

Anton Godfrey - Case Officer
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**Monks Orchard Residents'
Association
Planning**

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14th September 2023

TOWN AND COUNTRY PLANNING ACT 1990
Appeal (W) under Section 78
Location: 19 Orchard Avenue CR0 7NA
LPA Application Ref: 22/02022/FUL
Appeal Ref: APP/L5240/W/23/3318923
Consultation Close: 28th September 2023

Dear Anton Godfrey - Case Officer

Please accept this representation from the **Monks Orchard Residents' Association (MORA)** as a formal request for this Appeal to be **Dismissed** on the grounds as set out below. We fully support the **Local Planning Authority (LPA)** Case Officer's Report for a refusal and provide the following analysis in support of the Delegate Committee decision for a refusal of 9th November 2022. We objected to the proposal in our submission to the LPA of which you should have received a copy, if not we could supply a copy on request to: planning@mo-ra.co

Proposed Development.

We have concentrated our submission on known adopted policies from local to National Level none of which can be disputed or discounted. Our representation is therefore of authoritative significance rather than any subjective interpretation or vague statements by the Appellant.

We have structured this representation on the response to the Appellant's "Grounds of Appeal" and in support of the **LPA's reasons for refusal** and the compliance to adopted or emerging **Planning Policies** as published in the **NPPF** (July 2021), the **National Model Design Codes and Guidance** (Jan & June 2021) by the **Department of Levelling Up, Housing & Communities (DLUHC)**, the **London Plan** (March 2021), the **Croydon Local Plan** (2018) and the **Revised Local Plan** (Dec 2021).



LPA Permission Refused

Reason(s) for refusal :-

- 1 The proposed development by virtue of its lack of family accommodation would result in the loss of a family sized unit and therefore would fail to deliver a choice of quality accommodation to create sustainable exclusive mixed community contrary to policy DM1.1 and would fail to meet the 30% strategic target identified within Policy SP2.7 of the Croydon Local Plan 2018 and Policy H10 of the London Plan 2021.
- 2 The proposed development, by reason of its design, proportionality and massing would be out of character with the local character and distinctiveness and would thereby conflict with Policies SP4 and DM10 of the Croydon Local Plan 2018, and Policies H2, D4 and D6 of the London Plan 2021.
- 3 The development would result in poor standard of accommodation by reason of its window arrangements leading to lack of privacy, poor outlook and possible low levels of light to ground floor bedroom windows, lack of private amenity space to upper floor flats, failure to provide direct access from the building to the rear communal garden, absence of child playspace details and fails to demonstrate M4(2) or M(3) compliance, conflicting with Policy DM10 of the Croydon Local Plan 2018, and Policies D4, D5, D6 and D7 of the London Plan 2021.
- 4 The proposal, by reason of its massing and proximity, would result in an intrusive and imposing form of development detrimental to the visual amenity and outlook for neighbours at 21 Orchard Avenue contrary to policy DM10 .6 of the Croydon Local Plan 2018 and Policy D3 of the London Plan 2021.
- 5 The proposed development would cause loss and possible future loss of existing trees which make a positive contribution to the character of the area, whilst insufficient detail has been provided to ensure that suitable replacement trees are secured, contrary to Policy DM28 of the Croydon Local Plan 2018 and Policy G7 of the London Plan 2021.
- 6 The proposal has failed to demonstrate that it would not have an unacceptable ecological impact on biodiversity of the area contrary Policy DM27 of The Croydon Local Plan 2018 and G6 London Plan 2021.
- 7 Sufficient details have not been provided to ensure that the proposal would result in provision of adequate refuse storage facilities and therefore would be contrary to Policies DM13 of The Croydon Local Plan 2018.
- 8 Sufficient detail has not been provided to demonstrate that the proposal would not have an adverse impact on the highway transport network due to lack of sightlines within the boundary of the site, inadequate swept path manoeuvres, inadequate cycle parking and blue badge car parking space provision, as well as the absence of a legal agreement securing sustainable highway improvements to mitigate the scheme impacts, contrary to Policies SP8, DM29 and DM30 of The Croydon Local Plan 2018 and Policies T4, T5, T6.1H of the London Plan 2021.

1 Appellant's Grounds of Appeal Refusal Reason 1

1.1 Reason 1. Family Accommodation

1.1.1 *"Para 4.8. The Council suggests that the proposal would lack family accommodation, result in the loss of a family-sized unit and fail to deliver a choice of quality of accommodation. The Appellant disagrees."*

1.2 MORA Comment

1.2.1 The Appellant case at **para 4.8** indicates a disagreement with the LPA's assessment. However, family homes require sufficient accommodation to support a family which is considered to be two adults with children and sufficient bedspaces with adequate Play Space. The proposal is to demolish a family home, resulting therefore in the loss, which is unquestionable, and replace with **Six 2-bedroom 3-person** and **Two 1-bed 2-person** dwellings. The **Six Flats** could accommodate **two adults with one child**, but families tend to have more than one child. The tendency is for smaller families, but **two-children families remain the most common family size**.

1.2.2 Therefore, this proposal would **NOT** have a single apartment which could accommodate **the most common family size**.

1.2.3 The Appellant at para 4.11 argues that *"the proposal provides 2 no. two bed (4-person) units on the ground floor with private rear gardens, 2 no. two bed (4-person) units on the first floor (one with additional study room), 2 no. two bed (4-person) units on the second floor (one with additional study room) and 2 no. two bed (4-person) units on the third floor. The mix of flats will therefore be suitable for individuals, couples, or small families.*

	Bedrooms						Actual Occupants (London Plan Policy D6)
	Bedroom #	Overall Width (m)	Overall Depth (m)	Actual Area (sq.m.)	Proposed Occupants #	Limits (sq.m.)	
Apartment 1	1	4.5	2.8	12.6	2	>11.5	2
	2	3.2	3.2	10.24	1	≥7.5 ≤11.5	1
Apartment 2	1	3.5	2.9	10.15	2	≥7.5 ≤11.5	1
	2	3.35	2.8	9.38	1	≥7.5 ≤11.5	1
Apartment 3	1	3.8	2.8	10.64	2	≥7.5 ≤11.5	1
	2	3.35	2.8	9.38	1	≥7.5 ≤11.5	1
Apartment 4	1	3	3.5	10.5	2	≥7.5 ≤11.5	1
	2	2.75	2.8	7.7	1	≥7.5 ≤11.5	1
Apartment 5	1	3.8	2.8	10.64	2	≥7.5 ≤11.5	1
	2	3.2	3.2	10.24	1	≥7.5 ≤11.5	1
Apartment 6	1	3.5	3	10.5	2	≥7.5 ≤11.5	1
	2	2.9	2.8	8.12	1	≥7.5 ≤11.5	1
Apartment 7	1	4	2.8	10.44	2	≥7.5 ≤11.5	1
Apartment 8	1	4	3.8	13.44	2	>11.5	2
Totals	14				22		16

Assessment of Bedroom Sizes (as scaled-off the supplied Plans)



- 1.2.4 **This is an incorrect assessment of the proposal.** The bedroom sizes do not allow the accommodation as described. The proposal indicates **Six Units of 2bed 3person and Two Units of 1bed 2person Units = 22 Occupants** whereas the actual **London Plan Policy D6 'Minimum Space Standards'** would only allow **2 Units of 2 bed 3persons which results in overall 16 Occupants as shown on the above Table analysis.** (*It should be understood that the measurements were scaled-off the supplied plans as displayed on a computer monitor at an appropriate magnification and thus subject to possible measuring errors and tolerances*).
- 1.2.5 However, it is considered (*even with possible measuring errors*) that the proposal does **NOT** comply with the **London Plan Policy D6** as will be further elaborated when commenting on **LPA Refusal 3.**
- 1.2.6 The above analysis clearly supports the **LPA's Refusal Reason 1** in that *"The proposed development by virtue of its **lack of family accommodation** would result in the loss of a family sized unit and therefore would fail to deliver a choice of quality accommodation to create sustainable exclusive mixed community."*

2 Appellant's Grounds of Appeal Refusal Reason 2

2.1 Reason 2. Design and Massing - Impact on Townscape and Local Character

- 4.14. The Council's concerns about the impact on the townscape and local character are unfounded, particularly given that it is in an Area of Focused Intensification (AFI) and given the approval of the similarly designed building being constructed at No.17.
- 4.15. The justification to CLP Policy DM10.1 in paragraph 6.103 states *"At the heart of each area of Focussed Intensification is an area with no one predominant character type. As each area of Focussed Intensification is currently low density it would not be justified, when there is unmet housing need, to seek to move towards a more consistent character that replicates surrounding low density development types."*
- 4.16. As considered by the Council in their determination of No.17 *"The pattern of development in surrounding residential area is regular, with a mix of dwellings ranging between 1 and 3 storeys (including 3 storey blocks of flats). This varied character and varying plot sizes means that the proposal would respect the development pattern of the surrounding area. The proposed building would occupy a larger footprint than the current house and extend almost the entire full width of site, but the scale and mass as viewed from the front is considered acceptable. The height of the building would be similar to a neighbouring block directly opposite in Peregrine Gardens. The front building line would relate to the neighbouring properties on either side. The proposal would be in line with the Council design guidance for the area and would reference the hipped roof form while making more of the roofs pace to provide further accommodation. The new building would relate to the mock Tudor form of the current building and would include a pair of gables to the front and create an acceptable relationship with the street. The applicant has simplified the form of the building towards the rear with a simple set back addition while integrating balconies into the overall massing whilst ensuring that the development complies with the 45-degree line from the neighbours windows in line with design guidance. The design language,*



roof space, and mix of materials to be used on the proposed buildings, would give the impression of a large semi-detached house, and provide both symmetry and balance to the site form.”

