

Sara Burke - Case Officer
The Planning Inspectorate, Room 3/10
Kite Wing,
Temple Quay House,
2 The Square, Temple Quay
Bristol
BS1 6PN.

**Monks Orchard Residents'
Association Planning**

28th June 2021

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

TOWN AND COUNTRY PLANNING ACT 1990 Appeal under Section 78

Location: 19 Orchard Avenue, Croydon, CR0 8UB
Application Number: 20/03721/FUL
DoE Appeal ref: APP/L5240/W/21/3266351
Details of Application: Demolition of existing dwelling, erection of 9x flats, revised access, parking, landscaping and relocation of dropped kerb
Consultation Close: 20 July 2021.

Dear Ms Burke - Case Officer

Please accept this formal letter supporting the Croydon Local Planning Authorities (LPA) refusal of the proposed development **Ref: 20/03721/FUL** as our written Statement for request for Dismissal of the Appeal **Ref: APP/L5240/W/21/3266351** against the Croydon LPA's refusal for Demolition of existing dwelling, erection of 9x flats, revised access, parking, landscaping and relocation of dropped kerb.

We have objected to this Development Application in our submission to the LPA on 7th September 2020, a copy of which should have been forwarded to you as evidence of our objection for your information and consideration. If not, we can supply a copy on request to: planning@mo-ra.co

1 Grounds of Appeal

- 1.1 The Appellant is comparing this proposed 4 Storey development of 9 Flats with the approval of the adjacent development at 17 Orchard Avenue of 3 Storey plus accommodation in the Roof-space of 8 Flats. The proposed development would be approximately 1 metre taller than the approved development at 17 Orchard Avenue.
- 1.2 *The Applicant has referred to "slightly amended floor / elevation / site plan" which has been provided with the Grounds of Appeal.***
- 1.2.1 These minor amended plans have not been made available for public scrutiny and therefore do NOT alter the comments in our original objection to this proposed development Application Reference 20/03721/FUL.

- 1.2.2 The amended drawings, although purported to be of minimal change, were offered after a decision was made by the LPA. The amended drawings have NOT been published on the Croydon LPA public Access Register so are NOT publicly available for scrutiny, validation or comment against the “Grounds of Appeal”. Therefore, we submit that the Appeal can only be against the original application decision based on the offered documentation at the time of the decision.
- 1.2.3 Any subsequent amendments, whether material or minimal cannot, by law, influence a decision once made by the LPA. If the amended plans are sufficient to overturn a refusal, the applicant needs to reapply for Planning Permission supported by the revised plans. It should NOT be acceptable for revised plans to be put before the Planning Inspectorate to overturn an LPA decision which was based on the Plans as presented to the LPA, after a decision has been made.
- 1.3 *The Appellant has challenged Reason 5 of the refusal regarding the body of the officer’s report that no objections were raised with regards to the level of parking provision, trip generation, suitability of the access or the relocation of the dropped kerb.***
- 1.3.1 Our Objection raised this issue of limited parking offered causing overspill parking in the immediate vicinity. The fact that no other objections on these selected issues were raised by neighbours is of no consequence.
- 1.3.2 Of the 31 bedspaces offered, the number of probable children would be 13. This means the number of adults with a driving licence would probably be around 18. If the family vehicle, whether Car or Business Van, is shared, then overnight parking for approximately 9 vehicles would be required. As only 4 spaces are provided in this proposed development it would mean 5 overspill cars parking in adjacent roads would be necessary and there is limited available on-street parking due to the RED Route and the amount of through traffic on Orchard Avenue feeder road between the A232 and the A222 and also the access Junction directly opposite to Peregrine Gardens.
- 1.3.3 The proposed development locality has PTAL of 2 at base year and is forecast to remain at PTAL 2 until at least 2031. As this location has RED ROUTE parking restrictions, we believe that adequate off-street parking availability would be paramount and that the guidance in the London Plan for Residential Parking Policy in Outer London suburban areas of low PTAL of one space per dwelling should be adopted to prevent any overspill on-street parking as a result of this proposed development. The proposed parking availability of 4 spaces, including one dedicated Disabled Bay which when vacated cannot be used by other residents, means the remaining three bays are shared between the 17 occupiers with probable driving licences, is unacceptable provision at this location.
- 1.3.4 We retain the view that the proposal provides inadequate off-street parking at a locality on a Red Route restricted parking which will require overspill on-street parking to be a significant distance from the development and cause local congestion along this feeder road which provides the **367-bus route** and the link between the **A232** and the **A222**.

