

**The Local Government Ombudsman  
PO Box 4771  
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**Monks Orchard Residents' Association  
(MORA) Planning**

1<sup>st</sup> October 2019

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**Complaint Ref: RE: CASE79367-X3T0W3 – Planning application 19/00783/FUL,  
32 Woodmere Avenue - London Borough of Croydon**

Dear Sir / Madam

The Monks Orchard Residents' Association (MORA) is a registered Residents' Association with the London Borough of Croydon LPA. We represent 3,879 residential households in the Shirley North Ward for which we do not now charge a membership fee – we raise minimal operating costs, funded from advertisers in our quarterly magazine.

Our original Stage 1 Complaint related to Planning Application approval for: 32 Woodmere Avenue, Croydon, CR0 7PB. Ref: 19/00783/FUL in respect of:

- 1 Failure to recognise that the application was non-compliant to London Plan Policy 3.4 – Optimising Housing Potential within the prescribed recommended limits of Residential and Housing Densities as defined in the current adopted Policy Table 3.2 Density Matrix at a Suburban Setting of PTAL 1a. (*This was not a small deviation but a significant deviation from the lowest range at PTAL 1a to the maximum of the highest range at PTAL at 6*).
- 2 The interpretation of current adopted planning policies to ensure cumulative development proposals fully meet the requirements for the localities existing and planned public transport infrastructure. The Planning Policy to mitigate over-development for a locality is the current adopted London Plan Policy 3.4 Optimising housing potential in a locality relating to the 'setting' and the Public Transport Accessibility. The current cumulative effect of overdevelopments is having a significant detrimental effect on the local community provision of supporting infrastructure.

We wish to escalate our complaint to the Local Government Ombudsman as the responses from the London Borough of Croydon Local Planning Authority to our stage 1 & 2 complaints has NOT adequately answered our original complaint.

Our previous Stage 1 and Stage 2 Complaint with responses are included in the pack of documents sent to the LGO with this assessment of the Stage 2 Response from Heather Cheesbrough - Director Planning – London Borough of Croydon.

Our assessment of the LPA's response to our Stage 2 escalation are set out below.

RED text is the LPA Stage 2 response.

By **Heather Cheesbrough - Director Planning LBoC**

Blue Text is other evidence.

Black Text is MORA's response

Your Response states:

*"In your complaint you highlight Section 70 of the Town and Country Planning Act 1990, which you feel should carry similar weight to the Development Plan.*

*Having read the Stage 1 response, I am in agreement with Pete Smith, Head of Development Management, that the SPD's, including the London Mayoral Housing Supplementary Planning Guide and the Council's Suburban Design Guide, **do not enjoy the same weight** as the various constituents of the Development Plan. The SPD's, whilst deliberated as other material considerations, are not a set of statutory rules **but provide guidance**.*

*You have asked why SPD's are produced **if they do not have sufficient material weight to influence decisions**. I do not agree that this is the case; SPD's regularly influence and inform the decision-making process, however, in this particular case, when considered as a whole, it is not sufficient to change our decision.*

This was not part of the original Complaint but was raised during the subsequent escalation to Stage 2.

What Ms Cheesbrough is inferring in the above paragraph is that the **Suburban Residential Development (SPD2)** Supplementary Planning Document does not have the same "weight" as the **Croydon Local Plan**, the **London Plan** or **National Planning Policies** to influence LPA decisions. If that is the case, and SPD2 is only advisory, what is the point of its costly production if the SPD2 guidance can be ignored? We are very aware that it is NOT possible to change the decision once made by committee.