- 4.17. The Council cannot now opine that the appeal scheme will be out of character with the local character and distinctiveness. The development at No.17 was considered acceptable in the context of the local character in terms of its massing proportionality and design, and the appeal proposal must therefore be equally acceptable, in fact re-enforcing the gradual change in character that the Council wish to see in this location.
- 4.18. The Appellant’s proposal has been informed by the clear expectations set out in the CLP. CLP Policy DM10.1 requires a minimum height of 3 storeys in all new development. Furthermore, the former SPD provides specific examples, and encourages, the provision of three storey buildings between bungalows, and larger developments between two storey houses. The massing and proportionality of the appeal scheme fits entirely comfortably with these aspirations.
- 4.19. The detailed design of the building incorporates some subtle differences in the elevational composition, materials and detailing when compared with No.17, but these are appropriate in this context and arguably preferable to an exact repetition. Appropriate conditions can nevertheless ensure that all external materials are appropriate to secure the high design quality that the Appellant wishes to achieve. Consequently, the intensification required of the area will be accommodated within a building that will have a positive effect on the built environment.

2.2 MORA Comments Planning Policies

- 2.2.1 This Proposal was submitted and validated on **25th May 2022** which is subsequent to the publication of the revised **National Planning Policy Framework (NPPF) (2021)**, the **National Model Design Code & Guidance (2021)** and the **London Plan (March 2021)**.
- 2.2.2 All these previously published documents contain Policies relevant to this reason for refusal. The reference to **SPD2** guidance is irrelevant as **SPD2 was revoked in June 2022** and early notification was published prior to May 2022 indicating the intention for it to be revoked. The Revised (Draft) Croydon Plan removes all designated Intensification Area.
- 2.2.3 The **Croydon Local Plan (2018)** at the time of submission was **≈4+ years** since adoption and the policies have been superseded by more recent and higher weighted **National** and **London Plan** Policies.
- 2.2.4 **Croydon Plan (2018)** Policy of “**Growth**” is indeterminate and unenforceable as it does **NOT** provide guidance on any acceptable level of ‘**Intensification**’ increase in **Housing** or **Residential Density** in relation to the **Area Type** or the available or future planned supporting **infrastructure**. In fact, the Policy is quite vague, meaningless, and subject to varying degrees of interpretation depending on personal prejudicial preferences.



2.2.5 The **National Model Design Code & Guidance** in conjunction with the **London Plan** provides a methodology to assess appropriate **“Growth”** in terms of **Density** which can be used to determine an acceptable level of **intensification** or **densification**. The **Area Type** Density Ranges are based on the **National Guidance** and there is no substantive reason **Croydon Area Types** should deviate from this **National Guidance**.

2.2.6 The assessment is related to the **Area Type** at the location of a previously proposed development at 17 Orchard Avenue.

2.2.7 This proposal was within the **Post Code** of **CR0 8UB** which covers an area of **≈1.7ha** and, subsequent to the approval of **17 Orchard Avenue**, embraces **30 dwellings** housing **48 persons**. This places the proposal in a (less than) **<Outer Suburban Area Type** as defined by the **National Model Design Code & Guidance**.

2.3 Intensification Densification

2.3.1 The criterion for **Incremental Intensification** is defined at **London Plan Policy H2 para 4.2.4** which states:

“4.2.4 Incremental intensification of existing residential areas within PTALs 3-6 or within 800m distance of a station or town centre boundary”.

2.3.2 The **Google Earth** Image below, clearly shows that **19 Orchard Avenue** is **>800m** from any **Tram or Train Station** or **District Centre** (Shirley is defined as a Local Centre). It is also **<PTAL 3**, rated by TfL to be at **PTAL 2**. Therefore, **19 Orchard Avenue** is **inappropriate** for **Incremental Intensification**.



Google Earth Image for 19 Orchard Ave., 800m Radius



2.3.3 However, the **Croydon Plan** (2018) does indicate the area to be within an **‘Intensification Zone’**. This is slightly undermined by more recent revised drafts of the **Croydon Local Plan** although not yet adopted, stating the objectives of the new administration (May 2022) to remove the **“Intensification Zones”** from the **Croydon Local Plan** and revoke **SPD2**.

2.4 Area Type Design Codes

2.4.1 To ascertain the appropriateness of the proposal it is necessary to compare the proposal’s **Design Code** parameters with those of the **Area Type** to which the development is to be located; i.e., it’s **Post Code Area Type** parameters. This is in response to the **National Model Design Code & Guidance** and the **London Plan (2021) Policy D3 Design Led Approach** relating to the **Area Type Design Codes**.

2.4.2 The following spreadsheet shows the incremental increase in the **Post Code Area Type** prior to, and as a result of the redevelopment of **17 Orchard Ave**, and this current proposal for **19 Orchard Ave**. The detail is based upon the actual proposal parameters (irrespective of whether those parameters meet the **London Plan Policies** for accommodation standards as identified above, or in our response to Refusal reason 3).

Parameters of Post Code Design Code						
Area Type Design Code Parameter						
<small>(These parameters auto calc Design Code)</small>						
Post Code	CR0 8UB			(1 to 39 Orchard Avenue)		
	Previous to 17 Orchard Ave	Plus 17 Orchard Ave.	Plus 19 Orchard Ave.			
Area of Post Code (ha)	1.70	1.70	1.70		hectares	
Area of Post Code (Sq.m)	17000	17000	17000		sq.m.	
Number of Dwellings (Units) (*)	23	30	37		Units	
Number of Occupants (Persons) (**)	25	48	66		Persons	
Post Code Housing Density	13.53	17.65	21.76		Units/ha	
Post Code Residential Density	14.71	28.24	38.82		Bedspaces/ha	
Occupancy	1.09	1.60	1.78		Persons/Unit	
Area Type (National Model Design Code)	<Outer Suburban	<Outer Suburban	Outer Suburban		Area Type Setting	
(*) VOA Last updated on 23 August 2023						
(**) https://www.postcodearea.co.uk/						
Design Code Parameters						
				Min	Max	
NMDC&G Area Type Setting (Units/ha)	<Outer Suburban	<Outer Suburban	Outer Suburban	0.00	20.00	
NMDC&G Area Type Setting (Persons/Units/ha)	<Outer Suburban	<Outer Suburban	<Outer Suburban	0.00	47.20	
Equivalent Residential Density (Persons/ha) ¹						
¹ Based upon National Occupancy of 2.36 persons/dwelling ²						
² https://www.statista.com/statistics/295551/average-household-size-in-the-uk/						
				Actual	bs/ha	
PTAL (now) ²	-0.83	-0.48	-0.21	2.00	125.86	
PTAL (forecast 2031) ²	-0.83	-0.48	-0.21	2.00	125.86	

Area Type Design Code for Post Code CR0 8UB and the proposal (after the increase resultant on proposal of 17 Orchard Ave.)

2.4.3 The spreadsheet above shows the incremental increase between the **existing Area Type Design Codes (Post Code)** and the **proposal Area Type Design Codes**. This shows the changed increase in **Housing Density** from **14.71U/ha mid-range <Outer Suburban Area Type** to **38.82U/ha approaching maximum of <Outer Suburban Area Type** Design Code.



2.4.4 The **Residential Density** increase would be from **76.69U/ha Outer Suburban Area Type** to **337.42U/ha Central Area Type** setting. These increases would require **significant improvement** in **supporting infrastructure** which is **NOT** planned or likely to be provided.

2.5 **Application Details**

Application Details			
Application Ref:	22/02202/FUL		
Address	19 Orchard Avenue		
PostCode	CR0 8UB		
Parameters	Existing	Proposal	Units
	19 Orchard Ave	19 Orchard Ave	
Site Area (ha)	0.0652	0.0652	ha
Site Area (sq.m.)	651.80	651.80	sq.m.
Units (Dwellings)	1	8	Units
Bedrooms	4	14	Bedrooms
Bedspaces	5	22	Persons
Housing Density	15.34	122.70	Units/ha
Residential Density	76.69	337.42	bs/ha
Occupancy	5.00	2.75	Persons/Unit
National Average Occupancy	2.36	3.36	Persons/Unit
NMDC&G Area Type Setting (Units/ha)	<Outer Suburban	Central	
Area Type Setting (Bedspaces/ha) ²	Outer Suburban	Central	
² Comparison Based upon latest (2021) National Average Occupants/Dwelling (2.36)			
PTAL (Current) 2	0.75	7.38	
PTAL (Forecast) 2	0.75	7.38	
Assumption: Incremental linear increase: (PTAL v Residential Density)			

The application Site details Existing & Proposed

Comparison - Post Code Design Code & Application Proposal			
	Existing	Proposal	
	19 Orchard Ave	19 Orchard Ave	
Housing Density:			
Post Code Housing Density (Units/ha)	17.65	17.65	Units/ha
Application Housing Density (Units/ha)	15.34	122.70	Units/ha
Percentage Increase or Decrease (%)	-13.09	595.18	%
Residential Density:			
Post Code Residential Density (bs/ha)	28.24	28.24	bs/ha
Application Residential Density (bs/ha)	76.69	337.42	bs/ha
Percentage Increase (%)	171.57	1094.83	%
Public Transport Accessibility Level (PTAL):			
PTAL Available (2)	2.00	2.00	PTAL
PTAL Required	0.75	7.38	PTAL
Percentage Increase or Decrease (%)	-62.50	269.00	%
Occupancy:			
National Average Occupancy	2.36	2.36	bs/Unit
Post Code Occupancy	1.09	1.09	bs/Unit
Application Occupancy	5.00	2.75	bs/Unit
Percentage Increase (%)	358.72	152.29	%

Comparisons of Design Code parameters of Post Code & Proposal.



