

To: Complaints Department
London Borough of Croydon
Bernard Weatherill House
8 Mint Walk
Croydon
CR0 1EA

**Monks Orchard Residents' Association
Planning**

complaints@croydon.gov.uk

8th December 2019
planning@mo-ra.co
hello@mo-ra.co
chairman@mo-ra.co

Stage 1 Complaint – Planning Approval Ref: 19/01352/FUL - 56 Woodmere Avenue, Croydon, CR0 7PD.

Dear Sir/Madam

Please consider this letter as a formal **Stage 1 Complaint** against the approval at Planning Committee Meeting of **24th October** 2019 for Planning Application **Reference 19/01352/FUL** at **56 Woodmere Avenue**, Croydon CR0 7PD – for Demolition of a single-family dwelling and erection of a 3- storey block containing 2 x 3-bedroom and 7 x 2-bedroom apartments with associated access, 9 parking spaces, cycle storage and refuse store (amended plans and description). We make this Stage 1 Complaint on behalf of our residents at the adjacent affected property of 54 Woodmere Avenue who have contributed towards and approved this Stage 1 Complaint. We only raise Complaints if there is sufficient evidence that Planning Policies are being ignored **without reasonable justification for so doing** as there is NO opportunity to appeal against an approved application and we do NOT have funds to support a Judicial Review.

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 at PTAL of 1a, as required by NPPF (2018/19) para 122 - Achieving Appropriate Densities.
- 2 Failure to consider the overbearing nature of the proposed development with regard to loss of amenity to the adjacent property at 54 Woodmere 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 Failure to adequately consider the loss of natural light due to the closeness and overbearing nature of the proposed development on the living conditions of the occupiers of 54 Woodmere Avenue and failure to acknowledge and correct the errors in the applicant's daylight study report.
- 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 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 at PTAL of 1a, as required by NPPF (2018/19) para 122 - Achieving Appropriate Densities.

The earlier Case Officer's Report of 1st August 2019 states:

8.5 *"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 1a and as such, the London Plan indicates that the density levels ranges of 150-200 habitable rooms per hectare (hr/ha). The residential density of the development would be 305 hr/ha. However, the London Plan further indicates that it is not appropriate to apply these ranges mechanistically, as the density ranges are suitably broad to enable account to be taken of other factors relevant to Optimising Potential – such as local context, design and transport capacity. These considerations have been satisfactorily addressed and the London Plan provides sufficient flexibility for such higher density schemes to be supported."*

It does NOT provide flexibility to go from the lowest **"broad range"** Residential & Housing Density to the highest **"broad range"** Residential & Housing Density without justification if the current and forecast **PTAL** remains at the lowest **"broad range"** for the foreseeable future.

Table 3.2 Sustainable residential quality (SRQ) density matrix (habitable rooms and dwellings per hectare)			
Setting	Public Transport Accessibility Level	Public Transport Accessibility Level	Public Transport Accessibility Level
	0 to 1 (1a = 0.66)	2 to 3	4 to 6 (RD 5.40) (HD 5.33)
Suburban	150–200 hr/ha (183 hr/ha)	150–250 hr/ha	200–350 hr/ha (305.26 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 (3.22 hr/unit)	40–65 u/ha (56.5 u/ha)	40–80 u/ha	55–115 u/ha (94.74 u/ha)
2.7–3.0 hr/unit	50–75 u/ha	50–95 u/ha	70–130 u/ha

The Case Officer's statement at 8.5 includes:

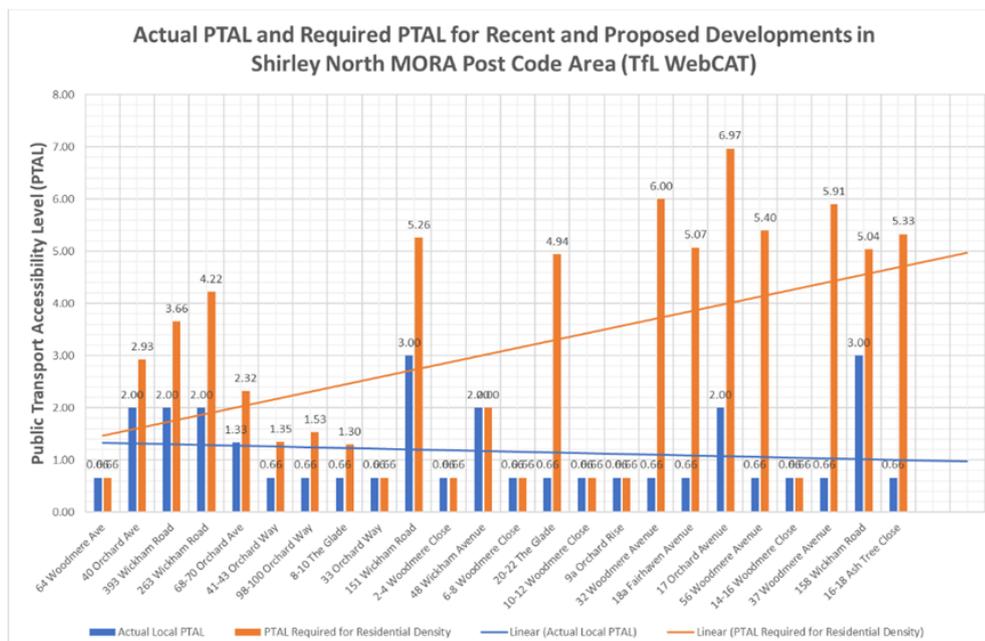
"... However, the London Plan further indicates that it is not appropriate to apply these ranges mechanistically, as the density ranges are suitably broad to enable account to be taken of other factors relevant to Optimising Potential – such as local context, design and transport capacity. These considerations have been satisfactorily addressed and the London Plan provides sufficient flexibility for such higher density schemes to be supported."

