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Monks Orchard Residents' Association MORA)
Planning

Ms Charlotte Woodfield - Investigator
The Local Government Ombudsman
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15th February 2021
Email: Planning@mo-ra.co
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chairman@mo-ra.co

Complaint Ref: 19 020 965
Against London Borough of Croydon
Planning Application Ref: 19/01352/FUL; 56 Woodmere Avenue, Croydon CR0 7PD

Dear Ms Woodfield

Thank you for sight of your Draft Report in response to our complaint Ref: 19 020 965.

We understand that we can comment on your report and your analysis up to 18th February 2021.

Our combined comments from [redacted] and myself on behalf of MORA are set out below against your numbered paragraphs of your draft report as you requested.

It is with some reluctance that our comments need to be somewhat critical of your investigation into our complaint but our exposition is set out in the following analysis. However, we are hopeful that you will accept our comments and suitably amend your report to ensure your continued integrity and independence of the Local Government Ombudsman from the obfuscation by the Local Planning Authority in responding to our complaint.

Also, the fact that the majority of the Croydon Council Management Team has recently been suspended [1] including the Executive Director of Place Ms Shifa Mustafa on grounds of financial mismanagement and bringing the council to bankruptcy and the issuing of an S114 notification, might reflect on the *'professionalism'* of the council's decision-making processes.

Ms Heather Cheesbrough - Director of Planning and Strategic Transport, has pre-empted her suspension by previously resigning her position but is understood to be working her notice.

The activities of Senior Management influences attitudes and actions of their staff which may possibly influence your investigation assessment of the council's staff *'professionalism'* and *'judgement'* and which may assist your consideration for modification of your conclusions in your final report.

[1] **See:** https://www.lgcplus.com/politics/governance-and-structure/croydon-senior-management-team-suspended-09-02-2021/

Your text is in 'black' and our comments follow in 'blue'.

What I found

Key background information

13 However, we did not consider there was fault in Mr. X's complaint about compliance with the Local Plan or the appearance of the development, and his concerns were a matter of professional judgement. I maintain that view for the reasons explained below.

You assess our concerns on grounds of the LPA's matter of *'professional judgement'* which means that the divergence from the agreed and adopted policies referenced in our complaint were interpreted by the LPA to be *'acceptable deviations'* and these *'acceptable deviations'* were endorsed as acceptable by the LGO. If such is the case, the policies are interpreted as only 'advisory' and therefore 'meaningless'. We do not think this should be the case when the policies were adopted by the Planning Inspectorate after 'Examination in Public' with the full intention of them being appropriately implemented to ensure all developments met the agreed adopted Policy criteria.

Mr X's Complaints

Compliance with the Local Plan

14 The Council accepts the development which Mr. X complains about marginally exceeds the habitable rooms per hectare density outlined in policy 3.4 of the London Plan. Mr. X disagrees with the Council's method of calculation and says the development is significantly above the London Plan requirements.

We have never accepted the phrase *"marginally exceeds the habitable rooms per hectare density"* as sound or acceptable. The Policy referenced here is the London Plan Policy 3.4 – Optimising Housing Potential (the current adopted policy at the time of the proposal and the initial complaint). The Policy 3.4 is clear in its definition and allows a certain degree of tolerance *'within'* the *'broad ranges'* of density at various PTAL ranges and Settings as given in Table 3.2 of the Matrix. Any acceptable *'deviation'* from those *'broad ranges'* is specified and clarified in the 'Housing Supplementary Planning Guidance (SPG), paras 1.3.8 & specifically 1.3.50 to 1.3.55' [2]. It is extremely important to fully understand the analysis given in the Housing SPG Section 1.3.8 - 'Applying the Density Matrix' as it sets out the interpretation methodology of the density matrix.

The LPA treats this agreed and adopted Policy as an inconvenient restriction to meeting housing targets. The case officer did not provide any specific justification allowing densities greater than those specified or allowed in the Housing Supplementary Planning Guidance (SPG). The interpretation of *'marginally'* exceeding the density ranges is an inappropriate terminology as *'marginally'* has no definition of magnitude. Once *'marginally'* is considered an acceptable relaxation of the policy, the policy becomes void and unenforceable as other applicants can refer to the *'marginal'* accepted relaxation decision in their proposals to exceed 'acceptable' density levels, specified in the Policy, which then could NOT be challenged or enforced once a precedence has been set. To even consider a *'marginal'* divergence as acceptable is extremely unprofessional.