- 2.5.1 The increase in **Area Type** and **Housing Density** from **<Outer Suburban** of **15.34Units/ha** & the Revised Post Code (CR0 8UB) (After the redevelopment of 17 Orchard Ave.) of **17.65U/ha** to a **Central Area Type** at **122.74U/ha**, a **595.18%** and **699.87%** increase respectively, is an excessive overdevelopment with no commensurate increase in supporting infrastructure. The comparison between **Post Code Area Type** and Application **Area Type** is considered valid as analysis is based upon **proportionality** of **Units** and **Areas** of each measurement and are thus considered a **valid assessment**.
- 2.5.2 The forgoing analysis clearly shows that the proposal exceeds the **Area Type** of the locality defined by the local **Post Code Design Codes** and the **Area Type** appropriate for the **proposal**. The proposal would **increase** the **Post Code Area Type** from **<Outer Suburban** to **Outer Suburban** without any improvement of supporting infrastructure.
- 2.5.3 The increase in **Area Type** from that of the existing **17 Orchard Ave.**, **Housing Density** of **15.34 Units/ha** at **<Outer Suburban Area Type** to the proposed **122.74 Units/ha** at a **Central Area Type** clearly illustrates the **inappropriate over development** of this proposal.
- 2.6 Residential Density & Public Transport Accessibility**
- 2.6.1 The revised **London Plan** (2021) omits the earlier iteration **Density Matrix** which has removed any relationship or guidance between **Public Transport Accessibility Levels** (PTAL) with **Area Types** or **Housing** and/or **Residential Densities**. This has created a void in the analysis of the available **PTAL** acceptable for **Residential Densities**.
- 2.6.2 It is assumed that **Public Transport Accessibility** should increase proportionately with the localities **Residential Density** as the more residents there are, the greater the need for public transport accessibility – to meet the needs of the local population and reduce the need for car ownership. Therefore, in the absence of any Planning Guidance, we are assuming that the **PTAL** increases proportionately and linearly with any increase in **Residential Density** across the **PTAL** range of **Zero to 6+** over the **Area Types** **Outer Suburban** to **Central**.
- 2.6.3 As the **Area Types** defined in the **National Model Design Code & Guidance** are **Nationally** defined parameters, the conversion from **Housing Densities** **Area Types** to **National Residential Densities** can be assessed on the latest **National Average occupancy persons/Unit** at **2.36 persons/Unit Dwelling**¹.
- 2.6.4 Thus, the increase would follow the simple linear function:
$$y = mx + c \text{ where } y = \text{Density}; m = \frac{\delta y}{\delta x}; x = \text{PTAL}; \& c = y \text{ when } x = 0$$

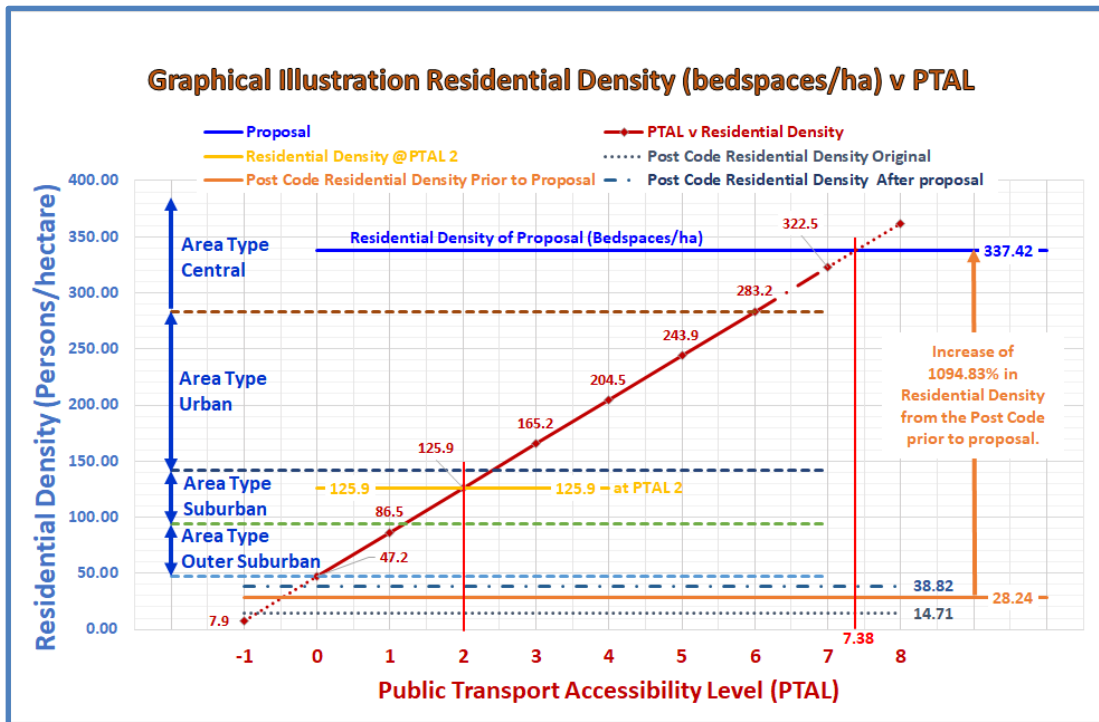
¹ <https://www.statista.com/statistics/295551/average-household-size-in-the-uk/>



2.6.5 Therefore, the **Public Transport accessibility Level (PTAL)** for the proposal at a **Residential Density of 337.53 Bedspaces/ha** would be:

$$y = \text{Residential Density} = \left(\frac{120 * 2.36 - 20 * 2.36}{6} \right) * x + 20 * 2.36$$

$$\therefore x = \text{PTAL} = \frac{337.53 - 47.2}{39.33} = \frac{290.33}{39.33} = 7.3818 \approx 7.38 = \text{PTAL}$$



PTAL Linear incremental increase in proportion with increase in Residential Density in relation to Area Type Setting

2.6.6 The Graphical illustration above shows the **Residential Density** increase of **1094.83%** from the **Post Code Residential Density** of **28.24 persons/ha** to **337.42 persons/ha** of the proposal. This Proposed **Residential Density** of **337.42 persons/ha** would require a **PTAL of 7.38** when the available PTAL for the locality is **PTAL 2**, and not proposed to be improved before 2031.

2.6.7 The references to SPD2 are inappropriate as SPD2 was revoked in 2022.

2.7 Site Capacity: London Plan Policy D3 – Optimising Site Capacity

2.7.1 The **London Plan Policy D3** requires a **Design led Approach** to ensure proposals comply with the **Site Capacity** appropriate for the **Area Type Design Codes**.

2.7.2 This assessment Site Capacity considers the summation of the various requirements to be calculated to ensure the **minimum space standards** at best practice when totaled are within the available **Site Area capacity** including the appropriate **private, communal amenity space** and **Play Space for children** including the **London Plan Urban Greening Factor (UGF)**.



19 Orchard Ave. Ref: 22/02202/FUL															
Site Area (3)		0.06518/ha		Housing Density		122.74		Units/ha		Floor Area Ratio		0.80		Parking	
Site Area (3)		651.8 sq.m.		Residential Density		368.21		hr/ha		PTAL		2011		2	
Units		8		Residential Density		337.53		Bs/ha		PTAL		2031		2	
Unit	Bedrooms	BedSpaces (1)	Habitable Rooms (2)	GIA (Offered) (sq.m.)	GIA (required) (sq.m.)	GIA Best Practice (sq.m.)	In-Built Storage Space (Offered) (sq.m.)	In-Built Storage Space (Required) (sq.m.)	In-Built Storage Space (Best Practice) (sq.m.)	Private Amenity Space (Offered) (sq.m.)	Amenity Space (Required) (sq.m.)	Probable Adults	Probable Children (4)	Play Space (Offered) (5)	Play Space (Required)
Apartment 1	2	3	3	69.7	61	67	Not Stated	2	2.50	32.5	6	2	2	Garden	-
Apartment 2	2	3	3	67	61	67	Not Stated	2	2.50	31.0	6	2	2	Garden	-
Apartment 3	2	3	3	69.7	61	67	Not Stated	2	2.50	None	6	2	1	3.5	10
Apartment 4	2	3	4	72.3	61	67	Not Stated	2	2.50	None	6	2	1	3.5	10
Apartment 5	2	3	3	69.7	61	67	Not Stated	2	2.50	None	6	2	1	3.5	10
Apartment 6	2	3	4	72.3	61	67	Not Stated	2	2.50	None	6	2	1	3.5	10
Apartment 7	1	2	2	50	50	55	Not Stated	1.5	2.00	None	5	2	0	-	0
Apartment 8	1	2	2	50.2	50	55	Not Stated	1.5	2.00	None	5	2	0	-	0
Totals	14	22	24	520.90	466	512	Not Stated	15	19	63.50	46	16	8	14	40

Note (1) The floor Plans show bed spaces to be as listed above but the Design and Access Statement infers 2b3p and 1b2p = 22persons and GIA 466sq.m. The Plans show all beds as doubles.
 Note (2) Kitchen/Dining & Lounge Open Plan classed as one Habitable Room.
 Note (3) Site Area given in Design & Access Statement para 2 as 651.8 sq.m.
 Note (4) The Communal Open Space (after deducting the Private amenity Space for Apartments 1&2) is shared between occupants of Apartments 3 to 8 including childrens Play Space.
 Note (5) The Design & Access Statement indicates rear garden amenity at 181sq.m with 14sqm is playspace but the Play Space is not separaret from the total available Communal Space.

