



CALL IN REQUEST

Merantun Development Ltd applications to Merton Council

Application number – 19/P4048 – Raleigh Gardens car park

Application number 19/P4050 – former Canons nursery

July 2020

1. Mitcham Cricket Green Community & Heritage is a registered charity that takes an active interest in the future of the Cricket Green Conservation Area and its environs. We are the civic society for this part of Merton and part of the wider civic movement through membership of the national charity Civic Voice.
2. This is a request to call in two planning applications submitted to Merton Council by Merantun Development Ltd. Merantun Development Ltd was established in 2017 as a property development company wholly owned, governed and staffed by Merton Council. This request supplements that made to the Secretary of State by email on 12th July 2020 and acknowledged by the Planning Casework Unit on 15th July 2020. It includes additional issues arising from Merton Council's Planning Applications Committee conducted by Zoom on 16th July 2020 where the four planning applications from Merantun Development Ltd were all approved by a majority vote.
3. We believe that the combination of significant conflicts with national and adopted planning policy and a failure to meet necessary standards of probity in the decision making on these two planning applications, which were made by Merton Council as the developer to Merton Council as the local planning authority, raises issues of more than local importance.

Planning policy issues

4. The substantive conflicts with national planning policies and with policies in the adopted London Plan and Merton Local Plan are addressed in our representations on the planning applications. We note that neither application was notified as a departure from the development plan despite the number and significance of the conflicts.
5. The policy conflicts with Merton's Local Plan include CS2, CS8, CS14, DM D1, DM D2, DM D4 and DM T3. The development of the former Canons nursery causes substantial harm to designated heritage assets and fails to preserve and enhance Mitcham Cricket Green Conservation Area. The development of Raleigh Gardens car park causes harm to Mitcham Cricket Green Conservation Area. The quality of supporting information for both applications is also inadequate and insufficient for Merton Council to make an informed planning judgment. This includes a wholly inadequate assessment of the heritage impact of the development of the former Canons

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nursery adjacent to numerous listed buildings. The public benefit of providing new homes is acknowledged but it is significantly outweighed by other planning considerations. Moreover, the Merantun Development Ltd applications as a whole provide 43% fewer affordable homes than required to be policy compliant and do not demonstrate any “*exceptional*” reasons for providing affordable homes on a single site rather than across each of the four development sites.

6. There are significant conflicts with national policies for the quality of design, the provision of affordable homes and the protection of designated heritage assets. There is also a conflict with the requirement in planning law articulated in national planning policy for planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise and for planning applications to be considered on their own merits.

7. Merton’s Local Plan is at an early stage of review. This includes allocating both sites for development. We do not believe any weight should be attached to these contested allocations which have yet to be independently examined. They involve allocations made by Merton Council of its own land which support their development by Merton Council’s own property development company.

8. Our representations on Merantun Development Ltd and the two planning applications are attached. We have also written blogs about the formation of Merantun Development Ltd and the planning applications which summarise our views in direct language:

[Merantun Development Ltd – blog, September 2019](#)

[Raleigh Gardens car park – blog, January 2020](#)

[Former Canons nursery – blog, January 2020](#)

Probity of decision making

9. The Local Government Association’s keynote guidance on *Probity in planning for councillors and officers* states that “*Proposals for a council’s own development should be treated with the same transparency and impartiality as those of private developers.*” In arriving at decisions Planning Practice Guidance states “*Members must only take into account material planning considerations*” (Paragraph: 016 Reference ID: 21b-016-20140306).

10. Given the significant conflicts with adopted development plan policies this rightly sets a high bar for the Merantun Development Ltd planning applications when considered by Merton Council’s Planning Applications Committee.

11. We participated in the Planning Applications Committee where the Merantun Development Ltd applications were determined by members on 16th July 2020. This was conducted on Zoom and broadcast live on [YouTube](#) (via Merton Council’s channel) and [MertonTV](#) (a community run service). We spoke on both applications and were present on the Zoom call for the whole meeting of nearly five hours.

12. Our observations on the conduct of the meeting and some other experience of engaging with Merton Council around the Merantun Development Ltd schemes points clearly to a failure to meet the standards of probity expected. The whole meeting was recorded and can be viewed (links above). We ask that this is done as part of the consideration of this call in request. The Committee’s consideration of the Raleigh Gardens car park proposal can be viewed [here](#) and the proposal for the former Canons nursery can be viewed [here](#). There is additionally an important framing discussion prior to consideration of any of the four Merantun Development Ltd planning applications

which begins 1h 14m 30s into the meeting. We also provide links to some brief extracts from Merton TV of the Committee's discussions where relevant below.

13. The decision making process was notable for a number of councillors expressing their clear opposition to the plans but still voting for them. Councillor Dehaney could hardly have been clearer that he did not support either of the two applications - *"I am going to vote for the application but that is not because I entirely agree with it.....that area in The Canons I go there regularly should not have been touched at all, the houses should not have been built there but I will support the application.....not because I agree" and "I think that's a wrong decision mind you I don't say I am going to vote against it but I don't agree with it, building on Raleigh Gardens car park"*.

