[**THE LONDON BOROUGH OF SOUTHWARK**](http://metro.co.uk/2017/10/09/number-of-homeless-families-being-moved-from-local-area-doubles-in-five-years-6985737/)

**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**

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[**Proof of Evidence of**](http://metro.co.uk/2017/10/09/number-of-homeless-families-being-moved-from-local-area-doubles-in-five-years-6985737/)

**35% Campaign Group (Elephant Amenity Network),**

**For the Aylesbury Leaseholders Group**

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## Introduction

1. The 35% Campaign is a campaign managed by the Elephant Amenity Network, a group of local residents, traders and others who have an interest in the regeneration of the area.We don’t believe that the existing regeneration plans are set to benefit all members the local community. Many have either lost our homes or fear for our livelihoods as traders.
2. We try to engage in planning matters ranging from housing to public realm and sustainable development. We are listed as a primary consultee in local planning policy (E&C SPD 2012) and the group is a founding member of the Elephant & Walworth Neighbourhood Forum (ewnforum.org).
3. Our group has 3 guiding principles:

- Open Masterplanning  
- Benefits for All  
- Housing that really is Affordable

1. Within the course of our campaigning activities, we have gained a thorough understanding of planning issues including development viability and have given evidence at examinations in public, public inquiries and Tribunal hearings. Several of our members gave evidence to the examination in public of the Aylesbury Area Action Plan.
2. Our objection to the compulsory purchase order is that the scheme underlying the order is no longer in accordance with the development plan.

## **The scheme is no longer in accordance with the development plan**

1. A key requirement of the compulsory purchase code is that the Scheme underlying the Order must conform with the requirements of the statutory development plan. Paragraph 76 of the [06/04 ODPM Circular](https://www.gov.uk/government/publications/compulsory-purchase-and-the-crichel-down-rules-circular-06-2004) lists a key consideration as *"whether the purpose for which the land is being acquired fits in with the adopted Local Plan for the area"* and specifies that *"any programme of land assembly needs to be set within a clear strategic framework, and this will be particularly important when demonstrating the justification for acquiring land compulsorily under section 226(1)(a) powers as a means of furthering the well-being of the wider area."*.
2. The adopted Local Plan for the Scheme underlying this Order (“the Scheme”) is the [Aylesbury Area Action Plan 2010](http://www.2.southwark.gov.uk/download/downloads/id/13132/aylesbury_area_action_plan_2010_inc_appendices) (“AAAP”) [CD2], which was adopted in January 2010 as part of the Acquiring Authority's local development framework.
3. As a result of the [withdrawal of £180m government funding](http://www.2.southwark.gov.uk/news/article/159/government_to_withdraw_pfi_funding_for_aylesbury) envisaged by the AAAP and subsequent changes in housing policy affecting the viability of the Scheme, it now fails to comply with the following requirements of the development plan:
   * Minimum number of new homes requirements
   * Net loss of affordable housing requirements
   * Dwelling size requirements
   * Minimum space standards
   * Wheelchair accessible requirements
   * Affordable Housing Tenure requirements
   * Renewable Energy requirements
   * Building Heights requirements
   * Sunlight/Daylight requirements
   * Open Space requirements
   * Transport/public realm requirements
   * Private Amenity Space requirements
   * Dual aspect design requirements
   * Privacy and overlooking requirements
   * Play Space requirements
   * Land use requirements
   * Density requirements
   * Monitoring and compliance
   * Infrastructure/public sector funding requirements
   * AAAP rehousing requirements
   * Requirements of the Mayor's [Equality and Diversity SPG](https://www.london.gov.uk/file/8173/download?token=1Svk6LBu)

## Breach of housing uplift requirements

1. Policy 3.1.4 of the AAAP says:

*"The London Plan’s requirement for Southwark is 16,300 new homes by 2016/2017. The AAP will deliver about 1,450 extra homes to contribute towards this target."*

1. The AAAP baseline of existing homes in the action area core is stated as 2,758. The AAAP requires 4,208 new homes to be buit in the action area core. NHHT's planning consent for the FDS and remaining phases requires only 2,580 number of new homes to be built (830 on the FDS and 1700 on the outline).
2. According to Appendix 5 of the AAAP, to deliver the 4,208 homes, a requirement of 425 new homes needed to have been delivered on completed phases 1a/site 7, but only 408 have been provided. 3,566 new homes are required by the AAAP on the remaining FDS and outline schemes combined.
3. NHHT's planning applications for these sites proposed just 830 units on the FDS and 1,700 on the Outline site totalling 2,530 homes - a significant shortfall of over 1,000 homes. Just 1,270 of the 2,530 would be affordable, which added to the 210 provided on completed phase 1a/site 7 would result in just 1,480 affordable homes built on the redeveloped estate. This falls well short of the AAAP's requirement for at least 2,100 new affordable homes and the GLA's baseline of 2,402 social rented homes on the Aylesbury estate.