1.4 The Appellant has challenged the financial contribution subsequently offered for highways mitigation works.

1.4.1 The *Unilateral Undertaking* (Grounds of Appeal Appendix 1) committing the Appellant to a contribution of **£1,500 per dwelling (=£13,500) in total** was **NOT** offered prior to a **determination** and therefore should not influence the **Inspector's Decision** on the appeal against the refusal at the time of the decision. In addition, **Appendix 1** of the "Grounds of Appeal" have NOT been made public and is **NOT** available on the "On-Line Public Register".

1.4.2 If the appeal is upheld, procedural or substantive cost '*could*' be levied against the **Local Authority** and if the appeal is upheld based upon information provided **subsequent to the decision**, it would be unfair for this expense to be levied against the council which is funded from **Council Taxpayers**.

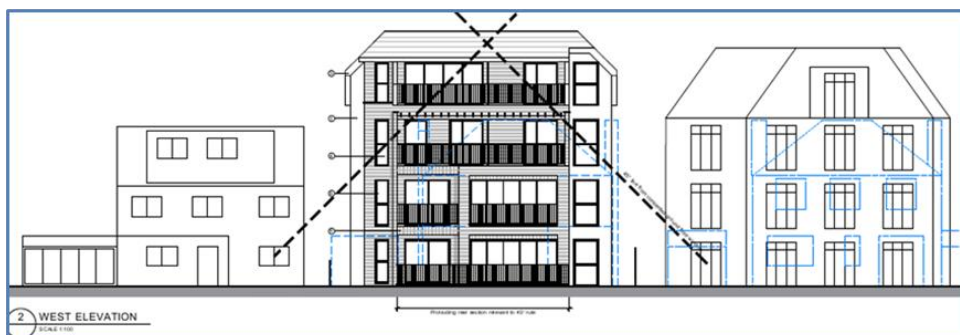
1.5 Comparison with 17 Orchard Avenue consented scheme.

1.5.1 The proposed development at 17 Orchard Ave was approved for 8 Flats over 3 floors with accommodation in the roof-space. 19 Orchard Ave is for 9 Flats on 4 floors and would be about 1 metre higher than 17 Orchard Ave. The other adjacent dwelling at 21 Orchard Avenue is a two-storey dwelling with accommodation in the roof space but with dormers facing the rear.



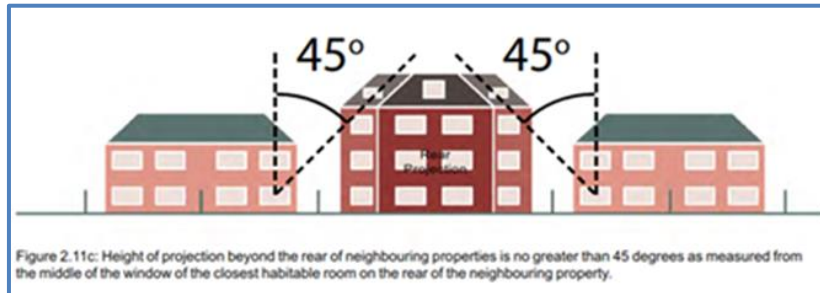
Consented scheme at 17 Orchard Avenue (left) comparison to appeal scheme (centre)

1.5.2 The proposed development clearly fails to meet the design guide requirement of SPD2 Chapter 2 – Suburban Residential Development Section 2.11 c) which requires clearance of the 45° projected Rule from the centre ground floor rear window of adjacent properties. This proposed development significantly fails this 45° (Vertical) Rule from both adjacent properties and therefore supports the refusal and the appeal should thus be dismissed.