Proposals Parameters

2.7.3 In order to assess these parameters, it is appropriate for information be provided by the Applicant which wasnot adequately provided in this proposal. The London Plan LPG Optimising Site Capacity provides a toolkit to evaluate the appropriate optimised capacity, but the toolkit is designed for large projects with multiple dwelling types and varying tenures.

2.7.4 The SPG does however advise that stakeholders and others can develop their own methodology based upon the principles of the Toolkit which we have tried to emulate. There is no local LPA Guidance to assist commentors on this topic.

Indicative London Plan Policy D3 - Optimising Site Capacity & H2 - Small Site Capacity Calculator:															
Input Parameters				19 Orchard Avenue			App Ref: 22/02202/FUL			Appeal Ref:					
Existing Site Area (hectares)	Existing Site Area (sq.m.)	Existing GEA (Footprint) (Scaled-off Plans)	Play Space per Child (sq.m.)	Car Parking Standard (per space) (sq.m.)	Parallel Parking (per space) (sq.m.)	Car Park Standard with EVC (Per Space) (sq.m.)	Car Parking (Disabled Bays) (Per Space) (sq.m.)	Cycle Rack Storage (two bikes) (sq.m.)	Refuse Eurobin (1280L) Storage (per Bin) (sq.m.)	Refuse Eurobin (1100L) Storage (per Bin) (sq.m.)	Refuse Eurobin (660L) Storage (per Bin) (sq.m.)	Refuse Eurobin (360L) Storage (per Bin) (sq.m.)	Refuse Eurobin (240L) Storage (per Bin) (sq.m.)	Refuse Eurobin (180L) Storage (per Bin) (sq.m.)	Refuse Eurobin (120L) Storage (per Bin) (sq.m.)
0.0652	651.80	186.48	10	12.5	12	14	18	1.71	1.25	1.23	0.90	0.53	0.53	0.43	
Unit	Site Area (sq.m.)	Footprint or GEA (includes GIA)	Bedrooms (b)	Bedspaces (bs)	GIA Required (Best Practice) (sq.m.)	In-built Storage (Best Practice) (sq.m.)	Private Amenity Space (Required) (Note 1) (sq.m.)	Probable Adults (proposed)	Probable Children	Play Space Required (sq.m.)	Unit Refuse Bin Storage (sq.m.)	Combined Site Storage Bins Required (sq.m.)	Cycle Storage (sq.m.)	Car Parking (London Plan) (sq.m.)	
Flat 1	-	-	2	3	67.00	2.50	6	2	1	10			1.71	18.00	
Flat 2	-	-	2	3	67.00	2.50	6	2	1	10			1.71	14.00	
Flat 3	-	-	2	3	67.00	2.50	6	2	1	10			1.71	12.50	
Flat 4	-	-	2	3	67.00	2.50	6	2	1	10			1.71	12.50	
Flat 5	-	-	2	3	67.00	2.50	6	2	1	10			1.71	12.50	
Flat 6	-	-	2	3	67.00	2.50	6	2	1	10			1.71	12.50	
Flat 7	-	-	1	2	55.00	2.00	5	2	0	0			1.71	12.50	
Flat 8	-	-	1	2	55.00	2.00	5	2	0	0			1.71	12.50	
Totals	651.80	186.48	14	22	512	19	46	16	6	60	0	3.8839	13.68	107	
Proposal	Footprint or GEA (includes GIA)	Play Space (Note 1) (sq.m.)	Private Amenity Spase (Note 1) (sq.m.)	Communal Amenity Space (Required)	Parking Spaces (sq.m.)	Cycling Storage (sq.m.)	Unit Refuse Bin Storage (sq.m.)	Combined Site Storage Bins Required (sq.m.)	Required Area (sq.m.) (including GEA)	Available Site Area (sq.m.)	Site Capacity Ratio (Available/Site Area)	Floor Area Ratio (GIA/Site Area) Best Practice			
Total	186.48	60.00	46.00	53.00	107.00	13.68	0.00	3.88	470.04	651.80	0.72	0.79			
Assessment	Floor Area Ratio = (GEA/Site Area)	Plot Area Ratio = (GEA/Site Area)	% Site for Garden Area (Area Type)	Site Area available (sq.m.)	Garden Area (sq.m.) (UGF) (Note 1)	Required Area (sq.m.) (including GEA)	± Indicative Site Area	% Site Capacity	Note 1: Private Amenity Space and Play Space required is included in the overall requirement but deducted from the Garden Area (UGF) (if the Area Type has no Garden Area, the Private Amenity and Play Space should be included in the total GEA or the GIA of the individual Units). Note 2: Refuse Bins capacities based upon Croydon Refuse Guidance. Capacities required for the Type(s) of dwellings with equivalent Dimensions for the minimum capacity of the total unit(s) required.						
<Outer Suburban	0.25	0.125	100.0%	651.80	545.80	470.04	-364.04	-55.85%							
Outer Suburban	0.375	0.25	75.0%	651.80	382.85	470.04	-201.09	-30.85%							
Suburban	0.5	0.375	50.0%	651.80	219.90	470.04	-38.14	-5.85%							
Urban	0.75	0.5	25.0%	651.80	56.95	470.04	124.81	19.15%							
Central	1	1	0.0%	651.80	-106.00	470.04	287.76	44.15%							

Assessment of Site Capacity for 8 Units at 19 Orchard Avenue

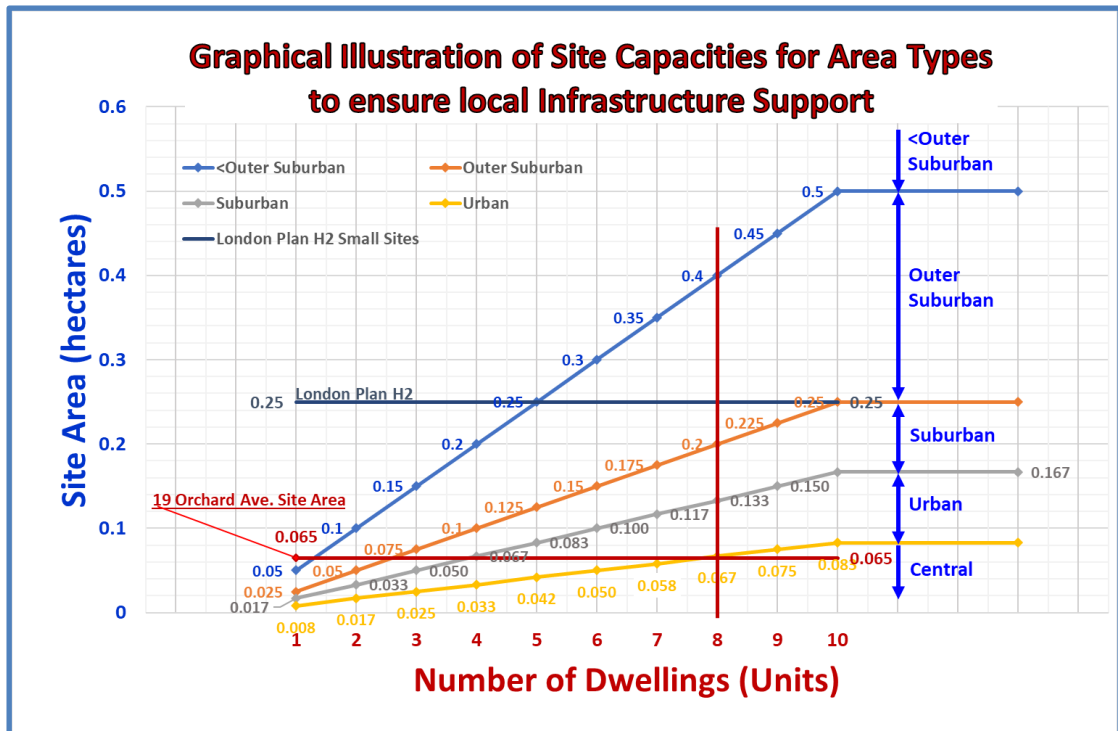


2.7.5 The Area assessment for refuse bins is based upon the Council's advice in their Refuse & Recycling guidance as shown in the table. The minimum size wheelie Bin we have found has been included and the capacities are at least the minimum required by the Council's Policy and in multiple Bins to meet the minimum capacity required.

General Waste						
	Flats with 5 or more units within building					Waste Bin Storage Area (sq.m.)
	1b1p	1b2p	2b3p	3b4p	3b5p	
Itr required	120	130	140	150	160	
number of flats		2		6		
total	0	260	0	900	0	
Total litres required (2 x 660ltr)					1160	1.9152
Dry Recycling						
number of flats	128ltrs per flat		Total			
8	128		1024		1.7081	
Food Recycling						
number of flats	12ltrs per flat		Total			
8	12		96		0.2606	
Total floor Area for Bin Storage (Nearest minimum capacity)						3.8839

2.7.6 The **Garden Areas** are assessed by analysis of the **Plot Area Ratios (PAR)** for the different **Area Types** to provide an acceptable Garden/Green area in keeping with the locality and the **Area Type** with an assessment of the likely **Urban Greening Factor (UGF)**. All other areas required for **Parking, Cycle Storage** etc., are as found from web searches or the **London Plan**.

2.7.7 A further methodology of establishing **Site Capacity** is by definition of the **Area Type** parameter as defined in the **National Model Design Code & Guidance**. The **Area Types** are defined by the **Housing Density (Units/ha)** which requires the **Site Area** for a proposed development to be within the **Area Type** range.



