

To: Complaints Department
London Borough of Croydon
Bernard Weatherill House
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**Monks Orchard Residents' Association
Planning**

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17th October 2019
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Stage 1 Complaint – Planning Approval Ref: 19/03064/FUL - 37 Woodmere Avenue, Croydon, CR0 7PB.

Dear Sir/Madam

Please consider this letter as a formal **Stage 1 Complaint** against the approval at Planning Committee on **26th September** 2019 of Planning Application **Reference 19/03064/FUL** at **37 Woodmere Avenue**, Croydon CR0 7PB – for Demolition of existing dwelling; Erection of two storey building (with roof-space accommodation) comprising 8 flats (1 x 3 bed, 5 x 2 bed and 2 x 1 bed) with associated car parking, private and communal amenity space and cycle and waste/recycling stores.

Our Complaint comprises the following issues:

- 1 Failure to apply the current adopted London Plan Policy 3.4 to Optimise the Housing Potential in accordance with the Policy on Residential and Housing Density appropriate for the locality at a suburban setting and at PTAL of 1a. Based upon a false determination of Residential Density by incorrect analysis of number of Habitable Rooms.
- 2 Failure to consider the overbearing nature of the proposed development to 2b Tower View with regard to Policy SPD2 Figure 2.11c: Height of projection beyond the rear of neighbouring properties to be no greater than 45 degrees as measured from the middle of the window of the closest habitable room on the rear elevation of the neighbouring property.
- 3 Failure to consider the unreasonable closeness of facing windows at Unit 1 overlooking and invasion of privacy toward (bedroom) window at the adjacent bungalow at 2b Tower View at separating distance of 5.25m.
- 4 Overbearing massing of proposed development in relation to surrounding properties.
- 5 Infraction of Planning Policies on grounds that it is more imperative to meet housing targets than to countenance and implement adopted Planning Policies.

Complaint #1: Failure to apply the current adopted London Plan Policy 3.4 to Optimise the Housing Potential in accordance with the Policy on Residential and Housing Density appropriate for the locality at a suburban setting and at PTAL of 1a. Based upon a false determination of Residential Density by incorrect analysis of number of Habitable Rooms.

The Planning Policy to mitigate over-development for a locality is the current adopted London Plan Policy 3.4 Optimising housing potential in a locality relating to the setting and Public Transport Accessibility. The current cumulative effect of overdevelopments is having a significant detrimental effect on the local community with lack of provision of supporting infrastructure.

The allowed cumulative increase of Housing and Residential Densities for the locality at low PTALs, without reasonable justification, is overdevelopment of the sites and does NOT meet the policy as defined by the London Plan Supplementary Planning Guidance (Housing) as set out in Paragraphs 1.3.50 to 1.3.55.

The Case Officer's Report States:

8.5 In relation to density, Policy 3.4 of the London Plan indicates that in suburban areas with Public Transport Accessibility Levels (PTALs) of 0-1, an appropriate density equates to 150-200 habitable rooms per hectare (hr/ha).

*8.6 The application proposes 22 habitable rooms on a site with an area of 0.0875ha, which equates to a density of **251hr/ha**, which falls slightly above threshold (NOTE: A number of the representations submitted have incorrectly used number of future occupants (26) rather than number of habitable rooms (22) in their density calculations). Notwithstanding, the density of the development is still slightly higher than that recommended by **Policy 3.4** of the London Plan.*

This calculation of Residential Density is incorrect and is based upon an assumption that the **Kitchen/Dining/Living** accommodation for each flat is classed as **one single habitable room** (giving a total for the proposal of **22 habitable rooms**) rather than classed as designated separate **living** and **Dining areas** as two separate functional areas **as specified on the supplied plans**. The assumption being that, as there are no separating partitions to define the separate functional areas, they are considered by the case officer as a single habitable room.

This configuration remains that these are realistically two functional separated habitable areas (excluding the kitchen) as actually identified on the supplied plans and therefore should be considered as **two habitable rooms**, and a kitchen (The Kitchen is not defined as a Habitable room) giving the total for the proposed development of **30 habitable rooms** which converts to a **Residential Density** of $30/0.0875 = 342.86hr/ha$, significantly above the threshold of 150-200hr/ha rather than the **251.42hr/ha** that the case officer assumes.