However, this understanding of SPD2 level of '**weight**' is difficult to believe as in correspondence from one of the Croydon LPA Senior Planning Officers relating "**Without Prejudice**" letter to an applicant regarding a **Pre-Application Meeting** dated 10<sup>th</sup> June 2019 and displayed in the document list for **Pre- Application Ref: 18/05747/PRE** at paragraph "Policy" on page 2 States under "Croydon Local Plan (Feb 2018):

*"The Council's **Suburban Design Guide Supplementary Planning Document (SPD2)** is **now adopted and carries full weight**. This document provides guidance for suburban residential developments, development in Areas of Focussed Intensification and extensions and alterations to existing homes across the borough. The document provides technical design guidance that seeks to both limit any negative impact on places, including the amenity of existing residents, and frame opportunities where increased densities can enhance places and bring benefits to communities. You should design any future scheme in line with this document, and refer to it in your Design and Access Statement.*

*The above policy background represents the framework within which **all applications are determined**. Any submitted application must make specific reference to the above policies and how any proposed scheme would address these. Submitted documentation such as Planning Statements and Design and Access Statements **need to accurately reflect the current policy position**, in order to be*

*considered up to date and relevant documentation. Failure to bring your application submissions in line with this policy will result in the invalidation of any future planning application. ...”*

These are totally **contradictory statements** by Senior Management and the **Planning Case Officer** which convey a **vague level of weight** for public consumption against **full weight for applicants** and the Development Management interpretation and guidance.

This smacks of a hypocrisy **for the level of weight** and use of policy documents which indicates some pretension when challenging an application decision. Our original interpretation of SPD2 Guidance was confirmed by the Case Officer, as carrying **full Policy weight** for applicants to observe but if an application decision is challenged by the public, the SPD2 Document is said to have **minimal weight** and as only advisory, **can be disregarded!**

**Complaint 1: Failure to recognise that the application was non-compliant to London Plan Policy 3.4 – Optimising Housing Potential within the prescribed recommended limits of Residential and Housing Densities as defined in the current adopted Policy Table 3.2 Density Matrix at a Suburban Setting and PTAL 1a. (This was not a small deviation but a significant deviation from the lowest range at PTAL 1a to the maximum of the highest range at PTAL at 6).**

Relating to our original complaint you state:

*“I have carefully considered your comments in response to Mr Smith, regarding the density matrix. I do not believe Mr Smith has indicated that the density matrix has been disregarded; it continues to be a consideration, however, given the age of the policy, it does not have sufficient weight, in this case, to counter the need to deliver more homes.”*

If the specific reason for not observing the policy is the need to “**deliver more homes**” which is more important than meeting any adopted planning policies then **why create planning policies?**

The Planning Officer’s Report at **para 7.8** stated:

*7.8 “... The density of the development at 116 units per hectare (u/ha) and 350 habitable rooms per hectare (hr/ha) would exceed the recommended density range in the London Plan Table 3.2 which is 50-75u/ha and 150-200 hr/ha. However, the LP states that it is not appropriate to apply Table 3.2 mechanistically and it is necessary to take account of other factors relevant to Optimising potential such as the local context and design. The development ... would respect the character and amenity of this residential area, would not impact on local amenity and would provide good standard of accommodation for future residents. ...”*

This last sentence is the sole reasons for acceptance of the significant increase in Residential and Housing Densities and for NOT observing the guidance of the current adopted London Plan Policy 3.4 – Optimising Housing Potential table 3.2 the Density Matrix.

The proposed development is completely out of character with the locality as currently the locality is of mainly detached houses and bungalows all of which have reasonable sized private gardens with adequate amenity space and roomy accommodation whereas the proposal is for High Density 7 flats with minimal amenity and communal open space and claustrophobic accommodation of minimal space standards so totally out of character with the locality.

**The London Plan SPG - Housing Design Guide (2016) at para 1.3.50 onward sets out the main reasons to allow higher Densities that those recommended in Policy 3.4 – Optimising Housing Potential at Table 3.2 The Density Matrix:**

**The London Plan Supplementary Housing Guide (SPG) para 1.3.8 States:**

*1.3.8 "... The London Plan is clear that the SRQ density matrix should not be applied mechanistically, without being "qualified" by consideration of other factors and planning policy requirements. Guidance on considering schemes above or below the ranges in the density matrix is provided (below) in paras 1.3.50 to 1.3.55.*

**Developments above the density ranges:**

1.3.50 The London Plan and this SPG confirm that it is not appropriate to apply Table 3.2 mechanistically and advise that the density ranges should be considered as a starting point rather than an absolute rule when determining the optimum housing potential of a particular site<sup>102</sup>. As confirmed in Section 1.1, meeting London's housing requirements will necessitate residential densities to be optimised in appropriate locations with good public transport access. Consequently, the London Plan recognises the particular scope for higher density residential and mixed use development in town centres, opportunity areas and intensification areas, surplus industrial land and other large sites<sup>103</sup>. In addition, the Plan confirms that the Housing SPG will provide general and geographically specific guidance on the justified, exceptional circumstances where the density ranges may be exceeded<sup>104</sup>.

