

MORA  
Planning@mo-ra.co

Contact: Pete Smith  
pete.smith@croydon.gov.uk  
Our Ref: CAS-126578  
Date: 9 January 2020

Dear Mr Ritson

**Corporate Complaint (Stage 1)**  
**17 Orchard Avenue (LBC Ref 19/00131/FUL)**

I refer to your letter dated 20<sup>th</sup> December 2019 in respect of the above site and the Planning Committee's decision (taken at its meeting of 6<sup>th</sup> November 2019) to grant planning permission for the demolition of a single family dwelling and the erection of a 3 storey block with a further floor of accommodation in the roof space comprising 3x1 bed, 4x2 bed and 1x3 bed flats with the provision of 4 car parking spaces and refuse storage. Planning permission was issued on the 7<sup>th</sup> November 2019.

Your letter has been treated as a Stage 1 Complaint under the Council's Corporate Complaints Procedure.

**Your Complaint**

Your letter raises the following issues

- Our alleged failure to consider your objections to this proposed development (dated 5<sup>th</sup> August 2019) which you allege was not listed on the on-line comments.
- Our apparent failure to properly interpret development plan policies to ensure that schemes are delivered in accordance with sustainable densities, bearing in mind the area's suburban setting and low PTAL;
- Questioning of our residential density calculation; you argue that living/kitchen/dining areas should be treated as two habitable rooms, which should have been factored into the density calculation.
- Our apparent failure to properly consider the impact scale of development proposed and specifically the apparent overbearing nature of the proposed development. You raise concern about the relationship of building mass, set alongside the neighbouring properties and the 45 degree vertical angles as detailed in the Suburban Design Guide;

## **My Findings**

In many ways, a number of these issues have been previously raised and responded to; previous complaints into other development proposals in and around Shirley, a number of which have also been investigated by the Local Government Ombudsman. In all cases, the Local Government Ombudsman has found in favour of the Council with no evidence of maladministration. I would respectfully suggest that there is no evidence of maladministration in this case.

I was not present at this particular Planning Committee and have therefore reviewed the web-cast including the officer's presentation, the various questions and items of clarification raised by Planning Committee Members, comments made by the speakers (for and against) and the Planning Committee debate. It is clear to me that all the points you highlighted in your letter were either responded to by officers (in response to Member's questions) or were properly aired during the debate. I am therefore at a loss to understand the context of this formal complaint when the various issues were discussed and dealt with by the Planning Committee.

We are obliged to determine applications in accordance with the development plan (considered as a whole) unless other material considerations indicate otherwise. The Supplementary Planning Documents, including the London Mayoral Housing SPG and the Council's own Suburban Design Guide SPD, do not enjoy the same weight as the various constituents of the development plan and are treated as other material planning considerations. As the titles suggest, they merely provide guidance in support of development plan policy and do not enjoy the weight of S70(2) of the 1990 Act.

### MORA Comments/Objections

It is clear from the officer's report (presented to the 6<sup>th</sup> November 2019 Planning Committee) that your August 2019 objection was properly read, digested and summarised. The report refers to your own density calculation and the issues raised in your August letter.

The on-line register refers to MORAs objection and in many ways the August 2019 objection changed little (in terms of MORAs general views) and re-affirmed the objection previously raised (albeit based on a residential redevelopment proposal with increased density).

### Policy Interpretation (Residential Density)

As previously advised, the housing density matrix was introduced as part of the First London Plan back in 2004, well before the introduction of the National Planning Policy Framework and the realisation of the current pressures being placed on London Boroughs to deliver exceptionally challenging housing targets and the requirement to maintain a 5-year housing supply for the foreseeable future. It has been long considered that the density matrix is no longer fit for purpose and whilst it is appreciated that it remains part of the London Plan (in its current iteration) its weight (as a material planning consideration) is relatively limited. As you will be aware, the supporting text advises that a consideration of housing density is only the start of planning housing development; not the end and it would be unacceptable to apply

the density matrix mechanistically.

You will be aware that the London Plan Panel Report has been issued by the Planning Inspectorate which supports the intended deletion of the density matrix. The Panel concluded (notwithstanding the level of comment from the likes of yourselves) that the matrix is fundamentally in conflict with the design led approach now advocated – which sees density as an output and not as an input when determining the form and type of new development. Critically, it advises that enforcing a strict upper limit on density runs the risk of stymying otherwise acceptable development which would run contrary to the strategy of Good Growth.

The London Mayor's response to the Panel Report has been recently published and the fate of the New London Plan now lies with the Secretary of State.

A critical consideration in this case (as was highlighted on numerous occasions during the Planning Committee debate) was the site's location within a Focussed Intensification Area which in itself, highlights the opportunity for significant increases in density, bearing in mind the close proximity of the site to Shirley Local Centre. With increased density comes increased scale of development, both in terms of height and building footprint which we are obliged to manage as part of the planning application process. Policy DM10.11 confirms that development may be significantly larger than existing and should be double the existing predominant height and should take the form of medium rise blocks with associated grounds and should assume suburban character with spaces between buildings. It also recognises that there will be a gradual change in character. I am fully satisfied that this proposal complied with this local plan policy.