|  |  |  |  |
| --- | --- | --- | --- |
| Phase | AAAP reqs. | Consented units | Shortfall |
| Phase 1a/Site 7 | 425 | 408 | 17 |
| FDS | 880 | 830 | 50 |
| Outline | 2,898 | 1,700 | 1,198 |
| Total | 4,208 | 2,938 | 1,270 |

1. The GLA blocked the proposals in his [stage I response](http://planbuild.southwark.gov.uk/documents/?GetDocument={{{!izsWJ9%2FRx3xk24MB9MvTtw%3D%3D!}}}), because *"the proposed net loss of affordable housing does not comply with London Plan policy"*. (para 13)
2. The Acquiring Authority sought to address this shortcoming by agreeing with NHHT to set a minimum requirement for the number of affordable homes to be provided such that there would be no net loss of affordable housing. Despite the London Plan specifying that net loss should be calculated in terms of **floorspace**, the Acquiring Authority decided to use **habitable rooms** for its calculations instead.
3. The AA also chose a different baseline than the one in the GLA's stage I report. It selected a May 2008 baseline for the calculation which showed 6,887 social rented habitable rooms as the baseline (para 89 of 14/AP/3844 OR). The Mayor's stage I report gave a February 2008 baseline of 7,345 social rented habitable rooms (para 20) - a significant and unexplained difference.

Extract from GLA stage I response

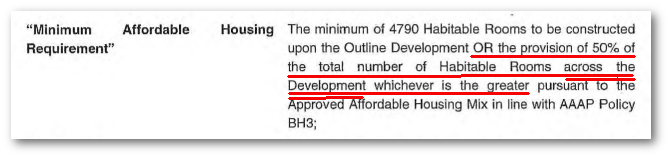
Extract from GLA stage I response

The AA took the baseline of 6,887 and deducted the 703 affordable habitable rooms reprovided on completed phases 1a/site 7. It then further deducted the 1,394 affordable habitable rooms proposed on the FDS and was left with a shortfall of 4,790 habitable rooms against the baseline.

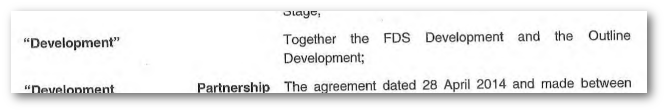
It's intention then was to write a condition into the section 106 agreement requiring at least 4,790 affordable habitable rooms to be constructed on the Outline site.

"with Phase 1A and Site 7 in place, and assuming that the FDS scheme is delivered in line with the current application, then an additional 4790 habitable rooms of affordable housing **in phases 2, 3 and 4** would be required to deliver full replacement of the baseline." (Planning Committee report 14/AP/3844, para. 101)

1. However, the final section 106 legal agreement failed to secure this minimum requirement. It failed require a minimum of 4790 affordable habitable rooms under the outline application. The provisions of the section 106 agreement said that NHHT could deliver **either** a minimum of 4790 affordable habitable rooms on the Outline Development **OR** 50% of all habitable rooms as affordable housing **accross the FDS and the Outline applications combined - whichever is the greater**.

