

THE LONDON BOROUGH OF SOUTHWARK

**TOWN AND COUNTRY PLANNING ACT 1990
AND ACQUISITION OF LAND ACT 1981**

Revised Inquiry into

**THE LONDON BOROUGH OF SOUTHWARK
(AYLESBURY ESTATE SITES 1B-1C)**

COMPULSORY PURCHASE ORDER 2014

PINS REFERENCE: NPCU/CPO/A5840/74092

**Proof of Evidence of
Richard Lee (35% Campaign)
For the Aylesbury Leaseholders Group**

8 December 2017

1. My name is Richard Lee, I am a local resident and live in Townsend Street, which is just a few hundred yards from the Aylesbury estate.
2. I am a member of the Elephant Amenity Network – a network of local residents and groups with an interest in the regeneration of the area. We engage in planning matters ranging from housing to public realm and sustainable development.
3. The group is a founding member of the Elephant & Walworth Neighbourhood forum and engages in the planning and consultation process for most major developments in the area. This includes making representations to the Acquiring Authority's planning committee on individual applications and on a local policy level.
4. Myself and other members of the group made representations in person at the examination in public of the Aylesbury Area Action Plan in 2009.
5. I am also a coordinator at Just Space (www.justspace.org.uk). The Just Space Network is an alliance of community groups, campaigns and independent organisations that was formed in 2006 to act as a voice for Londoners at grass-roots level in the formulation of London's major planning strategy.
6. The Just Space Network also has links with some of the Universities in London (e.g. UCL, CASS and LSE) whose staff and students provide research that the network presents alongside their own grass roots evidence at London Plan hearings and in other contexts.
7. In my evidence I show that the scheme underlying the order is not being progressed in accordance with the requirements of the development plan in the following policy areas:
 - Affordable Housing tenure mix requirements
 - Land use requirements
 - Sunlight/Daylight requirements

- Dwelling Mix requirements
 - Wheelchair accessible dwelling requirements
 - Play space requirements
 - Design requirements
 - Private amenity space requirements
 - Open space requirements
 - Renewable energy requirements
8. My evidence comprises the following proof plus the following appendices:
 RL1 – Extract from the AAAP Sustainability Assessment
 RL2 – FDS Revised Energy Strategy (14/AP/3843)
 RL3 – FDS planning statement (14/AP/3843)
 RL4 – AAAP Background Paper, Infrastructure Tariff and S106 Contributions
9. In the following proof, I examine several key policy requirements set out in the Aylesbury Area Action Plan and discuss aspects of the proposed scheme which fail to comply with these requirements.

Renewable energy requirements

10. Policy BH6([II] - ENERGY SUPPLY) of the AAAP (CD2, page 39) requires new developments in the core action area to be serviced by one centralised energy plant fuelled by renewable energy:
11. Paragraph 6.3.3 of the AAAP's Sustainability Assessment (RL1) goes further to say that the energy centre would most feasibly be fuelled by a 100% renewable energy biomass CHP plant.
12. However, the biomass plans have been dropped because of clean air concerns (RL2, pages 6 & 9) and the 20% minimum on-site renewable energy requirement cannot be achieved. The FDS development will instead be serviced by its own non-renewable gas-fired CHP plant, which will only have the 'potential' to be connected to the proposed (non-renewable) energy centre on Thurlow St. (Paragraph 361 (CD63))

13. Paragraph 365 of the planning committee report (CD63) for the FDS application acknowledges that the Scheme will deliver just 3.72% on-site renewable energy through the use of solar panels, while the section 106 agreement (CD64, page 5) requires just 3%:

"Agreed Renewable Energy Targets"	3% reduction in the Part L 2013 regulated net CO2 emissions (after reductions in CO2 emissions through the application of energy efficient design measures and decentralised energy) met by using renewable technology and low carbon sources of energy as described on page 2 of Energy Assessment and District Heating Study, Executive Summary – Version 2 dated February 2015 forming part of the Outline Development submission
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14. In justifying this departure from renewable energy policy requirements, the planning report explains *"whilst it is accepted that this falls far short of the 20% target it is accepted that this is an ambitious target to meet in a highly urbanised area."* (CD63, FDS(14/AP/3843), paragraph 365)
15. Given that the Aylesbury estate is surrounded by low-rise terraced housing and a park, it is difficult to see how it can be described as a *'highly urbanised area'* in comparison to other parts of the borough.
16. The 20% policy requirement applies to developments in all parts of the borough. I submit that the reason given is not a valid material consideration in justifying this departure from the requirements of the development plan.

Zero Carbon Growth

17. Policy 3.6.1 of the AAAP requires the Scheme to result in 'zero carbon growth':

"The development will be designed to result in zero carbon growth, that is, no net growth in carbon dioxide emissions despite an increase in the number of dwellings. This will require buildings which are highly energy efficient."

18. I have examined NHHT's Energy Strategy for the scheme and can find no evidence to show that it fulfills this requirement of the AAAP

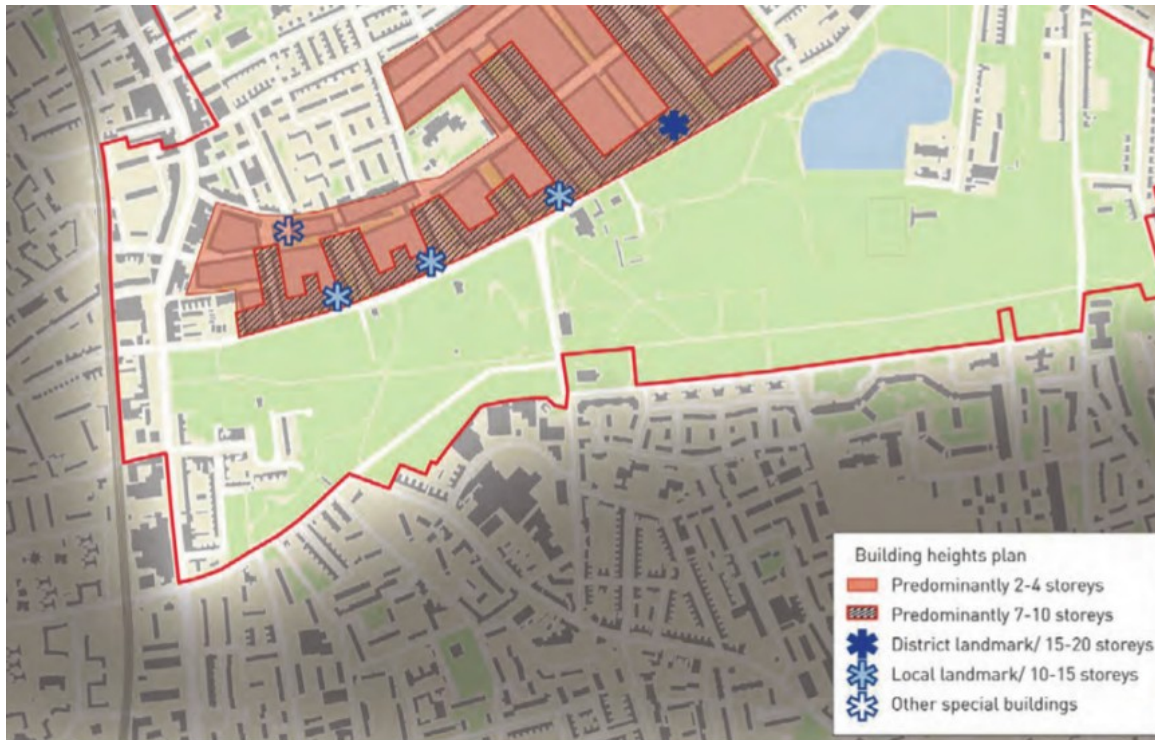
19. Whilst the Energy Strategy provides a baseline for the estimated emissions of the new development, it does not provide any details of baseline emissions for the existing development.
20. This would clearly be the first step in establishing whether there is to be *'no net growth in carbon dioxide emissions despite an increase in the number of dwellings'*.
21. In examining other documents submitted in support of both the FDS (14/AP/3843) and outline applications (14/AP/3844) I have not been able to find any information relating to the AAAP's zero carbon growth requirement and whether or not the proposed scheme is compliant with this policy requirement.