Therefore, we challenge the case officer's assumption that the Residential Density is **251.42hr/ha** when in fact it should equate to **342.86hr/ha** and used as such when considering the appropriate **Residential Density** for the locality at a **suburban setting** and **PTAL 1a** as defined in **London Plan Policy 3.4 Table 3.2**.

The Case Officers Report Continues:

8.7 However, it is noted that in the subtext of Policy 3.4 it states that a rigorous appreciation of housing density is crucial to realising the optimum potential of sites, but it is only the start of planning housing development, not the end. It is not appropriate to apply it (the density matrix) mechanistically.

The Case Officer states that it is not appropriate to apply **Table 3.2 mechanistically** and that it is necessary to take account of **other factors** relevant to Optimising potential such as the local context and design.

These “**other factors**” are set out in the **London Plan Supplementary Planning Guidance** at paragraph **1.3.8** which states:

“guidance on considering schemes above or below the ranges in the density matrix is provided below in paras 1.3.50 to 1.3.55.”

Developments above the density ranges:

Para 1.3.50 ...“as confirmed in section 1.1, meeting London's housing requirements will necessitate residential densities to be optimised in appropriate locations with **good public transport access**. Consequently, the London Plan recognises the particular scope for higher density residential and mixed-use development in **town centres, opportunity areas and intensification areas, surplus industrial land and other large sites**¹⁰³. in addition, the Plan confirms that the housing SPG will provide general and geographically *specific guidance on the justified, exceptional circumstances* where the density ranges **may be exceeded**¹⁰⁴.”

SPG Housing (2016) Para 1.3.51 states:

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 livability, 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 (e.g. 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.

This proposal has a significant increase in footprint and mass compared to any local surrounding property and therefore does **NOT** respect the character of the locality of mainly detached, semi-detached houses and bungalows by any stretch of the imagination and therefore does **significantly** impact on the local amenity.

These "**exceptional circumstances**" for approval did not include any of the provisions of SPG paras 1.3.50 to 1.3.52 with regard to:

- The proposal is **NOT** in a "*town centre, opportunity areas or an intensification area, or is surplus industrial land or other large sites*"¹⁰³
- Did not consider "*planned public transport connectivity (PTAL)*"
- Did not consider the loss of "*residential and environmental quality*"
- Did not consider the "*scheme's overall contribution to local 'place making'*"
- Did not consider "*the residential mix and dwelling types proposed in a scheme, taking into account factors such as (designated area in m²) for children's play space provision, school capacity and location;*"
- Did Not consider whether "*the proposal is in the types of accessible location the London Plan considers appropriate for **higher density development** (e.g. the proposal is NOT in a **town centre, opportunity area, intensification area, or surplus industrial land, or other large sites**).*"

The case officer has **NOT** provided **any substantial justification** for not meeting the **London Plan Policy 3.4 table 3.2 Sustainable Residential Quality (SRQ) Density Matrix (Habitable Rooms and dwellings per hectare)**.

The calculations supporting the figures shown in the Table 3.2 below are detailed in our submission dated 23rd July 2019.

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 <i>(1a = 0.66)</i>	2 to 3	4 to 6 RD(5.9) & HD(4.7)
Suburban	150–200 hr/ha <i>(183 hr/ha)</i>	150–250 hr/ha	200–350 hr/ha (342.86 hr/ha)
3.8–4.6 hr/unit <i>(3.75hr/u)</i>	35–55 u/ha	35–65 u/ha	45–90 u/ha
3.1–3.7 hr/unit <i>(56.5 u/ha)</i>	40–65 u/ha	40–80 u/ha	55–115 u/ha (91.43u/ha)
2.7–3.0 hr/unit	50–75 u/ha	50–95 u/ha	70–130 u/ha

Red Text this proposal, **Blue** Text Policy Recommendation

The locality has had significant cumulative increased densities but has NOT seen any improvement of infrastructure and any Community Infrastructure Levy (CIL) has NOT contributed to the improvement of local lack of Infrastructure or Services.

