

To: Richard Bruce - IT/Performance/Information
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Cathy Moor - Departmental Complaints Officer

From: Monks Orchard
Residents' Association
(Planning)

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14th March 2019

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hello@mo-ra.co

Complaint: CASE4893951 - EMAILID068900141 - Escalation to Stage 2.

Re: Planning Process: App. Ref: 18/05928/FUL 20-22 The Glade, Shirley, Croydon CR0 7QD.

Dear Mr Bruce, Mr Smith, Ms Moor & Complaints Department.

Thank you for your early response to our Stage 1 Complaint, dated 5th March 2019 - Reference as stated above.

Initially, I would like to thank you for your stated recognition that we take time to prepare our comments on planning applications and that our comments are generally fair and even handed but expansive and detailed. We try to ensure our comments are only related to planning policies and we avoid making any general criticisms of planning applications on anything other than their compliance to planning policies and which also reflect our respect of the local character of our MORA area on behalf of our members. Our comments should therefore be helpful to Planning Case Officers in their analysis of applications and contribute to their assessment in determination of decisions.

I accept your summary of our complaint but am afraid we do not accept your findings without further explanation or clarification.

In your response to our statement on **Residential Density**, I would like to articulate any misunderstandings of interpretation of the current adopted **London Plan Policy 3.4 Optimising Housing Potential** and the interpretation of the **'broad'** ranges depicted in the Density Matrix at Table 3.2.

You refer to the text of the policy which states:

*"It is not appropriate to apply Table 3.2 mechanistically. Its density ranges for particular types of location are **broad**, enabling account to be taken of other factors relevant to optimising potential – local context, design and transport capacity are particularly important, as well as social infrastructure, open space and play. These **broad** ranges also provide the framework **within** which boroughs can refine local approaches to implementation of this strategic policy through their LDFs. Where appropriate, they can also provide a tool for increasing density in situations where transport proposals will improve and setting public transport accessibility in the future."*

These **'broad' ranges** are the 'tolerances' (Max & Min) as given in Table 3.2 which give scope to allow Housing and Residential Densities to be within those stated **'broad' ranges** (tolerances) at a given **PTAL** and **Setting** (Suburban, Urban & Central). The policy identifies these ranges as **broad** to provide sufficient flexibility for applicants, tolerance (Max and Min) **within a PTAL range** (Max and Min). The inference is that the ranges are targets within which applications should comply and which do not extend beyond the ranges stated within the PTAL of the locality. The **"broad"** ranges do not imply that they extend over the whole table as if so, there would be no point in delineating or segregating the ranges within the table and their PTAL ranges (tolerances) within the Table. In the case under scrutiny, the PTAL appropriate for the site has gone from the **lowest PTAL "range"** to the **highest PTAL "range"** **without justification.**

The Policy States:

*A. Taking into account local context and character, the design principles in Chapter 7 and public transport capacity, development should optimise housing output for different types of location **within the relevant density range** shown in Table 3.2. **Development proposals which compromise this policy should be resisted.***

This proposal does in fact **compromise the policy** in that:

The partitioned rear garden site area for the new development is measured as **≈0.037ha** as shown on our representation letter and given the number of habitable rooms is **10**, the **Residential Density** of the proposed development is **≈10/0.037 ≈270.27 hr/ha**

If the ranges of **PTAL** and **Density** given in the Density Matrix are considered 'approximately' **linear over the ranges** and follow the function **y = mx + c** where **y = Residential Density**, **x = PTAL**, **m = slope = Δy/Δx** and **c = y** when intercept **x = 0**.

$$\text{then: Residential Density} = 270.27 = \left(\frac{\Delta y}{\Delta x}\right)x - 100 = \left(\frac{350-200}{6-4}\right)x - 100 \ \& \ x = 4.94$$

Therefore **x = PTAL = 4.94** i.e. approaching **5** when it should rightfully be **1** or precisely **1a**. (i.e. numerically **0.66**). This is surely a **significant increase** in the recommended **Residential Density** for this locality within a **PTAL of 1a** in a **suburban setting** and **would compromise the accessibility of future occupants to public transport infrastructure**. This is not a minor deviation from the range, it skips from the lowest to the highest range which is a **significant deviation** from the recommended **PTAL ranges** stated in the policy with **no justification for so doing**.