1.3.51 In appropriate circumstances, it may be acceptable for a particular scheme **to exceed the ranges in the density matrix**, providing important qualitative concerns are suitably addressed. However, to be supported, **schemes which exceed the ranges in the matrix must be of a high design quality and should be tested against the following considerations:**

- the factors outlined in Policy 3.4, including local context and character, public transport capacity and the design principles set out in Chapter 7 of the London Plan;
- the location of a site in relation to existing and planned public transport connectivity (PTAL), social infrastructure provision and other local amenities and services;
- the need for development to achieve high quality design in terms of livability, public realm, residential and environmental quality, and, in particular, accord with the housing quality standards set out in Part 2 of this SPG;
- a scheme's overall contribution to local 'place making', including where appropriate the need for 'place shielding';
- depending on their particular characteristics, the potential for large sites to define their own setting and accommodate higher densities;

- the residential mix and dwelling types proposed in a scheme, taking into account factors such as children's play space provision, school capacity and location;
- the need for the appropriate management and design of refuse/food waste/ recycling and cycle parking facilities; and
- whether proposals are in the types of accessible locations the London Plan considers appropriate for higher density development (eg. town centres, opportunity areas, intensification areas, surplus industrial land, and other large sites).

**In answer to the guidance of Para 1,3.50**

- The proposal is in the lowest Public Transport Accessibility Level (PTAL) of 1a on a scale of 0 to 6.
- The planned future PTAL remains at PTAL1a up to 2031 as defined by TfL.
- The proposal only meets **minimum** standards.
- The proposal is nothing like the local "Place" in design and/or architecture.
- The proposal is **squeezed** onto the available limited site area.
- There is no allocated designated area (dimensions) for children's open plays spaces.
- There is no allocated designated area (dimensions) for communal open space
- The proposal is NOT in a designated area for focussed intensification.

| <b>Table 3.2 Sustainable residential quality (SRQ) density matrix (habitable rooms and dwellings per hectare)</b> |   |   |   |
|---|---|---|---|
| Setting   | Public Transport Accessibility Level (PTAL) | Public Transport Accessibility Level (PTAL) | Public Transport Accessibility Level (PTAL) |
|   | 0 to 1<br><b>(1a= 0.66)</b>                 | 2 to 3                                      | 4 to 6<br><b>(HD 5.56) (RD 6)</b>           |
| Suburban  | 150–200 hr/ha<br><b>(~183 hr/ha)</b>        | 150–250 hr/ha                               | 200–350 hr/ha<br><b>(350 hr/ha)</b>         |
| <b>3.8–4.6 hr/unit</b>  | 35–55 u/ha                                  | 35–65 u/ha                                  | 45–90 u/ha                                  |
| <b>3.1–3.7 hr/unit</b>  | 40–65 u/ha                                  | 40–80 u/ha                                  | 55–115 u/ha                                 |
| <b>2.7–3.0 hr/unit</b><br><b>(3hr/unit)</b>   | 50–75 u/ha<br><b>(~66.5 u/ha)</b>           | 50–95 u/ha                                  | <b>(116.67 u/ha)</b><br>70–130 u/ha         |

**Extract of London Plan Policy 3.4 Table 3.2 for a suburban setting**  
Blue Text Recommended; Red Text this proposed development

You continue:

*"The Borough seeks to protect, evolve and change character (depending on circumstances), and the Croydon Local Plan does not directly limit character evolution to maximum residential densities. These can be exceeded while still maintaining or evolving local character. The Local Planning Authority firmly believes that character can evolve through increasing densities. Each application is considered on its individual merits and, as previously highlighted in the Stage 1 response, residential density is the starting point when determining the suitability of a development (in terms of car parking supply and demand, scale and mass of development, amenity space considerations, residential quality and neighbour impact)."*

**Question which has NOT been answered is:** What are the “**site specific factors which are so significant**” to have given **sufficient weight** for this proposal, at the lowest **PTAL of 1a** and recommended **Residential Density** in the broad range of **150 to 200hr/ha** to allow a **Density of 350hr/ha** which requires a **PTAL of 6** – **THE HIGHEST POSSIBLE level**? OR a **Housing Density** at **PTAL 1a** with a recommended range of **50 to 75u/ha** to be actually **116.67u/ha** requiring a **PTAL of 5.56** – in the highest range PTAL of **4 to 6**? (See Table 3.2 above).

We do appreciate that character can evolve and probably should allow an increase in densities but from a Planners perspective, **this should be manageable with specific guidance as to what increase in density would be appropriate for the localities setting (suburban, urban or Town Centre) linked to the available and planned Public Transport availability. Which is precisely what the Density Matrix provides.**

The current **Croydon Local Plan (2018)** *identifies the need* but does NOT give **any** guidance at paragraph **6.37** or Policy **DM10.1** which state:

**6.37** The Croydon Local Plan provides policy on urban design, local character and public realm. However, in line with the National Planning Policy Framework, **there is a need to provide detailed guidance on scale, density, massing**, height, landscape, layout, materials and access. This will provide greater clarity for applicants.

But DOES NOT GIVE such guidance - And at:

**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.

Again, requires **respect of** but actually gives **NO guidance**.

Thus, the ONLY available guidance is the **London Plan Policy 3.4 Optimising Housing Potential and the Density Matrix at Table 3.2**.

But the **Croydon Planning Authority** does not consider this guidance appropriate.

It is unclear whether the current adopted London Plan Policy on Optimising Housing Developments is to be considered or whether it is to be disregarded. If disregarded without preparation for an alternative Policy to fill the void, from a Professional Planning Management there is absolutely NO policy to manage the densities of development proposals relating to the local setting or the public transport infrastructure, placed before the Planning department for determination, which is a requirement of the **NPPF para 122!** By disregarding the current adopted London Plan Policy 3.4 Optimising Housing Development, and as the Croydon Local Plan **DOES NOT** provide **ANY** detailed guidance on density, Massing or Layout, **(at DM10)** the Croydon LPA is totally disregarding **National Policy** guidance as stated in **NPPF para 16 d) and NPPF para 122 which state:**

**Para 16. Plans should:**

- d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;

and;

**Achieving appropriate densities:**

**Para 122.** Planning policies and decisions should support development that makes efficient use of land, taking into account:

- c) **the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;**  
d) the desirability of maintaining an **area's prevailing character and setting** (including residential gardens), or of promoting regeneration and change; ...

Therefore, the **Croydon Planning Authority** is **NOT** meeting the **NPPF** recommended guidance at **NPPF Paras 16 and 122**.