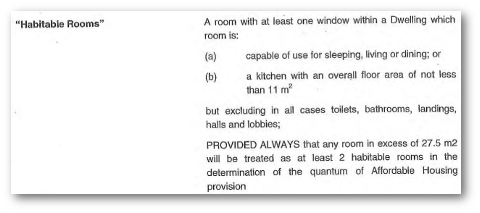


Extract from S106 agreement



Extract from S106 agreement

1. This subtle but significant change of wording enables NHHT to build a minimum of 4791 affordable habitable rooms across the FDS and Outline Schemes combined, and as long as this represents 50% of the total housing across the sites then the minimum affordable housing requirement is satisfied. (Had it read *"across the* ***Outline*** *Development"* then the clause would have achieved the Council's intention)
2. As a result of the Acquiring Authority's failure to properly negotiate the s106 terms of minimum affordable housing requirement, and its failure to secure any minimum affordable housing requirement in its DPA with NHHT, if the order is confirmed NHHT will be able to build the Scheme out to the minimum specification, thereby failing to comply with key objective AAAP (Policy BH1 Increasing the Number of Homes), AAAP policy 3.3.1 and policies 3.14B/3.82 of the London Plan (net loss of affordable housing).
3. A further loophole in the section 106 agreement's affordable housing provisions, is found in the definition of habitable room for the purposes of calculation the minimum affordable housing provison. This allows any room larger than 27.5m2 to be counted as two habitable rooms for affordable housing provision.



Extract from S106 agreement

1. Given that xx number of affordable homes proposed on the FDS and Outline scheme contain xx number of habitable rooms larger than 27.5sqm, this clause enables the double counting of xx affordable habitable rooms and will result in a tenure mix of xx% affordable/xx% private in terms of overall units.
2. The Acquiring Authority may argue that the FDS Scheme should be regarded in isolation from the Outline Scheme (and the above loophole around habitable room calculation) because the section 106 agreement provides a schedule (Schedule 4) setting out the minimum number of affordable housing units to be provided on the FDS.
3. The Objectors submit that the Outline Scheme should not be seen in isolation because ... and that in any event there will still be a significant net loss of affordable housing **floorspace** on the FDS if the schedule 4 of the section 106 agreement is complied with.
4. Policy 3.14 of the London Plan resists the loss of affordable housing, without equivalent replacement (emphasis added):

"3.14B: Loss of housing, including affordable housing, should be resisted unless the housing is replaced at existing or higher densities with **at least equivalent floorspace**.

"3.82 ESTATE RENEWAL: Where redevelopment of affordable housing is proposed, it should not be permitted unless it is replaced by better quality accommodation, providing **at least an equivalent floorspace** of affordable housing."

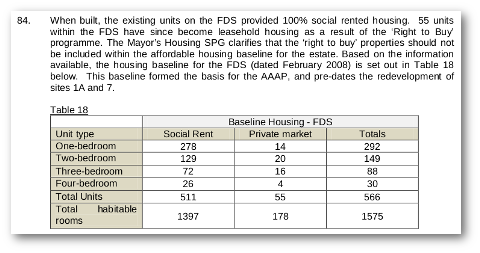
See also the requirements for no net loss of 'social' housing in Mayor's estate regeneration good practice guide.

The Mayor's new Affordable Housing and Viability SPD also says:

“homes at social rent levels should be replaced with homes at the same or similar rent levels, or that specialist types of affordable housing should be replaced with the same type of housing. The Fast Track Route does not apply in these circumstances, and all estate regeneration schemes should follow the Viability Tested Route to deliver the re-provision of the existing affordable floorspace on a like-for-like basis and maximise additional affordable housing.”

“Habitable rooms in affordable and market elements of the scheme should be of comparable size when averaged across the whole development. If this is not the case, then it may be more appropriate to measure the provision of affordable housing using habitable floorspace. Applicants should present affordable housing figures as a percentage of total residential provision by habitable rooms, by units, and by floorspace to enable comparison.”

1. The London Plan is very clear that net loss of affordable housing is resisted and should be calculated in terms of **floorspace**.
2. The GLA stage 1 report for the outline site says that comprehensive floorspace figures for the Aylesbury estate are not available. However, paragraph 353 of the FDS planning committee report confirms that *"The total existing floorspace on the FDS equates to approximately 54,747sqm"*.



Extract from the [planning committee report for the FDS](http://planbuild.southwark.gov.uk/documents/?GetDocument={{{!JwAZWYwclvfEhXaN8JmiPA%3D%3D!}}})

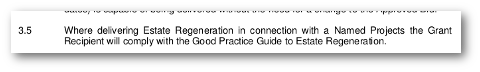
1. Using the schedule of accommodation in paragraph 94 of the planning committee report combined with the table of room sizes in paragraph 5.2 of the revised affordable housing statement, the total proposed affordable housing floorspace is 28,293sqm. This shows a net reduction of affordable housing floorspace of 24,707 - more than half of the existing affordable floorspace.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Unit type | tenure | Quantity | Sqm | Total sqm |
| 1 Bed | Social rent | 135 | 52.3 sqm | 7,060 sqm |
| 2 Bed | Social rent | 68 | 66 sqm | 4,488 sqm |
| 3 Bed | Social rent | 63 | 96 sqm | 6,048 sqm |
| 4 Bed | Social rent | 20 | 99 sqm | 1,980 sqm |
| 5 Bed | Social rent | 18 | 128 sqm | 2,304 sqm |
| 1 Bed | Intermediate | 37 | 50 sqm | 1,850 sqm |
| 2 Bed | Intermediate | 48 | 63 sqm | 3,024 sqm |
| 3 Bed | Intermediate | 15 | 89 sqm | 1,335 sqm |
| 4 Bed | Intermediate | 20 | 99 sqm | 2,204 sqm |
|  |  |  |  | 30,293 sqm |