Table 3.2 Sustainable residential quality (SRQ) density matrix (habitable rooms and dwellings per hectare)

Setting	Public Transport Accessibility Level (PTAL)	Public Transport Accessibility Level (PTAL)	Public Transport Accessibility Level (PTAL)
	0 to 1 (1a)	2 to 3	4 (4.94) to 6
Suburban	150–200 hr/ha	150–250 hr/ha	200–350 hr/ha (270.27 hr/ha)
3.8–4.6 hr/unit (5 hr/unit)	35–55 u/ha (54.05 u/ha)	35–65 u/ha	45–90 u/ha
3.1–3.7 hr/unit	40–65 u/ha	40–80 u/ha	55–115 u/ha
2.7–3.0 hr/unit	50–75 u/ha	50–95 u/ha	70–130 u/ha

The recommended Densities are shown in **White Text** in the suburban extracted of Table 3,2 above.

You have also quoted the Policy states:

“Where appropriate, they can also provide a tool for increasing density in situations where transport proposals will improve and setting public transport accessibility in the future.”



This is understood to mean that where **PTAL** is **forecast to be improved**, the Density range can be based upon the recognised **forecast improved accessibility level** as depicted in the Table. In this case, the PTAL is forecast to remain at **PTAL 1a until 2031** (TfL WebCAT) and as such **does not apply in this scenario**.

I also bring to your attention that at **para 3.30** the policy states:

*“Where connectivity and capacity are limited, density should be at the **lower end of the appropriate range**. The **Housing SPG** provides **further guidance** on implementation of this policy in different circumstances including mixed use development, taking into account plot ratio and vertical and horizontal mixes of use.”*

This paragraph also references out to the **Housing Supplementary Planning Guidance** (March 2016) at **Para 1.3 Optimising Housing Potential** which gives greater clarity on the implementation of the Density Matrix and at **paras 1.3.50 to 1.3.55** gives guidance on **Developments above the density ranges**. And I quote:

1.3.51 In **appropriate circumstances**, it may be acceptable for a particular scheme **to exceed the ranges** in the density matrix, **providing important qualitative concerns are suitably addressed**. However, to be supported, **schemes which exceed the ranges in the matrix must** be of a high design quality and should be **tested against the following considerations**:

- the factors outlined in Policy 3.4, including local context and character, public transport capacity and the design principles set out in Chapter 7 of the London Plan;
- the location of a site in relation to existing and planned public transport connectivity (PTAL), social infrastructure provision and other local amenities and services;
- the need for development to achieve high quality design in terms of liveability, public realm, residential and environmental quality, and, in particular, accord with the housing quality standards set out in Part 2 of this SPG;
- a scheme's overall contribution to local 'place making', including where appropriate the need for 'place shielding';
- depending on their particular characteristics, the potential for large sites to define their own setting and accommodate higher densities;
- the residential mix and dwelling types proposed in a scheme, taking into account factors such as children's play space provision, school capacity and location;
- the need for the appropriate management and design of refuse/food waste/ recycling and cycle parking facilities; and
- whether proposals are in the types of accessible locations the London Plan considers appropriate for higher density development (eg. town centres, opportunity areas, intensification areas, surplus industrial land, and other large sites).

1.3.52 Where these considerations are satisfactorily addressed, the London Plan provides sufficient flexibility for such higher density schemes to be supported. It should, however, be recognised that this is not an exhaustive list and other more local or site-specific factors may also be given appropriate weight, taking into account the particular characteristics of a proposed development and its impact on the surrounding area.

It was noted that **the applicant** and the **case officer's assessment** gave no regard to any of these **“appropriate circumstances”** or **“site specific factors”** in this case and therefore there were **no quoted considerations or justifications** for **NOT** observing the ranges as stated in **Table 3.2**.

You go on to state that:

“As advised by the NPPF, the weight to be afforded to emerging policy increases as one progresses through a plan making process and from my reading of the documents, it seems pretty clear that the New London Plan will remove reference to the Density Matrix.”

The London Plan EiP asked at **Hearing M39 – Density** at question:

c) Will leaving density to be assessed on a site-by-site basis compared to the matrix in The London Plan of 2011 be effective?

