first sale, these homes must have a purchase price that does not exceed £420,000 after the discount has been applied. First Homes are to be sold to first time buyers with an annual gross household income no greater than £90,000. A minimum of 50% of the purchase price must be met through obtaining a mortgage. The WMS states that a minimum of 25% of all affordable housing units secured through developer contributions should be First Homes.

67. First Homes is a national policy requirement, like others set out in the NPPF or introduced through Written Ministerial Statements. This means that the First Homes requirement is a material consideration for decision makers to take into account alongside policies of the Development Plan and any other 2 relevant material considerations. However, the WMS does not alter the position of the Development Plan as the starting point for decision-taking.

68. In relation to decision making, the national policy requirement for First Homes is subject to transitional arrangements as set out in the WMS and Planning Practice Guidance. The national policy requirements do not apply to:

- applications which have determined before 28 March 2022 and which have been subject to significant pre-application engagement. This is defined in the PPG as any substantive discussions between the local planning authority and the applicant relating to the proposed quantity or tenure mix of the affordable housing contribution associated with that application.
- sites with full or outline planning permissions already in place or determined (or where a right to appeal against non-determination has arisen) before 28 December 2021.

69. The First Homes national policy requirement does not apply to this application, given the transitional arrangements. A right to appeal against non-determination

arose before 28 December 2021 and there has been significant pre-application engagement.

Changes to planning conditions and Section 106 obligations

70. Following the publication of the new London Plan (March 2021) there are several new policies which now attract full weight and which have been addressed through the imposition of appropriate planning conditions (Annex 1 – Draft Decision Notice) and section 106 obligations (Annex 2 – Draft Section 106 agreement).

S106 agreement update

71. In relation to transport, there has been further discussion between the GLA, TfL, the Council and applicant regarding obligations relating to the provision of pedestrian footpath links from the site to Belgrave Walk Tram Stop.

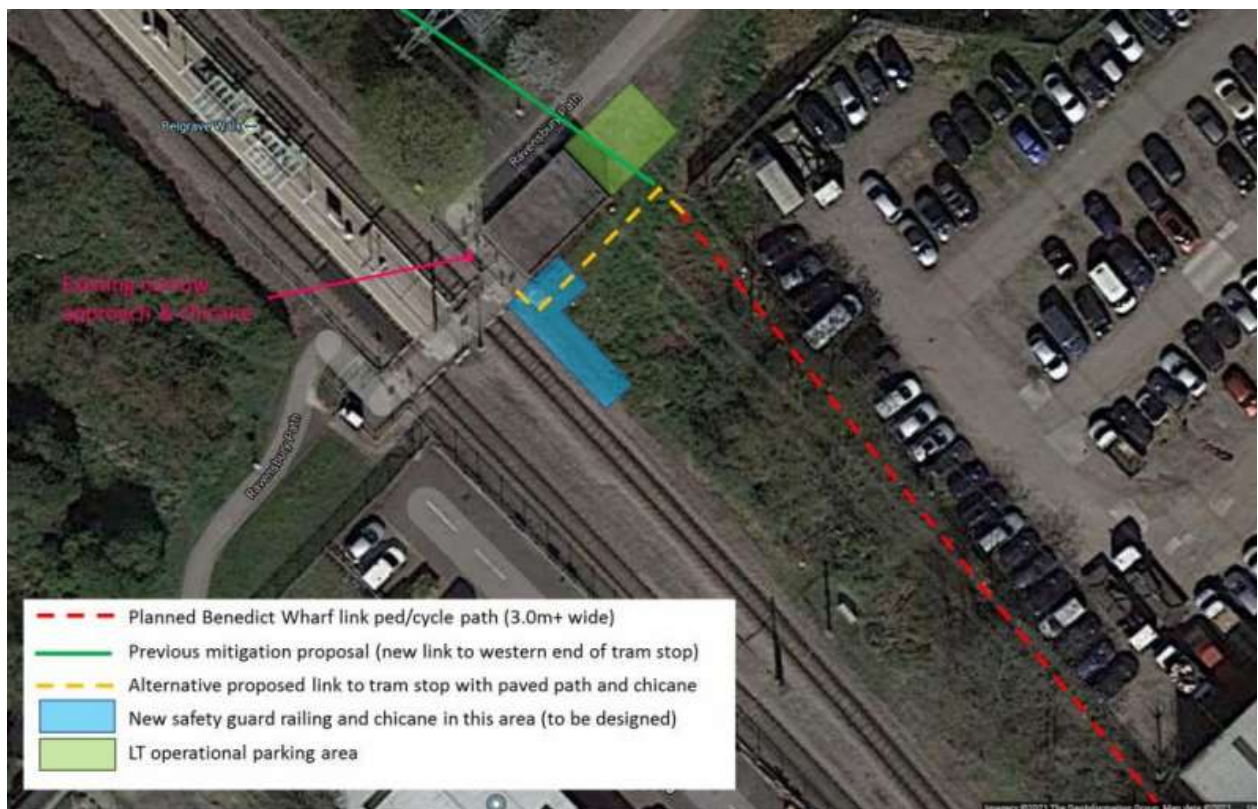
72. As noted in the Representation Hearing Report, an obligation was sought to enable the provision of a pedestrian route from the south-western corner of the site to connect to Ravensbury Path, via land owned by TfL subsidiary London Bus Ltd. This obligation sought to ensure the provision a more direct walking route to the tram stop for residents. The proposed route would run to the south of the Cappagh owned car pound site.