#### Density Calculations

There is no clear guidance as to how one should treat an open plan living/kitchen/dining area as part of a residential density calculation although earlier in my career (many years ago when quantitative density calculations were more accepted) we tended to treat open living/dining areas in excess of 35 square metres as two habitable rooms. This is not the case in this instance, as part of these open plan spaces is also used as a kitchen. In any event, these detailed points are somewhat outdated (for the reasons outlined above) and I see no need for further analysis and/or consideration.

#### Scale and Impact on Neighbours

The adopted Focussed Intensification Area policy (Policy DM1.10) takes precedence over any supplementary planning guidance contained in the Suburban Design Guide, which is there to inform and guide policy compliance rather than compete with it.

However, I accept that the report did not go into full details of the 45 degree "rule of thumb" approach to neighbour impact, as informed by the Suburban Design Guide. The presenting officer provided details of the 45 degree line (taken horizontally) but not vertically and I accept that there was a break in the 45 degree line, taken vertically from neighbouring windows. I recall this point being raised by the objector (who addressed the Planning Committee) as well as Councillor Bennett (as Referring Councillor). Members were clearly made aware of the issue and were in a position to

further interrogate if they had cause.

In many ways, such a situation is likely to be commonplace in Focussed Intensification Areas, especially in cases where development is proposed in close proximity to lower buildings. This is the primary reason why DM1.10 rightly takes precedence over guidance contained within the Suburban Design Guide and it is relevant that the 45 degree approaches are not specifically referred to in the Chapter which deals with Focussed Intensification, with a recognition that greater flexibility will be required when responding to existing character.

The officer's report advises that the impact of this development on immediate neighbours, in view of the Focussed Intensification Zone context was acceptable. The issues were fully debated and I stand by the officers' recommendation and the resolution taken on the 6<sup>th</sup> November 2019.

### Prioritisation of the Planning Balance – Delivery of New Homes

I make no apology for seeking to deliver new homes across the borough – which represents a weighty consideration in the planning balance. It is recognised that changes to the “status quo” might have some effects on the character of areas and the amenities of neighbours. However, I must take issue with your suggestion that we are not implementing adopted planning policy.

As previously advised, when determining planning applications it is important that the decision-taker considers the development plan as a whole, recognising that some policy considerations might not totally align with other issues and approaches. It is for this reason why some decisions are taken in the balance, with greater weight being given to certain consideration over others. In most cases we feel that the need to deliver more housing, especially within a designated Focussed Intensification Area, should reasonably counter density, car parking or amenity effects (unless serious harm is caused by the scale of development for whatever reason). Of the schemes determined in Shirley, we are satisfied that we have struck the appropriate balance and are content with the scale and effects of the flatted schemes granted to date. I appreciate that this might run counter to your own position (and those of Shirley residents) but I stand by our recommendations to grant planning permission and the eventual decision (invariably taken by the Council's Planning Committee).

I appreciate that this response is unlikely to satisfy you and your residents and we may well have to agree to disagree. Unlike other neighbouring London Boroughs, this Council has adopted a progressive agenda to deliver on its housing targets and take difficult decisions in accordance with the development plan. Most of the sites in Shirley are brownfield in character (having been previously developed) and their redevelopment and intensification is generally supported by planning policy across all tiers of Government.

I am sorry that I am unable to be of further assistance, but I hope this response further explains the policy basis behind the approach taken.

However, if you feel that your complaint has not been investigated properly or you wish to provide any significant new information that has previously not been considered, then you may complain to the next stage of the Complaint Procedure.

However, I must advise you that escalating your complaint to the next stage will not result in the reversal of a planning decision that has already been taken, as this is beyond the jurisdiction of the Council's Corporate Complaints Procedure.

For a Stage 2 Complaint to be considered, you will need to contact the Complaint Resolution Team, explaining clearly why you feel your complaint has not been investigated properly, or provide details of any new significant information or evidence that may alter the decision made:

Complaint Resolution Team  
7<sup>th</sup> Floor, Zone C  
Bernard Weatherhill House  
8 Mint Walk  
Croydon  
CR0 1EA  
Tel/typetalk: 020 8726 6000  
Email [Complaints@croydon.gov.uk](mailto:Complaints@croydon.gov.uk)

If you have any queries, please contact me on 020 8726 6000 extension 88726 or email [pete.smith@croydon.gov.uk](mailto:pete.smith@croydon.gov.uk).

Yours sincerely

A black rectangular redaction box covering the signature of Pete Smith.

**Pete Smith**

Head of Development Management  
Planning and Strategic Transport  
Croydon Council