Site Areas required for Area Types for 1 to 10 Dwellings



- 2.7.8 The supporting infrastructure that is required to support sustainable developments within the **Area Type** range requirements are such to meet the **London Plan Policy D2 Infrastructure for sustainable densities**.
- 2.7.9 **19 Orchard Ave** is within an **Area Type <Outer Suburban** as defined by the **Post Code CR0 8UB** and therefore for **8 units** would require a minimum **Site Area of 8/20 ≥0.4ha**, when the available **Site Area is 0.06518ha**. That is a deficiency of **0.33482ha** or a deficiency of **83.705%**.
- 2.7.10 It can be seen from the graphical illustration that the available **Site Area of 0.06518ha** to retain the **Area Type <Outer Suburban** could only accommodate $\approx 20 \times 0.06518 = 1.3036$ Units i.e., **≈one dwelling** and remain within the **Area Type <Outer Suburban Range** as defined by the **National Model Design Code & Guidance**.
- 2.7.11 The full assessment of the foregoing analysis is clear evidence of **over development** and excessive **Massing** which fully supports the **LPA reason 2 for Refusal**.
- 2.7.12 The above analysis clearly supports the **LPA's Refusal Reason 2** in that *"The proposed development, by reason of its design, proportionality and massing would be out of character with the local character and distinctiveness and would thereby conflict with Policies SP4 and DM10 of the Croydon Local Plan 2018, and Policies H2, D4 and D6 of the London Plan 2021."*
- 2.7.13 **The Appeal should therefore be Dismissed.**

3 Appellant's Grounds of Appeal Refusal Reason 3

3.1 Reason 3. Standard of Accommodation

- 4.20. *The proposal is similar to that approved at No.17 in terms of the layout, orientation, and size of rooms on the ground floor. The Council found that scheme to be acceptable in terms of the standard of accommodation, otherwise they would not have granted planning permission for it.*
- 4.21. *Similar to No.17, all of the flats will be at least double aspect, with windows to the front and rear elevations providing good levels of outlook, daylight, and sunlight. There are additional windows in the side elevation that will serve bathrooms and the smaller of the bedrooms. At ground floor level, these side windows will be fixed shut and obscured up to 1.7m above the finished floor height to afford privacy from other residents who may be requiring access to the rear garden. This is not an unusual, but acceptable, arrangement in an urban environment and consistent with that approved at No.17.*
- 4.22. *The ground floor flats will each have a private area of directly accessible amenity space in accordance with CLP Policy DM10.4. The CLP policies (and SPD No.2) do not preclude the provision of shared outdoor amenity space. As also approved at No.17, communal space is therefore provided to the rear of the property, suitably landscaped and capable of accommodating dedicated child playspace. CLP Table 6.2 requires a minimum private amenity area of 6m² per 2 bed unit (total 48m²), and child's play space of 1.2m² per unit (total 9.6m²).*



There is no reason to suggest that such a provision cannot be accommodated within this scheme.

- *4.23. The two ground floor units will have step free access, with a level approach and threshold across the front doors. They are clearly capable of meeting the accessible housing standards M4(2) and M4(3). With respect, it is not the function of the planning system to duplicate or go beyond the minimum requirements of other legislation such as the Building Regulations.*
- *4.24. The Building Regulations 1 and LP Policy D7 allow for external stepped approaches where.*
- *it is not possible to achieve a step-free access. LP Policy D7 also accepts that it may be necessary to apply flexibility in the application of the policy in relation to small scale infill development and small sites, provided that the dwellings above or below ground floor meet the mandatory building regulations requirements of M4(1) via the Building Control process. The requirements do not therefore need to be demonstrated at the planning application stage.*
- *4.25. The standard of accommodation to be provided will therefore meet relevant standards, which if not secured by means of the Building Regulations, can be secured by means of appropriate conditions on the planning permission.*

3.2 MORA Comments

3.2.1 Planning Policies

- 3.2.1.1 The approval **Decision for 17 Orchard Avenue App Ref: 19/00131/FUL** was made on **07 Nov 2019** and the decision note published also on **07 Nov 2019**. Therefore, the Application and subsequent decision were all made based upon the **Planning Policies** active and adopted at that time. Since then, policies at **National** and **London Plan** levels have been revised and updated, many of the reasons for approval of **17 Orchard Ave. Ref: 19/00131/FUL** have been revised or replaced. Thus, the Appellant's references to precedents set by the approval of **17 Orchard Avenue Application Ref: 19/00131/FUL** which was submitted to the **LPA on 10 Jan 2019** and validated **10 Mar 2019** are **inappropriate**.
- 3.2.1.2 The general statement of comparison by reason of '**precedent**' does not apply, as if it did, there would be no point in revising **Planning Policies** as none could be enforced if the **precedent** set prevented implementation of subsequent applications by later defined Policies.
- 3.2.1.3 Since the approval of **17 Orchard Avenue**, the revised **London Plan (March 2021)** has been adopted and published as has been the revised **NPPF (2021)**, and the **National Model Design Code & Guidance (2021)** by the **Department for Levelling Up Communities & Housing (DLUCH)** as referenced from the revised **NPPF**.



3.2.2 **London Plan Policy D6 Housing quality and standards.**

3.2.2.1 **The Apartments 3 to 8 have no Balconies or Private Open Amenity Space, a total deficiency of 34sq.m. The Appellant has stated that "...There is no reason to suggest that such provision cannot be accommodated within this scheme"** After summing all the space requirements there remains approximately 150sq.m. to share across the **Six Flats** (above ground floor level) for the allocated **"Private Open Space"**. However, if these areas were to be allocated within the communal amenity garden area, access would need to be provided and to ensure privacy when using these areas, dividing/Partitioning fencing would make the areas very congested and extremely unsightly.

19 Orchard Ave. Ref: 22/02202/FUL															
Site Area (3)		0.06518 ha		Housing Density		122.74		Units/ha				Floor Area Ratio		0.80	
Site Area (3)		651.8 sq.m.		Residential Density		368.21		hr/ha				PTAL		2011	
Units		8		Residential Density		337.53		Bs/ha				PTAL		2031	
Unit	Bedrooms	BedSpaces (1)	Habitable Rooms (2)	GIA (Offered) (sq.m.)	GIA (required) (sq.m.)	GIA Best Practice (sq.m.)	In-Built Storage Space (Offered) (sq.m.)	In-Built Storage Space (Required) (sq.m.)	In-Built Storage Space (Best Practice) (sq.m.)	Private Amenity Space (Offered) (sq.m.)	Amenity Space (Required) (sq.m.)	Probable Adults	Probable Children (4)	Play Space (Offered) (5)	Play Space (Required)
Apartment 1	2	3	3	69.7	61	67	Not Stated	2	2.50	32.5	6	2	2	Garden	-
Apartment 2	2	3	3	67	61	67	Not Stated	2	2.50	31.0	6	2	2	Garden	-
Apartment 3	2	3	3	69.7	61	67	Not Stated	2	2.50	None	6	2	1	3.5	10
Apartment 4	2	3	4	72.3	61	67	Not Stated	2	2.50	None	6	2	1	3.5	10
Apartment 5	2	3	3	69.7	61	67	Not Stated	2	2.50	None	6	2	1	3.5	10
Apartment 6	2	3	4	72.3	61	67	Not Stated	2	2.50	None	6	2	1	3.5	10
Apartment 7	1	2	2	50	50	55	Not Stated	1.5	2.00	None	5	2	0	-	0
Apartment 8	1	2	2	50.2	50	55	Not Stated	1.5	2.00	None	5	2	0	-	0
Totals	14	22	24	520.90	466	512	Not Stated	15	19	63.50	46	16	8	14	40

Note (1) The floor Plans show bed spaces to be as listed above but the Design and Access Statement infers 2b3p and 1b2p = 22persons and GIA 466sq.m. The Plans show all beds as doubles.
 Note (2) Kitchen/Dining & Lounge Open Plan classed as one Habitable Room.
 Note (3) Site Area given in Design & Access Statement para 2 as 651.8 sq.m.
 Note (4) The Communal Open Space (after deducting the Private amenity Space for Apartments 1&2) is shared between occupants of Apartments 3 to 8 including childrens Play Space.
 Note (5) The Design & Access Statement indicates rear garden amenity at 181sq.m with 14sqm is playspace but the Play Space is not separated from the total available Communal Space.

Proposal Parameters

3.2.2.2 The lack of **Private Open Space** for **Apartments 3 to 6** is **unacceptable** when considered against the fact that the remaining **accommodation** does not meet the **minimum Space Standards** as required by the **London Plan Policy D6 Housing quality and standards.**

	Bedrooms						Actual Occupants (London Plan Policy D6)
	Bedroom #	Overall Width (m)	Overall Depth (m)	Actual Area (sq.m.)	Proposed Occupants #	Limits (sq.m.)	
Apartment 1	1	4.5	2.8	12.6	2	>11.5	2
	2	3.2	3.2	10.24	1	≥7.5 ≤11.5	1
Apartment 2	1	3.5	2.9	10.15	2	≥7.5 ≤11.5	1
	2	3.35	2.8	9.38	1	≥7.5 ≤11.5	1
Apartment 3	1	3.8	2.8	10.64	2	≥7.5 ≤11.5	1
	2	3.35	2.8	9.38	1	≥7.5 ≤11.5	1
Apartment 4	1	3	3.5	10.5	2	≥7.5 ≤11.5	1
	2	2.75	2.8	7.7	1	≥7.5 ≤11.5	1
Apartment 5	1	3.8	2.8	10.64	2	≥7.5 ≤11.5	1
	2	3.2	3.2	10.24	1	≥7.5 ≤11.5	1
Apartment 6	1	3.5	3	10.5	2	≥7.5 ≤11.5	1
	2	2.9	2.8	8.12	1	≥7.5 ≤11.5	1
Apartment 7	1	4	2.8	10.44	2	≥7.5 ≤11.5	1
Apartment 8	1	4	3.8	13.44	2	>11.5	2
Totals	14				22		16