73. In addition to this, the Representation Hearing Report S106 Heads of Terms included a further obligation relating to the provision of an additional pedestrian access route from Ravensbury Path connecting to the north-western tram stop entrance / exit. The purpose of this second pedestrian route was to address the potential for overcrowding at the tram stop exits which might delay tram movements. This new pedestrian route would have needed to have been provided over third party land, which is owned by Clarion Housing Association. This is set out in more detail on page 91 of the Representation Hearing Report.

74. Paragraph 351 of the Hearing Report noted that; *“whilst the detailed wording of these obligations was still being discussed with the applicant, Council, TfL and it is likely to either comprise a financial payment with this needing to be spent within a defined timescale and/or a reasonable endeavours obligation to implement an agreed scheme subject to the costs of the works being agreed with the applicant.”*

75. Following further detailed consideration, TfL has concluded that the most appropriate way to address the above issues would be to enhance the existing tram stop entrance / exit. This revised approach envisages a new exit / entrance route to the south of the existing one, with a new approach constructed comprising a chicane, hardstanding, associated guard railing, lighting and signage. Importantly, all of these works can be undertaken on land owned by TfL subsidiary London Bus Ltd, rather than necessitating works on Clarion owned land. This approach has been agreed as the preferred strategy by all parties and is shown below in Figure 1.

Figure 1 – Indicative tram stop improvements and permissive path



76. Whilst various options to secure the provision of these works via reasonable endeavours obligations have been considered and discussed as part of the s106 negotiations, GLA officers have concluded that, given the works will be delivered by TfL and provided on TfL subsidiary owned land, it is more appropriate for these works to be secured via financial contributions.

77. The S106 agreement secures a tram stop contribution (£70,000) and permissive path contribution (£150,000). The combined financial contribution is £220,000. The tram stop contribution is intended to cover the cost of the works to improve access to the tram stop and the permissive path contribution is to finance the new pedestrian route linking the south-west corner of the site to Ravensbury Path. In terms of trigger points, the tram stop contribution must be paid prior to commencement and the permissive path contribution must be paid prior to occupation. This reflects the different timescales by which the new infrastructure is considered to be needed.

78. The wording of the permissive path obligation also provides a degree of flexibility in the event that an alternative pedestrian path is provided via the Cappagh car pound site should this adjacent site come forwards for development. If an alternative public route is provided via this land prior to the above trigger point, then the financial contribution relating to the permissive path would fall away.

79. In relation to intermediate affordable housing tenures, the S106 agreement includes an obligation to require an independent valuation of the London Shared Ownership units to estimate their overall market value. If the valuation of the London Shared Ownership units exceeds £600,000, those units are to be provided as London Living Rent. This valuation must be undertaken by an

independent valuer on an objective basis, in accordance with RICS standards. The valuation must be prepared at least 3 months prior to entering into a transfer or long lease with a Registered Provider for the freehold or leasehold interest of the units.

