

To: Pete Smith - Head of Development
Management
Complaints Resolution Team
Bernard Weatherill House
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Croydon
CR0 1EA

**Monks Orchard Residents' Association
Planning**

19th August 2019

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Complaint: CAS-73997-G6H8D7 - Escalation to Stage 2.

Dear Mr Smith and Complaints Resolution Team

Thank you for your response of 12th August 2019 to our **Stage 1 CAS-73997-G6H8D7** complaint in respect of the Case Officer's Report and the Planning Committee's decision (at its meeting of 20th June 2019) to grant planning permission for the demolition of existing dwelling and the erection of a 3-storey block, containing 3x3 bedroom houses and 6x2 bedroom apartments with associated access, 9 parking spaces, cycle storage and refuse store. We understand the planning permission Decision Note granting approval was issued on the 3rd July 2019 listing 20 Conditions.

We appreciate your acknowledgement of our complaint but we have a number of concerns regarding your response that we need to challenge and examine in further detail to establish the validity of your assessment. After detailed analysis of your response, our comments to your response are set out below which we would appreciate being raised to a Stage 2 Complaint in accordance with your procedure:

Our original complaint was:

- 1 The failure of interpretation of the current adopted planning policies to ensure cumulative development proposals fully meet the requirements for the localities' existing and planned public transport infrastructure.
- 2 The failure to fully consider the implications of 'Access' limitations which are non-compliant to SPD2 section 29 and the resulting local parking stress.
- 3 The lack of consideration of contribution to Flood Risk into the Chaffinch Brook or to obtain advice from the Chaffinch Brook "Flood Alleviation Study" (FAS) to verify whether the proposal would contribute to increased risk of local flooding and contribute to the Chaffinch Brook culvert and flood risk toward Bywood Avenue.

Your response wording is in red text.

Your response to our Item 1 of this complaint follows:

Findings:

"In many ways these issues have been previously raised and responded to previously, although I appreciate that you have escalated this previous complaint to Stage 2."

You are referring to our Complaint Stage 2: CASE 79367-X3T0W3 - 32 Woodmere Ave.

"S70(2) of the Town and Country Planning Act 1990 advises that in dealing with an application for planning permission, the authority shall have regard to the provisions of the development plan, in so far as it is material to the application and any other material considerations. As you will be aware, in Croydon the development plan comprises the London Plan — Consolidated with Amendments (2015) the Croydon Local Plan (2018) and the South London Waste Plan (2012)."

"We are obliged to determine applications in accordance with the development plan (considered as a whole) unless other material considerations indicate otherwise. The Supplementary Planning Documents, including the London Mayoral Housing SPG and the Council's own Suburban Design Guide SPD, do not enjoy the same weight as the various constituents of the development plan and are treated as other material planning considerations. As the titles suggest, they merely provide guidance in support of development plan policy and do not enjoy the weight of S70(2) of the 1990 Act."

This section S70 (2) of the Town & Country Planning Act (1990) is set out below:

Town and Country Planning Act 1990

70 Determination of applications: general considerations.

- (2) In dealing with such an application the authority shall have regard [F²to—
- (a) the provisions of the development plan, so far as material to the application,
 - (b) any local finance considerations, so far as material to the application, and
 - (c) any other material considerations.]

The interpretation of Para 70 (2) of the Act indicates general considerations as regards to sub sections (a), (b) and (c). The only interpretation of weight is given by the order of the list but NOT by any significantly identified weighting factor against each of (a), (b) and/or (c) except the order in which they are listed. Para 70 (2) does not state any significant difference between (a), (b) and/or (c). So realistically any material considerations have virtually similar weight as the development plan (a) or financial considerations (b) or any other (c), if they are material to a proposal.

If the SPGs have minimal weight the important content of SPGs should be embodied in the Local Plan. Also, why produce SPG's if they are not considered of sufficient material weight to influence decisions. The SPG guidance must have some relevance and therefore some influence on the decision-making process otherwise why produce, at great expense, a document that purports to give guidance but is ultimately ignored or has no authoritative status?