Many representations by participants to the EiP are of the opinion that the density Matrix should be retained in some form. Representations from Catalyst Housing Limited (respondent No. 2837), Friends of the Earth (755), Home Builders Federation (2320), Just Space (2718), London Borough of Barnet (2462), London Borough of Bromley (2593), The London Assembly Planning Committee (2536), London Councils DLP (2601), London Forum of Amenity and Civic Societies (1684), Michael Edwards - Hon Professor (previously Director of the Masters programme in European Property Development and Planning) (3077), Monks Orchard Residents' Association (MORA) (2200), Pat Turnbull (3303), Retirement Housing Consortium (1195), The Highbury Group (3237) and Urban Design London (2600), have all provided written representations to the EiP questioning either the removal of the Density Matrix with some suggesting retention and other suggesting possible changes to the Density Matrix. So, it might be reinstated in some form or other. Some consider the replacement Policy more onerous for LPA's than the current interpretation of the Density matrix. These representations can all be viewed on the EiP website. Therefore, we are not as confident as you that the Matrix will ultimately be removed from the Policy.

The Croydon Local Plan Policy on Design and Character at para **6.37** states:

6.37 *The Croydon Local Plan provides policy on urban design, local character and public realm. However, in line with the National Planning Policy Framework, **there is a need to provide detailed guidance on scale, density massing, height, landscape, layout, materials and access.** This will provide greater clarity for applicants.*

However, the **Croydon Local Plan** does **NOT** provide any “**detailed**” guidance on **scale, density or massing - anywhere** in **DM10 Design and Character** and therefore does **not** meet the new **NPPF para 16d) or para 122 Achieving appropriate densities.**

The new **NPPF Para 16 d)** states:

16. Plans should:

- a) be prepared with the objective of contributing to the achievement of sustainable development¹⁰;
- b) be prepared **positively**, in a way that is aspirational but **deliverable**;
- c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisation's, businesses, infrastructure providers and operators and statutory consultees;
- d) **contain policies that are clearly written and unambiguous**, so it is evident **how a decision maker should react to development proposals**;
- e) be accessible through the use of **digital tools** to assist public involvement and policy presentation; and
- f) **serve a clear purpose**, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).



And; **Achieving appropriate densities:**

- 122.** Planning policies and decisions should support development that makes efficient use of land, taking into account:
- the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;
 - local market conditions and viability;
 - the **availability and capacity of infrastructure and services** – both **existing and proposed** – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;
 - the desirability of maintaining an area's **prevailing character and setting** (including **residential gardens**), or of promoting regeneration and change; and ...

You infer that as the Density Matrix is to be removed, and therefore you imply that it would be inappropriate to determine this application on compliance to the ranges specified in the Density Matrix. In such a scenario this application should therefore have been determined on the complete equivalent **emerging London Plan Policies relevant to Housing Densities.**

The **New London Plan** with **minor modifications (Track Changes in Red)** gives the new Policy for **Optimising Density** which is currently subject to the Examination in Public (EiP) by the Planning Inspectorate and is given at **Policy D6 Optimising Housing Density** and **Policy D2 Delivering Good Design:**

(The main section of the **Policy D6** with the relevant main section of **Policy D2** which are referenced in **Policy D6** are reproduced below for your convenience. There is more supplementary text to further explain both **Policy D6** and **Policy D2** detailing the implementation and evaluation criteria, all of which can be found on the London Plan EiP Website).

Policy D6 Optimising housing density

A Development proposals must make the most efficient use of land and be developed designed at the optimum density. The optimum density processes required by parts A and B of a development should result from Policy D2 Delivering good design set out how a design-led approach to determine will inform the **evaluation of a site's context and help to identify its capacity of the site, for growth.** Particular consideration should be given **to the following evaluation criteria to determine optimal development density:**

- 1) the site context, **including surrounding built form, uses and character;**
- 2) **its the site's** connectivity and accessibility by walking, and cycling, and existing and planned public transport **to jobs and services** (including **both PTAL and access to local services^{28A}**);
- 3) the capacity of surrounding infrastructure **(see Part B)**

Proposed residential development that does not demonstrably optimise the housing density of the site in accordance with this policy should be refused.

B **In preparing Development Plans and area based strategies, boroughs should follow the approach set out in part A to determine the capacity of allocated sites.** The capacity of existing and planned physical, environmental and social infrastructure to support new



development **proposed by Development Plans** should be assessed and, where necessary, improvements to infrastructure capacity should be planned **in infrastructure delivery plans or programmes** to support growth.