80. The carbon offset contribution will be calculated on the basis of the £95 per tonne figure set in the London Plan (2021).
81. London Plan Policy SI2 requires the energy performance of completed developments to be monitored, verified and reported following construction ('Be Seen'). This has been secured within the draft S106 agreement.
82. All of the other planning obligations have been secured, as set out in the Representation Hearing Report Heads of Terms.
83. The draft s106 agreement, which has been agreed by the Council and the developer is included at Annex 1 of this report.

Conditions update

84. A condition has been added to require the submission and approval of a whole life carbon assessment, in accordance with London Plan Policy SI2.
85. It should be noted that the Addendum Report (paragraph 9) updated the hearing report to include conditions on a number of issues. This included conditions relating to a Circular Economy Statement and Fire Strategy, in line with the London Plan (2021).
86. Condition 5 of the draft conditions related to the minimum number of residential units to be constructed on completion. This required a minimum of 840 residential units to be constructed on the site for the reasons set out in paragraph 148 of the Representation Hearing Report. This sought to ensure that the density and affordable housing provision was optimised, noting the revisions to the application since Stage 1 when the development was considered sub-optimal, as noted in more detail in the Hearing Report. However, on reflection, GLA officers no longer consider this condition to be necessary, given that the percentage affordable housing and tenure mix has been appropriately secured in the S106 agreement and the exact number of units will be determined through further design work at the reserved matters stage having regard to optimising the site. It is therefore recommended that this condition is revised as follows:

*Condition 5 – ~~Minimum~~ **Maximum** number of residential units to be constructed on completion*

*Pursuant to this permission, a ~~minimum~~ **maximum** of 840 **850** residential units shall be constructed on the site.*

87. The draft decision notice including the updated conditions is included at Annex 2 of this report.

88. In addition to the draft conditions which were set out in the Representation Hearing Agenda (8 December 2020) which can be found [here](#), the following two further conditions are considered to be necessary:

- Noise mitigation noise levels (commercial units)
- Whole life carbon assessment

Changes to site circumstances

89. There have been no material changes to the site or surrounding context to alter the assessment or conclusion set out in the Representation Hearing Report.

Representation update

90. On the evening of 8 December 2020 (following the Representation Hearing), the Mitcham Cricket Green Community and Heritage wrote to GLA officers expressing concern that they were not informed that an Addendum was published on the GLA's website; expressing concern that they were not informed that the Secretary of State had issued a Holding Direction; and requesting copies of representations received by the GLA for the Representation Hearing. Copies of the representations received have been made available.

91. All those that requested to speak at the Representation Hearing; anyone who has asked for clarification on the next steps in the decision-making process; the Council; and the Applicant have been notified of the process for reconsideration of the application. All those notified have been provided with a link to this report which has been published on the GLA's website.

92. Given the extent of the changes arising from the adoption of the new London Plan and other guidance and noting that the 'Intend to Publish' version of the London Plan was considered at the Representation Hearing, the extent of further notification carried out and the process for reconsideration of the application by way of update, as opposed to a further Representation Hearing, is considered to be in accordance with the requirements of fairness.

Legal considerations

93. Under the arrangements set out in Article 7 of the 2008 Order and the powers conferred by Section 2A of the Town and Country Planning Act 1990 the Deputy Mayor is acting under delegated authority as the Local Planning Authority for the purposes of determining this planning application.

Planning balance

94. Paragraph 424 of the Representation Hearing Report concluded that:

"In summary, whilst noting the application is in conflict with the land use policies in the Development Plan relating to waste management and Strategic Industrial Land, and is also contrary to the Local Plan in relation to tall buildings, GLA officers consider that the principle of the proposed residential-led mixed use redevelopment and the proposed density, height, massing, tall building is

acceptable in this particular instance and consider that there are material considerations which justify a departure from the Development Plan in this specific case, taking into account the specific circumstances and wider public benefits associated with the application in relation to housing and affordable housing delivery and the provision of additional waste management capacity. Further public benefits would also include the improvements to Baron Walk, the creation of new public open space and pedestrian and cycle routes through the development. The reduction in HGV movements within the conservation area along Church Road, which would constitute an important heritage related public benefit in this particular case, given the existing situation.”