Rear Elevation

- 1.5.3 This 45° Degree vertical rule is totally independent of the daylight and sunlight requirements (as the policy indicates “also” in the definition which indicates the two policies are “mutually exclusive”).



1.6 The Appellant has challenged the refusal on the grounds of ‘Focused Intensification’ designation and Character.

1.6.1 The current adopted Croydon Local Plan at DM10 States:

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.

DM10.11 In the locations described in Table 6.3 and shown on the Policies Map as areas of **focused intensification**, new development may be significantly larger than existing and should;

- a. Be up to double the predominant height of buildings in the area.
- b. Take the form of character types “Medium-rise block with associated grounds”, “Large buildings with spacing”, or “Large buildings with Continuous frontage line”.
- c. Assume a suburban character with spaces between buildings.

Developments in **focused intensification** areas should contribute to an increase in density and a gradual change in character. They will be expected to **enhance** and **sensitively respond to existing character** by being of high quality and **respectful** of the existing place in which they would be placed.

- 1.6.2 Although the locality is **currently** designated as an area of “**Focused Intensification**” it was acknowledged by the **Croydon LPA** during the **Local Plan Review** in 2019/20 to be an “**inappropriate**” designation and **will be removed from the Revised version of the Croydon Local Plan, scheduled to be adopted in 2022.**

- 1.6.3 The reason this change has been recommended is due to the fact there has been and there is **NO probability of any improvement to public Transport Accessibility** ^[1] **within this locality (Shirley North Ward) over the life of the Croydon Local Plan (2022 to 2039) or the Life of the new London Plan.** It is stated in the Review documentation that:

[1] <https://www.croydon.gov.uk/sites/default/files/Planning/Planning%20Interim%20Bulletin%20June%202020%20FINAL.pdf> Focused Intensification Areas (FIA).

“• **Focused Intensification Areas (FIA):**

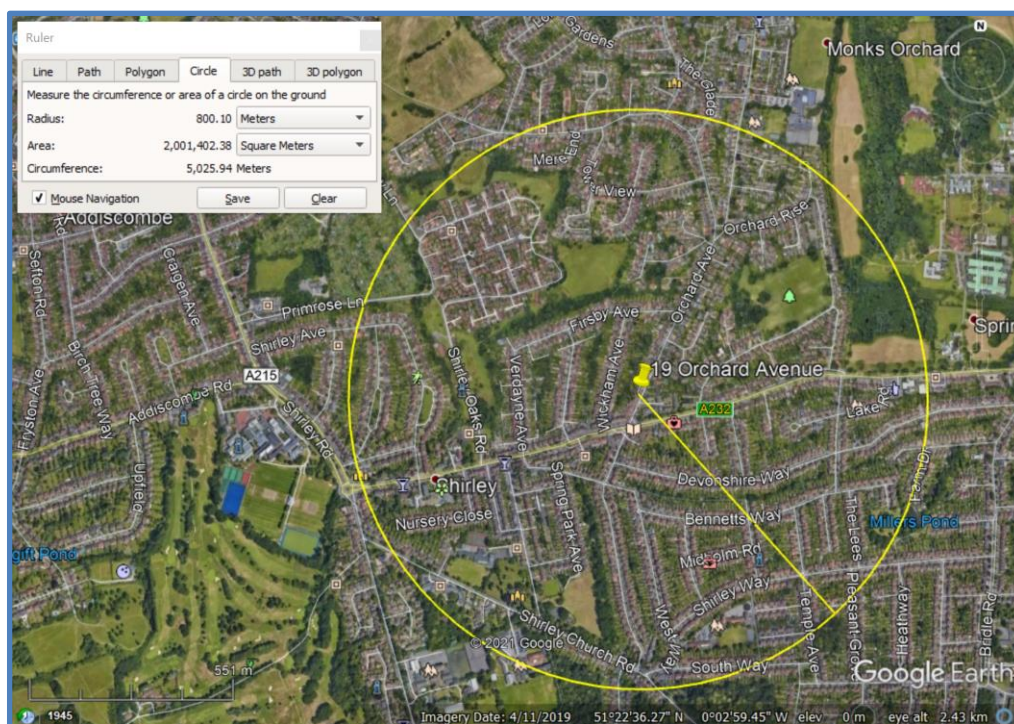
*Reconsidering the current Intensification Areas and the introduction of additional areas including the following potential options. Omitting the **Shirley FIA** as it looks increasingly unlikely that significant improvements to the public transport capacity in the **Shirley** area will be delivered over the period covered by the local plan and hence the area only has capacity for **limited future growth**. The limited development potential **significantly reduces the strength of the argument for major transport investment**, although improvements are needed from a sustainability perspective.”*

