



Richard Bruce
IT/Performance/Information Interface Officer
Planning Technical Support Team
Development Management

**Monks Orchard Residents' Association
Planning**

21st May 2021

Your Ref - Case CAS-248173

Emails: planning@mo-ra.co
chairman@mo-ra.co
hello@mo-ra.co

**RE: Stage 1 Complaint Case CAS-248173
Response date 5th May 2021 Ref: Letter of 28th October 2020 to Ms Nicola Townsend
- Head of Development Management.**

Dear Mr Bruce

Thank you for the response on 5th May 2021 on behalf of Ms Nicola Townsend – Head of Development Management, to my letter of the 28th of October 2020, on behalf of MORA, which was processed as a Stage 1 Complaint.

We have assessed your response at Stage 1 and have prepared the following answer.

Although you have responded on the basis of the constitutional and legal procedures, you have not provided a logical answer to the fundamental issue raised in my original letter.

My original question was on the availability of a Case Officer's Report for scrutiny prior to a decision being made by the Delegate Committee and why it should be different to the availability for scrutiny by public representation 5 days prior to the relevant Planning Committee, recognising the recommendations of the Governance Review?

You have stated that "*Decisions taken by officers under Delegated Powers do not constitute a Committee of the Council and therefore it is not necessary for reports or recommendations to be published in advance of a decision being taken*". ... and I understand that.

However, a very recent example of the reason for an opportunity to comment on the Case Officer's Report prior to a Delegate Committee determination can be found when considering the Case Officer's Report and Delegate decision of the week of 12th May 2021 for the recent Application **Ref: 20/05960/FUL** - 116 Orchard Way, Croydon, CR0 7NN.

The Case Officer's Report

At para 4.1 states:

- *Overdevelopment (Officer's response: The scale of the development is not consider(ed) to be excessive and the new homes would make a modest contribution to the borough's new housing targets)*

At para 4.2 States:

- *Density would exceed level appropriate for the area (Officer's response: This comment refers to the previous London Plan. The density is not considered to be excessive in terms of current planning policy)*



The Application for determination was validated on Tue 17 Nov 2020, significantly prior to the publication of the New London Plan on 2nd March 2021 and probably should, therefore, have been determined on the adopted Policies at the time of submission and validation but taking due consideration of the emerging London Plan. An Applicant cannot design a proposal based on what might be a Policy sometime in the future – which has not yet been adopted or formally published, the reason being it would not be clear on what basis a challenge to a determination could be based upon if legally challenged. It is not clear even now whether the New London Plan status is actually ‘adopted’ even after publication.

Although the new London Plan was an emerging Policy carrying significant “weight” it was not the current adopted official Policy at the time of submission of the application carrying ‘legal’ weight in the event of a challenge.

Throughout the time that the London plan was in draft form, officers have been pretty inconsistent with their advice on how much weight to give it. They have been extremely keen to ignore the previous adopted Policy 3.4 ‘Optimising housing potential’ and the Density Matrix but have shown no effort to determine applications on the criteria of the emerging Policy of the London Plan “*Design-Led-Approach*”.

The Case Officer has decided that determination should not be based upon the London Plan Policy current at the time of validation (Policy 3.4), but on the recent published London Plan, 15 weeks after validation but even then, the Case Officer and Delegate Committee has NOT considered whether the application is compliant to or meets the New London Plan Policy regarding ‘**Site Capacity**’ (i.e., the New London Plan Policies D1, D2, D3, D4 or H2). The Case Officer’s report gives no evidence of assessment and completely ignores these requirements and the New replacement Policies published in the new London Plan and has seemingly made a personal preferred assessment of acceptability without corroborating evidence.

If the Case Officer is basing density considerations on the new plan, it would be appropriate for some evidence of compliance to be provided in the Case Officer’s Report as with the **site capacity, sustainability**^[1] and other **Policy assessments**. The assessment process seems totally inconsistent. If not determined on the Policies at the time of application validation, it would be helpful if an assessment were to be made on the appropriate Density for the proposals’ ‘**Site Capacity**’ based upon the New London Plan Policies D1, D2, D3, D4 and H2 to determine acceptability of ‘**sustainable densities**’ at PTALs 0-1a Transport Accessibility etc. This was not assessed or evaluated in accordance with the New London Plan Policies but on a **personal subjective prejudicial interpretation** that the “*density is not considered to be excessive in terms of current planning policy*” – but with no supporting evidence based on the actual local factors for ‘**site capacity**’ as defined in the London Plan Policies D1, D2, D3, D4 & H2.