The adopted London Plan Policy 3.4 is not 'advisory', the Policy states in its introduction on Strategic, LDF preparations and Decision-Making, that:

"Development proposals which compromise this policy should be resisted", which is a

[2] **See:** https://www.london.gov.uk/sites/default/files/housing_spg_revised.pdf

clear enough statement!

"Policy 3.4 Optimising housing potential

Policy

Strategic, LDF preparation and planning decisions

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

The proposal clearly *'compromised the Policy'* at a **66.81%** increase in Residential Density above that recommended and specified by the Policy without any specific justification and therefore should have been RESISTED or significant justification provided as required by the Policy for not doing so.

We do not consider this decision by the LPA to be either 'professional' or 'ethical'.

15 The London Plan is a material planning consideration. But the policy says it is not appropriate to apply the density matrix mechanistically; it is used as a starting guide to development, and some policy considerations may not align with others.

As stated above, the Policy 3.4 is clear in its definition and allows a certain degree of tolerance 'within' the broad ranges of density at various PTAL's and Settings. Any deviation from those 'broad ranges' is specified and clarified in the 'Housing Supplementary Planning Guidance' (SPG).

The case officer did not provide any specific justification allowing densities greater than those specified and the allowance of *'marginally'* (at a **66.81%** increase) exceeding the accepted density ranges is an inappropriate terminology as *'marginally'* has no definition of magnitude. Once *'marginally'* is considered an acceptable reason for a decision, the policy becomes void and unenforceable as other applicants can refer to the decision in their proposals to exceed acceptable density levels and the case officer would NOT have substantive reason to reject that argument once a precedent had been set.

Thus, if the LGO accepts the undermining of adopted and approved planning policies, where is the independent adjudication and investigation professed by the LGO?

16 The Council's role was to weigh up the issues against other material considerations and decide if the proposal was acceptable. The case officer's report details why, in their professional view, the proposed density levels are acceptable. I understand Mr. X does not agree with the calculations used, and the Council's decision to grant planning permission. However, the officer used their professional judgement and properly considered the application, taking into account the density matrix in the London Plan, before granting permission. I find no evidence of fault in this part of the decision-making process.

The officer's report states:

> *"8.5 …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.*

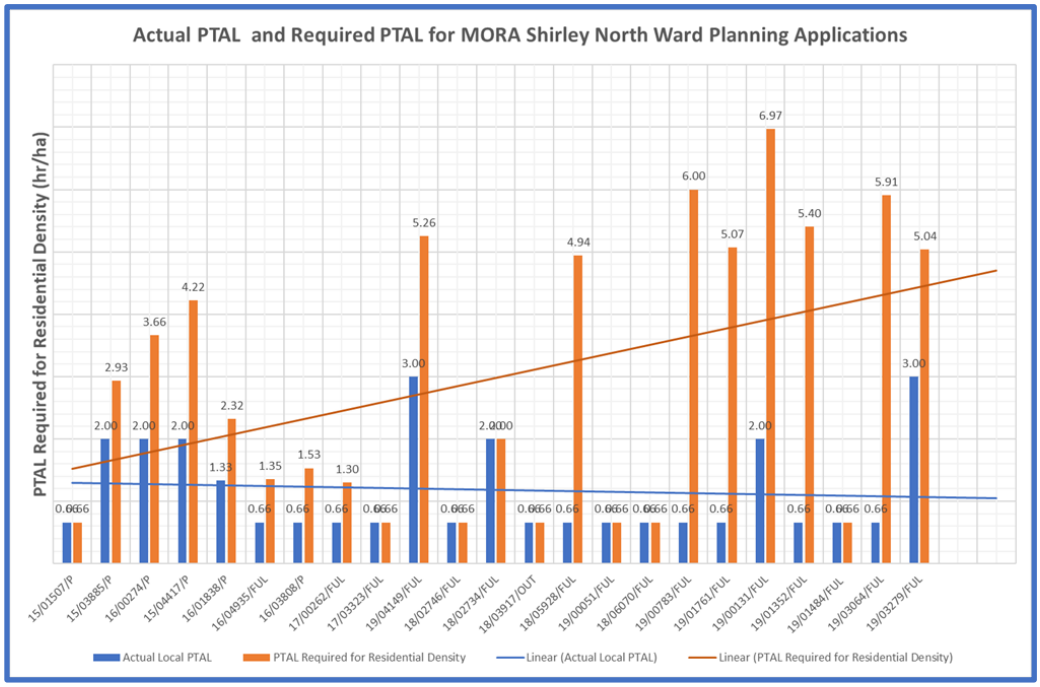
8.6 The site is located within an existing residential area and providing that the scheme respects the character and appearance of the surrounding area and that there are no other material effects causing unreasonable harm to immediate neighbours, the density of development would be acceptable."