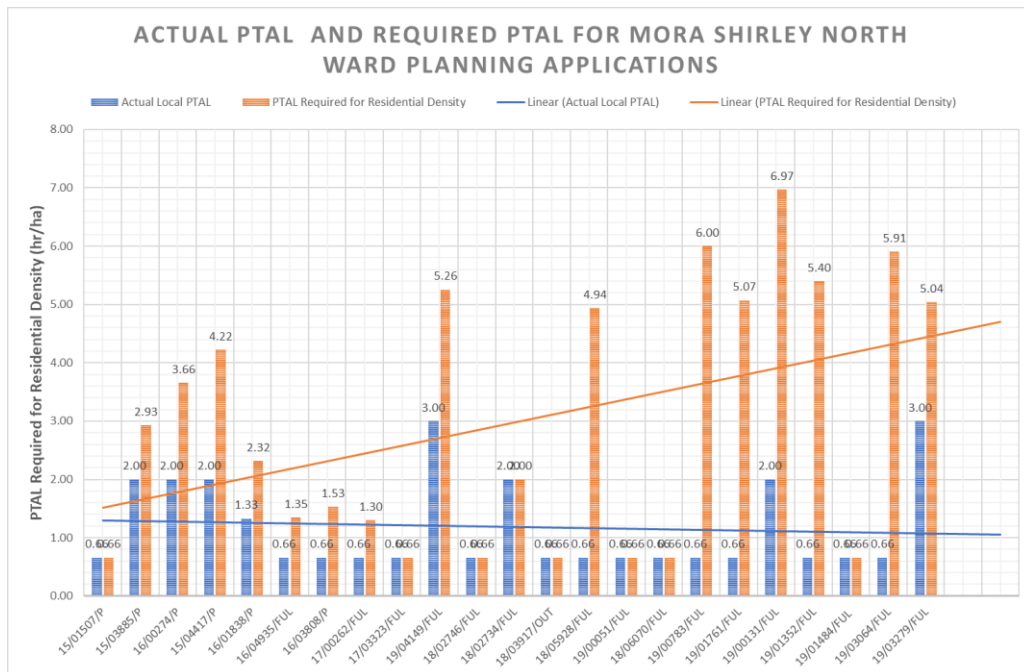


Illustration of excessive PTAL Requirement above the Local PTAL available for Approved Applications in the MORA Post Code Area

Also, the Shirley North Ward has not visibly seen **any** infrastructure improvement over the previous decade as a result of cumulative CIL contributions for any of the recent approved applications which have significantly increased local Densities, inappropriate for the local available Public Transport Accessibility (PTAL). In addition, during this period, two GP Surgeries have closed for Shirley Residents, one in the Shirley North Ward and one in the Shirley South Ward and the increase in population has exacerbated access availability to GP surgeries, appointments and waiting times.

If the appropriate Housing and Residential Densities are NOT observed, Public Transport becomes oversubscribed at the higher density localities and cannot meet the required demand and the route becomes overcrowded. The Monks Orchard Residents' Association Post Code Area has a single bus route 367 and is a single decker service through a residential area, within a road network which is not suitable for large double decker buses. The passenger capacity is limited and infrequent and the buses get full at the sites of inappropriate high residential densities such that, as the bus travels through the residential area, the route becomes full to capacity during busy periods. As the service is only 20min intervals at best, these waiting passengers become frustrated and eventually resort to other means of transport which is likely their personal car which is a significant waste of available road space for only one driver and thus contributes to local traffic congestion.

Where is the "Planned Increase in Infrastructure" from any of these recent CIL contributions?