With regard to the reference at para 4.1 that the new homes “*would make a modest contribution to the borough’s new housing targets*”, we would respond to that assessment by pointing out that the Shirley North Ward has contributed **over twice** the Strategic Target for the **whole of the Shirley Place** every year so far since 2019. Therefore, we take the view that our local area has surpassed its contributions to housing need. For 2021, if all applications currently validated and awaiting decision are included, we have already exceeded the 2021 yearly strategic target and we are only just reaching halfway through the year.

[1] This is a legal requirement of local planning authorities exercising their plan-making functions (section 39(2) of the Planning and Compulsory Purchase Act 2004).

Further the Report at para 4.2 states:

- Lack of built-in storage (Officer's response: Each of the flats has built in storage. Whilst Flat 3 has marginally less than required by the Technical Housing Standards on balance the layout is acceptable)

Although recognising Minimum Space Standard at para 5.11 the Report continues –

*Croydon Local Plan Policies DM10 require all types of housing development to be high quality and **comply with the relevant space standards**. The London Plan requires planning decisions to take account of **minimum space standards** with adequately sized rooms and convenient and efficient room layouts which are functional and fit for purpose.*

The previous and current **London Plan** Table 3.1 provides '**Minimum**' Space Standards for new Dwellings and at Para 3.6.2 states:

*"3.2.6 The space standards are **minimums** which applicants are encouraged to **exceed**. The standards apply to all new self-contained dwellings of any tenure, and consideration should be given to the elements that enable a home to become a comfortable place of retreat. The provision of additional services and spaces as part of a housing development, such as building management and communal amenity space, is not a justification for failing to deliver these minimum standards. Boroughs are, however, encouraged to resist dwellings with floor areas significantly above those set out in Table 3.1 for the number of bedspaces they contain due to the level of housing need and the need to make efficient use of land."*

The definition of "**Minimum**" is: "the **smallest** amount or number **allowed** or **possible**" as defined in the English Dictionaries.

Again, the Case Officer has made a '**personal prejudicial assessment**' that a "*marginal*" deviation from Policy is acceptable. However, once the LPA acknowledges an undefined "*Marginally less than*" value for "*Minimum*", has been accepted, it sets a precedent for the acceptability of an undefined reduction in provision. Any applicant can in future reference this approval as evidence of the acceptability of an undefined "*marginally less*" than "*Minimum Space Standard*" of built-in storage, which means the Policy becomes void and unenforceable.

The future occupants of Flat 3 will have to live with a less than the appropriate '*minimum*' built-in storage capacity for the life of the development which will be an inconvenience for the future occupants. It should be recognised that the Policy for in-built storage is pretty limited and depicted in square metres, not the obvious parameter for storage capacity in cubic metres unless stated in a condition to be from floor to ceiling. So not meeting the minimum standard is quite disastrous for future occupants. It could be a space under the lower stairs rising from zero to about 1m and meet the requirement – not sensible!

I have only provided the most recent evidence but could give more historical instances. These observations were probably not challenged by the Delegate Committee but If we had been given the opportunity to comment on the Case Officer's report prior to a decision being made, these issues could have been further debated and clarified or conditions incorporated in the approval to either correct or compensate before a decision was agreed.



Although the Applicant is unlikely to challenge the decision for approval in this case, objectors may feel the decision was inconclusive or inconsistent which is unhelpful if aiming to obtain Local Residents support for the Planning and Decision-making processes.

Could you consider these issues as further evidence of the reason for a possible change to procedure?

Kind Regards
Derek

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

MORA Executive Committee Member - Planning

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

Cc:

Nicola Townsend

Head of Development Management

Cllr. Sue Bennett

Shirley North Ward

Cllr. Richard Chatterjee

Shirley North Ward

Cllr. Gareth Streeter

Shirley North Ward