

To: Complaints Resolution Team
Bernard Weatherill House
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Croydon
CR0 1EA

**Monks Orchard Residents' Association
Planning**

20th December 2019

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**Stage 1 Complaint – Planning Approval Ref: 19/00131/FUL - 17 Orchard Avenue Croydon
CR0 8UB**

Dear Sir/Madam

Please consider this letter as a formal **Stage 1 Complaint** against the approval at Planning Committee Meeting of **6th November 2019** for Planning Application **Reference 19/00131/FUL at 17 Orchard Avenue Croydon CR0 8UB** – for Revised planning application involving demolition of existing detached house, erection of 3-storey building with further floor of accommodation in roof-space comprising 3 x 1 bedroom flat, 4 x 2- bedroom flats and 1 x 3 bedroom flat, formation of vehicular access and provision of 4 associated parking spaces and refuse storage.

These issues were raised in our submission of **5th August 2019** as a result of the amended drawings published on **31st July 2019** but this additional submission was **NOT** listed on the on-line comments register and we do not think our submission was actually considered by the Case Officer.

We only raise Complaints if there is **sufficient evidence** that Planning Policies are being ignored **without reasonable justification for so doing, which affect the existing adjoining residents** as there is **NO** opportunity to **appeal** against an **approved application** and we do **NOT** have funds to support a **Judicial Review**. The following are the major non-compliance policies but other issues relating to accommodation standards i.e. In-Built Storage and inadequate Private Amenity ^[1] have not been listed as the subject of this complaint although these are likely to be significant issues for future occupiers as the allocation is less than the minimum space standards and will create difficult living accommodation for future occupiers for the normal living requirements of a dwelling. The future occupants have the option of accepting or rejecting these limitations by deciding whether or not to purchase or rent these cramped accommodations which fail to meet minimal accommodation standards.

Our Complaint comprises the following issues:

- 1 Failure to apply the current adopted **London Plan Policy 3.4** to Optimise the Housing Potential or the **consolidated emerging London Plan Policy D1A - Infrastructure requirements for sustainable densities**, in accordance with the Policy on **Residential and Housing Density** appropriate for the **available or forecast Public Transport Accessibility** for the locality at a 'suburban' setting and **PTAL of 2**, as required by **NPPF (2018/19) para 122 - Achieving Appropriate Densities.**

[1] <https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/draft-new-london-plan/chapter-3-design/policy-d4-housing-quality-and-standards>

- 2 Failure to consider the **overbearing nature** of the proposed development with regard to **loss of amenity** to both adjacent properties at **19 & 15 Orchard Avenue** as defined by **Policy SPD2 Figure 2.11c**: Height of projection beyond the rear of neighbouring properties to be no greater than **45° degrees** as measured vertically from the middle of the ground floor window of the closest habitable room on the rear elevation of the neighbouring property should **NOT** intersect the proposed development.

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



Policies Map for the locality

The location of **17 Orchard Avenue** is within a designated area of “**focussed intensification**” but **NOT** within the **Urban Shopping Area**, so considered within a **Suburban Residential Area**.

Complaint #1 Failure to apply the current adopted London Plan Policy 3.4 to Optimise the Housing Potential or the consolidated emerging London Plan Policy D1A - Infrastructure requirements for sustainable densities, in accordance with the Policy on Residential and Housing Density appropriate for the available or forecast Public Transport Accessibility for the locality at a ‘suburban’ setting at PTAL of 2, as required by NPPF (2018/19) para 122 - Achieving Appropriate Densities.

The Case Officer’s Report states:

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

*“8.6 In respect to the density of the scheme, representations have raised concern over the intensification of the site and overdevelopment. The site is a **suburban** setting with a **PTAL rating of 2** and as such, the London Plan indicates that the density levels ranges of **150-250** habitable rooms per hectare (hr/ha) with ; the proposal would be above this range at **309 hr/ha and 112u/ha** (with 22 habitable rooms (not 30 as stated by objectors) on a site area of 0.071). Paragraph 3.4 of The London Plan however identifies that density is only the start of the planning housing development and not the end. The range, for a particular location, is broad enabling account to be taken of other factors including local context, design and transport capacity which, where appropriate, can provide a tool for increased density in certain situations. It is considered that the sites location, design, transport capacity and parking provision density is justified. The proposal would therefore accord with London Plan requirements in promoting housing.”*

The Case Officer has calculated the number of habitable rooms as 22 for the proposed development which assesses the Kitchen/Dining/Living accommodation as a single habitable room whereas the Open Plan Dining & Living area should be considered as **two habitable rooms** as defined on the applicant’s floor plan. This would result in an additional 8 habitable rooms to the 22 as defined by the case officer making 30 Habitable rooms in total. ^[2] There is no stated delineation of open plan configurations to qualify the combination of functional areas as one habitable room.