This interpretation of the *"broad ranges"* is false and negates the whole purpose of the Policy as the "broad ranges" of Density and PTAL are provided within the Matrix (for each of the appropriate levels and ranges of PTAL). The Case Officer is assuming the "Broad Ranges" encompass the whole of the table (Matrix) which completely undermines the objectives of the Matrix and the policy, i.e., not very professional!

The case officer states at Para 8.6 confirmation that *"the site is in an existing suburban residential area*, there being *no other material effect*, … *the density would be acceptable"*. But that is NOT what the Policy states! The Policy addresses the local context by having a parameter designated the 'setting' which gives local context 'a suburban character' and the transport capacity is defined in the matrix as 'Public Transport Accessibility Level' (PTAL) also included in the Matrix. These considerations are included within the definition of the policy and no other reason has been given to override the fundamentals of the policy.

The case officer's interpretation is therefore extremely unprofessional by obfuscation.

The Case Officer supplied NO evidence that *"as local context, design and transport capacity. These considerations have been satisfactorily addressed …"* as the transport capacity required to support the cumulative developments has been shown (Histogram below) to be significantly exceeded to that actually available for the locality.



The proposed development Density (a **66.81%** increase to that recommended by the policy) has implications on other parameters affecting the locality, including the available public infrastructure such as schools, GP surgeries, local character assessment, and accessibility to public transport. The case officer did not provide any specific justification allowing densities greater than those specified by the policy and the allowance of

'marginally' exceeding the density ranges is an inappropriate terminology as *'marginally'* has no definition of magnitude.

To accept a **66.81%** increase as a marginal acceptable increase requires a redefinition of *'marginal'.*

> Definition – 'Marginal' close to a limit, especially a lower limit. Use the word 'marginal' when something is minimal or barely enough. ... These are the figurative uses for marginal, which comes from the Latin word margo "edge".
>
> **An increase of 66.81%** is therefore clearly NOT marginal!

Thus, your investigation and assessment accept the complete undermining of the adopted and approved Planning Policies, approved by the Planning Inspectorate during the Examination in Public and the ensuing detrimental effects of unsustainable public transport accessibility for local residents by the 'professional' ambiguity and obfuscation of the case officer's report without any substantive justification for doing so.

Loss of amenity

17 Mr. X says the development is out of character with the area, is overbearing and will have a significant impact on [redacted] home. I have considered the case officer's report to establish how the Council assessed the impact on residential amenity before deciding the proposal was acceptable.

18 The report says the development protects the street scene, complies with the policy recommendations in relation to residential amenity and resembles a large, detached house which preserves the character of the area and neighbouring properties.

19 I understand Mr. X does not agree with this assessment, but the case officer was entitled to use their professional judgement about the appearance of the development. The Ombudsman cannot question this judgement unless there is evidence to show it was flawed. I have found no such evidence.

We did not challenge the appearance of the proposed development, so this does not contribute to the complaint investigation or its assessment.

However, we did challenge the proposed development's suitability to reflect local character in that the local character is mainly of detached or semi-detached houses or bungalows, not blocks of flats.

The *'Character Assessment'* required of the Old and New London Plan or the Croydon Local Plan does NOT have a *'specific parameter'* or *'design constraint'* for disguising development proposals to look like something it is not.

Loss of light and compliance with the 45-degree guidance

20 The '45-degree' guidance forms part of many council planning processes when assessing the impact of new developments on existing developments. It is a test officers may conduct using the plans and elevation drawings supplied by the planning applicant.