- 1) The density of development proposals should be based on, and linked to, the provision of future planned levels of infrastructure rather than existing levels.
- 2) The ability to support **proposed higher** densities through encouraging **increased levels of** active travel should be taken into account.
- 3) Where there is currently insufficient capacity of existing infrastructure to support proposed densities (including the impact of cumulative development), boroughs should work with applicants and infrastructure providers to ensure that sufficient capacity will exist at the appropriate time. This may mean, **in exceptional circumstances**, that **if the** development is contingent on the provision of **the necessary new** infrastructure, **and including** public transport services, **and it will be appropriate** that the development is phased accordingly.

3A) When a proposed development exceeds the capacity identified in a local site allocation or the site is not allocated, and the planned infrastructure capacity will be exceeded, additional infrastructure proportionate to the development should be delivered through the development. This will be identified through an infrastructure assessment during the planning application process, which will have regard to the local infrastructure delivery plan or programme, and CIL contribution that the development will make.

C The higher the density of a development, the greater the level of scrutiny that is required of its design. **For residential development it is** particularly **important to scrutinise** the qualitative aspects of the development design described in Policy D4 Housing quality and standards, and **the its** proposed ongoing management. Development proposals **with a residential component** that are referable to the Mayor must be subject to the particular design scrutiny requirements set out in part F of Policy D2 Delivering good design and **those with a residential component must** submit a management plan if the proposed density is above:

- 1) 110 units per hectare in areas of PTAL 0 to 1; or
- 2) 240 units per hectare in areas of PTAL 2 to 3; or
- 3) 405 units per hectare in areas of PTAL 4 to 6.

D The following measurements of density should be provided for **all planning applications that include new residential units**:

- 1) number of units per hectare
- 2) number of habitable rooms per hectare
- 3) number of bedrooms per hectare
- 4) number of bedspaces per hectare.

E The following additional measurements should be provided for all major planning applications:

- 1) the Floor Area Ratio (total Gross External Area of all floors / site area)



- 2) the Site Coverage Ratio (Gross External Area of ground floors /site area)
- 3) the maximum height in metres above ground level of each building and at Above Ordinance Datum (above sea level).

These built form and massing measures should be considered in relation to the surrounding context to help inform the optimum density of a development.

EA Proposed development that does not demonstrably optimise the density of the site in accordance with this policy should be refused.

However, Policy D6 references out to Policy D2 which gives further guidance on the “Design - Led-Approach”.

Relevant text of Policy D2 - Delivering Good Design (extracts)

3.2.8 The **scrutiny** of a proposed development’s design should cover its **layout, scale, height, density, land uses, materials, architectural treatment, detailing and landscaping**. The **design and access statement** should **explain the approach taken to these design issues and be used to consider if a scheme meets the requirements of Policy D1 London’s form and characteristics** (see also requirements of **Policy D3 Inclusive design**).

3.2.9 It is important that **design quality is maintained throughout the development process** from the granting of planning permission to completion of a development. What happens to a design after planning consent can be instrumental to the success of a project and subsequent quality of a place. Changes to designs after the initial planning permission has been granted are often allowable as minor amendments. However, even minor changes can have a substantial effect on design quality, environmental quality and visual impact. The cumulative effect of amendments can often be significant and should be reviewed holistically. Sufficient design detail needs to be provided in approved drawings and other visuals material, as well as in the wording of planning permissions to ensure clarity over what design has been approved, and to avoid future amendments and value engineering resulting in changes that would be detrimental to the design quality. Assessment of the design of large elements of a development, such as landscaping or building façades, should be undertaken as part of assessing the whole development and not deferred for consideration after planning permission has been granted.

3.2.10 It is generally beneficial to the design quality of a completed development if the architectural design team is involved in the development from start to finish²⁴. Consideration should be given to **securing the design team’s ongoing involvement** as a condition of planning permission, **or** as a design reviewer, **or through an architect retention clause in a legal agreement. where this is not possible**.