At **30hr** and with a site area of **0.071ha** gives a **Residential Density** as currently calculated at **422.54hr/ha** which requires a **PTAL of 6.97** which is well above the maximum range of PTAL between the broad range of **4 to 6** and not **309.86 hr/ha** which is within the **highest** broad range of **4 to 6** but NOT a PTAL 2 which is the current and forecast for this locality to 2031^[3]. If the proposal is to be determined on the current adopted **London Plan Policy 3.4**, the Density ranges “**within the defined PTAL ranges**” are the “**Broad**” ranges but are constrained within these **PTAL Ranges** and should be interpreted as that at a **Suburban Setting** at approximately **PTAL 2**. The **Residential Density** should be within the “**Broad Range**” of **150 to 250h/ha** but tending toward **150hr/ha** and a **Housing Density** within the “**Broad Range**” of **40 to 80 units/ha** at an average hr/ha of **3.1 to 3.7 hr/unit but tending toward 40units/ha**. There is no other way of interpreting the values in **Table 3.2**.

The Density of **422.54hr/ha** is higher than the highest “**Broad Range**” of **200 to 350hr/ha** which requires a **PTAL of 6.97** (higher than the Highest “**Broad Range**”)

Even if the Case Officer’s calculation of **Residential Density** is accepted based on **22** habitable rooms at **309.86hr/ha** this would require a **PTAL of 5.4648** in the highest range **4 to 6** when the actual PTAL for the locality is just **2** and forecast to remain a **2** until 2031.

It is NOT clear how the interpretation that *“It is considered that the sites location, design, transport capacity and parking provision density is justified. The proposal would therefore accord with London Plan requirements in promoting housing.”* The site location is on a **RED ROUTE**, the **DESIGN** is extremely compact and the **TRANSPORT CAPACITY** is unlikely to change from **PTAL 2** and the **PARKING** provision is just **4 Bays** for **8 dwellings** and on a **RED ROUTE**. So what justification is there to **NOT** observe the Policy?

[2] Housing Space Standards – A Report by HATC for the Greater London Authority 2006

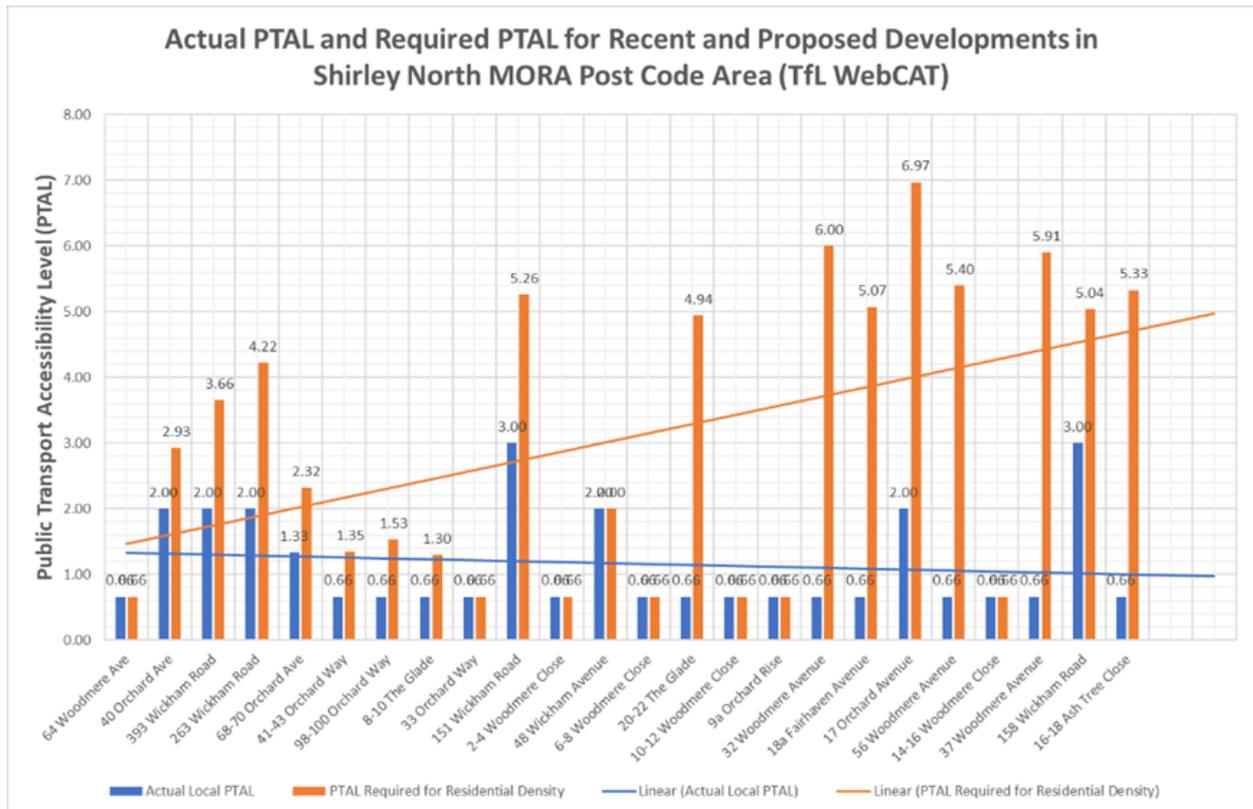
[3] TfL WebCAT – Public Transport Accessibility Level (PTAL)