Therefore, they got it **WRONG** in the 2018 version of the Local Plan (LP).

2 New London Plan (Published 2nd March 2021)

2.1 This analysis is supported by the New London Plan (2 March 2021) at Policy H2 – Small Sites; Para 4.2.4 which states:

“Incremental intensification of existing residential areas within PTALs 3-6 or within 800m distance of a station [2] or town centre boundary [3] is expected to play an important role in contributing towards the housing targets for small sites set out in Table 4.2. ...”



Google Image showing 800m radius from 19 Orchard Avenue is inappropriate for either Incremental or Focused Intensification.

[2] Tube, Rail, DRL or Tram Station.

[3] District, Major, Metropolitan and International Town Centres.

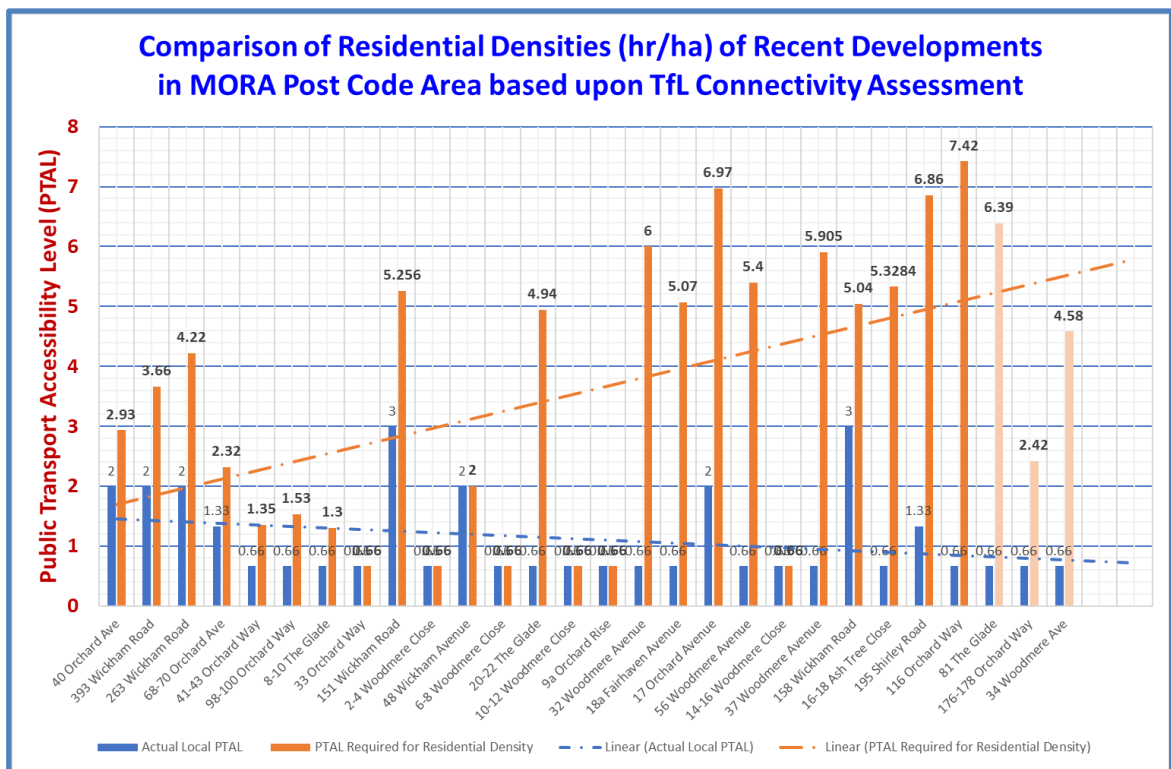
- 2.1.1 As 19 Orchard Avenue is in a suburban residential area of **PTAL 2** and forecast to remain at **PTAL 2** until at least 2031 and is greater than **800m** from a **Train/Tram Station** and greater than **800m** from a **District or Town Centre Boundary** it is therefore **inappropriate** for **“Incremental Intensification”** or **“Focussed Intensification.”** Shirley is classed as a *Local Centre* in the Croydon Local Plan (2018).
- 2.1.2 Although the Croydon Local Plan and the new London Plan *“Growth”* Policies do NOT define the appropriate magnitude of *‘Incremental Intensification’* or *‘Gentle Intensification’* it can be logically assumed that the Density at this locality would be demonstrably significantly less than those designations listed in Croydon Plan Policy DM10.
- 2.2 The main objective of the New London Plan Policies D1, D2, D3 & D4 is to Optimise **‘Site Capacity’**. The omission of the ‘Density Matrix’ now requires an assessment to establish the methodology to define the appropriate **‘densification’** based on **‘Site Capacity’** for **‘sustainable’** ^[4] developments .
- 2.2.1 The new London Plan at **Policy D1** - London’s form, character and capacity for growth, requires LPAs to undertake area assessments to define the characteristics, qualities and value of different places to develop different areas’ **‘capacity for growth’**. **Policy D2** - Infrastructure requirements for sustainable densities requires **Density** of proposals to be linked to the provision of future planned levels of **infrastructure** rather than existing levels and **Policy D3** - Optimising site capacity through the design-led approach and **Policy D4** - Delivering good design, requires definition of area **“Design Codes”** for guidance to implement the Policies.