95. As discussed above, the London Plan (2016) that was in place at the time of the Representation Hearing has been superseded by the adoption of the London Plan (2021), so the policies of the London Plan (2016) are no longer relevant. As well as the adoption of the new London Plan and the policies within it now having full weight, the key changes to the wording of the policies is set out above.
96. Since the time of the Representation Hearing, the approach taken in the draft South London Waste Plan and draft Merton Local Plan in respect of the site's proposed de-designation from waste and Strategic Industrial Land remains the same as was the case at the time of the Hearing Report. The weight afforded to these documents remains unchanged and as was noted in the GLA's Hearing Report, as neither document has been formally adopted.

Policies on waste capacity

97. In terms of waste capacity, the Representation Hearing Report concluded that, whilst the proposal for residential development on a safeguarded waste site was in conflict with waste policies, in this instance, compensatory replacement waste management capacity would be provided at 79-85 Beddington Lane, with a net increase in waste throughput.
98. In line with the Representation Hearing Report, the S106 agreement includes an obligation which restricts demolition and development at Benedict Wharf until replacement waste management capacity has been provided at 79-85 Beddington Lane, in the London Borough of Sutton to such an extent that operation of the facility can commence in accordance with permission DM2018/01865 for the construction and operation of the Beddington Lane Resource Recovery Facility. This would ensure that the loss of the existing waste site would be appropriately mitigated, in accordance with Policy SI9 of the London Plan (2021) and the South London Waste Plan (2012).
99. A detailed assessment of the proposals against the relevant waste policies in the London Plan (2016), the then Intend to Publish London Plan and the current and draft South London Waste Plan is set out in paragraph 100 to 125 of the Representation Hearing Report. This assessment took into account the differences between London Plan (2016) Policy 5.17 and Policy SI9 of the London Plan (2021). This included consideration of Part C of London Plan (2021) Policy SI9 which places a greater emphasis on the need for the release of waste sites being plan-led and for compensatory waste capacity to be at or above the same level of the waste hierarchy.

100. Whilst the applicant's relocation strategy does form part of an emerging plan-led approach set out in the draft South London Waste Plan 2021, it is recognised that this draft Plan has not been subject to an Examination in Public and is not adopted. GLA officers considered matters relating to prematurity at paragraph 125 of the Representation Hearing Report and concluded that a refusal on prematurity grounds would not be justified in this case, taking into account the NPPF criteria.
101. The impact on achieving updated apportionment targets in the London Plan (2021) was considered in the context of the plan-led principle set out in London Plan (2021) Policy SI9, taking into account the new apportionment targets, the emerging draft South London Waste Plan (2021-2036) and supporting evidence base. GLA officers concluded that the application would not compromise the potential to meet London Plan apportionment and net self-sufficiency targets.
102. GLA officers consider that there are material considerations to justify a departure from the plan-led principle set out in the London Plan (2021), taking into account: the significant operational constraints present at the existing site which prohibit the provision of a modern 24-hour waste management facility, whilst also noting the public benefits associated with the provision of additional waste management capacity within the South London Waste Plan Area; and noting that the applicant's relocation strategy is supported by the South London Waste Plan Authorities. Furthermore, GLA officers are satisfied that the loss of the existing safeguarded waste site at Benedict Wharf would not compromise the potential to meet the apportionment targets in the Intend to Publish London Plan.
103. Therefore, whilst the London Plan (2016) no longer forms part of the Development Plan, the conclusion reached in respect of the scheme's overall compliance with waste policies remains the same as in the Representation Hearing Report.

Policies on industrial land

104. The Representation Hearing Report concluded that the application is contrary to London Plan (2016) Policies 2.17, 4.4, Merton Local Plan Policy CS12 and Policy E4, E5, E7 of the then Intend to Publish London Plan. This was because the application proposes the loss of industrial land and capacity within a Strategic Industrial Location (SIL) and its replacement with residential uses and because the proposals do not form part of a strategically agreed process of SIL intensification and consolidation.
105. As such, the Representation Hearing Report noted that permission should only be granted if departure from the Development Plan is justified by other material considerations. In this specific case, GLA officers considered that there are material considerations to justify a departure from the development plan policies, for the specific reasons detailed in the Hearing Report (paragraphs 136 to 139; 151 to 154; 420 to 424).
106. The London Plan (2016) is no longer a material consideration and does not form part of the Development Plan and London Plan (2021) Policies E4, E5 and

E7 now form the strategic planning policies relating to SIL. These policies (as amended by the Secretary of State) now have full force and are given full weight as material considerations.