**TfL WebCAT - Assessing Transport Connectivity in London
– Public Transport Accessibility Level (PTAL).**

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	(HD = 3.82) 2 to 3	(RD = 6.97) 4 to 6
Suburban	150–200 hr/ha	150 –250 hr/ha	(422.54 hr/ha) 200–350 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 (3.75hr/Unit)	40–65 u/ha	40 –80 u/ha	55–115 u/ha (112.68 u/ha)
2.7–3.0 hr/unit	50–75 u/ha	50–95 u/ha	70–130 u/ha



The Histogram above illustrates the excessive Residential Densities of recent developments within the MORA Post Code Area required PTAL against the available and forecast PTAL.

The Case Officer has **NOT** provided any quantifiable justification for any of these **“other factors”** as listed in Housing Supplementary Planning Guidance (Housing) 2106 paras 1.3.50 to 1.3.55 which identifies reasons for higher or lower densities or any other reasons for NOT observing the Policy. The Case Officer has **NOT** identified any justification of these **“other”** considerations to have been satisfactorily addressed and how the London Plan provides sufficient flexibility for such higher density schemes to be **“supported”** other than by an unquantifiable subjective analysis which is extremely dangerous as it allows the possibility of corruption or fraud when significant financial costs are dependent upon an approval.

The cumulative increase in Residential Density (i.e. Population increase) should meet the planned Public Transport availability (see Histogram above).

From a Development Management “Planning” perspective, the available and planned infrastructure capacity provides a limiting population density for the locality and this is the fundamental limiting objective of the Policy for **Optimising Housing Potential**, whether to meet the current adopted **London Plan Policy 3.4** or the **New Draft London Plan Policy 1DA** which recognises the requirements of **NPPF para 122 – “Achieving Appropriate Densities”** and states:

Policy D1A Infrastructure requirements for sustainable densities

A The density of development proposals **should:**

- 1) **consider, and be linked to, the provision of future planned levels of infrastructure** rather than existing levels,
- 2) **be proportionate to the site’s connectivity and accessibility** by walking, cycling, and **public transport** to jobs and services (including both PTAL and access to local services 22A).

B 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, that if the development is contingent on the **provision of new infrastructure**, including **public transport services**, it will be appropriate that **the development is phased accordingly**.

C When a proposed development is acceptable in terms of use, scale and massing, given the surrounding built form, uses and character, **but it exceeds the capacity identified** in a site allocation or the site is not allocated, and the borough considers 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 the CIL contribution that the development will make. Where additional required infrastructure cannot be delivered, the scale of the development should be reconsidered to reflect the capacity of current or future planned supporting infrastructure

It is most concerning that Croydon LPA do NOT have any Policy Requirements to define appropriate Residential or Housing Densities for any designated area, to define either acceptable or unacceptable, sustainable development appropriate for different localities or levels of infrastructure as required by NPPF para 16 d) and NPPF para 122 Achieving Appropriate Densities.

The cumulative increase of **Housing** and **Residential Densities** for this locality at **low PTALs**, without **reasonable justification**, is overdevelopment of the sites and does **NOT** meet the current adopted **Policy 3.4** or as defined by the **London Plan Supplementary Planning Guidance (Housing) 2016** as set out in **Paragraphs 1.3.50 to 1.3.55**. or the **Consolidated Draft New London Plan Policy D1A - Infrastructure requirements for sustainable densities**, and as such should have been refused as **unsustainable**.

Development Management should recognize the implications of these policies and apply the policies as required, appropriately.