Tall buildings

22. The Building Heights Plan of Policy PL4 of the AAAP (CD2) clearly sets out that there should be two tall buildings on the order land ranging from 10-15 storeys, but the consented plans show three tall buildings along the Albany Road frontage, comprising 13, 18 and 20 storeys.
23. There is therefore a compliance failure both in the height and number of tall buildings proposed. The planning report acknowledges this but fails to indicate any material consideration justifying the departure from policy requirements:
- "The number of tall buildings, and the height of the taller two, exceeds that which was envisaged."* (CD63, FDS(14/AP/3843), paragraph 179)
24. The planning report justifies the departure from policy as follows:

"The number and height of the landmark tall buildings is above that envisaged in the AAAP masterplan, but the buildings are considered to make a positive contribution to the views from Burgess Park, the designs are distinctive and high quality, and no harmful microclimate effects have been identified. In the context of the wider scheme for Albany Road the distribution of height is appropriate, and the slender profile avoids the overbearing impact of existing buildings such as Bradenham." (Paragraph 240)

25. This justifies the departure on the basis that the buildings are '*distinctive*' and of a '*high quality*' design. However, it is in any case a requirement of the AAAP that the buildings '*outstanding architectural and urban design quality*' (CD2, A.6.6.37) and fails to take into account the negative impact of the departure from policy requirements.



Building heights plan

26. Paragraph 5.223 of NHHT's planning statement (RL3) explains that the tall buildings are one of the reasons for the breach in the scheme's sunlight/daylight shortcomings (covered in Peter Raynham's evidence) saying that "*the tall buildings along the park boundary .. maximise the number of apartments with a view of the park*".

Green fingers

27. Policy A6.5.7 envisages that this will be achieved using a series of 'green fingers' - "*multi-functional spaces that link with Burgess Park*" :

"A series of 'green fingers' will be created, extending from Burgess Park into the action area core interlinking the park with the development. Their predominant function is that of a public space with social interaction, pedestrian and cycle movement dominating."



Extract from the AAP's Visual Impact Assessment

28. One of these green fingers – King William IV [0.24ha] - should have been part of the FDS scheme, linking Westmoreland road to Burgess park, running north to south through the FDS:

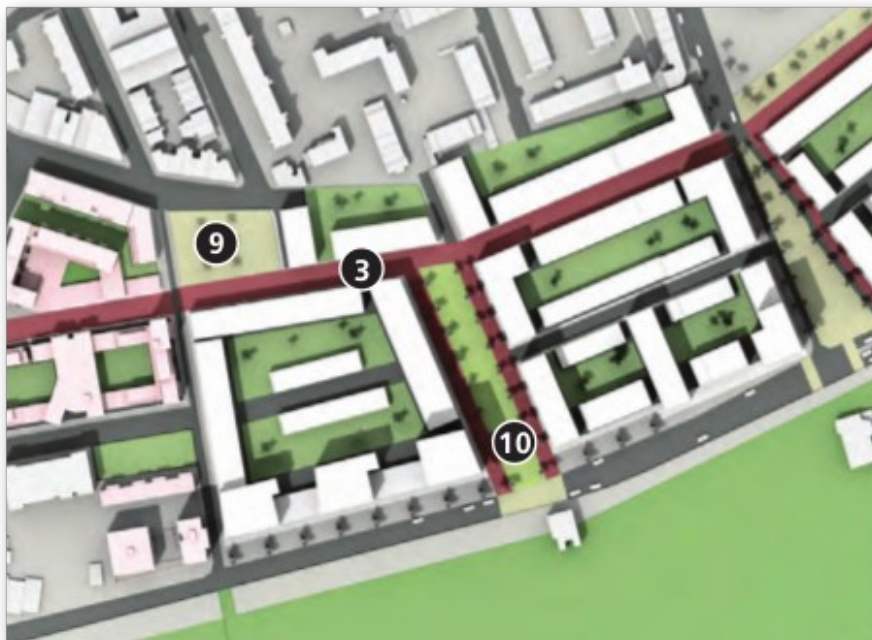


Figure 5, page 23 of the AAP showing the King William IV green finger (10)

29. The AAP envisages that the green fingers will "provide an important part of the overall public open space in the AAP area. They will extend Burgess Park into the residential development, allowing people to move easily from their homes to the park. They will also enable many more homes to have a frontage along pleasant green spaces. The green fingers will

provide a range of functions including children's play areas, water management and pedestrian and cycle movement." (policy 4.2.6 of the AAAP)

30. The green fingers also enable several key 'green links' envisaged by the AAAP, which link neighbouring local parks to Burgess Park. King William IV green finger would have linked Burgess park to Faraday Gardens (AAAP figure 11 – network of public open spaces, page 52):



Figure 11: The network of public open spaces

Extract from Design & Access Statement [CD43]

31. The planning report for the FDS explains the departure from the Area Action Plan as follows:

"The substitution of individual landscaped spaces and tree-lined streets for the Green Fingers is considered positive in terms of creating a variety of types of spaces, and more options to link pedestrians and cyclists into the neighbouring areas. It also reduces the number of trees lost through the redevelopment."

32. Given the 1,875sqm reduction in open space provision as a result of dropping the green fingers (see paragraphs 35-36 of my evidence), it is difficult to understand how the scheme now provides '*more options to link pedestrians and cyclists into neighbouring areas*' or how it '*reduces the number of trees lost through redevelopment.*'

King William IV pub

33. COM4 (page 70) of the AAAP says: "*The King William IV public house site in Albany Road will be used as one of the locations for youth training in social enterprise, catering and IT.*"
34. 6.1.8 "*The former King William IV public house in Albany Road has been acquired by the Creation Trust and will provide additional facilities to those provided in Walworth Academy and the new secondary school.*"
35. In contrast to the AAAP's vision for turning the pub into a youth training/IT facility, it has instead been demolished and the site replaced with an outdoor gym.



Open space requirements

36. Policy 4.5.1 of the AAAP requires that the scheme produces no net loss of open space.
37. Whilst there is no information provided on the net loss of open space on the FDS site alone, the planning committee report for the Outline Scheme

does provide an analysis, which says that there will be a net loss of 1.8 hectares of open space across the whole scheme (including the FDS):

provided as part of the FDS (0.39ha). Table 22 below sets out the amount of public open space proposed across the Aylesbury Estate.

Table 22: Public open space provision

	Public accessible open space (Ha)
Existing Housing Green Space baseline	4.8
Early phases	0.12ha
Proposed detailed phase	0.39ha
Proposed Outline phase	2.49ha
Regeneration Programme total	3
net change against AAAP	-1.8ha

157 Whilst it is acknowledged that there will be a reduction in the overall amount of amenity space compared to the existing estate, the AAAP assumed there would be an increase in density and that new spaces would be designed to maximise attractiveness and usability.

Extract from the planning committee report for the masterplan application.

38. In addition to Westmoreland Square (956 sqm), the AAAP envisaged 0.24hectares (2,400sqm)¹ of open space in the form of the King William IV green finger. Instead of providing the green finger the FDS is providing just 525sqm in Portland Park (proposed amended scheme).
39. This leaves a shortfall of 1,875sqm of open space between what is being provided and what was envisaged by the Area Action Plan.
40. Whilst acknowledging the net loss of open space, neither the planning report for the FDS or the outline scheme (CD63) address the failure to comply with AAAP's requirement that there is no net loss of open space.