London Plan Policy D6 – Minimum Space Standards (Bedroom Sizes)



- 3.2.2.3 The **London Plan Policy D6 Minimum Space Standards - Best Practice** recommended **GIA** for this accommodation schedule should be at least **512sq.m.** and the offered **GIA** is stated as **520.90sq.m.** which gives an **8.9sq.m. excess.** However, the minimum area required for the scheduled **bedrooms** would require **137sq.m.** and the actual offered is total **≈144sq.m.** as scaled-off the provided floor plans.
- 3.2.2.4 The **Apartments 2-to-6, bedroom #1** Area sizes can only accommodate a **single person** as defined by **London Plan Policy D6** as they are all **<11.5sq.m.** in area. In addition, **Apartment 4 Bedroom #2** as scaled-off the **Plans** is critically just **2.75m wide and 7.7sq.m. in Area.** The accommodation as proposed would therefore only be provided for **16 occupants** rather than the **22 proposed,** which is additional conclusive evidence supporting the **LPA Refusal Reason 3.**
- 3.2.2.5 The requirement for **Minimal In-Built Storage** capacity is **NOT provided** within each apartment which is normally included within the quoted **GIA of the Unit.** This therefore **fails** to meet the requirement for any **Built-In Storage capacity** for the life of the development which would result in significant inconvenience to the living accommodation standard for future occupants with absolutely nowhere to hide the general living clutter or necessary important documents.
- 3.2.2.6 **The assessment and analysis of the proposal on this issue proves beyond doubt that the proposal fails the London Plan Policies on “Minimum Space Standards” which should be exceeded (therefore not less than). The above analysis clearly supports the LPA’s Reason 3 for Refusal that: “The development would result in poor standard of accommodation by reason of its window arrangements leading to lack of privacy, poor outlook and possible low levels of light to ground floor bedroom windows, lack of private amenity space to upper floor flats, failure to provide direct access from the building to the rear communal garden, absence of child playspace details and fails to demonstrate M4(2) or M(3) compliance, ...” and thus, the Appeal should be Dismissed.**

4 Appellant’s Grounds of Appeal Refusal Reason 4

4.1 Reason 4. Impact on Neighbours

- *4.26. The Council’s concerns with regard to the impact on No.21 are unfounded and unfair in the light of the grant of planning permission for the redevelopment of No.17, with that development having the same impact on the current appeal property as that of the appeal proposal on No.21.*
- *4.27. The Appellant maintains that the relationship with the neighbours is acceptable and in accordance with guidance provided within former SPD2 3 .*
- *4.28. The proposed building will at its closest point retain a minimum 1m gap to both side boundaries, thereby ensuring that the new building will sit comfortably within the plot, and maintaining an appropriate space between buildings, as does the approved development at No.17. The hipped roof will also ensure that the*

building will not be overbearing to its neighbours.

- 4.29. *The building will not breach the 45-degree line from the closest rear windows of habitable rooms of No.21 and accordingly there will be no loss of outlook from the neighbouring properties.*
- 4.30. *The Appellant therefore maintains that there will be no loss of outlook, and no adverse harm to the amenities of the neighbouring properties.*

4.2 MORA Comments

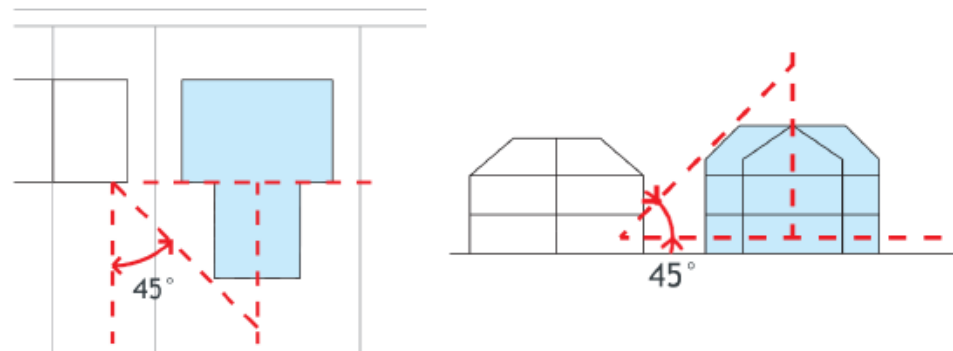
4.2.1 Planning Policies

4.2.1.1 We dispute the statements by the appellant. The SPD2 Supplementary Planning Guidance (although revoked in 2022) referenced by the Appellant indicates at Section 2.11 Forms of Projection Beyond Rear Building Lines states: ***“It should be demonstrated that there should be no unreasonable impact on neighbouring amenity” and the test to be applied is the 45° Degree projection both Horizontally and vertically from the “Centre” of the nearest ground floor neighbours window. ...”***

4.2.1.2 Although the proposal did NOT provide plans (either Plans or Elevations) which included details of number 21 Orchard Avenue, it can be clearly established that the 45°Degree projection from the centre of 21 Orchard Ave., Ground floor window would intersect both vertically and horizontally the proposed building and thus would fail the policy.

4.2.1.3 Although SPD2 was revoked in 2022, the **London Plan Supplementary Planning Guidance Small Site Design Codes** first published in **February 2021** for consultation and subsequently adopted in 2022 included the 45 °Degree Rule on neighbour amenity at **Section 4.5 Rear Building Line Projection** (Figure 4.6).

Figure 4.6 Example code for rear building line projection of dwellings in a semi-detached character type (such as *Metroland Estate*)

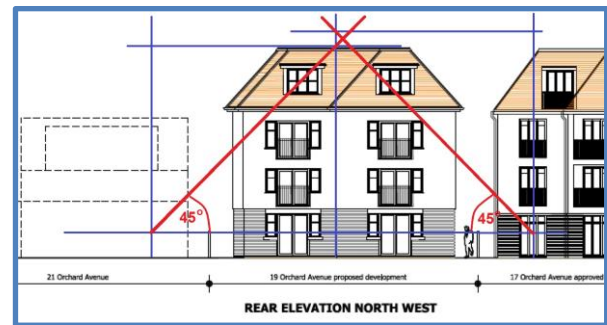
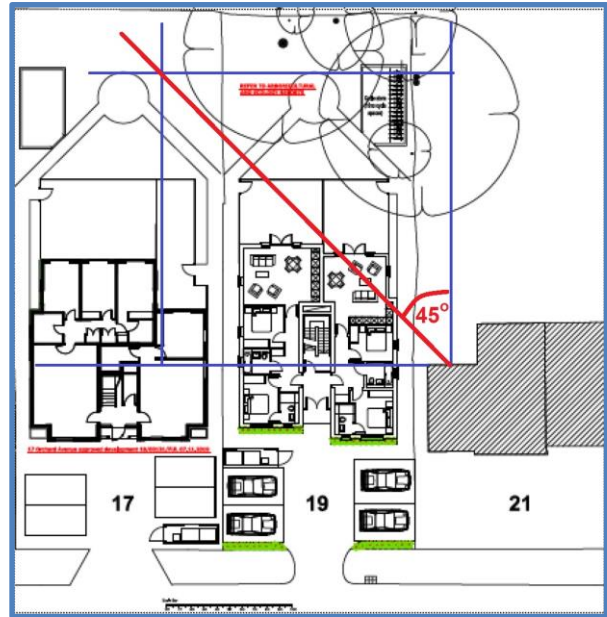


45°Degree projection Rule from centre of nearest Ground Floor Window of adjacent dwelling



4.2.1.4 Therefore, although SPD2 was revoked in 2022 the **London Plan Policy** overlapped and provided the same guidance on neighbour amenity. The proposal **Fails** this policy for both **horizontal** and **vertical 45°Degree projection**. The appellant has NOT provided any evidence to disprove this assessment.

4.2.1.5 We therefore are confident that the LPA assessment was correct in that *“The proposal, by reason of its massing and proximity, would result in an intrusive and imposing form of development detrimental to the visual amenity and outlook for neighbours at 21 Orchard Avenue contrary to policy DM10 .6 of the Croydon Local Plan 2018 and Policy D3 of the London Plan 2021”* and that the proposal **fails the 45°Degree Rule** both **horizontally** & **vertically** thus supporting the **Reason 4** for Refusal. **Therefore, the Appeal should be Dismissed.**



5 Appellant's Grounds of Appeal Refusal Reason 5

5.1 Reason 5. Trees

- 4.31. *The previous Appeal Inspector acknowledged that the evergreen trees to the site frontage were not concern, and that their removal would be a benefit of the scheme because they present an impenetrable barrier to the streetscene. The Inspector also considered that the proposed landscaping scheme could have been dealt with by means of conditions to secure an appropriate scheme for both the front and rear of the site.*
- 4.32. *There is no reason why the Council could have not similarly imposed such conditions to ensure that suitable replacement trees are secured.*

5.2 MORA Comment:

5.2.1 The Tree Survey at Section 8 Conclusion indicates a loss of **10 trees** as a result of the proposal but does not indicate any replacement to offset this loss. We therefore agree with the LPA's **Reason 5** for **Refusal** and recommend this **Appeal is Dismissed**.