107. Compared to the Intend to Publish London Plan, the Secretary of State's changes via Direction DR4 weaken the prescriptiveness of the industrial land. The requirement that applications for non-compliant land uses within SIL should be refused except in areas released through a strategically co-ordinated process of SIL consolidation has been removed from the draft policy via Direction DR4. In addition, numerous references to ensuring no net loss of industrial floorspace capacity (and operational yard space capacity) have also been removed.
108. The changes to the London Plan (2021) Policies E4, E5 and E7 brought about through the Secretary of State's Directions of 13 March 2020 were considered in the Representation Hearing Report. These amendments were fully considered in the Representation Hearing Report, as detailed in paragraph 129 to 132.
109. However, despite the Secretary of State's changes, there is still a requirement in the London Plan (2021) for SILs to be retained and managed through a planned processes to ensure provision for industrial, logistics and related capacity to support London's economy. Whilst intensification can be used to facilitate the process of SIL consolidation, London Plan (2021) Policy E7 is clear that this should be progressed via a strategically agreed plan-led process of SIL intensification and consolidation; or as part of a co-ordinated masterplanning process in collaboration with the GLA and relevant borough, and not through ad hoc planning applications.
110. Therefore, GLA officers reach the same overall conclusions as that set out in the Hearing Report in respect of SIL. Namely, that the application is contrary to the London Plan policies on SIL but that there are clear and convincing material considerations present in this particular instance which indicate that planning permission should be granted in this case, for the reasons set out in the Representation Hearing Report.

Tall buildings

111. As noted above, the changes to the London Plan (2021) Policy D9 and the adoption of the Merton Character Study SPD do not alter the conclusions reached by GLA officers in the Representation Hearing Report.
112. Whilst the application represents a departure from the Local Plan in relation to building heights, and does not fully accord with London Plan Policy D9 owing to the conflict with Part B of D9 GLA officers do not consider that the height and massing of the proposed development would have an unacceptable impact on the surrounding area or that the proposals would detrimentally impact the distinctive character or visual amenity of surrounding townscape and landscape features, open spaces or negatively impact local views and the surrounding skyline, as demonstrated in the applicant's HTVIA. Therefore, GLA officers consider that the proposed development otherwise complies with the qualitative assessment criteria set out in Part C of London Plan Policy D9 and Merton Local

Plan Policy CS14, DMD2 and DMD4 and is, on balance, acceptable in this particular case.

Heritage

113. By way of correction, paragraph 2 g), paragraph 277 and paragraph 416 refer to Policy HC2 in the London Plan, which relates to World Heritage Sites when the correct policy reference is Policy HC1 – heritage conservation and growth.
114. When considering the proposals, GLA officers have applied the approach required in section 16 of the NPPF and had regard to the statutory duties relevant to the protection of heritage assets.
115. As set out in the Representation Hearing Report, GLA officers consider the application would cause less than substantial harm to the setting and significance of the Mitcham Cricket Green Conservation Area, the Grade II* listed Mitcham Parish Church, the Grade II listed Parish Tombs and the Grade II listed Vicarage.
116. This harm must be given considerable importance and weight in the decision and any harm requires clear and convincing justification. As harm has been identified, the proposal would conflict with London Plan Policy HC1.
117. However, in this instance, GLA officers consider that the less than substantial harm would be clearly and convincingly outweighed by the public benefits associated with the housing and affordable housing provision proposed, namely, the provision of up to 850 new homes, of which 35% would be affordable, comprising a 60:40 policy compliant tenure mix of low-cost rent and intermediate housing provision, as set out above. Further public benefits would also include the improvements to Baron Walk, the creation of new public open space and pedestrian and cycle routes through the development. The reduction in HGV movements within the conservation area along Church Road, which would constitute an important heritage related public benefit in this particular case, given the existing situation. Given the significant benefits of the scheme, GLA officers consider that the less than substantial harm is outweighed and heritage impacts do not justify the refusal of the permission.
118. In coming to these conclusions, GLA officers have taken account of the statutory duties contained in the Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning balance conclusion