21 If a proposed development does not comply with the 45-degree test, it may be less likely to receive planning permission. This is because the 45-degree tests are indicators of planning harm to the existing property, particularly the decrease in daylight received by

the affected windows.

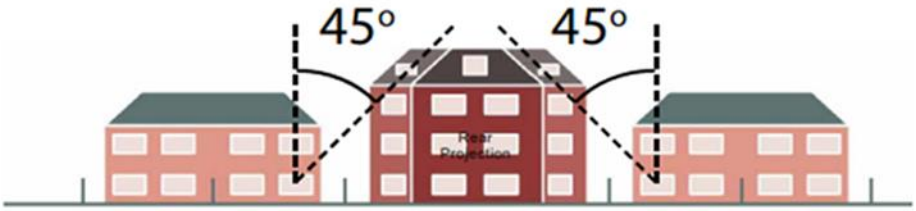


Figure 2.11c: Height of projection beyond the rear of neighbouring properties is no greater than 45 degrees as measured from the middle of the window of the closest ground floor habitable room on the rear wall of the main neighbouring property on both sides.

The Supplementary Planning Guide SPD2 at Chapter 2 – Suburban Residential Developments, paragraph 2.11 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.

The proposal fails to comply with the guidance as the 45° Degree projection clearly intersects the proposed development and given the proposal is sunk into the ground by approximately 0.6m – there are no exceptional circumstances or mitigating tolerances allowed or probable.

Although not covered by our complaint, this issue is becoming of greater significance as the required condition 9 (SUDS) survey has recommended the development threshold is raised by **150mm** at least, to avoid future surface water flooding. We have reason to

believe that building works have proceeded without any agreement of the condition and that it is likely that the entrance threshold is ≈0.6m below surrounding ground level.

2.11.2 Applicants should **also** refer to the guidance on Daylight and Sunlight (Refer to 2.9 for guidance), 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 word *'also'* in paragraph 2.11.2 indicates that the 'Amenity' requirements of the 45° rule and the Daylight and Sunlight requirements of SPD2 are 'mutually exclusive'.

22 However, non-compliance with the test does not mean officers must refuse an application. The test may be one part of the planning officer's assessment of levels of planning harm caused by a proposed development. Each application should be judged on its own facts and circumstances, and officers retain their ability to use their professional judgement.

Planning officers retain their ability to use their *'professional judgment'*, but natural justice requires that judgement to be questioned and challenged if considered suspect or inappropriate. If the evidence for that *'professional judgement'* is disputed it should be challengeable. If the *'professional judgement'* is proffered knowingly to be wrong, then this would-be maladministration.

What you are inferring here is that a policy can be disregarded by planning officers if *'taken as a whole'* the proposal is otherwise acceptable. This could possibly be acceptable if there were no other *'non-compliant'* policies of the proposal, which in this case, there were plenty of other reasons to question the acceptability of this proposal. Thus, *"taken as a whole"* this proposal is very suspect but the LGO have succumbed to this unprofessional reasoning rather than take an independent and forensic evaluation of the evidence.

And I quote the LGO's mission statement [3]:

> *Our strategic objectives*
>
> *We have four strategic objectives:*
>
> *Our service is easy to find and easy to use*
> *We remedy injustice through impartial, rigorous and proportionate investigations*
> *We use what we learn from complaints to help improve local services*
> *We are accountable to the public and use our resources efficiently.*

23 Paragraph 2.9.3 of the Council's 'Suburban Design Guide' says: "Where there is concern that the orientation of the proposal and proximity to neighbouring buildings will limit access to natural light within the proposed and/or neighbouring dwellings, proposals will be required to provide a daylight and sunlight analysis study"

24 Due to the potential impact on the light received into [redacted] home, the developer arranged two light analysis studies. The first one in March 2019 concluded:

- The west elevation of [redacted] home may experience an 'adverse impact in terms of daylight and sunlight'. The western side of the house has three relevant windows. Two of those windows serve bathrooms and are 'non-habitable' rooms.
- The results show the effect on the side windows meet the minimum requirements set

[3] **See:** https://www.lgo.org.uk/information-centre/about-us/our-aims/our-mission-and-objectives

by the Building Research Establishment (BRE) guidelines and experience a 'negligible impact in terms of daylight and sunlight'.

- The proposed development meets the recommended levels and is considered acceptable in daylight terms.