This does NOT mean Housing Targets cannot be met, it means new housing meets the Policies defined to allow these new dwellings to assimilate into the character, current and planned infrastructure for the locality.

It is of significant concern that, given the scale of development, there is a lack of congruence with the character of the area and its facilities. Without doubt there will be many cumulative combined impacts of increase in scale and massing of buildings locally and excessive on street parking, high demand on an inadequate public transport system, high demand on limited GP services, and high demand on local schools which have NOT been considered from a Development Management viewpoint.

Complaint #2 Failure to consider the overbearing nature of the proposed development with regard to loss of amenity to both adjacent properties at 19 & 15 Orchard Avenue as defined by Policy SPD2 Figure 2.11c: Height of projection beyond the rear of neighbouring properties to be no greater than 45° degrees as measured vertically from the middle of the ground floor window of the closest habitable room on the rear elevation of the neighbouring property should NOT intersect the proposed development.

The Case Officers report at:

Residential Amenity Daylight/Sunlight, Overlooking, Privacy for neighbours

Residential Amenity Daylight/Sunlight, Overlooking, Privacy for neighbours

“8.13 Policy DM10.6 states that the Council will not support development proposals which would have adverse effects on the amenities of adjoining or nearby properties, or have an unacceptable impact on the surrounding area. This can include a loss of privacy, a loss of natural light and a loss of outlook.

*8.14 The proposed building would be 1m in from the northern boundary with no.19 Orchard Avenue. No windows exist within the flank elevation of the main building of no.19 which has a single-storey extension and first floor balcony to the rear. The proposed building would be 2.3m from no.19s flank elevation and protrude 2.1m from beyond the rear of no.19 at its nearest point. Taking a **45-degree line (horizontal)** from the nearest rear windows of no.19 the proposed building including the depth of its rear addition would be **no greater than 45 degrees (horizontal)** and therefore the proposal would have minimal impact visually when viewed from no.19. This impact would be further reduced with the proposed **2m***



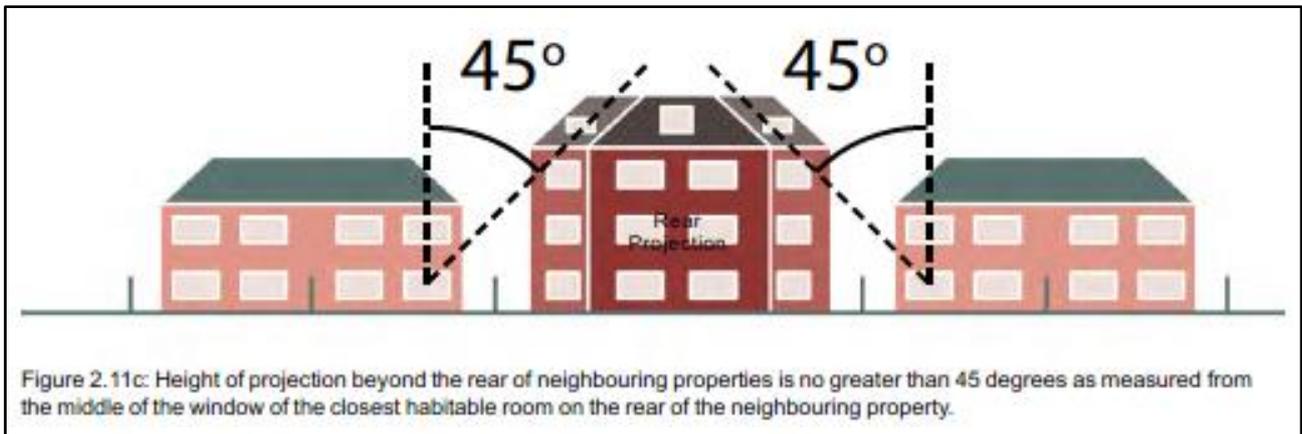
*high boundary wall and planting at ground floor level. The proposed building would be **south of no.19** and while there would be some impact in terms of light to the rear of this neighbours property this would only be for a short period and therefore unlikely to result in any significant loss of light for this occupier. The proposed building would include windows in the flank elevation facing no.19 at ground and first floor level. However, these would be high level in obscured glass and form secondary means of light to no.17. The details to be secured by condition. The proposal has been amended to include recessed balconies at first and second floor levels. The proposal would therefore not result in any undue overlooking towards no.19.*