6 Appellant's Grounds of Appeal Refusal Reason 6

6.1 Reason 6. Impact on biodiversity

- 4.33. *The site does not have any significant or notable nature conservation, ecological or biodiversity value, and no concerns were raised with regard to the previous appeal scheme in relation to such matters. Therefore, this lesser scheme should equally not raise any concerns. Furthermore, the Applicant's Preliminary Ecological Assessment (Green Shoot Ecology) concludes that habitats and conditions on the site remain unchanged from previous surveys in 2020.*
 - 4.34. *A planning condition could have secured enhancements to ecology and biodiversity as set out in the previous ecological reports. Generic mitigation measures, as encouraged in the Biodiversity Code of Practice BS 42020:2013, can also reduce any impact of the proposal on local wildlife and increase the nature conservation value of the site. Ecological and biodiversity value of the site can be improved with the planting of native plants that are appropriate to the soil conditions, and the provision of bat, bird and bug boxes and wildlife friendly boundary treatments. Hard landscaping can be constructed with permeable materials in accordance with sustainable urban drainage principles, and external lighting can be designed to minimise light spillage and pollution.*

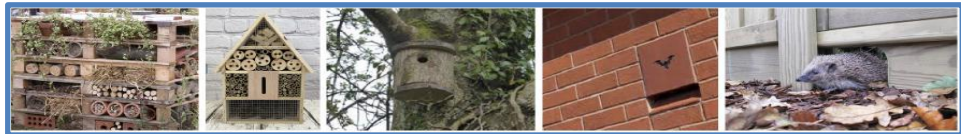


Figure 5 - bug hotels, bird and bat boxes and hedgehog friendly fencing

- 4.35. *These measures can be secured by means of an appropriate condition on the planning permission to ensure that nature conservation is maintained, and biodiversity enhanced, even in the light of the Council's intensification requirements for this property. The reason for refusal is not therefore justified.*

6.2 MORA Comment:

6.2.1 We have no further comment which would contribute to this reason for the LPA's refusal.

7 Appellant's Grounds of Appeal Refusal Reason 7

7.1 Reason 7. Refuse Storage

- 4.36. *The concerns with regard to refuse storage could have been and can still be addressed by means of a condition. The waste collection facilities were not of concern in respect of the previous appeal, where the waste collection requirements would have been even greater because of the higher number of flats. Furthermore, the Officer's report in Paragraph 6.0 states that details could be provided to ensure that sufficient capacity is provided.*

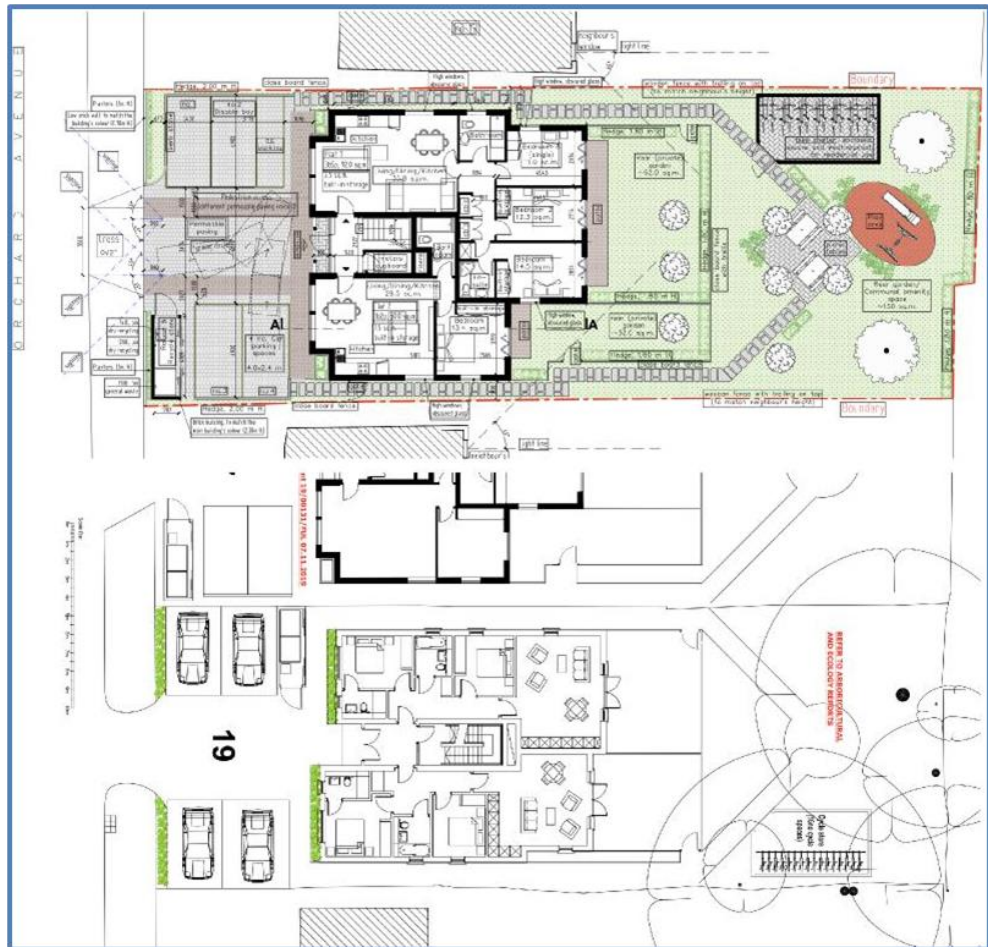


Figure 6 - No.17 approved scheme compared with No.19 current proposal.

- 4.37. The proposed block plan 199/PA/108 confirms that the refuse collection provision is consistent with that approved in relation to the redevelopment of No.17. The bin store can accommodate a 1280l dry recycling bin, a 1280l general waste bin and a 140l food recycling bin for shared use by the residents. The bins will therefore be able to accommodate the required capacity per flat of 130-150 litres for general waste, 128 litres for dry recycling and 9.6 litres for food recycling.
- 4.38. To enable and encourage occupants to recycle their waste effectively, internal storage will be provided within every kitchen for the separation of recyclable materials from other waste. This will be in accordance with the Council's Waste and Recycling in Planning Policy Document (as amended October 2018). The waste collection area to the front of the building will afford easy and direct access for all residents and refuse operatives. The collection facilities can be flexible and be adapted to respond to changing levels of resident participation in recycling and/or an increased range of materials becoming accepted in the recycling bins. The occasional bulky waste collection can also be accommodated.
- 4.39. As is normal practice a condition can be imposed on the planning permission to secure the provision of appropriate waste collection facilities. Consideration can also be given to the imposition of a condition requiring a

Waste Management Plan to be prepared and submitted for approval, so as to ensure that the waste collection arrangements remain acceptable for the lifetime of the development.

7.2 MORA Comment:

7.2.1 **The Council's recommendation for Refuse & Recycling waste for Buildings exceeding 5 Flats is given at Section 4 of Reference ². This information supports the LPA's refusal in relation to Refuse & Recycling Waste Storage.**

8 Appellant's Grounds of Appeal Refusal Reason 8

8.1 Reason 8. Highways Impact

- *4.40. Sufficient detail has not been provided to demonstrate that the proposal would not have an adverse impact on the highway transport network due to lack of sightlines within the boundary of the site, inadequate swept path manoeuvres, inadequate cycle parking and blue badge car parking space provision, as well as the absence of a legal agreement securing sustainable highway improvements to mitigate the scheme impacts...*
- *4.41. The Council has unfairly introduced a reason for refusal relating to highways impact that was not an issue of concern in respect of the previous application or the previous appeal decision, or in that of the consideration of No.17 that has similar parking and access arrangements.*
- *4.42. NPPF Paragraph 109 states that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe". The Appellant contends that the impact on the local highway and parking provision is not so severe to prevent this development.*
- *4.43. Like No.17, the proposal provides for 4 parking spaces, in accordance with the maximum parking standards set out in the LP and the CLP. The Appellant's Transport Statement confirms that the level of parking provision is appropriate to the site and that any overspill on-street parking demand can be safely accommodated in the surrounding road network.*
- *4.44. The cycle parking within the communal garden is in accordance with LP Policy T5 (and Table 10.2) requiring 1 cycle parking space per studio or 1 bed (1 person) unit, 1.5 spaces per 1 bed (2 person) unit, 2 spaces for all other units and 2 visitor cycle spaces.*
- *4.45. As is normal practice a condition can be imposed on the planning permission to secure the provision of appropriate visibility splays, car parking spaces with electric car charging points, cycle storage and waste collection facilities. A condition requiring a Waste Management Plan to be prepared and submitted for approval will also ensure that the waste collection arrangements remain acceptable for the lifetime of the development.*

² <https://www.croydon.gov.uk/sites/default/files/2022-05/Bin%20guidance%20for%20architects%20and%20developers.pdf>



8.2 MORA Comment:

- 8.2.1 The Parking provision is inadequate as recommended in the **London Plan Policy T6.1** which specifies **Outer London Boroughs at PTALs 2 to 3** with **1-2 Beds** should be provided with **0.75 Spaces** and **≥3 bed Dwellings** should be provided with **1 Parking Space** giving a total recommended of **7.5 bays, ≈8 (Integer) Parking Bays**, whereas only **4 bays** are provided.
- 8.2.2 We have no further comment on the LPA's reason 8 for refusal which would contribute to these grounds of Appeal.

9 Appellant's Grounds of Appeal Refusal Reason 9

9.1 Reason 9 (8 duplicated on Appellant List). Legal Agreement.

- *4.46. Had the Applicant had the opportunity to do so, a Unilateral Undertaking would have been submitted to secure the provision of a contribution towards sustainable transport initiatives and to provide every residential unit with membership of a local car club scheme.*
- *4.47. Accordingly, if the Council is able to provide evidence of the need for a contribution to make the development acceptable in planning terms, then the Appellant reserves their position to submit a Unilateral Undertaking to secure it. This can be submitted as part of any "Final Comments" in response to the Council's Statement of Case.*

9.2 MORA Comment:

- 9.2.1 We have no further comment which would contribute to this reason for the LPA's refusal.