The First (5/3/19) BaseEnergy Daylight Study for this proposal only provided percentage figures for vertical sky components but did not provide any evidence of how they arrived at these figures. The results were therefore suspect. It is recognised that the first daylight survey results were discarded as they were agreed to have been be flawed. In addition, the BaseEnergy assessment of windows was incorrectly assessed.

The daylight assessment.

It is not clear who selected the consultant and the method for the assessment. Our assumption is that Aventier selected the consultant and the consultant chose the method.

The point is that the method used for the second survey has a major shortcoming in that it takes no account at all of window size or the number of windows serving a room. If you google vertical sky component you will come across the appendix to a Greater London Assembly report [4] which makes this point and also describes other methodologies available.

We have talked about window size in our objections but I don't think we linked this explicitly to questions about the appropriateness of the methodology because we were distracted by the more obvious inaccuracies in the original light report. Nevertheless, it might have been reasonable to expect the case officer and Aventier to be sensitive to the possible difficulties which defacto were ignored rather than acted upon.

In our submission of 8th April on the first daylight study. We stated:

*"It should be noted that the statement at **page 8** of the Applicant's **"External Daylight Study"** indicates the two upstairs flank wall windows of* [redacted] *are **"obscure glazed bathrooms"** and are identified on P8 of the external daylight study as being **"non-habitual windows serving bathrooms."***

These are in fact bedrooms. The glazing to both is clear. The bathrooms are in fact served by windows 2 and 3. Again the glazing is clear as they have not been overlooked in the past. There is a further window at a right-angle to window 2 which, although facing north, is also part of a bedroom and which is considered to be integral to the western elevation of [redacted]. These errors in the "External Daylight Study mean the daylight study conclusions cannot reasonably be relied upon in supporting this planning application proposal.

It should be noted that the existing property at [redacted] was built approx. 1926 and has very small windows which limits the internal natural light. This proposed development will significantly decrease natural light and reduce the internal light levels for [redacted] to unacceptable and unreasonable levels and could result in a legal challenge."

[4] **See:** https://www.london.gov.uk/file/14949/download?token=Slu5Dx--

These points have all been advised in our submissions to the LPA and the LGO but seem to have been discounted by your investigation.

25. The planning officer's report concluded, "There would be a small increase in height and a significant increase in depth from the current building but the 45-degree BRE test for loss of light to the rear elevation windows would not be breached. The rear garden to [address removed] faces due north and whilst there are side windows facing towards the application property (ground floor lighting a living room and the two first floor windows lighting bedrooms) all these windows appear (after reviewing historic floor plans) to be secondary in nature. The applicant has also submitted an External Daylight Study which finds satisfactory outcomes for these windows in accordance with BRE guidelines"

The case officer's report conclusion that there would be a small increase in height ignores the fact that this increase in height is sufficient to fail the policy requirement of the 45° Degree projection by a significant amount. This is another example of the Case Officer's unprofessionalism.

It should be mentioned that the BRE Daylight Assessment is totally separate from the 45°-Degree (vertical) 'amenity' assessment as defined by the policy.

32. The Planning Committee considered the amended plans, and concluded:

- The planning officer said harm is not demonstrated. Car parking standards are met. The 45-degree guide is breached, but the proposal meets other planning requirements.

The planning officer said *"harm is not demonstrated. Car parking standards are met. The 45-degree guide is breached, but the proposal meets other* [unidentified] *planning requirements*". But the planning officer did not accept the non-compliance to other policies such as Policy 3.4. Taken on the whole, there were more 'non-compliant' than compliant policies. However, the proposal does NOT meet <u>all</u> other planning requirements as comprehensively illustrated in our complaints. A very ill-judged statement by the supposedly professional case officer.

- [redacted] also reiterated the proposal did not meet the 45-degree guidance and should therefore be refused. He said the second light survey is incomplete. Critical windows are not included, and the study does not consider that his windows are small due to the nature of his house. The report is also silent on the loss of natural light to his rear garden.
- Councilors discussed the impact on [redacted]. Some felt there would-be impact, but the BRE guidance is not absolute. The amended plans included removal of a garage which may improve light. [redacted] garden is not overshadowed for most of the day due to its orientation.