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** between **PTAL 0 – 1**. The **Residential Density** should be within the “**Broad Range**” of **150 to 200 h/ha** and a **Housing Density** within the “**Broad Range**” of **40 to 65 units/ha** at an average hr/ha of **3.1 to 3.7 hr/unit**. There is no other way of interpreting the values in **Table 3.2**.

The Density of **305.26hr/ha** is within the “**Broad Range**” of **200 to 350hr/ha** which is appropriate to a **PTAL** in the “**Broad Range**” of **4 to 6** (the Highest “**Broad Range**”)

It is NOT clear how the interpretation that “*these density ranges are suitably “broad” to enable account to be taken of other factors relevant to Optimising Potential – such as local context, design and transport capacity.*” And exactly **WHAT “vague statements”** determines each of these “**other factors**” such as **Local context**, **Design** and **Transport capacity**, to allow the **highest range of PTAL** to be **acceptable** when the **Local PTAL and TfL Forecast of PTAL is to remain at PTAL 1a until 2031**.

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**. 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 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 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 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**.

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. A particular, and we believe major, shortcoming is that three very similar schemes from 3 different developers which are situated literally a few yards of each other have now been approved without any cross referencing. 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.

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 recognise 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.

Complaint #2 Failure to consider the overbearing nature of the proposed development with regard to loss of amenity to the adjacent property at **54 Woodmere 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 Officer's Report at para 4.3 states:

5.3 *“As the height of the building has been increased by 1.05m the applicant has submitted a revised Daylight and Sunlight Study which assesses the impact upon 54 Woodmere Avenue. The development does marginally break the vertical 45-degree line; however, the Daylight and Sunlight Study demonstrates that the effect of the proposal upon the side windows of this neighbour would be negligible and accords with BRE guidelines. A horizontal 45-degree line without obstruction is maintained from the closest rear window of this neighbour to the rear of the proposed building.”*



The Case Officer states that *“As the height of the building has been increased by 1.05m the applicant has submitted a revised Daylight and Sunlight Study which assesses the impact upon 54 Woodmere Avenue. The development does marginally break the vertical 45-degree line; The fact that the **horizontal 45° Line** clears the rear elevation does NOT preclude the **Vertical 45° projection** requirement as they are **NOT mutually exclusive**.*

In addition, the Policy has no stated tolerance, and therefore it either meets the policy or it fails the policy and in this case, it fails the policy. Once you accept any marginal relaxation of the policy, the policy loses its requirement of compliance as nowhere is the magnitude of *“marginal relaxation”* defined and therefore any relaxation could be deemed acceptable – thus making the Policy void and unenforceable.

The 45° Rule as given in 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.**

Therefore, the effect on the Adjacent property at 54 Woodmere Avenue require compliance to the SPD2 45° Vertical Rule which 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.”*

There was **NO** quoted justification based upon “orientation”, “topography”, “landscaping” or “neighbouring land uses” to allow relaxation of the Policy 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. In fact, the proposal was to be sunk in the ground by approximately 0.6m otherwise the projected intersection would be even more significant.