Housing Density Matrix

The Housing Density Matrix was introduced as part of the First London Plan back in 2004, well before the introduction of the National Planning Policy Framework and the realisation of the current pressures being placed on London Boroughs to deliver exceptionally challenging housing targets — and maintaining a 5-year housing supply for the foreseeable future. It has been long considered that the Housing Density Matrix is no longer fit for purpose and whilst it is appreciated that it remains part of the London Plan (in its current iteration) its weight (as a material planning consideration) is relatively limited. As you will be aware, the supporting text advises that a consideration of housing density is only the start of planning housing development; not the end and it would be unacceptable to apply the density matrix mechanically.

It is understood therefore that you are obliged to determine applications in accordance with the development plan unless other material considerations indicate otherwise which currently includes the Density Matrix at Policy 3.4 Optimising Housing Developments. If the Density Matrix is no longer “fit for purpose” and should be disregarded, we consider the lack of foresight incredibly unprofessional in not having prepared for an alternative policy strategy of which the obvious alternative is to prepare to adopt the emerging replacement London Plan Policy – to be considered as the new guidance to be followed, as otherwise there is a void in policy and no available policy to give guidance on the suitability or acceptability levels of density for any offered proposal as required by **NPPF para 16 d)** and **NPPF para 122 “Achieving Appropriate Densities.”**

We do not believe it is professional to disregard the current policy without filling the void with a considered acceptable replacement effective policy with a methodology and a detailed implementation evaluation criterion to establish appropriate Housing and Residential Densities for localities during this transitional iteration period of Development Plans as required by **NPPF para 16 d)** and **NPPF para 122 Achieving Appropriate Densities** and as advised by **NPPF para 48**.

The current status of the emerging Draft London Plan is the consolidated changes version– (Clean) dated July 2019 draft replacement Policy D1A Infrastructure requirements for sustainable densities and Policy D1B Optimising site capacity through the design-led approach (replacing previous draft Policy D6). These should be considered as a proposed replacement policy, including the requirement of defining a new methodology and evaluation criteria to meet the requirements of the new Policy objectives as set out in Draft **Policy D1** - London’s form, character and capacity for growth, **Policy D2** - Delivering good design, **Policy D3** - Inclusive design & **Policy D4** - Housing quality and standards. (Policy D6 has been subsumed into these policies).

As we are aware, and as you have stated, the supporting text advises that a consideration of housing density is only the start of planning housing development; not the end and it would be unacceptable to apply the density matrix mechanically. However, it is inappropriate to disregard the policy without having a replacement Policy that reflects current thinking.

If you have long considered that the Housing Density Matrix is no longer fit for purpose, why haven’t you established an alternative policy which meets the requirements of **NPPF Paragraph 16 d** and **Paragraph 122 – Achieving Appropriate Densities?**

Which State:

16. Plans should:

- d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;

and;

Achieving appropriate densities

122. Planning policies and decisions should support development that makes efficient use of land, taking into account:

- c) **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;**
- d) the desirability of maintaining an **area’s prevailing character and setting** (including residential gardens), or of promoting regeneration and change; ...

The situation currently therefore, is that there is **NO** policy to determine the acceptable (or unacceptable) **Residential Densities** and/or **Housing Densities** for any **Place Specific** or **designated locality** in Croydon which, from a development management perspective is both unacceptable and **in breach** of **NPPF para 16 d and NPPF para 122.**

Comparison of Pegasus 18a Fairhaven Ave with 16a Fairhaven Ave applications:

You state:

“It is interesting and helpful that you have referred to the previous planning permission granted in respect of 16A Fairhaven Avenue which, in my view, gives a strong indication as to the acceptability of the consented scheme at 18A Fairhaven Avenue and arguably, could have been included (as relevant planning history) as part of the officer’s report and taken into consideration in further justifying a grant of planning permission. Incidentally, the case you have referred to (LBC Ref 07/01681/P) was in fact refused planning permission; the planning permission (for 5 houses) was granted planning permission in 2006 (LBC Ref 06/04589/P) and appears to be what is now in place.”