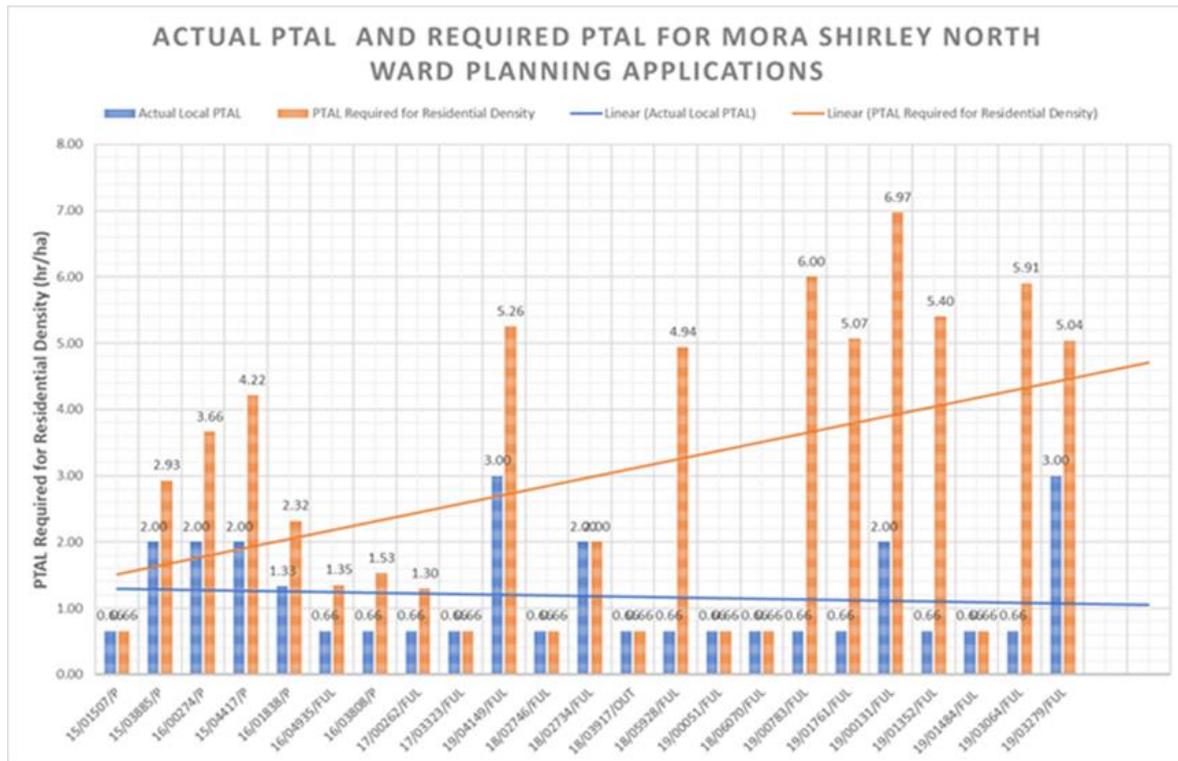
You continue:

*"In your complaint you highlight the **cumulative effect** of developments on the local community, specifically inadequate supporting infrastructure, traffic congestion and increased on-street parking stress. I can assure you that the Local Planning Authority does consider cumulative impact of development; whether it be linked to highway safety, on street car parking pressure or other related capacity issues. Planning history is a material planning consideration, and planning permission granted on neighbouring sites is considered and taken into account, especially if those schemes relied on on-street car parking capacity. Officers are also mindful of junction capacity and how that might be affected by increased intensity of development."*

We challenged how you actually consider the **"cumulative effect"** of developments as there are no published criterion or methodology to collect appropriate data which can be used as a determining factor when analysing the **"cumulative" appropriateness** of a proposal.

How does the Local Planning Authority consider cumulative impact of a proposed development on - Highway safety, on-street parking pressures or other undefined related issues? Where are the specified guidance parameters and tolerances which the Local Planners can use to make determinations as they are NOT published in the Local Plan or Supplementary Planning Guidance.

In fact, our evidence clearly shown in the Histogram below that the recent **cumulative developments** have significantly exceeded **Residential Densities** (which is a measure of increase in population) for the available **Public Transport Infrastructure** of the locality for the majority of recent applications for this locality, otherwise the **trend line would be horizontal**. A similar histogram could be provided for Housing Densities.



**Illustration of excessive Cumulative PTAL Requirement above the Local available PTAL due to Increased Residential Densities of Applications in the MORA Post Code Area showing the ongoing PTAL linear trend requirement.**

**Complaint 2:** The interpretation of current adopted planning policies to ensure cumulative development proposals fully meet the requirements for the localities existing and planned public transport infrastructure. The Planning Policy to mitigate over-development for a locality is the current adopted London Plan Policy 3.4 Optimising housing potential in a locality relating to the ‘setting’ and the Public Transport Accessibility. The current cumulative effect of overdevelopments is having a significant detrimental effect on the local community provision of supporting infrastructure.