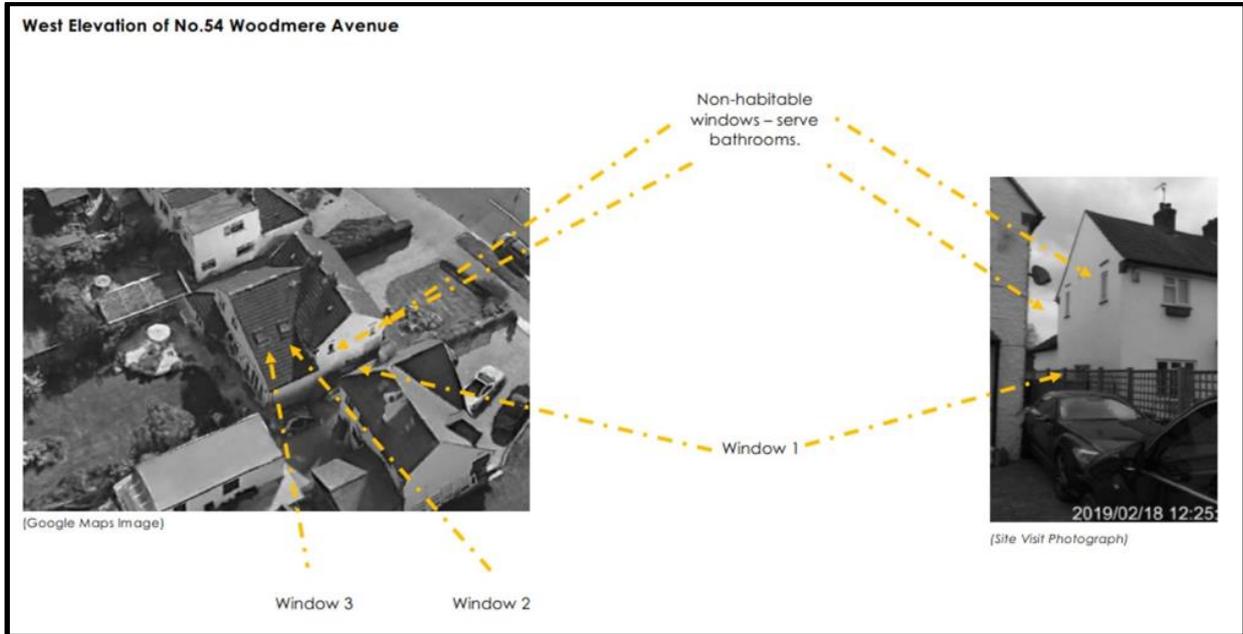
Complaint #3 Failure to adequately consider the loss of natural light due to the closeness and overbearing nature of the proposed development on the living conditions of the occupiers of 54 Woodmere Avenue and failure to correct the errors in the applicant’s daylight study report.

SPD2 States at para 2.11.2:

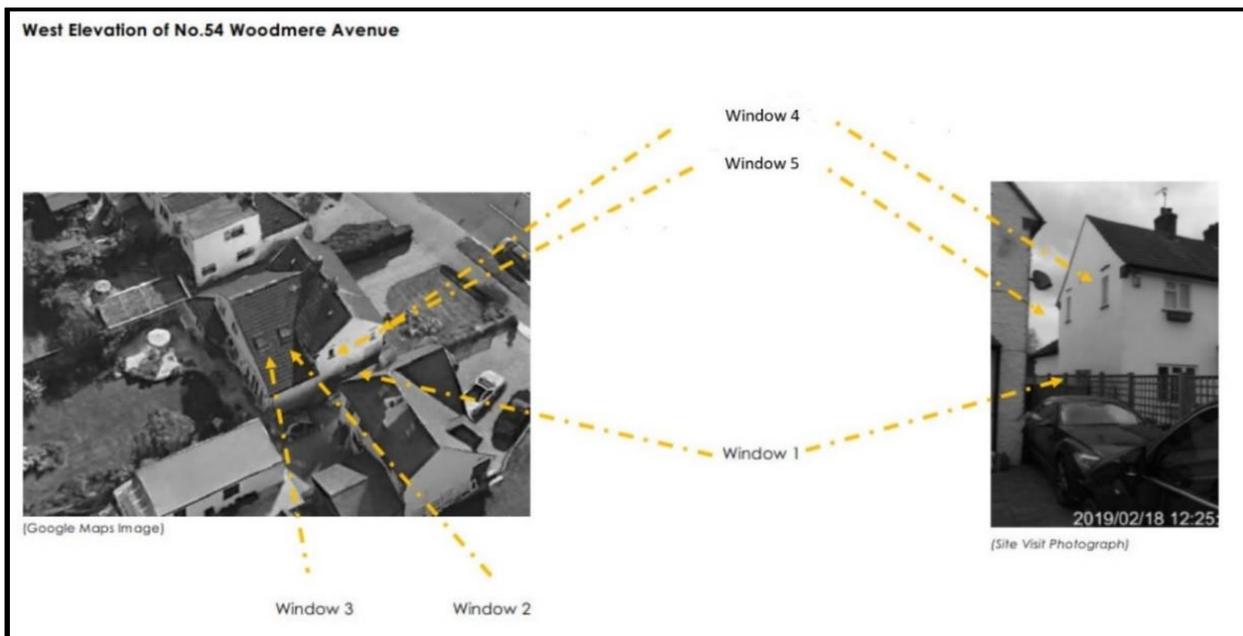
*“2.11.2 Applicants should **“also”** (Note the word **“Also”**) refer to the guidance on **Daylight and Sunlight** (Refer to **Section 2.9^[1]**), where there would be unreasonable impact on neighbouring*

[1] Site layout planning for daylight and sunlight: a guide to good practice (BR 209) At £55

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.”