10 Appellant's Conclusions

- *5.1. The Appellant has demonstrated that the development is appropriate to this site and that the Council's reasons for refusal are unfounded.*
- *5.2. The redevelopment site is a "small windfall site" identified in the CLP for residential intensification and the proposal importantly fulfils this objective in a manner similar to that approved on the adjoining plot. The scale, massing and appearance of the development is appropriate in the surrounding context, exhibiting the form and characteristics that are positively encouraged within the London Plan and the Croydon Local Plan.*
- *5.3. The number of flats and the mix of flat sizes are appropriate to the site, and a good standard of accommodation will be provided for future occupants, with adequate provision of private and communal amenity space, child play space, car and cycle parking and waste collection facilities.*
- *5.4. The building form and design will ensure that the outlook from neighbouring properties will not be adversely affected. The development satisfies the "45-degree rule" and complies with the acceptable building relationships identified in the Croydon Local Plan.*
- *5.5. The car parking provision is commensurate with the scale and nature of the proposal and its location. It will not have an "unacceptable or severe" impact on*

highways matters.

- *5.6. If necessary, appropriate conditions can be imposed to ensure that all material planning considerations are satisfied and provided for within the completed development. However, the Appellant's case for this development is compelling, and it is therefore respectfully requested that this appeal be allowed.*

10.1 MORA Comments:

10.1.1 We have provided significant information which comprehensively demolishes the Appellant's Grounds of Appeal and supports the LPA's Reasons for Refusal. Our analysis provides evidence to dismiss the Appellant's Appeal.

11 Housing Need

11.1 The allocation of housing "*needs*" assessed for the "*Shirley Place*" [770ha] (equivalent to greater than Shirley North [327.9ha] and South Wards [387.3ha]) over the period 2019 to 2039 is **278** (See Croydon Revised Local Plan³ 2021 **Table 3.1**). This equates to **≈14 dwellings per year**.

11.2 In relation to meeting housing "*need*" we raised a Freedom of Information (FOI) request (**Ref: 4250621**) on **31st January 2022**. The FOI Requested data on the **Outturn** of Developments since 2018 for the **Shirley "Place"** plus the "**Place**" Area, **Housing** and **Occupancy** of the **Shirley "Place"** for which the response was as follows:

Shirley North				
	2018	2019	2020	2021 (partial)
Gross units	48	94	73	16
Net units	45	87	69	12
Shirley South				
	2018	2019	2020	2021 (partial)
Gross units	12	17	3	5
Net units	10	15	0	5
Shirley Place				
	2018	2019	2020	2021 (partial)
Gross units	60	111	76	21
Net units	55	102	69	17

Response to FOI Request (Ref: 4250621)

11.3 The FOI Response indicates:

- *The Council does not hold the information we requested in a reportable format.*
- *The Council does not know the **exact Area** in hectares of any "**Place**."*
- *The Council does not hold the **Number of Dwellings per "Place."***
- *The Council does not hold the **Number of Persons per "Place."***

11.4 The FOI response indicated, the **Shirley "Place"** as defined in the Local Plan has an

³ <https://www.croydon.gov.uk/sites/default/files/2022-01/croydon-local-plan-2018-revised-2021-part-1-start-to-section-11.pdf>



- area of **approximately ≈770ha** and comprises **Shirley North and Shirley South Wards** and therefore the **FOI response** 'suggests' completions for **Shirley "Place"** can be calculated by **adding** the completion figures together for each **Shirley Ward**". **This is 'NOT True' as described later.**
- 11.5 Analysis of this limited information (**FOI response**) supports our assumption that completions are recorded but **NOT** against the **"Places"** of Croydon and **no action** is taken by the **LPA** as a result of those completions. In addition, the **"Shirley Place" Area does NOT equate to the sum of the Shirley North & South Ward Areas.**
- 11.6 Analysis of the recorded data shows over the **'three' full years 2018 to end of 2020**, the **Net Increase in Dwellings for Shirley = Shirley North Ward + Shirley South Ward = 55 + 102 + 69 = 226 ≈ 75 per yr.** (However, this is **NOT The Shirley "Place"** at **≈770ha** but the net increase for the **Shirley North [327.90ha] + Shirley South Wards [387.30ha] total of 715.20ha**) a difference of **54.8ha.**
- 11.7 The **MORA Area of 178.20ha** (which we monitor) is only **24.92%** of **All Shirley (715.2ha)**, but at a rate of **36dpa** over the **20yr** period **≈720 dwellings**, would exceed the **Target for the Shirley "Place" of 278** by **442 Dwellings** **for the Whole of the Shirley "Place"** (≈770ha FOI response).
- 11.8 This is $(720-278)/278 = 158.99\%$ Increase for the **Shirley "Place"** when the **MORA Area** is only $(770-178.2)/178.2 = 23.15\%$ of the area of the **estimated Shirley 'Place'** and $(178.26-715.2)/715.2 = 24.92\%$ of all Shirley. **This is definitely NOT respecting the character of the locality when the locality of this proposal is "Inappropriate for Incremental Intensification" with a PTAL of 2 and there is no probability for increase in supporting infrastructure.**
- 11.9 The Build rate delivery of dwellings for **all Shirley** is averaging at **55 + 102 + 69 = 226 ≈ 75.33 dwellings per year**, so over **20** years the **Net Increase** will be **≈1507 dwellings**. (Exceeding the **278 Target** by **≈1,229**). The **Target for the Shirley "Place"** at **Table 3.1** of the Revised **Croydon Local Plan** indicates a **Target of 278 dwellings over the period 2019 to 2039.**
- 11.10 This would exceed the **Target over 20 yrs. (of 278)** by: $(1507 - 278)/278 = 442.1\%$. From the **FOI Request**, the Area of the **Shirley "Place"** is **≈770ha**. The total Area of **Shirley North & South Wards** is **715.2ha** (GLA figures) therefore, there is **≈54.8ha** excess of land in other adjacent Wards which numerically means the **Target for Shirley Wards of 278** should be reduced by **7.12% = 258** (and the difference of **20** added to the **Targets** of the relevant **adjacent Wards**).
- 11.11 We are confident that **this analysis completely refutes** any suggestion that **"Housing Need"** is a reason for approval in this locality as the assessed **'Housing Need' for this area has already been satisfied.**
- 11.12 All Development proposals should be judged on compliance to adopted Planning Policies and **NOT** on the basis of meeting Targets to support a Housing **"need"** especially so if that **"need"** has already been met.



12 Summary and Conclusions

- 12.1 It is appreciated that evolutionary redevelopments should incrementally increase densities but unless and until the Policies define the acceptable level of increase within Area Type limits, any undefined increase above current Policy definitions cannot be accepted. There are no policy definitions to allow the LPA to Manage Developments in their localities which is the fundamental requirement of their job description. The current methodology is undefined and too subjective, allowing individual preferences in determinations to be acceptable.
- 12.2 Local Residents have lost confidence in the Planning Process with the significant number local redevelopments which, in the majority of cases, disregarded any Planning Policies. Once that confidence is lost, it is extremely difficult to regain it. Confidence and support of local residents is necessary to ensure the general requirements of housing need are satisfied with the provision of appropriate sustainable developments. This can only be achieved by ensuring developments comply with the agreed **National and local planning policies and guidance**.
- 12.3 Our comments on this Appeal are all supported by the **National or Local Planning Policies** which have defined measurable methodology and assessment. We do **NOT** quote any **subjective or vaguely** described objectives as they can be misconstrued to one's advantage or disadvantage but are not quantifiably conclusive. Therefore, our analysis is **definitive**.
- 12.4 The **Growth Policies** as specified in the Revised **Croydon Local Plan** are fundamentally flawed as they do **NOT** define the magnitude of "**Growth**" in their definitions. There is **NO** actual mechanistic difference between the different categories of '**Intensification**' or '**densification**'.
- 12.5 In addition, we have conclusively shown that the proposed development at **PTAL 2** and greater than **800m** from any **Train or Tram Station or District Centre** is **inappropriate for incremental intensification as defined in the London Plan**.
- 12.6 We have also shown that the proposed development is a significant overdevelopment of the available **Site Area**.
- 12.7 This proposed Development in an "**<Outer Suburban**" **Area Type Setting (CR0 7NA)** as defined by the **National Model Design Code Guidance** would be more appropriate in an "**Outer Suburban**" **Area Type Setting**. This analysis therefore supports the **LPA's Reasons 1 & 2** for refusal on grounds of **Scale, Massing and Bulk**.
- 12.8 The proposal would require a Public Transport Accessibility Level (PTAL) of **PTAL 7.38** when the local **PTAL is 2** to support the increase in Residential Density. This analysis therefore supports the **LPA's Reasons 1 & 2** for refusal on grounds of **Scale, Massing and Bulk**.



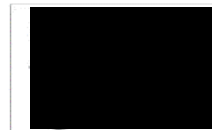
- 12.9 We have shown that the proposal fails to meet the Minimum Space Standards and Residential Private Open Space requirements as defined in the London Plan.
- 12.10 If the Inspector does NOT agree with the **National Model Design Code Guidance** as guidance for proposals in the **London Borough of Croydon, Shirley North Ward**, we would respectfully request the Inspector provides an alternative assessment with detailed methodology and justification.
- 12.11 We have shown that for all the appellant's "**Grounds of Appeal**" we have provided quantifiable responses which demolish the appellant's vague and subjective statements.
- 12.12 We therefore urge the Inspector to **Dismiss** this appeal such that the Appellant can reapply with a more appropriate and compliant proposal.
- 12.13 ***If this proposal is allowed, it would be absurd to believe that the Planning Policies have any meaningful weight and local residents would be quite correct in their current complete loss of confidence in the Planning Process.***

Kind Regards

Derek



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