1. The Acquiring Authority is claiming that the Mayor’s Housing SPG says that the re-provision of housing may be considered in terms of units numbers and/or habitable rooms. However the SPG only says that this is permissible in relation to family homes (emphasis added):

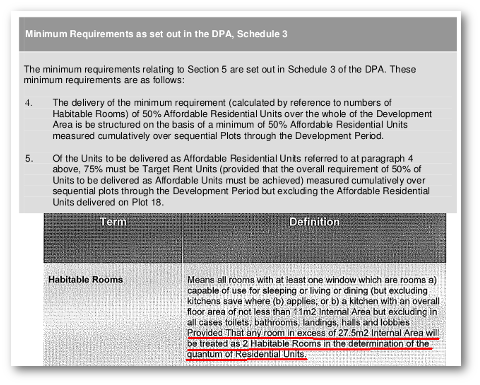
"5.1.14 Calculations of whether there is a loss of affordable or overall housing provision can be made on the basis of habitable rooms rather than dwellings, where the redevelopment of an estate is providing a housing mix more appropriate to the needs of both existing and prospective future residents – for example where there is increased provision of dwellings for larger households."

1. Given the proposed Scheme's shortcomings in relation to the objectives and requirements of the AAAP, the Objectors submit that the Scheme is not *"providing a housing mix more appropriate to the needs of both existing and prospective future residents"* - for example, the Scheme fails to provide *"increased provision of dwellings for larger households"*. This is addressed in the following section explaining the Scheme's failure to comply with the minimum dwelling size requirements and minimum space standards.
2. The Objectors also note that NHHT's failure to ensure that there is no net loss of affordable housing may present a barrier to it receiving funding for the redevelopment. The Mayor's [funding agreement](http://35percent.org/img/standardformagreement2017.pdf) requires all estate regeneration schemes funded by his programme to comply with his [Good Practice Guide to Estate Regeneration](https://www.london.gov.uk/sites/default/files/draftgoodpracticeestateregenerationguidedec16v2.pdf):



Extract from the Mayor's [funding agreement](http://35percent.org/img/standardformagreement2017.pdf)

1. The Mayor's [Good Practice Guide](https://www.london.gov.uk/sites/default/files/draftgoodpracticeestateregenerationguidedec16v2.pdf) in turn, states that *"demolition should only be followed where it does not result in a loss of social housing"*.
2. The Objectors note that the loophole of allowing NHHT to 'double count' habitable rooms in the calculation of the minimum affordable housing requirement, is not just written in to the small print of the section 106 agreement - it is also contained in the provisions of the DPA:



Extract from the DPA

1. NB: the 27.5sqm 'double counting' loophole in the s106 specifies that it relates only to the calculation of affordable housing. The clause in the DPA relates to the calculation of all residential units.

## Failure to comply with AAAP rehousing objectives

1. At the time the AAAP was adopted, it had secured funding in a partnership with the HCA to provide 1,000 new homes, 400 of which would be council owned. These would provide sufficent reprovison to rehouse tenants displaced by the first phases of the decant.
2. This would assist in achieving the AAAP's aim of rehousing 50% of existing tenants on site: *“We will accommodate approximately 50% of existing tenants through the re-provision of homes on site”*. (AAAP Policy 7.2.6)
3. The Equalities Impact Assessment supporting the AAAP also relied on this objective in order to satisfy the Acquiring Authority's Public Sector Equalities Duty (PSED). Rehousing 50% of tenants in new homes on the estate would reduce the pressure on the Acquiring Authority's housing waiting list were it to rehouse tenants exclusively using existing available stock.
4. The Scheme however, appears to be failing in this requirement. Of the ca. 680 tenants and leaseholders decanted from the estate to date, the only available data shows that just 34 tenants and 5 leaseholders have been rehoused in new homes on site (para 4.12 of the Acquring Authority's updated statement of case).