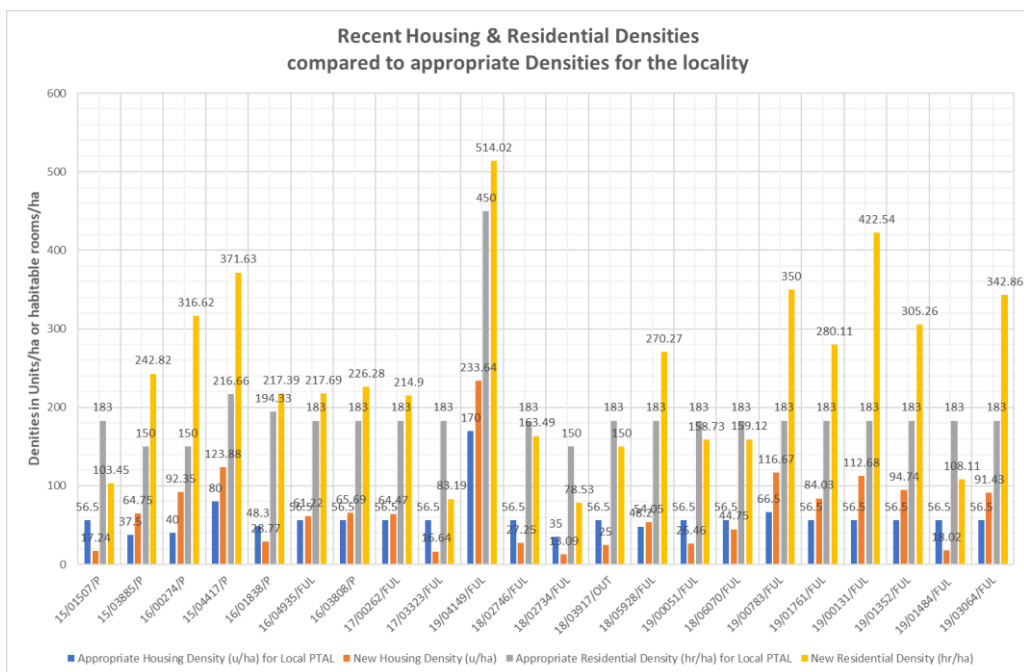


Illustration of excessive Housing and Residential Densities for Approved Applications in the MORA Post Code Area

TfL are NOT proposing to improve public transport accessibility at this location prior to 2031. The cumulative uncontrolled high Residential Density developments cumulatively increases public transport occupancy to the extent that further usage is limited by capacity and users revert to other means of transport – their car.

What are the **"site specific factors which are so significant"** to have given **sufficient weight** for this proposal, at the lowest **PTAL of 1a** and recommended **Residential Density** in the broad range of **150 to 200hr/ha** to allow a **Density of 342.86hr/ha** which requires a **PTAL of 5.9** – in the highest range? OR a **Housing Density at PTAL 1a** with a recommended range of **40 to 65u/ha** to be actually **91.43u/ha** requiring a **PTAL of 4.7** – in the highest range **PTAL of 4 to 6?** (See Table 3.2 above).

Croydon Local Plan Policy 6.41 States:

National Planning Policy Framework in paragraph 50 encourages local authorities to plan for the delivery for a wide choice of high-quality homes and sustainable communities. It advises that in doing so, development plans should be based on **evidence of local needs and demands**. The notions of balance and risk are also recognised in the **National Planning Policy Framework**, which states that the **cumulative impact of standards and policies** should not put the **implementation of the plan at serious risk** (NPPF March 2012 paragraph 174).

NPPF 2019 para 49 & 180 state:

49. However, in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

- a) the development proposed is so substantial, or its **cumulative effect** would be so significant, that to **grant permission would undermine the plan-making process** by predetermining decisions about the **scale, location or phasing** of new development that are central to an emerging plan; and ...

180. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (**including cumulative effects**) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the **wider area to impacts that could arise from the development**.

Therefore, the **cumulative effect of not observing the London Plan Policy 3.4 – Optimising Housing Potential** and granting approval for this application is an **over development for the locality** and there are **no extenuating circumstances**, as defined in **SPG Housing para 1.3.50** for not meeting the broad ranges of Table 3.2. If this is the interpretation of the London Plan Policy 3.4 then its guidance is worthless as its guidance is being totally ignored. The main problem is that the local infrastructure to support the proposal is NOT available and is getting worse. TfL are not planning increased public transport locally as PTAL is forecast to remain at 1a up until 2031.