Applicant's Assessment



Actual Windows and Rooms Served

[1] 19_01352_FUL-EXTERNAL_DAYLIGHT_STUDY-2518175.pdf

Any Policy adopted by the LPA should be contained in the Local Plan or **freely available to residents.**

Window Number	Dimensions	Window Area	Room Served
Window 1	139cm x 52cm	0.73m ²	lounge
Window 2	59cm x 70cm	0.413m ²	Bathroom
Window 3	59cm x 70cm	0.413m ²	Bathroom
Window 4	33cm x 76 cm	0.25m ²	Bedroom
Window 5	33cm x 76 cm	0.25m ²	Bedroom/Study

From the foregoing, only **Windows 2 & 3** Serve **Non-Habitable Rooms** (Bathrooms) and these are Velux roof windows. **All other windows serve Habitable Rooms** and thus require **natural daylight** as defined in **BR209** and **SPD2 para 2.11.2**. The Applicant's assessment that **Windows 4 & 5 served non-habitable rooms of 54 Woodmere Avenue was incorrect and therefore the effect and Daylight Assessment was Flawed.**

It is understood that the Applicant's assessment of BR209 was incorrect and that the **Case Officer did not challenge or correct this misunderstanding** of the effects of restricted daylight to the **habitable rooms of 54 Woodmere Avenue.**

This is a **major deficiency** by the Case Officer to determine the effects of loss of daylight to the very small design area windows of habitable rooms of 54 Woodmere Avenue. The Case Officer should ensure that the Applicant's proposal is correct in every detail before making a recommendation or a decision.

The 45°Degree height (vertical) Rule is to avoid **an unreasonable impact on neighbouring amenity** and is **NOT** offset by **BRE Daylight and Sunlight effects**. These are two separate impacts and therefore the daylight & sunlight issues do **NOT preclude the amenity impact of the 45° Rule of height impact on adjacent properties.**

In addition, the **SPD2 Policy** is for a **45°** projection and does **NOT** state **ANY ± Tolerance** of any degrees. If the projection intersects the proposed development, it **fails the Policy** requirement.

This defines the Policy. Therefore, the proposal fails the policy and should have been refused or the Applicant requested to provide an alternative development proposal which met the policies.

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.

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 **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** 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.

In addition to the foregoing statements, we have the following detailed issues that should be addressed for this case:

- 1 Light and Sunshine - the developer's impact assessment of light to 54 Woodmere Avenue originally contained serious errors and omissions. The errors were eventually accepted but never corrected by the Case Officer. Furthermore, the developer has made use of BRE 209 methodology which takes no account of the window sizes (aperture) for daylight penetration nor the number of windows in any given room which allows daylight into the affected room. Given the age of 54 Woodmere Avenue, many rooms are served by very small windows (see table above) which calls into question the fitness for purpose of the chosen methodology.
- 2 The approved scheme also significantly breaches the 45-degree rule. This was highlighted in our original and subsequent objection letters. We pointed out from the outset that this was the case. The local authority ignored the evidence supplied in our objections. Eventually, following redesign work, officers accepted that the scheme did breach the 45-degree rule but nevertheless recommended that planning approval be given at the planning Committee meeting on 24 October 2019. It should be recognised that the 45-Degree Rule does NOT provide any tolerance – it either meets the rule or fails the rule.
- 3 Loss of Amenity- local authority officers stated in a report to committee on 1 August that the development would 'not cause unacceptable harm' to the amenity of 54 Woodmere Avenue, although its rear garden which has been developed over some 15 years or more as a flower garden is dependent on sunlight from the west as well as the east. BRE sets out in its prospectus the range of studies which can be undertaken to assess the impact of transient overshadowing on plant growth but no such study has been required by the Local Planning Authority or undertaken by the developer to assess the impact of the footprint or building height of the proposed development. It seems to be clearly the case that the Case Officer's recommendation as quoted above in the 1 August 2009 report was made without any evidence to support it.

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).
On behalf of the Executive Committee,



Sony Nair – Chairman, MORA

Cc:

Mr. Pete Smith	Head of Development Management (LPA)
Mr. Steve Dennington	Head of Spatial Planning
Mr. Steve O'Connell	GLA Member (Croydon & Sutton)
Cllr. Sue Bennet	Shirley North Ward Councillor
Cllr. Richard Chatterjee	Shirley North Ward Councillor
Cllr. Gareth Streeter	Shirley North Ward Councillor

Bcc:

MORA	Executive Committee
Prospective Parliamentary Candidates	Croydon Central Constituency
Local Residents & Interested Parties	