- 2.2.2 The New London Plan requires that **‘Gentle Intensification’** should be actively encouraged by Boroughs in low-and mid-density locations to achieve a change in densities **in the most appropriate way** - but nowhere in the **London Plan** or the **Croydon Local Plan** is there a definition of **‘Gentle Intensification’** or **“the most appropriate way”** provided to define **what this actually means!**
- 2.2.3 Para 4.2.4 of the New London Plan ^[5] defines the **“Incremental intensification”** criteria for existing Outer London Borough suburban residential areas are required to be within PTALs 3-6 or within 800m distance of a train or tram station or within 800m of town centre boundary, equivalent to a District Centre. The location at 19 Orchard Avenue is PTAL 2 and the development site is beyond the 800m limits of these defined requirements for “Incremental Intensification” and as such the locality of this site is therefore **‘inappropriate’** for **“Incremental intensification”**.
- 2.3 It is unlikely that the Croydon Plan will include any guidance to define the appropriate ‘Design Code’ for this proposed development at this location, prior to its Review adoption in 2022 unless included in a Supplementary Planning Guidance (SPG) intermediate Policy clarification.
- 2.4 It is noted that the new London Plan Policy D2 - Infrastructure requirements for sustainable densities at Para 3.2.4 States:

[4] <https://www.legislation.gov.uk/ukpga/2004/5/section/39>

[5] **London Plan (2021) Policy H2 Small Sites para 4.2.4 incremental intensification**

“3.2.4 Minor developments will typically have incremental impacts on local infrastructure capacity. The cumulative demands on infrastructure of minor developments should be addressed in boroughs’ infrastructure delivery plans or programmes. Therefore, it will not ‘normally’ be necessary for minor developments to undertake infrastructure assessments or for boroughs to refuse permission to these schemes on the grounds of infrastructure capacity.”