The proposed removal of the garage is unlikely to improve perceived light above the height of the 'removed' garage as daylight travels in straight lines from a high altitude. It is unlikely to provide any measure of reflected light as a result of the removal of the garage.

- Some councilors felt the scheme is dominant in its size and there is a cumulative impact resulting from more than one policy breach.

The Councillor's assessment has been shown to be correct. (see Histogram, above)

The second Daylight Study report was offered.

The evidence of this debate seems to highlight more reasons were informed for refusal than for approval.
However, your investigation discounts this evidence on grounds of the planning officer's professional judgement.

*"As a result of the 45-degree guideline **being compromised**, it was necessary for the developer to conduct a further **Daylight light analysis survey** in which it was confirmed that the proposal met all BRE guidelines (in percentage terms) for sunlight.*

It was also noted at Planning Committee that, due to the direction of the proposed site in relation to the neighbouring property, the direct impact upon the lighting in the rear garden of [redacted] *would not have been greatly affected."* Which was an unproven statement.

37. The second study did not stipulate whether affected windows served habitable rooms or not. It merely assessed the percentage of light lost. Irrespective of whether the rooms are habitable or not, the study found the impact to be negligible.

38. Mr. X is correct to point out the study omitted a window, which he refers to as window six. As part of my investigation, I asked Mr. X to clarify the location of all affected windows and to confirm whether they are secondary in nature. He explained that one bedroom is served by two windows (windows five and six). Furthermore, window four serves another bedroom which is also dual aspect, as it benefits from a second window.

39. The planning officer and Committee made their decision not only on the findings of the survey, but in conjunction with the floor plans of [redacted] home and the officer photographs. The officer noted in their first report that the affected windows served habitable rooms. [redacted] also made this clear when he spoke at the Committee meeting. I am therefore satisfied the Committee had knowledge of the facts before making its decision.

For the garden light analysis, it is not the case that any evidence was offered about lack of impact on the garden at [redacted] but rather there was reliance on a baseless assertion that this was the case. Councillor Scott admitted there might be an impact but that it was unimportant because the effect would be on light from the west. This demonstrates how little the committee understood the significance of westerly light as well as easterly light to the health of the garden.

The daylight factor (DF) is a very common and easy to use measure for the subjective daylight quality in a room. It describes the ratio of outside illuminance over inside illuminance, expressed as a percentage. The higher the DF, the more natural light is available in the room.
It is expressed as such: DF = 100 * Ein / Eext
Where:
Ein = inside illuminance at a fixed point
Eext = outside horizontal illuminance under an overcast (CIE sky) or uniform sky.
The Ein illuminance can be considered as the sum of three different illuminances:
the direct illuminance if the sky is visible from the considered point (ED)
the illuminance due to the reflexions on the outside environment (EER)
the illuminance due to the reflexions on the inside surfaces (EIR)
Hence, the daylight factor can be expressed as the sum of the three components:

DF = DC + ERC + IRC where
DC = direct component
ERC = externally reflected component
IRC = internally reflected component
The BRE formula is given by: DFm,BRE = (A window α M t) / (A total (1 - ρm²))
Where:
Awindow = Surface area of the window, excluding frame, bars and other obstructions [m²]
Afloor = Floor area of the room [m²]
Atotal = Total internal surface area of the room [m²]
α = Angle of visible sky from the mid-point of the window [°]
M = maintenance factor of the window
t = Transmission factor of the glazing
ρm = Average reflection factor of all internal surfaces

The "Base Energy" Daylight Reports evaluated the Daylight Factor (DF) and provided quantifiable percentage parameters for this analysis when they never entered the property at [redacted] to quantify the internal features and room parameters of [redacted] or required the aperture of each of the window as an input parameter for their analysis. The percentage figures could simply be guesses as they had no substantive evidence of their evaluation.

41 I am also satisfied, based on the information seen, that the Committee was made aware of the impact on [redacted] garden. Although not included in the study, [redacted] made this point clear when he spoke in person at both Committee meetings. The Committee was therefore able to make a sound decision after considering [redacted] comments and the orientation of his garden, in relation to the development, as shown on the plans which were available to them.

42 In my provisional view, I find the officer and Committee made a decision which was not influenced by procedural fault. Although the original study wrongly designated some windows, the officer made clear in their report that the rooms were habitable. This was also discussed at Committee, and the second study again reiterated a negligible impact on all windows.