The responsibility of “**Development Management**” should be to actually “**manage**” increases in population densities and their implications on the wider aspects of neighbourhoods, and not to just assess each individual planning application in isolation of these issues. Development Management is simply assessing each application individually in total isolation of the implications on the wider community availability of public services and infrastructure.

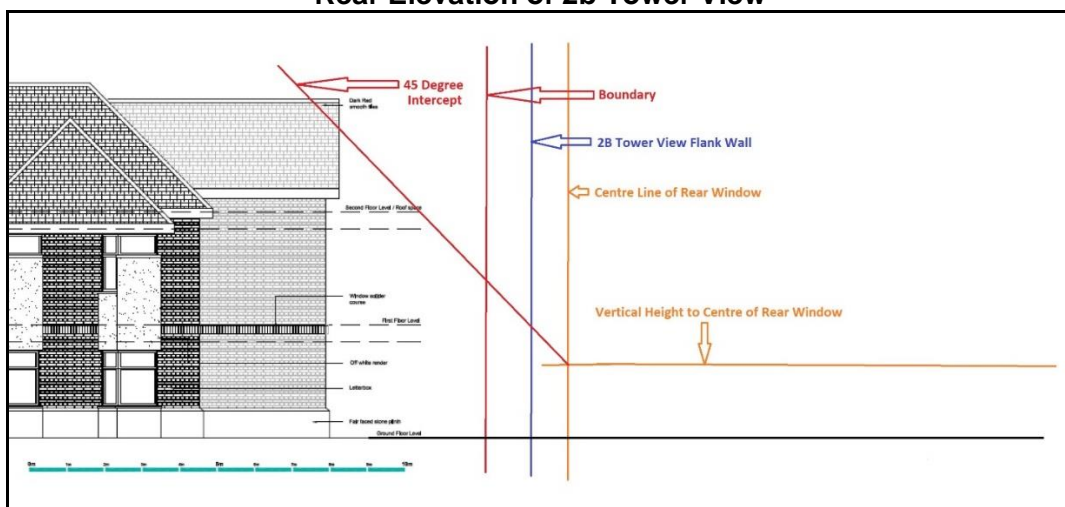
Complaint #2: Failure to consider the overbearing nature of the proposed development on 2b Tower View with regard to Policy SPD2 Figure 2.11c: Height of projection beyond the rear of neighbouring properties to be no greater than 45° as measured from the middle of the window of the closest habitable room on the rear elevation of the neighbouring property.

The measured distance between the flank wall of #2b Tower View and the Boundary with 37 Woodmere Avenue is **130cm**.

The Centre of the nearest adjacent rear window of 2b Tower View which serves a habitable room (lounge/sitting room) is **94.5cm** and the distance of the centre of the window from ground level is **189cm**. The distance from the proposed development to the boundary with 2b Tower View projected at the rear elevation of 2b Tower View as measured off the scaled plans is **4.25m**.



Rear Elevation of 2b Tower View



The 45° intercept projection from the centre of the adjacent property at 2b Tower View, lounge rear window does not clear the proposed development and therefore the proposed development does **NOT comply** with SPD2 para 2.11.1 which states:

2.11.1 Where a development projects beyond a rear building line, the height and footprint of the projection does not necessarily need to be lower or narrower, provided the guidance on Building Lines & Boundaries (Refer to 2.16) and Daylight and Sunlight (Refer to 2.9) is followed. It should be demonstrated that there would be no unreasonable impact on neighbouring amenity. Where it is necessary to mitigate impact on neighbouring amenity, the projection beyond the rear building line may need to step down in height and width, to meet the guidance below:

- It follows the 45 degrees rule demonstrated in Figure 2.11b and 2.11c. In exceptional circumstances, where orientation, topography, landscaping and neighbouring land uses allow, there may be scope for a depth beyond 45 degrees.
- The flank wall is designed to minimise visual intrusion where visible from neighbouring properties.