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Phase | Tenants decanted | Leaseholders decanted | Total | (Rehoused on site) |
| 1a | ? | ? | 53 |  |
| Site 7 | 45 | 14(3) | 59 |  |
| FDS | 544 | 22(1) | 566 | |
| Phase 2 | 422(34) | ? |  |  |

1. The Acquiring Authority's statement of case fails to give details of how many Aylesbury tenants have been reshoused on the completed phase 1a of the Scheme. Indeed, there appears to be a general lack of evidence required to establish and measure how the rehousing requirements of the AAAP are being complied with. The Objectors understand that NHHT has commissioned a 'framework for measuring the success of the regeneration', but NHHT rejected the Objectors' request to provide this framework to the previous inquiry and has rejected [subsequent FOI requests](https://www.whatdotheyknow.com/request/framework_for_measuring_success). The Objectors request that a full copy of this framework is provided before the inquiry.

Framework for measuring success of the regeneration[commissioned](http://www.social-life.co/project/Aylesbury_estate_benchmarking/) by NHHT

Framework for measuring success of the regeneration[commissioned](http://www.social-life.co/project/Aylesbury_estate_benchmarking/) by NHHT

1. In 2017, the Council-run (the Acquiring Authority's Regeneration Boss is the chairman) and developer funded Creation Trust [published](https://twitter.com/creationSE17/status/859771179179102208) a 'displacement map' of tenants from the phase 2 decant:

Creation Trust's displacement map of phase 2 tenants

Creation Trust's displacement map of phase 2 tenants

1. The map claims contains inaccuraccies: it shows data for 410 decanted tenants from phase 2 up to March 2017, but the Acquiring Authority's [Sep 2016 Cabinet report](http://moderngov.southwark.gov.uk/documents/s63817/Report.Aylesbury Regeneration Delivery.pdf) states that 422 tenants had been decanted from phase 2 at Sep 2016. It also claims that 'the majority of tenants remained in Walworth', but this is clearly incorrect - 34% is not a majority.
2. Creation Trust's displacement map failed to provide information on how many tenants were rehoused in new homes on the estate. Neither did it include any information on leaseholders displacement, which is of particlar importance given so few leaseholders have been rehoused on the estate footprint.
3. The Scheme is clearly falling well short of the AAAP requirement to rehouse 50% of tenants in new homes on the estate footprint. This is having the knock-on effect of reducing the amount of available homes for those on the housing waiting list, as tenants being decanted from the estate are given priority Band 1 status.
4. Given that the 2009 AAAP Equalities Impact Assessment was measured against the requirement of rehousing 50% of tenants in new homes on the footprint, a new assessment is required to ensure that the departure from this requirement is not having a disproportionate impact on those affected - i.e. those 12,000 households on the Acquiring Authority's waiting list.

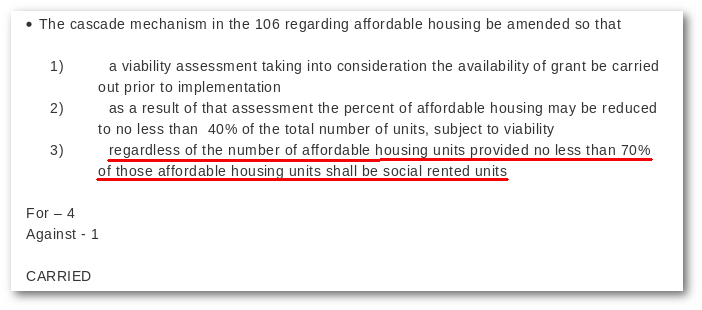
## Affordable housing tenure requirements

1. The Objectors submit that the non-viability of the Scheme is likely to result in a failure to conform with the affordable housing tenure requirements of the development plan
2. The AAAP requires 50% affordable housing of which 75% social rented tenure. Having established that the 'double counting' small print in the section 106 agreement fails to secure this, the Acquiring Authority may try to argue that social rented tenure is guaranteed by provisions of the DPA, but DPA refers only to 'target rent'. 'Target rent' is not a recognised affordable housing tenure. There is no mention in the entire DPA of the term 'social rent'. 'Target rent' is a term that has been used in previous rent guidance to describe convergence. Bla BLa explain convergence. Convergence was done away with and the term target rent was removed from the government's rent guidance in 2011(why? was it achieved?).