You continue:

*“With regards to the emerging Draft London Plan, while we are closely following the development of this plan, **we are not yet in a position to give it any weight**. This is because the plan is currently at draft stage, and it would be unfair to base our decisions on this before it is finalised. I can confirm the **current London Plan is still being used in our consideration and decision making**. While I appreciate your comments regarding filling any policy void, policy vacuums are inevitable due to the constantly changing guidance. For example, the Croydon Local Plan is now in the process of being further amended, to bring it into line with the emerging London Plan, but I do not agree that this results in uncontrolled development proposals being approved.”*

This is understood but we are concerned that the Croydon Local Planning Authority is NOT evaluating planning proposals on any criteria for residential and housing density and this means that the Croydon LPA are **NOT abiding by NPPF para 16 d) or Para 122 Achieving appropriate Densities.**

Policy vacuums should not arise as the current adopted policies should be retained until new policies are defined, approved and adopted.

You Continue:

*"I also note your point that planning permission has been granted to back-land flatted schemes without adequate access for emergency service vehicles. While the SPD does seek to provide some guidance around access widths, access arrangements for emergency vehicles is ultimately a matter for Building Regulation compliance – although the Local Planning Authority is broadly familiar with how development can be made to comply with the Building Regulations, and it does liaise with Building Control colleagues."*

This is a subject of other complaints and was referenced as further evidence of non-compliance to planning policies. The approval of these permissions if access is not compliant to policies, cannot be rescinded if building control subsequently establishes that access is inadequate.

You continue:

*"You have said that you have not seen any visible benefits of the Community Infrastructure Levy in Shirley from any of the recent developments in this ward. The Community Infrastructure Levy is directed towards projects which have been explicitly highlighted by the Council's Infrastructure Delivery Plan. It is totally appropriate for the borough to direct funds generated by projects in Shirley (or any other part of the borough) that contributes the most to delivering infrastructure to support the ambitious growth agenda."*

The case Officer indicated at Para 7.8 of his report states:

*"... New development contributes toward **local** infrastructure through Community Infrastructure Levy (CIL) and new services and infrastructure will be delivered in line with the Infrastructure Delivery Plan (2017). It is therefore considered that the development would comply with LP policy 3.4 and CLP policy SP2. The principle of the pre-application scheme is therefore acceptable, subject to satisfying the objectives of other relevant policies."*

We have **NOT** seen any visible benefits in the **Shirley Wards** of the **Community Infrastructure Levy (CIL)** from any of the many recent local developments within the Shirley Wards and therefore although funds have been collected from developers who are destroying our locality with developments exceeding the appropriate Densities, the locality has seen no benefit from it.

The Government guidance on the CIL spend states:

- Local authorities must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed.
- The levy can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development.
- There has been NO improvement of public transport to cope with the increased population in Shirley North Ward as a result of increased developments;
- There has been NO improvement in GP Services in the Shirley North Ward to cater for increased population – in fact two GP Practices have been closed and the patients merged with other GP Practices causing lengthy delays to appointments and medical support;
- There has been NO visible increase to school places to cater for the increased population in the Shirley North Ward to cope with increased development;
- There has been NO improvement in the road infrastructure to cater for additional vehicle ownership and traffic carrying capacity required by the increased local population from increase development.

We understand that there are immense pressures for new housing and we only object to development proposals that are **non-compliant** to planning policies. However, we believe the policies are provided for a purpose and should be observed in order to retain a degree of compliance with existing character of our suburban localities within the constraints of the existing and planned supporting infrastructure.

If Planning Policies are **not** observed, why go through the expense of producing the **Local Plan** and having Planning Inspectors Examination and Evaluation in Public prior to adoption? If planning policies are not observed, the public loses confidence in the planning process.

All supporting documents for this and other complaints can be found at:

<http://www.mo-ra.co/planning/planning-complaints/>

**Kind Regards**

**Derek Ritson**



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

**MORA Planning**  
*Representing, supporting and working with the local residents for a better community.*

**Sony Nair**



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