119. As set out above, the application conflicts with the Development Plan because residential development is proposed on a safeguarded waste site, which also falls within designated Strategic Industrial Land (SIL). The application therefore represents a departure from the Local Plan. In addition to this, the application does not comply with the Merton Local Plan policies on tall buildings which are not supported in this particular location and for the same reason the proposals do not fully comply with London Plan Policy D9 given the conflict with Part B of

the policy . There is also a conflict with London Plan Policy HC1. Accordingly, as required by Section 38(6) of the Planning and Compulsory Purchase Act 2004, other material considerations must demonstrably exist to justify this departure. GLA officers consider that in this specific case there are material considerations which do justify a departure from the development plan policies relating to SIL, safeguarded waste sites, tall buildings and heritage. These other material considerations are set out in paragraphs 418 to 426 of the Representation Hearing Report. Taken together, these considerations provide a clear and convincing basis for departing from the development plan.

Confirmation of officer recommendation - reasons for approval

120. The Deputy Mayor acting under delegated authority as the local planning authority, has considered the particular circumstances of this application against national, strategic and local planning policy, relevant supplementary planning guidance and all material planning considerations. He has also had regard to Merton Council's committee report dated 18 June 2020 (including the draft planning conditions) and Modifications Sheet presented to Merton's Planning Committee on 18 June 2020, the draft decision notice setting out the single reason for refusal and all consultation responses and representations made on the case both to Merton Council and the GLA.
121. The below reasons set out why this application is considered to be acceptable in planning policy terms:
 - a) The application conflicts with the Development Plan in that residential development is proposed on a safeguarded waste site, which also falls within designated Strategic Industrial Land (SIL) and because the proposals do not form part of a strategically agreed plan-led process of SIL consolidation. In addition to this, the application does not comply with the Merton Local Plan policies on tall buildings, which are not supported in this particular location and for the same reason the proposals do not fully comply with London Plan Policy D9 given the conflict with Part B of the policy. As noted above, there is also a conflict with London Plan Policy HC1. As such, the application represents a departure from the Development Plan. Accordingly, as required by Section 38(6) of the Planning and Compulsory Purchase Act 2004, other material considerations must exist to justify this departure. In this specific case, GLA officers do consider that there are clear and convincing material considerations which justify a departure from the development plan policies relating to safeguarded waste sites, SIL, heritage and tall buildings.
 - b) The loss of the existing safeguarded waste site would be appropriately mitigated with sufficient compensatory waste management capacity provided, in accordance with Policy SI9 of the London Plan (2021) and Policy WP3 of the South London Waste Plan (2012), with the existing waste facility relocated to an alternative and more suitable safeguarded waste site in Sutton which is within designated SIL and has been vacant for 10 years. Full planning permission has been granted for the replacement waste facility. The Section 106 agreement restricts demolition and development on site until the replacement waste facility has been provided at the site in

Sutton. Whilst the applicant's relocation strategy does form part of an emerging plan-led approach set out in the draft South London Waste Plan 2021, this draft Plan has not been subject to an Examination in Public and is not adopted. However, in this specific case, GLA officers consider that there are material considerations to justify a departure from the plan-led principle set out in the London Plan (2021), taking into account: the significant operational constraints present at the existing site which prohibit the provision of a modern 24-hour waste management facility; the public benefits associated with the provision of additional waste management capacity within the South London Waste Plan Area; and noting that the applicant's relocation strategy is supported by the South London Waste Plan Authorities. Furthermore, GLA officers are satisfied that the loss of the existing safeguarded waste site at Benedict Wharf would not compromise the potential to meet the apportionment targets in the London Plan (2021). Taking into account paragraphs 49 and 50 of the NPPF, GLA officers do not consider that a refusal of permission on the basis of prematurity would be justified.