2.4.1 This assertion is totally flawed as shown by the recent approved developments in just the **MORA post Code Area** as detailed in the Histogram above. As Croydon LPA does NOT include ‘Shirley’ in the Borough’s “Infrastructure Delivery Plans” [6], and is not identified in the ‘Borough Wide’ lists, the interpretation of Para 3.2.4 indicates it is necessary for minor development applications to include an ‘infrastructure assessment’ to cater for these cumulative proposals, including all recent cumulative developments within the locality of the proposed development to assess sustainability [7] as the locality does not meet the “normal” criteria statement of London Plan Policy para 3.2.4 for infrastructure delivery.



Histogram of required PTALs for Residential Densities of recent developments in the MORA Post Code Area (Note: 19 Orchard Ave is not included as it was refused)

[6] <https://drive.google.com/file/d/1v7u6ID7rqzjJDsMwQueuf5-c7x6GpZel/view>

[7] **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).**

3 **Housing Targets**

3.1 One of the reasons for Case Officers approving ‘suspect’ development proposals is the stated “**compelling need for more homes**” for which The London Plan and the Croydon Plan and the Croydon Local Plan Review have published ‘housing targets’ for the Places of Croydon to meet this “**need**”.

3.2 The London plan’s proposed 10-year windfall and redevelopment targets for Croydon are given in the London Plan Policy H2 Small sites at Table 4.2 - 10-year targets (2019/20 - 2028/29) for Net housing completions on small sites (below 0.26 hectares) in size and for Croydon is **stated to be 6,410 units** – which equates to **641 dwellings per year** for the **‘whole of Croydon’ over the Planned period 2019/20 to 2028/29.**

3.3 **Croydon Plan Review (2019):**

3.3.1 The Targets for new dwellings over the period 2019 to 2039 are set out in The Strategic Forecast for the Croydon Local Plan Review (2019-2039) which gives the target for the whole of the **‘Shirley Place’** at between **360 to 460 units** spread over the **20 years** of the plan, giving yearly targets of **18 to 23 units year-on-year.**

3.3.2 This is an average of **20.5 dwellings per year** for the life of the plan and can be seen in the LPA’s published (2019) Croydon Local Plan Review – Issues and Options, “where it clearly states, “Homes by Place (2019-2039)”; including the **‘Shirley Place’** (which includes both the **Shirley North and Shirley South Wards**). i.e., targets Broken down by “Place” not by Ward.

3.3.3 The **MORA Post Code area** application approvals for 2019 as shown in the tables below have provided an additional **48 dwellings** which is over **double the yearly quota** for the whole of the **‘Shirley Place’** at an average of **20.6 dwellings per year.** For 2020 it is **24 dwellings** and so far for 2021 it is **19 dwellings**, including this application.

3.3.4 The Monks Orchard Residents’ Association (MORA) monitors only our **MORA Post Code Area** for planning applications which is only a part of the Shirley North Ward, ^[8] (after the

Croydon Plan Review 2019 - 2039 (at 2019)	
Homes by Pace (2019 2039)	
Place	Total
Addington	280 to 350
Addiscombe	1,480 to 1,880
Broad Green & Selhurst	880 to 1,070
Coulsdon	2,050 to 2,490
Central Croydon	11,540 to 12,980
Crystal Palace & Upper Norwood	480 to 670
Kenley and Old Coulsdon	2,000 to 2,480
Norbury	540 to 670
Purley	7,260 to 9,390
Purley Way transformation area	2,900 to 4,470
Sanderstead	1,670 to 2,070
Selsdon	870 to 1,070
Shirley	360 to 460
South Croydon	890 to 1,070
South Norwood & Woodside	560 to 620
Thornton Heath	1,450 to 1,880
Waddon	500 to 610
Already under construction	5,370
Borough totals	At least 46,040 new homes across the borough

[8] <http://www.mo-ra.co/about/area/>

Ward boundary changes) so the MORA area is only an **exceedingly small portion of the 'Shirley Place'** as defined by the Croydon Local Plan **yet has contributed over double the target for the whole of the Shirley "Place"**.