Private amenity space requirements

41. Policy PL7 of the AAAP (page 51) says:

"All development must contain high quality private open space in the form of communal gardens, private gardens and useable balconies. The design of communal gardens should comply with the guidance in Appendix 6."

42. This appendix 6.7.10 (page 154) says:

¹ 0.24ha Figure taken from table 21, paragraph 155 of the officer's report for the outline masterplan application 14/AP/3844 (CD63)

"All dwellings must have direct access to private open spaces, whether in the form of a garden, roof garden, courtyard or balcony. 1/2 bedroom dwellings must have a minimum of 6 sqm of private amenity space. Larger dwellings should aim to meet the minimum standards set out in the Residential Design Standards SPD."

43. Paragraphs 143 and 144 of the planning committee for the FDS (CD63) report re-affirm these requirements and cite the minimum requirements for flats with 3 bedrooms or more, which is 10sqm.

"The AAAP Appendix 6 requires at least 6sqm private amenity space for one and two bedroom flats with the remaining units being required to meet the minimum private amenity space standards set out in the SPD Residential Design Standards. The SPD requires flats with three or more bedrooms have a minimum requirement of 10sqm."

44. Page 215 of the Design Addendum's accommodation schedule for the proposed amendment to the FDS consent (JF28) shows that 232 of the 676 one and two bed flats fall short of the AAAP and SPD's 6sqm minimum amenity space requirements. (See column headed 'Total Amenity Space sqm')

45. The accommodation schedule also shows that 33 of the scheme's 110 three-bedroom flats/maisonettes fall short of the 10sqm minimum requirement for three-bedroom flats.

46. The Residential Design Standards SPD also says that: *"For new housing, a minimum of 50sqm of private garden space is required and this should be at least 10m in length. The private gardens should extend across the entire width of the dwellings."*

47. The planning officer's report for the FDS (CD63) also says that *"With regards to houses, the SPD seeks private gardens that are at least the width of the house, extend at least 10 metres in depth and provide 50sqm of garden space. This requirement also applies to ground floor maisonettes."* (Paragraph 144)

48. Paragraph 147 of the report confirms that only one terraced dwelling in block 2 meets with the minimum 10 metre depth requirement and eight

further dwellings fail to meet the 50sqm minimum garden space requirement.

49. 26 of the 55 four and five-bedroom houses and ground floor maisonettes comply with the minimum 50 sqm garden space requirement and

50. Paragraphs 146-151 of the planning report confirms that only one of the houses in block two complies with the minimum 10 metre garden depth requirement, none of the houses in block 3 comply and several of the houses in blocks 5 and 6 fall short of this requirement.

51. Again, the planning report fails to provide material considerations justifying these significant departures from policy requirements.

Dual aspect design requirements

52. Policy A6.7.8 (page 154) of the AAAP says *"At least 75% of apartments in each development should have dual aspect."*

53. Paragraph 128 of the planning committee report confirms that only *"70% of apartments and maisonettes/duplex units"* on the FDS site will be dual aspect and, instead of justifying the departure by material considerations simply says *"Whilst this falls slightly short of the AAAP expectation this is recognised as one of the challenges of providing a dense perimeter block style development."*

54. The submitted amendment (17/AP/3885 – GL Hearn Supporting Statement 5.42, page 21) to the FDS planning permission (14/AP/3843) increased this to 71%; a minor improvement on the consented scheme, but still falls below the 75% requirement.

Privacy and overlooking requirements

55. Appendix 6 of the AAAP expects proposals to ensure that the privacy of occupants is protected without compromising the ability to create a compact urban neighbourhood. It does not set out specific requirements for separation distances, but instead references the Residential Design Standards SPD.