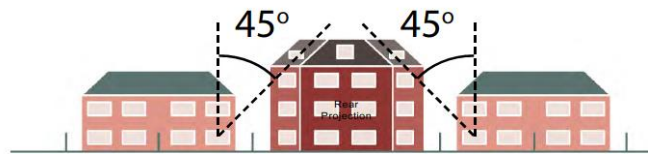


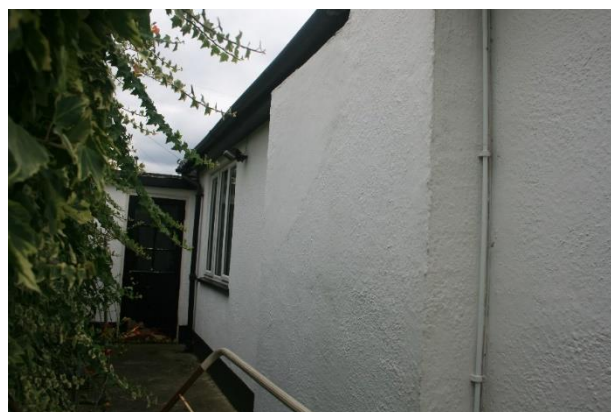
Figure 2.11c: Height of projection beyond the rear of neighbouring properties is no greater than 45 degrees as measured from the middle of the window of the closest habitable room on the rear of the neighbouring property.

Mr Richard Chambers, speaking at committee on behalf of the affected residents, mentioned that the developer had not demonstrated or given assurances that this 45° Rule was met and asked that if this could not be established during the committee hearing that the decision should be deferred until this had been determined, but this request was ignored and dismissed by the chair.

Therefore, we contend that the proposed development failed to comply with the 45° Rule as defined in SPD2 and that the proposal should have been either refused or deferred pending a request for a modified proposal which complied with the 45° Rule as defined in Policy SPD2.

Complaint #3 Failure to consider the unreasonable closeness of facing windows at Unit 1 overlooking and invasion of privacy toward (bedroom) window at the adjacent bungalow at 2b Tower View at separating distance of 5.25m.

The proposed development perpendicular from the Flank Wall **Bedroom Window** at 2b Tower View, shown below, is 2m from the boundary with the proposed development which is a further 3.25m distance to the Window of Unit 1 of the proposed development making a total **distance between facing windows of 5.25m.**



Flank Wall facing Proposed Development showing Bedroom Window

Croydon Local Plan Policy:

6.80 Evidence will be required to demonstrate that privacy is protected, and the character of the area is respected in the layout of private and communal amenity space as part of development proposals. A minimum separation of **18-21m between directly facing habitable room windows** on main rear elevations is a best practice 'yardstick' in common usage and should be applied flexibly, dependent on the context of the development to ensure that development is provided at an acceptable density in the local context. For new major developments, as long as the perimeter buildings take account of this local context, the density may vary within the development.

6.81 Designers should consider the position and aspect of habitable rooms, gardens and balconies, and **avoid windows facing each other where privacy distances are tight**. Planning guidance has, in the past, been concerned with **achieving visual separation between dwellings by setting a minimum distance of 18-21m between facing homes (between habitable room and habitable room)** as opposed to between balconies or terraces or between habitable rooms and balconies/terrace. These can still be useful yardsticks for visual privacy, but adhering rigidly to these measures can limit the variety of urban spaces and housing types and can sometimes unnecessarily restrict density.

This allows direct overlooking and invasion of privacy from the proposed development into number 2b Tower View Bedroom which is totally unacceptable.

Complaint #4 Overbearing massing of proposed development in relation to surrounding properties.

The Shirley Place is defined in the Croydon Local Plan as:

Vision

11.199 Shirley will continue to be a **suburb** surrounded by substantial green space with improved cycle and pedestrian links. The vibrant Local Centre, with a range of retailing and independent shops will continue to serve the local community. ...

Homes

11.200 An area of **sustainable growth of the suburbs** with some opportunity for **windfall sites** will see growth mainly confined to **infilling with dispersed integration of new homes respecting existing residential character and local distinctiveness**.

DM10.1 Proposals should be of high quality and, whilst seeking to achieve a minimum height of 3 storeys, should respect:

- a. The development pattern, layout and siting;
- b. **The scale, height, massing, and density;**
- c. The appearance, existing materials and built and natural features of the surrounding area; the Place of Croydon in which it is located.