- 3.3.5 The cumulative average estimated over the two years is $(48 + 21 + 22)/2.5 = 36.4$ per year (up to June 2021) which is for just the MORA post code area, a **76.7% increase** above the target for the Shirley Place of **20.6** per year. This clearly shows cumulative dwellings significantly exceed the strategic target defined in the Local Plan Review of **20.6 dwellings** average per year.
- 3.3.6 The MORA Post Code Area applications approvals and waiting approval for 2019 to 2021 dwellings are as shown in the Tables below.
- 3.3.7 The 2021 number of planned dwellings in the MORA Post Code Area has already exceeded the Target for the Shirley Place!
- 3.3.8 The recent cumulative developments in the MORA post code area (See also histogram above) have all contributed to the '*Community Infrastructure Levy*' none of which has been visibly spent in the MORA area to improve the Public Transport Accessibility to support these increases in local Residential Densities.

Location	Reference No.	Approval Date	Existing Dwellings	New Dwellings	Overall Increase
20-22 The Glade	18/05928/FUL	01/02/19	0	2	2
10-12 Woodmere Close	19/00051/FUL	27/02/19	0	1	1
9a Orchard Rise	18/06070/FUL	21/03/19	1	9	8
32 Woodmere Avenue	19/00783/FUL	20/06/19	1	7	6
18a Fairhaven Avenue	19/01761/FUL	20/06/19	1	9	8
17 Orchard Avenue	19/00131/FUL	06/11/19	1	8	7
56 Woodmere Avenue	19/01352/FUL	24/10/19	1	9	8
14-16 Woodmere Close	19/01484/FUL	23/10/19	0	1	1
37 Woodmere Avenue	19/03064/FUL	26/09/19	1	8	7
Totals			6	54	48

Location	Reference No.	Approval Date	Existing Dwellings	New Dwellings	Overall Increase
151 Wickham Road	19/04149/FUL	18/03/20	0	5	5
16-18 Ash Tree Close	19/04705/FUL	27/02/20	2	8	6
174 The Glade	20/01968/FUL	27/07/20	1	2	1
11 Orchard Avenue	20/01578/FUL	03/09/20	1	2	1
195 Shirley Road	19/06037/FUL	22/09/20	1	9	8
			5	26	21

Location	Reference No.	Approval Date	Existing Dwellings	New Dwellings	Overall Increase
116 Orchard Way	20/05960/FUL	12/05/21	1	4	3
81 The Glade	21/00108/FUL	Waiting	1	9	8
176-178 Orchard Way	21/01636/FUL	Waiting	2	8	6
34 Woodmere Avenue	21/02212/FUL	Waiting	1	6	5
21 Woodmere Gardens (Pre App info)		Waiting	1	9	8
			6	36	30

Tables Listing recent developments (Approvals & proposals) in the MORA Post Code Area.

3.3.9 Thus, any statements inferring “***an acute need for new homes***” would be considered extremely ‘***suspect***’, giving inaccurate and inappropriate, guidance – as the pressure to meet housing ‘***need***’ in the **MORA area** has been categorically ***satisfied*** by over-provision of the strategic targets. We understand each application is decided on the individual merits of the proposal but why have these targets if they are not state as “***Minimal***” Targets as otherwise they are *meaningless*?

3.3.10 NPPF Para 14 states:

In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply ^[9]:

a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;

b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;

c) the local planning authority has at least a three-year supply of deliverable housing sites (against its five-year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and

d) the local planning authority’s housing delivery was at least 45% of that required ^[10] over the previous three years.

4 Summary

4.1 All the foregoing reasoning confirms this proposal is an over development of the site at this location. It can however be logically assumed that “*Gentle Densification*” or “*Gradual, Moderate Incremental Densification*” (all undefined) in an area “*inappropriate*” for “*incremental intensification*” would have an appreciably ‘*discernible*’ reduction in Density than those localities categorised and listed in Croydon Local Plan (2018) Table 6.4 – “*Accommodating Growth*”.

4.2 **Based on the aforementioned evidence, we recommend this appeal is dismissed.**

Yours sincerely



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

Monks Orchard Residents. Association Executive Committee Member - Planning.

[9] Transitional arrangements are set out in NPPF Annex 1.

[10] Assessed against the Housing Delivery Test, from November 2018 onwards.