- c) In relation to the site's current SIL designation, whilst the application does not comply with the Development Plan, GLA officers consider that there are exceptional circumstances in this specific case which justify a departure from the development plan. The applicant's relocation strategy generally accords with the overarching principles set out in the London Plan (2021) in terms of ensuring industrial intensification, as there would be no material loss of industrial capacity in terms of waste throughput, with a 24% increase in waste throughput capacity proposed, based on the existing situation. The introduction of residential accommodation on the site would not compromise the integrity or function of the remaining SIL. Furthermore, the proposed residential redevelopment would help to deliver important wider public benefits in terms of facilitating the delivery of additional waste management capacity, alongside substantial housing supply, of which 35% would be affordable. As such, GLA officers consider the principle of the development to be, on balance, acceptable in this particular instance.
- d) In terms of housing and affordable housing, the application proposes up to 850 residential units, of which, 35% would be affordable. The industrial capacity on the site would not be reprovided on site, so the application would normally be subject to the 50% threshold for affordable housing. However, in this particular case, GLA officers consider that the application should be subject to the 35% affordable housing threshold set out in Policy H5 of the London Plan (2021) because there would be a net increase in industrial capacity (in terms of waste throughput) across the two linked applications and noting that its delivery would be appropriately secured via the Section 106 obligation. A significant factor in this case is also that the applicant owns both sites and has obtained full planning permission for the replacement waste management facility. GLA officers consider waste throughput is the most appropriate metric for assessing industrial capacity in this case, as the sites are both safeguarded for waste management use. The proposed affordable housing tenure mix would comprise 60% London Affordable Rent (LAR) and 40% intermediate London Shared Ownership. This complies with the tenure mix requirements of the Merton Local Plan

and the London Plan (2021). As such, whilst the application would not fully comply with the Fast Track Route criteria set out in the London Plan (2021) and the Affordable Housing & Viability SPG, GLA officers consider that there are material considerations in this instance which indicate that the 35% threshold should apply in this case. An early stage viability review mechanism and provisions to ensure grant funding is explored are secured via Section 106 agreement. The affordability levels proposed comply with the Affordable Housing & Viability SPG, London Plan and London Plan AMR, and would be secured in perpetuity via Section 106 agreement, together with appropriate phasing triggers included to secure the delivery of affordable housing by tenure alongside the occupation of market housing. The scheme would therefore make a significant contribution towards housing and affordable housing delivery targets and meeting local and strategic housing need. On this basis, the application is supported, in accordance with the NPPF; London Plan (2021) H1, H4, H5, H6, H7; H10; and complies with Merton Council's affordable housing tenure mix requirements, as set out in Merton Local Plan Policy CS8 and DMH3.

- e) GLA officers consider the proposed residential density to be acceptable in this instance, taking into account various factors including the site location, setting, and PTAL, the sustainable transport improvements proposed in terms of walking, cycling and public transport and the surrounding infrastructure capacity. GLA officers consider the density of the site has been appropriately optimised through a masterplanning and design-led process, which responds appropriately to the site's opportunities and constraints, including the site's close proximity to heritage assets to the north and the more unconstrained setting to the south, west and east. GLA officers are satisfied that the application has been subject to a sufficient degree of design scrutiny and consider that the density and proposed quantum of development to be acceptable, taking into account the proposed height, bulk and massing of the scheme and having regard to the associated impact on the surrounding area which would not be unacceptably adverse or harmful. GLA officers therefore conclude that the resultant density and quantum of development can be accommodated appropriately on the site. As such, the application accords with the relevant policies relating to density as set out in the NPPF, London Plan (2021) Policies D1; D2; D3 and D4.
- f) Whilst the application does not comply with the Local Plan and Part B of London Plan Policy D9 in relation to building heights, GLA officers do not consider that the height and massing of the proposed development would have an unacceptably harmful impact on the surrounding area and consider that the proposals would not detrimentally impact the distinctive character or visual amenity of surrounding townscape and landscape features, open spaces or negatively impact local views and the surrounding skyline, as demonstrated in the applicant's HTVIA. The visual, functional environmental and cumulative impact is considered acceptable. Appropriate design code standards have been secured to ensure good quality design. Therefore, GLA officers consider that the proposed development otherwise complies with the qualitative assessment criteria set out in Part C of London Plan

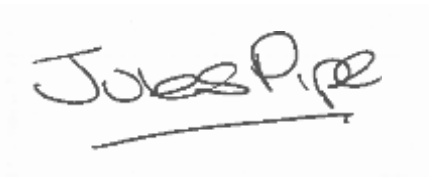
Policy D9 and Merton Local Plan Policy CS14, DMD2 and DMD4 and is, on balance, acceptable in this particular case.