Windows 1, 4, 5 & 6 all serve Habitable Rooms; Windows 2, 3 & 4 are not Habitable Rooms. There was still confusion at the committee hearing.

From this perspective the applicant's second BRE Daylight Analysis is flawed.

The affected windows at [redacted] are significantly smaller in area than standard modern windows due to the period of build and this has a significant reducing effect of the illuminance of natural light's spectral distribution within the visible range of natural light passing into those habitable rooms.

The measured natural illuminance for residential rooms should be between 200 and 500 Lux. (Lumens). This will NOT be the case once the proposal at [redacted] has been built.

The Daylight requirements of the Policy and the Amenity aspects of the policy are NOT mutually exclusive and as such the Daylight acceptability would NOT preclude the requirement of amenity being disregarded. We therefore do not accept the unprofessional unquantifiable results of this second Daylight Study.

We also need to comment on the contribution from Ms Rebecca South - Croydon LPA Resolution Officer, as we find her response difficult to understand at Section 5 of her answers to the ombudsman's questions. She discusses the first floor of the house which, apart from the rear extension which was built in the early 1990's, is 95 years old this year and the window apertures which she seems to describe as unneighbourly date back to 1926. She presumably should be asked to justify her statement. We accept that window 6 replaced the original rear first floor window when the rear extension was built in the early 1990's.

Throughout the written communication with the Local Planning Authority, we have pointed out that the age of the house means it has smaller windows than would be the expectation for a more modern house. We know that a limitation of the light assessment method used by Aventier's consultant takes no account of window size, a crucial point. This was not taken up at any point by the Local Planning Authority although we surely had the right to expect they would insist on the application of an assessment method fit for context.

Also, there is no impact assessment of the change in footprint of the applicant's development although this was asked for time and again. This request was ignored.

Finally, Ms South says next to nothing about the garden although protection of amenity is part of policy, I don't know what you mean by the orientation of the garden of [redacted] or that it is not overshadowed. It is. The shadowing varies according to the time of year and we believe that it is a serious omission for the Committee not to have known just how these seasonal shadows will be affected by the new building.

You are incorrect to say the deferment of the decision was made for design amendment to overcome issues raised. The deferment was proposed by Councillor Scott simply because he felt the original roof design was unattractive. There was no other reason.

Conclusions:

If the LGO invariably accepts the 'infallibility' of professional planning officers, the time taken to compile detailed technical complaints for investigation by the LGO will be pointless. Planning officers' decisions should be challengeable in a democratic society as is afforded to applicants appeals against a 'refusal' if there is evidence of an inappropriate decision.

Faith in the complaints system diminishes fast when one reads the recent LGO weekly reports for 2021 (7/1/21 to 11/2/21) which show 340 Complaints to the LGO of which just 22 were upheld and 318 were dismissed – a 93.53% of dissatisfied complainants.

An appeal upheld by the Planning Inspectorate (*and there are many upheld*) means the case officer **'got it wrong'** - *quod erat demonstrandum* (QED).

Thus, the current legal option of not allowing appeals against 'approvals' is against natural

justice and against the 'Communities right to challenge' [5]. The Planning Inspectorate are far more qualified to make judgments on planning decisions than the LGO as the Planning Inspectorate approves the Planning Policies prior to their adoption by the LPAs, but we cannot legally appeal an approval decision to the Planning Inspectorate. Which is why we escalate our complaints for a *'supposedly'* independent forensic assessment and investigation by the LGO.

However, experience has given us ample evidence that the LGO is NOT independent [6] as the LGO consistently unquestionably accept planning officers to be *'infallible'* using the terminology *'their professional judgement'* to circumvent implementation of adopted planning policies usually to meet planning targets under the pressure to meet housing "need" and not for the benefit of future occupants.

This investigation assessment so far, supports our case currently with our MP for answers from the Government and the Secretary of State for the Communities and Local Government [7] that there is **'no process'** to actually hold LPAs to account.

Kind Regards

Derek

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[5] See: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/5990/2168126.pdf
[6] See: http://www.mo-ra.co/planning/planning-complaints/
[7] See: http://www.mo-ra.co/planning/planning-report-february-2021/#HoldingLPAsToAccount