At paragraph Para 5.5 the Case Officer’s Report states:

*“... With regards to the London Plan density matrix, the London Plan is currently being revised and the density figures are intended to be removed from the plan. As such, there would be **insufficient grounds for refusal** based on this particular matter.”*

In assuming the current adopted London Plan new draft omits the Density Matrix, the case officer disregards **Policy D6** and its reference to the “*Design Led Approach*” at **Policy D2**, completely therefore considering it insufficient grounds for refusal. However, the new draft **Policy D6** plus **Policy D2** provides a ‘replacement’ policy on **Optimising Housing Density** evaluation by the Design Led Approach replacing Policy 3.4. In suggesting therefore that this gives reason for “*insufficient ground for a refusal,*” the Case Officer is totally disregarding the Density Matrix and most importantly **IS NOT** considering the significant replacement policies on “*Optimising Housing Potential*” embodied in the **Draft New London Plan Policies D6 and D2** and those implications on this proposal.

This is a totally unreasonable and unacceptable assessment in determining the applications. Picking and choosing which parts of current adopted policies or future policies he wants to consider and which parts to ignore is not a very professional way to proceed in determining an application.

We would therefore appreciate a detailed explanation of how the Case Officer interpreted the new emerging complete Policy D6 - Optimising Housing Densities, (and the *Design-Led-Approach* outlined in Policy D2), using what methodology and evaluation criteria to arrive at an acceptance of a Residential Density of 270.27hr/ha in a suburban setting with a PTAL of 1a, when it would have been totally unacceptable using the current adopted London Plan Policy analysis?

You further state:

*“Moreover, in view of the **scale and form of development** proposed and its relationship to neighbouring properties, it is clear to me that it is suitably appropriate for its context.”*

On what grounds are you assessing this “*clear suitability?*” **Policy D6 with the clarification at Policy D2** is quite complicated in its requirements and methodology of assessment and evaluation criteria. Have you any quantifiable evidence or is this just your view you are taking? If so, it is not supported by the policy. In fact, it is more difficult to professionally implement **Policy D6 with Policy D2** than using the **Density Matrix**. It is necessary to analyse all the various particular contributing factors and consider the site and local characteristics and give particular consideration to the evaluation criteria to determine the optimal development density. Not easy! And this reason is given by some representations at the hearing for retention or modification of the Density Matrix.

And this brings us to the next issue on rear garden development at **Policy DM10.4 e) that needs articulating:**

Policy DM10.4 e) states:

e. In the case of development in the grounds of an **existing building** which is **retained**, a **minimum length of 10m** and no less than half or **200m²** (whichever is the smaller) of the existing garden area **is retained for the host property, after the subdivision of the garden.**

You state that:

“You are correct that not all of the rear garden (attached to 22 The Glade) will be 10 metres in depth in view of the angled rear boundary and this occupier’s previous decision to erect a small conservatory within their rear garden (which arguably supplements garden amenity during inclement weather). However, I stand by the view adopted that the amenities retained for the enjoyment of 22 The Glade were satisfactory.”

Not so. The garden begins at the boundary wall of the conservatory. It is not reasonable or acceptable that you are considering the actual garden area was larger prior to building the conservatory or assuming the conservatory is part of the rear garden at the time of the planning application. Any sale literature would consider the garden was the length available for use as a garden, open to the elements – not including the conservatory. The conservatory would be considered as a separate part of the building. So, we can assume and perhaps agree that the retained garden length for 22 The Glade at the “**boundary**” with 20 The Glade is **10m from the house at 22 The Glade**. If the boundary length is **10m**, as the length of the garden is clearly tapered from that point, the actual garden length could **NEVER physically be 10m or more than 10m** and therefore is **NOT compliant to DM10.4 e)**.