56. The Residential Design Standards SPD, specifies a minimum rear-rear separation distance of 21m but paragraph 140 of the planning committee report acknowledges that *"there is one point at which the distance*

between habitable windows for the general needs flats reduces to 14 metres, but generally the distance is between 17m and 20m."

57. The submitted amendment (17/AP/3885 – paragraph 5.47, page 22 of the GL Hearn supporting statement) the three new town houses will meet the distance requirements of the Residential Design Standards SPD (para 2.8), but there is no change otherwise to the consented scheme (CD63, 14/AP/3843 para 141).

58. Again, the planning report offers no material considerations justifying the departures from policy requirements.

Play space requirements

59. Policy 3.6.2 of the AAAP says: *"We will require children's play areas to be integrated into the residential areas. About 3 hectares of children's play space and youth space will be provided"*.

60. Policy PL6 of the AAAP says *"All development proposals must provide 10sqm of children's play space/youth space per child bed space. Doorstep playable space should be provided within each of the housing blocks, whilst larger local playable spaces should be provided within selected housing blocks and within the green fingers and existing local parks, in accordance with Figure 12."*

61. Paragraph 5.54 of the GL Hearn Supporting Statement to the amended FDS application, confirms that as a result of the increased density, *"the play space requirement for 12+ will increase from 1,130sqm to 1,180sqm, and the amended scheme will provide this off-site in accordance with the existing planning permission 14/AP/3843"*.

62. Paragraph 166 of the FDS planning report (CD63) acknowledges the shortfall in 12+ play space and says that it is being offset by *"A financial contribution of £78,369 being made towards additional or improved play facilities in Burgess Park."*

63. Whilst the planning report acknowledges the shortfall and deems the payment in-lieu acceptable, it does not provide any explanation or justification for the shortfall *"it is considered to be acceptable given the location of the development alongside Burgess Park and given the*

opportunities that Burgess Park presents in terms of playspace for this older age group.” (Paragraph 166)

64. The FDS previously benefitted from a large games court play area. This was a valuable and well-used resource by the estate’s 12+ youth, which is not being replaced by any such new facility.



Existing play space on the FDS that is not being replaced

Dwelling mix requirements

65. The AAP requires a minimum of 27% of new homes to be maisonettes (CD2, A5.1, page 106) and further says:

“Increasing the proportion of homes suitable for families was a key concern which local residents raised during consultation.” (CD2, Para 3.5.3)

“At a borough wide level there is a need for a mix of dwellings, particularly those capable of accommodating families. The proportion of maisonettes and houses will help meet this need.” (CD2, BH5, Para 3.5.1)

66. However, the accommodation schedule (Jf28) shows that just 93 of the 842 new homes on the FDS will be maisonettes (11%).

67. In addition, the AAP requires 149 three bedroom dwellings on the FDS (CD2, A5.1, page 106) but only 110 are proposed.

68. There are 88 three-bedroom flats on the existing FDS site (16 leasehold-owned) (CD63, para 84).

69. The amended scheme proposes just 70 three-bed dwellings for social rent – a net reduction of 18 three-bed dwellings.
70. In addition, none of the three bed dwellings on the redeveloped FDS are proposed to be shared ownership. Indeed, the shared ownership dwellings proposed are limited exclusively to 1 and 2-bedroom flats.
71. The proposed scheme's failure to provide the requisite number of family dwellings, and its failure to provide family homes for shared ownership, will inhibit its ability to provide suitable accommodation to meet the housing needs of existing residents, in particular leaseholders with a three-bed or greater housing need.