Reference	07/01681/P
Address	16-16A Fairhaven Avenue, 22 Gwynne Avenue, Croydon, CR0
Proposal	Demolition of the existing building; erection of six three-bedroom terraced houses ; formation of vehicular access and provision of associated parking
Status	Decided
Decision	Permission Refused

Reference	06/04589/P
Address	16A Fairhaven Avenue, Croydon, CR0
Proposal	Demolition of existing building; erection of 5 three-bedroom terraced houses ; formation of access road and provision of associated parking spaces
Status	Decided
Decision	Permission Granted

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There are no supporting Documents on the on-line public register for both applications to give further evidence.

Your Correction actually confirms our argument to an even greater extent as, although our quoted application **Ref: 07/01681/P** was refused, the approved application **Ref: 06/04589/P** planning permission was for **5** three bedroomed houses not **6** as quoted for Ref:07/01681/P.

However, the **comparison made was valid** as the granted version had only **5 x 3 bedroomed** dwellings rather than **6** as stated in our initial comparison submission and for **25** occupants rather than **30** which gives an analysis on a **much-reduced site area**:

<p>16a Fairhaven Ave. Ref: 06/04589/P</p> <ul style="list-style-type: none"> • 5 x 3 bed houses (5 dwellings) • Site area ≈0.12ha • Housing Density = 41.66 u/ha • Residential Density = 208.33 hr/ha • Occupants/ha = 208.33 bs/ha • Access Drive width = 3.72m • SPD2 Access req'd = 3.6m 	<p>Pegasus 18a Fairhaven Ave Ref: 19/01761/FUL</p> <ul style="list-style-type: none"> • 6 Flats and 3 Houses (9 Dwellings) • Site Area = 0.1071ha • Housing Density 84.03 u/ha • Residential Density = 280.11 hr/ha • Occupants/ha = 308 bs/ha • Access Drive width = 2.75m • SPD2 Access req'd = 3.6m
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And when compared shows that:

	16a Fairhaven Ave	18a Fairhaven Ave	Percentage difference
Ref:	06/04589/P	19/01761/FUL	
Dwellings	5	9	+80%
Site Area (ha)	≈0.12ha	0.1071ha	-10.75%
Housing Density	≈41.66 u/ha	84.034 u/ha	+101.713%
Residential Density	≈ 208.33 hr/ha	280.11 hr/ha	+34.455%
Occupants	25	30	+20%
Occupants/ha	208.33 bs/ha	280.11 bs/ha	+34.455%
Access Drive width	3.72m	2.75m	-26.075%
SPD2 Access	3.6m	3.6m	-23.6%

So, for a **≈10% decrease** in site area, has an excess of **100%** in **Housing Density** and close on **35%** increase in **Residential Density** at **18a Fairhaven Ave** compared with the Development at **16a Fairhaven Ave** which is evident of **significant dissimilarity between the two approvals**.

18a Fairhaven Ave. was approved on the basis that **16a & 18a “looked similar”!**
 This is not a professional conclusion to draw when the two properties have such divergent site areas, densities and occupants, but it is typical of the vague and subjective measures that are now being used to determine development acceptability. It underlines the importance that appearance should not be an overriding determinative factor when judging acceptability.

You further state:

“This previous planning permission gives a clear indication as the acceptability of higher densities and with the increased expectation across all tiers of Government to deliver on housing targets, it is perfectly reasonable to accept the principle of even higher densities and especially flatted accommodation alongside replacement family accommodation as part of the mix. I have no problem whatsoever with this form of this development — when assessed against prevailing character and appearance.”