Where an extension or alteration is proposed, adherence to Supplementary Planning Document 2 Residential Extensions and Alterations or equivalent will be encouraged to aid compliance with the policies contained in the Local Plan.

Where a conversion or house in multiple occupation is proposed the Council will also consider the effects of noise, refuse collection and additional car parking on the character of an area. For this reason, the Council will seek proposals to incorporate parking within the rear, to the side or underneath building.

In the case of development in the grounds of an existing building which retained, development shall be subservient to that building. The council will take into account cumulative impact.

Evolution without significant change of area's character

6.58 There are existing residential areas which have the capacity to accommodate growth **without significant impact on their character**. In these locations new residential units can be created through the following interventions.

- e. Regeneration – The replacement of the existing buildings (including the replacement of detached or semi-detached houses with flats) with a development that increases the density and massing, within the **broad parameters of the existing local character** reflected in the form of buildings and street scene in particular.

The interpretation of **Policy 11.200 “Sustainable” Growth** envisages “**growth**” within **parameters of a suburban setting** taking due consideration of **local character** and **local available infrastructure, respecting existing residential character and local distinctiveness**. As these parameters are **NOT** defined at **Policy 10.1 (The Scale, Massing & Density)** we can only resort to the definition as contained in the current adopted **London Plan Policy 3.4 on Housing Potential** for a given **Setting** and **PTAL** as the **Croydon Local Plan at DM10.1** does not give any guidance on Housing Potential. (See **Complaint #1** above).

This proposed Development is totally out of **character** with surrounding dwellings for reasons of:

- a) **Massing** of the development in relation to the available **site area** compared to the locality.
- b) **Residential Density** – occupancy in relation to the available site area compared to the locality.
- c) **Housing Density** – Number of Dwellings per hectare in relation to units per hectare of the surrounding locality.
- d) **This is unsustainable Growth as there is NO improvement of Infrastructure to support the development**. Community Infrastructure Levy (CIL) is **NOT** being spent in the locality of the developments to support the development. There has been **No** improvement of local transport, GP Surgeries' health provision, Education places (Infant, junior & high school), or improved civic facilities, sports and social improvements to cater for the increased population of the locality.

The “**Evolution without significant change of area's character**” can only be described as a masquerade Policy to actually manipulate a change of character and **NOT** to retain the character of a locality. It allows a complete change of the local character without any improvement or linkage to appropriate supporting infrastructure.

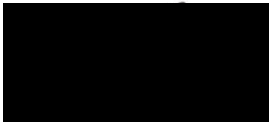
Complaint #5 Infraction of Planning Policies on grounds that it is more imperative to meet housing targets than to countenance and implement adopted Planning Policies.

We contend that the Local Planning Authority are allowing the acceptance of development proposals which **significantly change the character of the area**, in contravention of the adopted policies on acceptable **Residential and Housing Densities**, in order to meet **housing targets** at the expense of character of localities or communities.

In summation, the interpretation of open plan Kitchen, Dining and Lounge as one habitable room and the disregard of Planning Policies pertaining to Residential and Housing Densities and neglecting to consider Policies on overlooking and invasion of privacy and the 45°Rule on adjacent height limitation, provides conclusive evidence that the Planning Authority equivocate and tergiversate Planning Policies in order to meet Housing Targets rather than implement the spirit of the Policies in the interests of local communities.

Please accept this as a formal Stage 1 Complaint and process this complaint in accordance with your formal complaint's procedure.

Yours sincerely



Derek C. 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.

Cc:

Sarah Jones MP

Mr. Pete Smith

Steve O'Connell

Cllr. Sue Bennet

Cllr. Richard Chatterjee

Cllr. Gareth Streeter

Croydon Central

Head of Development Management (LPA)

GLA Member (Croydon & Sutton)

Shirley North Ward Councillor

Shirley North Ward Councillor

Shirley North Ward Councillor

Bcc:

MORA

Executive Committee

Local Residents & Interested Parties