Wheelchair accessible dwellings

72. The AAAP says *"We will provide homes with a range of tenures and designs to suit people of differing incomes and housing needs. We will respond, for example, to the needs of families, older residents and those with specific housing needs such as disability"*. (Page 3)
73. The Acquiring Authority's Residential Design Standards SPD (CD95) says (emphasis added): *"There remains a shortage of housing suitable for wheelchair users across London and wheelchair housing has been identified as a key housing need in Southwark. The London Plan and the saved Southwark Plan policy 4.3 require at least 10% habitable rooms or units of major new residential development (10 units or more) to be designed to be wheelchair **accessible**."* (CD95, 2.10, page 21)
74. The planning report for the consented scheme said *"There will be a range of housing types on the FDS with at least 10% of all new homes being designed to meet the needs of vulnerable groups such as wheelchair users and the elderly including specialised supported housing for people with learning difficulties."* (CD63, paragraph 400)
75. However, the amended FDS scheme is proposing that just 38 dwellings (4.51%) will be wheelchair **accessible** housing, with a further 63 units being provided as wheelchair **adaptable** – i.e. not wheelchair accessible but capable of being adapted to accommodate wheelchair access. (SC8)

76. The schedule of wheelchair accommodation (SC8) also shows that just 3 of the wheelchair units will be family homes (3-bed dwellings or larger).
77. Further, the existing section 106 agreement for the FDS scheme (CD64) fails to secure a minimum number or proportion of wheelchair accessible units. Instead it enables a demand-led/marketing approach, whereby the number of wheelchair accessible units built is determined by the housing requirements of tenants in the active decant phase at the time - in respect of the social rented units (CD64, paras 12.3-12.4 schedule 3); and by the number of private/shared ownership wheelchair units it sells off plan (CD64, paras 12.10-12.13).
78. Those units designated to be wheelchair accessible, which NHHT has not been able to sell, or for which no tenant in the active decant phase at the time is found, can then be constructed as non-wheelchair accessible (CD64, paras 12.6 and 12.14).
79. The Acquiring Authority's failure to secure the minimum provision of 10% wheelchair accessible housing from the scheme is a major failure to comply with the borough's policy and will impact on its disabled residents in future housing need. I note that disabled people are one of the protected groups listed under section 149 of the Equality Act 2010.
80. I have not been able to find any evidence justifying this departure from policy requirements or assessing its impact on affected groups.

Tenure mix/distribution

81. Policy BH3 (Tenure Mix) of the Aylesbury Area Action Plan (CD2) says:

"To help ensure that the new neighbourhood contributes to community cohesion, all new homes should be tenure blind i.e. it should not be possible to distinguish between affordable and private homes from their external appearance." (Paragraph 3.3.7)

"All developments blocks should seek to provide the tenure mix which is appropriate for the proposals site in which the block is located, as set out in policy BH3, unless it can be demonstrated that this is not possible through an open-book financial appraisal." (Paragraph 3.3.8)

82. This accords with Policy P13, Paragraph 1.4 of the New Southwark Plan which requires development to be ‘tenure blind’ and the London Plan (Housing SPG) which requires that “*schemes should be designed to maximise tenure integration.*” (Paragraph 1.3.18)

83. The planning report for the FDS (CD63, 14/AP/3843) said:

“New homes will also be tenure blind with no visible difference between affordable and private housing.” (Paragraph 400)

“This is a major benefit of the scheme, as is the distribution of the affordable housing, across blocks and designed to be ‘tenure blind’.” (Paragraph 375)

“The design of the housing is ‘tenure blind’, with high quality affordable housing fully integrated into every block.” (Paragraph 105)

84. However, in the proposed amended scheme affordable housing is not integrated into every block. The accommodation schedule for the amended FDS scheme (JF28, pg 212) shows that a large number of the blocks will be entirely single tenure, including the two tallest tower blocks overlooking the park (blocks 4A and 5A), which will be entirely private for sale units.