It is our understanding that the acceptable required increased density Policy definition is a responsibility of the LPA Planning Departments, however, the acceptability of higher densities should have a limit of some degree irrespective of appearance of a development as the Densities should be related to supporting infrastructure NOT whether a proposal looks appropriate to a locality. This is required in order to meet the guidance of **NPPF 16 d)** and **NPPF 122**. Currently if the Density Matrix is no longer fit for purpose, there is absolutely no guidance whatsoever.

As a Professional Planning Officer, this would be a Croydon Planner’s Responsibility to define the acceptable (and unacceptable) levels of Housing and Residential Densities for the various designated areas of Croydon appropriate for the localities available and forecast infrastructure and supporting services as there is extreme pressure to increase densities and without any appropriate guidance, it is not possible to manage development proposals within the scope of available infrastructure and acceptable limits as required by the NPPF.

We accept that development proposals might need to have increased densities but they should not be unrestricted increases, inappropriate for the locality and the **supporting infrastructure**. If there are no policies to restrict or provide guidance to maintain development within acceptable constraints to meet a locality **supporting infrastructure** – what actually is the purpose of a **“Development Management” Planning Department?**

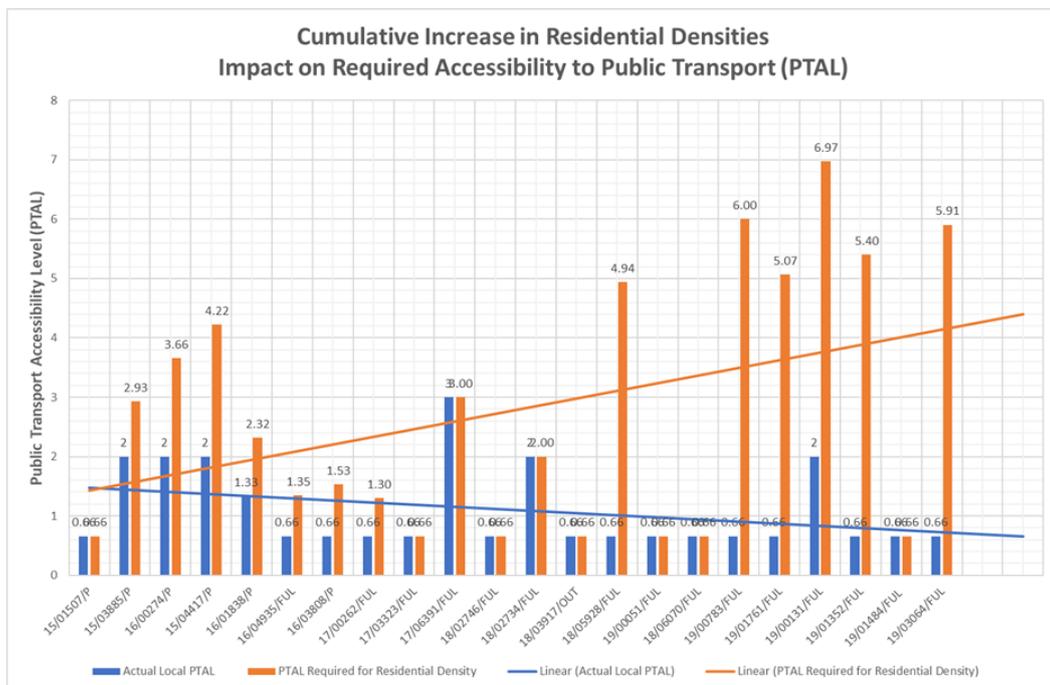


Illustration of excessive PTAL Requirement above the Local available PTAL due to Increased Densities of Applications in the MORA Post Code Area showing the ongoing PTAL linear trend requirement.