- g) GLA officers conclude that the development proposal would harm the setting and significance of the Mitcham Cricket Green Conservation Area, the Grade II* listed Mitcham Parish Church, the surrounding Grade II listed tombs and the Grade II listed Vicarage. This harm would be less than substantial and would be clearly and convincingly outweighed by the public benefits associated with the housing and affordable housing provision proposed, namely, the provision of up to 850 new homes, of which 35% would be affordable, comprising a 60:40 policy compliant tenure mix of low-cost rent and intermediate housing provision, as set out above. Further public benefits comprise the enhancements to Baron Walk, the provision of public open space and pedestrian and cycle routes through the site. The reduction in HGV movements within the conservation area along Church Road, which would constitute an important heritage related public benefit in this particular case, given the existing situation. As harm has been identified, the development proposals do not comply with London Plan Policy HC1. However, given the significant benefits of the scheme, GLA officers consider that the less than substantial harm is outweighed and heritage impacts do not justify the refusal of the permission. On this basis, the application accords with the NPPF, London Plan (2021) Policy HC3; and Merton Local Plan Policy CS14, DMD2 and DMD4.
- h) The proposals would not have an unacceptable impact on the residential amenity of existing residents close to the site in relation to daylight, sunlight, overshadowing or privacy and overlooking, and therefore the proposals comply with Part C of London Plan Policy D9 and Merton Local Plan Policies CS14 and DM D2.
- i) The proposed development has demonstrated that a high standard of sustainable design and construction would be achieved, minimising carbon dioxide emissions, using energy efficiently and including renewable energy, in accordance with the London Plan energy hierarchy. The development would deliver sustainable urban drainage, ecology and urban greening benefits over the existing situation at the site. As such the scheme complies with the London Plan (2021) Policies G5, G6, G7, S11, S12, S13.
- j) The application complies with the car parking and cycle parking standards in the London Plan. The level of car parking is considered to strike an appropriate balance in accommodating car parking within an Outer London location within PTALs 2-3, whilst encouraging more active and sustainable travel, with necessary CPZ-related obligations included to ensure potential over spill car parking issues can be addressed. The overall transport strategy for the site in relation to the proposed site access and pedestrian, cycle and public realm improvements also accords with the Mayor's healthy streets objectives and aspirations in relation to encouraging more active and sustainable modes of travel. Transport mitigation measures are necessary to ensure the impact of the development is acceptable in transport terms and impact on public transport addressed, and these would be secured in the Section 106 agreement, including bus capacity improvements, bus stop

access improvements, cycle way improvements on Hallowfield Way and financial contributions towards the provision of a direct access to Belgrave Walk station, together with improved direct pedestrian access to the northern access to the tram stop. On this basis, and subject to the above mentioned obligations and conditions being secured, the application is considered acceptable in terms of transport and is in accordance with transport policies set out in the London Plan (2021) and Merton Local Plan.

- k) Appropriate, relevant, reasonable and necessary planning conditions and planning obligations are proposed to ensure that the development is acceptable in planning terms and the environmental, and socio-economic impacts are mitigated, in line with London Plan (2021) Policy DF1, and to ensure overall compliance with the policies in the London Plan (2021) and Merton Local Plan.
- l) For these reasons, whilst noting the application is in conflict with the land use policies in the Development Plan relating to waste management and Strategic Industrial Land, Policy HC1 of the London Plan in relation to heritage and there is partial conflict in relation Policy D9: Tall Buildings , GLA officers consider that the principle of the proposed residential-led mixed use redevelopment and the proposed density, height, massing, tall building is acceptable in this particular instance and consider that there is a clear and convincing justification for departing from the Development Plan in this specific case, taking into account the specific circumstances.

Decision record – recommendation agreed /refused

A handwritten signature in black ink that reads "Jules Pipe". The signature is written in a cursive style and is underlined with a single horizontal line.

Jules Pipe
Deputy Mayor for Planning, Regeneration & Skills

For further information, contact GLA Planning Unit (Development Management Team):

Andrew Russell, Principal Strategic Planner (case officer)

email: andrew.russell@london.gov.uk

Richard Green, Special Projects Team Leader – Development Management

email: richard.green@london.gov.uk

Allison Flight, Deputy Head of Development Management

email: alison.flight@london.gov.uk

John Finlayson, Head of Development Management

email: john.finlayson@london.gov.uk

Lucinda Turner, Assistant Director of Planning

email: lucinda.turner@london.gov.uk

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