Block 1A – entirely social rent

Block 1C – entirely social rent

Block 2A – entirely social rent

Block 3A – entirely private housing

Block 4A – entirely private housing

Block 4B – entirely private housing

Block 5A – entirely private housing

Block 5E – entirely social rent

Block 6B – entirely social rent

Block 6E – entirely private housing

85. This is a major departure from the requirements of the AAAP and goes against its primary objective of creating a more mixed community:

“We will use the guidance established in the Aylesbury Area Action Plan to achieve a phased redevelopment of the Aylesbury Estate over the period

2009 to 2027, which will deliver a new and more balanced mixed community.” (CD2, 1.6.4, page 20)

Land use requirements

86. AAP policy '**COM6**' (page 72) requires the Scheme to *"Provide 1,750 square metres of new local retail facilities (convenience retail, cafes and restaurants) within the action area core"*.
87. Appendix 5 of the AAP (site 1b/1c, column 3, page 106) specifies that the FDS should provide a minimum of 250sqm retail space, but the consented plans do not propose any retail floorspace whatsoever. Paragraph 80 of the FDS planning committee report justifies the compliance failure by arguing that NHHT is providing 250sqm of D1 or D2 use class, permitting it *"to be used as an Early years facility or a gym subject to need and demand"*.
88. The shortfalls on the Outline Scheme against the AAP's land use requirements are greater if the outline scheme is built to minimum requirements. In this case there will be a shortfall of 546sqm of retail; 1900sqm of offices and employment use; and 487sqm of community use.
89. We address the issue of whether or not NHHT is obliged to build to the maximum specification in Mr Flynn's evidence.

Table 20: Overview of proposed retail, business, health and community facilities - Minimum scenario

	Retail uses (A1-A5) (sq.m)	Offices and employment use (Class B1) (sq.m)	Health, social care, community and pre-school facilities (Class D1) (sq.m)
AAAP Floorspace Target	1,750	2,500	5,650
Early phases	404sqm	0	1800
Proposed detailed phase	0	0	263
Proposed Outline phase(s)	800	600	3,100
Regeneration Programme total	1,204	600	5,163
net change against minimum	-546	-1900	-487

134 The proposal is capable of exceeding the expectations of the AAAP if more than the minimum amount is delivered (taking account of flexible floorspace). However it is also capable of falling short of the AAAP expectations if only the minimum is delivered across the outline scheme. Proportionally, the most significant shortfall would arise for the proposed amount of business space and retail floorspace.

[Planning committee report](#) for the outline application (14/AP/3844)

Sunlight/daylight requirements

90. The scheme falls short of the development plan requirements for adequate sunlight/daylight, both to the proposed new flats and to surrounding amenity spaces (see Mr Raynham's evidence).

91. This appears to be partially due to the schemes failure to comply with several of the following basic design principles set out in the development plan:

"Taller buildings should be sited to the north of the development, with low rise at the south to maximise daylight and sunlight penetration to the development." (CD95;Section 2.7 page 19)

“New development should not cause excessive overshadowing of existing communal amenity spaces or neighbouring properties.”
(CD95;Section 2.7 page 19)

“North facing gardens should be avoided.” (CD95;Section 2.7 page 19)

“Where possible, living rooms should face the southern or western parts of the sky and kitchens towards the north east.”
(CD95;Section 2.7 page 19)

“Where dual aspect cannot be provided for example in flat developments due to problems of overlooking neighbours, the applicant must prove that the single aspect is of a standard not inferior to multiple aspects and that a high quality of design is still achieved.” (CD95;Section 2.7 page 19)

“Development should achieve the following distances:

- *A minimum distance of 12 metres at the front of the building and any elevation that fronts onto a highway.*
- *A minimum distance of 21 metres at the rear of the building”*
(CD95;Section 2.8, page 20)

Conclusion

92. In summary, the scheme underlying the compulsory purchase order fails to comply with the requirements of the development plan on numerous counts.
93. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that planning proposals *“must be made in accordance with the plan unless material considerations indicate otherwise”*. My evidence shows that in each case of non-compliance, the Acquiring Authority has failed to indicate or provide sufficient indication of material considerations justifying the departures from policy requirements.

94. The scheme will therefore not deliver the social and environmental benefits envisaged and for this reason the order should not be confirmed.