You continue:

“I think it is also worth acknowledging the interplay between the various development plan documents — especially as they tend to be adopted at different times — with the weight afforded to policies changing over time. As I have highlighted on a number of occasions, the delivery of additional housing is now of primary importance and we are firmly of the view that the density of such housing is of lesser significance (albeit within reason).”

Are you actually stating that Delivery of housing, irrespective of appropriateness, is of a higher priority than the availability of any supporting infrastructure, and that future occupants can put up with a degradation of transport facilities, health service provision and other support services? – This is surely not reflecting the guidance of the **NPPF!** There **MUST** be some balance and guidance as otherwise, **what is the purpose of a Planning Department?**

The various development plan documents and their iterations are all evolving at different times and by different authorities and therefore it should be feasible to have some level of co-ordination and adaption between the progress of iterations and emerging policy definitions. Have you had any representation at the London Plan EiP?

It is extremely unprofessional to allow Policy vacuums between iterations of Local and National Development Plans which allows uncontrolled development proposals to be approved only because there is no current enforceable agreed adopted policy to refuse an inappropriate proposal which could subsequently withstand a challenge – as the policy is devoid of reason for enforcement.

We all accept that delivery of more homes is necessary – however it is abundantly clear that this administration need to gain the confidence and support of not only MORA residents – but all Croydon Residents to fulfil the targets and provide the much-needed affordable homes. To gain that confidence and support, there needs to be a recognition that development proposals **MUST** meet the policy definitions and those Policies **MUST** be reasonable and acceptable to the local population. Failure to do so generates extreme hostility and lack of public confidence in the Planning process within the community. There seems to be little effort to engage with the community to assist this endeavour. The attitude of the Planning Committee is very abrasive and confrontational.

The London Plan Policy 3.4 Table 3.2 is the only guidance available at present and without guidance it appears to be a race to the bottom regarding analysis of appropriate densities within available PTAL ratings. Developers are taking advantage of a void in Policy and putting forward proposals that excessively exceed current adopted policy in the full knowledge that a replacement emerging policy has not yet been adopted.

So, what **“site specific factors are so significant”** to have given sufficient weight for this proposal at the lowest **PTAL of 1a** at recommended **Residential Density** in the broad range of **150 to 200hr/ha** to allow a Residential Density of **280.11hr/ha** which requires a **PTAL of 5.07** – in the highest range possible or a **Housing Density** at **PTAL 1a** with recommended range of **40 to 65u/ha** to be actually at **84.03u/ha** requiring a **PTAL of 4.97** – again in the highest range **4 to 6?** (See Table 3.2 below)

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=0.66)	2 to 3	4 to 6 (RD 5.07 HD 4.97)
Suburban	150–200 hr/ha (≈183hr/ha)	150–250 hr/ha	200–350 hr/ha (280.11 hr/ha)
3.8–4.6 hr/unit	35–55 u/ha	35–65 u/ha	45–90 u/ha
3.1–3.7 hr/unit (3.33 hr/u)	40–65 u/ha (≈56.5u/ha)	40–80 u/ha	55–115 u/ha (84.03 u/ha)
2.7–3.0 hr/unit	50–75 u/ha	50–95 u/ha	70–130 u/ha

Table 3.2 for proposed development at 18a Fairhaven Ave.
Red actual proposal, **Blue** recommended values at PTAL 1a

You further state:

“The London Mayor was satisfied that the Croydon Local Plan 2018, with its ambitious housing targets and 10,000 new units being delivered through the development of windfall sites, was in conformity with the London Plan (even with the London Density Matrix in place) and the appointed Planning Inspector found that the Croydon Local Plan passed the various “tests of soundness”. Bearing in mind that most suburban areas of Croydon are characterised by low PTALs and exhibit lower density characteristics, it is inevitable that densities will need to increase to ensure that we deliver the housing expected on windfall sites. The London Mayor now understands and is keen to adopt this approach (as a means to deliver more housing in the suburbs) which is one of the main reasons why the current New London Plan seeks to remove the Housing Density Matrix”.