[Extract - Councillor Dehaney speaking on development of the former Canons nursery](#)

[Extract - Councillor Dehaney speaking on development of Raleigh Gardens car park](#)

14. Councillor Henry made an impassioned plea to respect *"Mitcham values"* in expressing opposition to the plans for The Canons - *"Although I will support this application but to be honest with you I lived in Mitcham for 30 years, I really love Mitcham and I think definitely we are taking away some of the values of Mitcham. I know we desperately need houses.....but I think we are over pressuring ourselves to find accommodation by using up very small spaces.....I will go along with this application but it is not something in my heart I think I really really want to do because, as I say, especially where The Canons is that's a heritage that's of value that's really.....Mitcham value.....that should restore for our young people to grow up and see what Mitcham used to be like...I hope that what we are doing we will not regret it"*.

[Extract - Councillor Henry speaking on development of the former Canons nursery](#)

15. Both Councillor Dehaney and Councillor Henry voted in support of both applications.

16. The Local Government Association's probity guidance to councillors states *"The process should leave no grounds for suggesting that those participating in the decision were biased or that the decision itself was unlawful, irrational or procedurally improper."* We can arrive at no other conclusion than for councillors to say one thing and do another is either irrational or that their judgment has been influenced by non-planning considerations. Securing planning permission has a wider significance for other parts of Merton Council and we are also aware that political whipping of planning decisions is forbidden.

17. The Merantun Development Ltd applications were not prepared by disinterested professionals. Merantun's Director of Design is also Merton Council's Head of futureMerton and is responsible for Merton's planning policies. Merantun's Managing Director is also Merton Council's Assistant Director, Sustainable Communities and is responsible for both futureMerton and the planning team. There have been a number of instances where they have failed to separate out their roles in public, such as the most recent Merantun Development Ltd Sub-Committee on 13th July 2020 where both were attending in their Merantun roles but the Managing Director identified himself in his Assistant Director role:



18. As we spoke at the Planning Applications Committee we were also aware that both these officers were present in their Merantun roles behind the scenes of the Committee on Zoom. This has been confirmed in response to a Freedom of Information [request](#) and is despite Merantun's views being publicly represented by two consultants. No other developer is offered the privilege of fielding four people at a Committee discussion and this breaches the LGA's requirements for local authority developments to be treated no differently from those of private developers.

19. The Planning Applications Committee was also notable for the manner in which the applications were handled by the lead Planning Officer. We understand the role of professional planning officers to be to support and advise the Planning Committee and not to be advocates for the development. In this we believe any reasonable person observing the meeting would notice the steps taken by the Planning Officer to accentuate the positive on behalf of the development. Among other examples:

- Merton's Design Review Panel's assessment of the scheme as Amber was marginalised in an effort to assert it almost received a Green rating, this is despite sharp criticism of both schemes - "*too busy, intense and slightly military in feel*" (The Canons) and "*overdevelopment*" (Raleigh Gardens)
- Significant breaches of planning policy - including on trees, affordable homes, parking and building mass - were treated by the Planning Officer as if they were everyday minor breaches which are regularly permitted. Other breaches were simply ignored
- The testimony included numerous factual errors, including:
 - Claims that Elm Nursery car park is "*only a minute's walk or so*" from an alternative in central Mitcham - it is a minimum of 350m just to the entrance of the multi-storey alternative
 - Stating that the loss of 50% of the canopy of Merton's Tree of the Year, a striking Pagoda tree on the former Canons nursery, was a "*normal feature of arboricultural management*" when it does not meet the British Standard for Tree Work

20. We understand it to be a tenet of planning law that each planning application must be considered "*on its merits*". This was not the case with the Merantun Development Ltd applications. Consideration of the individual schemes was preceded by an explanation of why the provision of affordable homes on one site was dependent on the success of all four applications. As Councillor Southgate rightly noted, this "*web*" made it hard to separate the decisions and it visibly influenced the decision making by members. The contradictions were laid bare in the Planning Officer's observation that "*each scheme must be considered on its merits but there are consequences if one of the schemes falls at this evening's Committee meeting*". This consideration visibly influenced the views of members when determining the individual applications.

[Extract - Merton Council Planning Officer on the relationship between the four applications](#)

21. The meeting was also unusual in that it departed from normal practice by taking the planning applications in the order they appeared on the Planning Applications Committee agenda. In our frequent experience of the Committee's operations the order is changed on the evening to address those applications attracting the highest level of interest and controversy first. Instead the Merantun schemes were considered last and the most controversial of these - Raleigh Gardens car park which received three times the level of objection of the other schemes - was dealt with at the very end of the meeting, near midnight and after the other three schemes had been approved. No explanation of this departure from normal practice was provided.

22. We believe that the combination of planning policy breaches and poor standards of decision making by Merton Council in relation to planning applications where it is both

applicant and decision maker raises issues of more than local importance. The matters of trust and probity are profoundly important for the operation of the planning system and the development outcomes will have a profound impact on the area.

23. We ask that both applications are called in. Given the circumstances described this is the only means to ensure decisions can be properly and independently made on their individual merits.