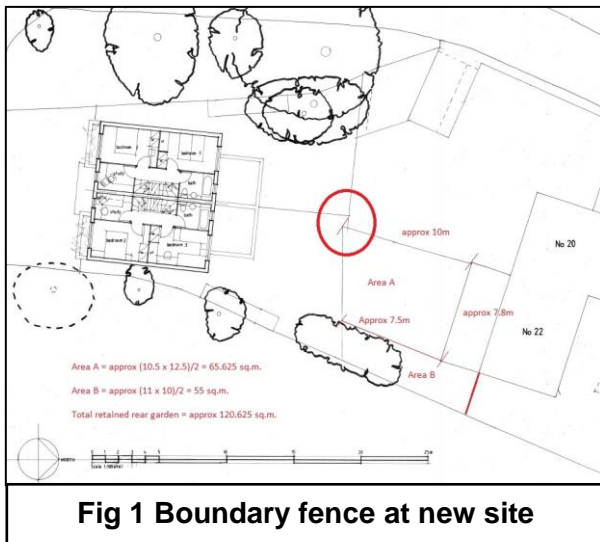


Fig 1 Boundary fence at new site

The applicant's drawing shows a perceptible indentation at the extremity of the intersection of the boundary with the new partitioned site area line to ensure that the retained garden length is ‘**exactly**’ 10m in order to be able to indicate the garden was **10m** in length but this is the length of the boundary fence, not the garden length (Circled See Fig 1). Once you move away from the boundary by **any perceptible** distance, due to the tapering, the length is less than 10m and the further away it is measured the less distance it is and thus the partitioned rear garden is non-compliant to **DM10.4 e)**.

(The ‘approximates’ are stated as these measurements have been established from scaling off the supplied drawing.)

Your assessment that the amenities retained for the enjoyment of 22 The Glade were satisfactory is in contravention to the adopted policy which states *categorically* that the minimum length of the **retained rear garden** should **not be less** than **10metres** in length or less than **200m²** in area, after partitioning. The **partitioned rear garden** is less than **10m** in depth and less than **200m²** in area.

You then state:

“One should also not discount the availability of other garden areas at the disposal of 22 The Glade (namely the front garden) although I appreciate that the scheme involves the relocation of car parking area to the front of this host property. It is also worth noting that the rear gardens of both host properties have become largely disjointed by car parking area and garages to the rear and accessed off the access drive to 25 Glade Gardens. Policy DM10.4 e) also refers to garden areas (not just rear garden areas) which could be inferred to include front and rear gardens; I merely highlight this to infer that policy can be open to interpretation.”

The **only** garden to be **partitioned** is the **rear garden** and the policy states “**after the subdivision of ‘the’ garden**” which by definition is referring to the subdivision of “**the ‘rear’ garden**.” The front garden is **not** being partitioned so from a policy viewpoint is really irrelevant to this consideration.

When scaling off the supplied plans the **retained partitioned garden area** is **≈120m²** which is significantly deficient by approximately **≈80m²** and fails to meet the **Policy DM10.4 e) requirement of 200m² after partitioning**.

I really think your inclusion of the front garden within the context of the policy to the garden area under consideration is clutching at straws for a reason to accept the decision of the case officer. Also, your reference to the use of both front gardens of the host properties are not really relevant to planning

issues for policy **DM10.4 e)**. continually refers to the length and area of the **“retained garden after partitioning”** and for this application, that is the **rear garden**.

Your reference to this analysis that the policy is **“open to interpretation”** is highlighting the Policies **non-compliance** to the **New NPPF para 16 d)** which states Plans should: **contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals; ...**

In Summary therefore, we do not accept your interpretation of the reasons for NOT determining the application on the excessive Residential Density for the suburban locality at a low PTAL of 1a against the current adopted London Plan Policy 3.4 Optimising Housing Potential is acceptable or that if the case officer made a determination against the emerging London Plan Policies, the case officer has not assessed the application on the full emerging London Plan Policy D6 with additional consideration of Policy D2 or furnished any evidence or even considered that the application satisfies the emerging London Plan Policy D6 or D2 on Optimising Housing Density evaluation criteria to ensure the future occupants had appropriate access to public transport infrastructure.

We also do not accept the arguments made relating to the partitioned rear garden. We still contend that the application is non-compliant to **Policy DM10.4 e)** on retained ‘rear’ Garden both in length and area after partitioning, and does not reflect the NPPF or London Plan policy to **RESIST** garden development and as such should have resulted in a refusal to reflect the harm to the local area. This application failed to meet all Planning Policies and should have been refused.

This response has been agreed and authorised by the Full MORA Executive Committee at the committee meeting of 13th March 2019 and also the Chair of the Shirley planning Forum (SPF).

Kind Regards

Derek

Derek Ritson I. Eng. M.I.E.T.

MORA Planning

Representing, supporting and working with the local residents for a better community



Cc:

Sarah Jones MP	Croydon Central
Cllr. Sue Bennett	Shirley North Councillor
Cllr. Richard Chatterjee	Shirley North Councillor
Cllr. Gareth Streeter	Shirley North Councillor

Bcc:

MORA Executive Committee	
Trevor Ashby	Chair - Shirley Planning Forum (SPF)
Interested Parties	