The London Mayor is understandably very satisfied with the London Borough of Croydon who have given unqualified compliance without challenge to the very high volume of housing targets compared to other outer London Boroughs as the examples below illustrate:

Your point about Targets set by the Mayor of London has been raised previously in MORA submissions to the Mayor’s Examination in Public (EiP) of the new draft London Plan and in representations that targets have been set based upon the availability of existing public transport infrastructure and not on ratios of area or current populations.

For example, **Bromley** has nearly three times the area of **Croydon** and **>14% less population** but has an **approximate 52% lower target** than **Croydon** which seems a bit imbalanced. (See Table 4.1 – Draft London Plan). We understand the reason for this imbalance is that Croydon has much better transport links than other London boroughs - but if that is the reason, this imbalance will never be rectified until other Outer London boroughs’ transport links are improved! That should be the emphasis and reflected within the targets set as the current rate of uncontrolled intensification of developments will destroy the pleasant local environment of suburban Croydon for future generations.

Extract Table 4.1: 10-year targets for net housing completions (2019/20 -2028/29)

Planning Authority	Ten-year Housing Target	Annualised average
Bromley	14,240	1,424
Sutton	9,390	939
Croydon	29,490	2,949

Planning Authority	Area in sq. km.	Population (2017)
Bromley	150.15	329,391
Sutton	43.85	203,243
Croydon	86.52	384,837

Local Authority	LA Comparison	Area (sq.km.)	Population
Croydon	Bromley	+73.544%	-14.408%
Croydon	Sutton	-49.318%	-47.187%

You continue:

“When determining planning applications, it is important that the decision-taker considers the development plan as a whole, recognising that some policy considerations might not totally align with other policy issues and approaches. It is for this reason why some decisions are taken in the balance, with greater weight being given to certain consideration over others. In most cases we feel that the need to deliver more housing should reasonably counter density considerations (unless serious harm is caused by the scale of development for whatever reason). Of the schemes determined in Shirley, we are satisfied that we have struck the appropriate balance and are satisfied with the scale and effects of the flatted schemes granted to date. I appreciate that this might run counter to your own position (and those of Shirley residents) but I stand by our recommendations to grant planning permission and the eventual decision (invariably taken by the Council’s Planning Committee).”

As a professional Planner, on **“what grounds or indices”** are you are **“satisfied that you have struck the appropriate balance”** and that you are satisfied with the scale and effects of these recent flatted schemes thus far granted approval if there is **no policy guidance of which you can quote?**

You then continue to discuss Car Parking; we only challenged the Access to the development and parking stress in the locality.

Car Parking and Sustainable Transport

“This scheme was accompanied by 1-1 on site car parking and in such circumstances, we do not generally require car parking stress test to be undertaken. The officer’s report is quite clear as to the maximum level of car parking that would be deemed acceptable (10.5 spaces) and we were entirely satisfied with 1-1 on site car parking in this case. Residents need to recognise that reliance on more than one car per household is no longer sustainable and planning policy does not support such provision (even in low PTAL areas). Planning policy supports greater use of cycling and walking and areas such as Shirley are not particularly constrained by topography. The scheme accommodated



space for bicycle storage and I am sure that future residents moving into these homes will recognise existing highway conditions and the availability of parking on street when making their choice to purchase and whether to rely (exclusively) on use of the private car(s)."

The parking policies are not realistic as there is no legislation to prevent ownership of a private car or ownership of a commercial vehicle for occupants' business activities, irrespective of your preferred parking policies. Occupants can purchase a vehicle whether they have on-site parking provision or otherwise, they just park the vehicle wherever they can which is likely in the closest proximity neighbourhood on-street (road-side parking) which cumulatively causes traffic congestion within the locality.

The problem with current policies are that not only do you NOT allow adequate Parking provision, you also fail to provide an acceptable access to **Public Transport Infrastructure** (see histogram above) which is another reason to consider – why have a Planning Department if there are no effectual Planning Policies to actually manage these important requirements?