8.15 The proposed building would be **1.8 -2.8m** in from the **flank elevation** (1m-1.8 in from the boundary) with **no.15 Orchard Avenue**. No 15 contains a single high-level ground floor window in its north facing flank elevation and a single storey extension with windows towards the rear garden. The proposed building would extend 3.6m beyond the main rear elevation and 0.6m beyond the single storey extension of no.15. Taking a **45-degree (horizontal) line** from the nearest rear windows of no.15 the proposed building **including the depth of its rear addition** would be no greater than **45 degrees (horizontal)** and therefore the proposal would have minimal impact visually when viewed from no.15. This impact would be further reduced with the proposed 2m high boundary wall and planting at ground floor level. The proposed building would be north of no.15 and therefore would not impact in terms of **sunlight and in view of the distance between these properties would have minimum impact.**

Paragraphs 8.14 and 8.15 of the Case Officer's Report only considers the horizontal 45° Degree Rule and completely ignores the vertical 45° Degree Rule as defined by SPD2 para 2.11. c).



The Case Officer completely ignored the Supplementary Planning Guidance; Chapter 2 – *Suburban Residential Developments (SPD2)* Para 2.11 for height amenity (*45-Degree vertical Rule*) and daylight Para 2.9.



SPD2 Figure 2.11 c) quotes two separate reasons for the 45° Rule. One is the effect on the amenity of the adjacent property and the other is related to Daylight or Sunlight effect on the adjacent property. These also are NOT mutually exclusive; one does not cancel out the other.

This issue was clearly raised in our **second submission of 15th August 2019 at page 15, on the amended drawings** which was **completely ignored**.

SPD2 45° Vertical Rule has two separate specific requirements;

- a) to manage adjacent dwelling loss of amenity due to an overbearing nature of proposed development; and also,
- b) to ensure adequate natural daylight to an adjoining property is not significantly reduced.

These two requirements are **NOT mutually exclusive** and therefore any acceptance of **Daylight requirement** does **NOT** preclude the amenity requirement from being observed and met.

SPD2 States:

*“2.11.1 ... 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.”*

*“2.11.2 Applicants should **“also”** (Note the word **“Also”**) refer to the guidance on **Daylight and Sunlight** (Refer to **Section 2.9** ^[4]), where there would be unreasonable impact on neighbouring access to natural light, the depth of a projection beyond the rear building line should be reduced. The design of a flank wall visible from neighbouring properties should be carefully designed to minimise visual intrusion.”*

The Case Officer completely ignored the Supplementary Planning Guidance; Chapter 2 – *Suburban Residential Developments (SPD2)* Para 2.11 for height amenity (*45-Degree vertical Rule*) and daylight Para 2.9.

There was NO quoted justification based upon “orientation”, “topography”, “landscaping” or “neighbouring land uses” to allow relaxation of the Policy SPD2 and NONE were identified as reasons for relaxing the requirement of the 45 Degree (Vertical) Policy, There were NO “exceptional circumstances” for scope for an intercept beyond the 45° vertical projection.

Complaint #3 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 **unsustainable development proposals** which fail to **meet the available capacity of existing or planned future infrastructure to support the proposed densities** including the impact of cumulative developments, in contravention of the adopted or emerging policies on acceptable **Residential and Housing Densities**, in order to meet **housing targets** at the expense of local character of localities or communities.

In summation, we accept the need for more housing but **these additional housing developments need to meet the planning policies**. 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** (vertical) on adjacent **height amenity** limitation, the **erroneous assessment of daylight and natural light** to neighbours **habitable rooms without credible justification**, 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.

Can you not appreciate that each Policy ignored or disregarded without credible justification sets a ‘precedent’ which subsequent applicants can allude to for equal reason to disregard or breach the Policy, which undermines the Policies and ultimately results in a Local Plan with Policies that cannot be enforced.

The Local Plan Review might just result in a Plan without any possible enforceable Policies to manage development proposals to meet the housing targets as the policies become less and less enforceable.

[4] [Site layout planning for daylight and sunlight: a guide to good practice \(BR 209\) At £55 19_01352_FUL-EXTERNAL_DAYLIGHT_STUDY-2518175.pdf](#)

All Policies adopted by the LPA should be in the Local Plan or **freely available to residents**.

This Stage 1 Complaint has been agreed and authorised by all members of the MORA Executive Committee.

All **MORA Planning Complaints** and their progress can be viewed on our website at:
<http://www.mo-ra.co/planning/planning-complaints/>

Kind Regards



Derek (MORA Planning).
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: Pete Smith Head of Development Management (Croydon LPA)
Steve Dennington Head of Spatial Planning (Croydon LPA)
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
Chair - Shirley Planning Forum (SPF)
Interested Parties