Your response to our Item 2 of this complaint follows:

Emergency Access

"I appreciate that the proposed access onto the site would be relatively narrow (and is narrower than the access width outlined in the Suburban Design Guide). This issue was fully explained and explored in the officer's report, was raised as an issue at Planning Committee and was suitably dealt with. We were content that vehicles would be able to turn on site and exit safely into Fairhaven Avenue in forward gear. Access for emergency vehicles is a matter for Building Regulations and I reasonably confident that the issue will be able to be satisfactorily accommodated at this later stage of the development process. However, if matters are unable to be resolved without changes to the scheme granted planning permission, the developer may well need to submit amended plans to the local planning authority for our consideration".

If Building Control do not accept the width – how does the applicant become aware and what if the applicant appeals against the Building Control objection? A new application won't change the available access width as that is predetermined by adjacent property ownership.

Planning permission has been granted to flatted schemes without adequate access for emergency service vehicles. This is a dangerous precedent which has been set, and has implications for the safety of future occupants of those developments for the lifetime of the development. We are keeping records of these complaints and their responses such that evidence can be provided at any inquiry on any incidents that occur in future for any of these development approvals.

Your response to our Item 3 of this complaint follows:

Flood Risk

"I accept that the site is susceptible to surface water flooding and I apologise that the officer's report failed to make this suitably clear. Whilst the submitted floor risk assessment also provided limited information, the applicant did submit a surface water assessment — along with proposed mitigation measure to manage any surface water

flooding issues. The decision to grant planning permission was taken subject to the imposition of a planning condition, requiring the provision of sustainable urban drainage techniques on site and this will need to be assessed in more detail at conditions discharge stage."

"Moreover, condition 19 (attached to the planning permission) requires the submission of finished floor levels to deal with the mitigation of any surface water flood risk — linked to the adopted SUDs strategy which covered the points raised by Councillor Scott and acknowledged by officers."

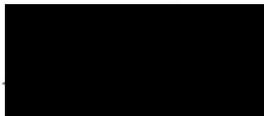
However, you have not addressed the reason why the Case Officer did NOT obtain any advice or guidance from the Chaffinch Brook Flood Alleviation Study which is currently studying The Chaffinch Brook catchment area which is a complex system of rivers and ordinary watercourses. It is important to understand how and why local flooding happens. AECOM, a consultancy firm is conducting a study on behalf of Croydon Council and Bromley Council that will look into the causes and impact of flooding. By collecting data about flood risk from people who live/work/visit the study area, they will endeavour to identify potentially affordable and viable solutions that could improve the management of the flood risk.

Why did the Case Officer fail to engage with the **Chaffinch Brook Flood Alleviation Study** to ascertain whether this proposed development would create any adverse effects to the local area surface water or Chaffinch Brook culvert management of surface or drainage water, prior to making a recommendation or determination? This application will possibly have implications on this study and, as we requested in our submission, it would have been sensible to have received their assessment prior to making a recommendation or determination.

Please consider this response as an escalation to Stage 2 of our complaint **Ref: CAS-73997-G6H8D7**.

This response has been agreed and authorised by the MORA Executive Committee at their Executive Committee Meeting on 14th August 2019.

Kind Regards



Derek (MORA Planning Adviser).

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

MORA Planning



Sony Nair

Chairman, Monks Orchard Residents' Association.

On behalf of the Executive Committee, MORA members and local residents.

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



Cc:

Sarah Jones MP	Croydon Central (Shadow Housing Minister)
Mr Pete Smith	Head of Development Management
Steve O'Connell	GLA Member (Croydon & Sutton)
Cllr. Sue Bennett	Shirley North Councillor
Cllr. Richard Chatterjee	Shirley North Councillor
Cllr. Gareth Streeter	Shirley North Councillor

Bcc:

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