Extract from the DPA

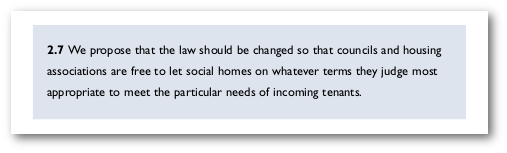
Extract from the DPA

1. Para 4.8.4 on page 136 of the DPA says that if (confidential) viability assessments show that the scheme has become unviable then changes to the businees plan and DPA will be sought.
2. Para 4.8.6 says that both parties will be free to terminate the DPA if phases are deemed unviable.
3. In 2010, the Acquiring Authority signed a development partnership agreement for the redevelopment of the neighbouring Heygate estate. The contractual agreement required the developer to provide a minimum of 12.5% social rented housing. In the event, the developer claimed this was not viable and is now providing just 3% social rent as a result. We submit that this will be the future of the Aylesbury scheme.
4. The Moodys downgrade report confirmed that on average NHHT is delivering 7% social rented housing across schemes in its current pipeline and this is despite NHHT having received record levels of funding.
5. The Objectors submit that in the absence of dedicated government funding to replace the PFI funding anticipated at the time the AAAP was drafted, the minimum 37.5% social rented housing across the Aylesbury scheme us undeliverable.
6. The Objectors submit that if the Order as it stands is confirmed, then the shortfall will be made up both by continuing to shortchange leaseholders and passing off affordable rented tenure as social rent.
7. This has indeed been the fate of several other schemes completed by NHHT. It was shown at the previous inquiry how NHHT had delivered affordable rented homes at up to 62% market rent at its Bermondsey Spa regeneration, when social rent was agreed in the DPA, planning committee report and section 106 agreement.
8. The same is true of NHHT's regeneration of the Claremont East estate in neighbouring Lambeth. This was sold by Lambeth Council to NHHT on the basis that it would provide "100% social rented housing".
9. However, NHHT later submitted a viability assessment claiming that it was no longer possible to provide this and Lambeth agreed to lower the quota. In March 2011, Lambeth granted planning permission for just 40% affordable housing, of which 70% social rented.



Extract prom planning committee report for NHHT's Claremont East estate application

1. An investigation by the 35% Campaign researching GLA data, showed that the social rented units had been provided instead as affordable rent of up to 68% market rent - the very same tenure switch that NHHT pulled at the Bermondsey Spa regeneration.
2. Affordable rent was introduced in 2011 to allow housing associations to charge higher rents (up to 80% market rent) to its tenants. The mayor has recently introduced several other social housing tenures, including 'London Living Rent' and 'London Affordable Rent'.
3. The AAAP specifically requires that a minimum 37.5% of the new homes must be social rent. At the time the AAAP was drafted social rent was the only rented social housing tenure. The AAAP predates affordable rent and the other new tenures that have been created. The AAAP specifically states its aim as to help 'most vulnerable' to remain in area - to rehouse tenants on the estate footprint etc. and this is why it specified such a high proportion of social rented homes that would guarantee remained affordable for existing tenants.
4. Shortly after the AAAP was adopted, Secretary of State Eric Pickles announced the abolition of the Audit Commission, which had overseen housing associations since 2001. In 2012, the government then got rid of a body called the Tenants Services Authority, which had closely regulated how housing associations provided social homes. Given the [widespread reporting of tenants experiencing problems](https://www.theguardian.com/society/2017/apr/12/mps-call-for-sweeping-changes-to-housing-association-regulation) with the management of housing association homes as a result (NHHT in particular), it is no surprise that existing Aylesbury tenants are not taking up the replacement 'social housing' on the completed phases. With a clear lack of any political will to halt the transition from social rent to affordable rent, is is no surprise that of the xxx tenants decanted from the FDS, only xx have been rehoused on the footprint and of the xxx decanted from the next phase (phase 2) only 34 have been rehoused on the footprint.
5. The fear over rising housing association rents is exacerbated not just by the sudden deregulation of the sector but also fierce lobbying by housing association to be able to increase rents as they see fit.
6. NHHT is one of the most active lobbyists among housing associations. In 2007, its CEO Kate Davies - then a member of the thinktank CSJ along with Iain Duncan Smith, co-authored a paper in which she claimed that *‘social housing is not a desirable destination’*, that *‘private ownership is preferable to state provided solutions’* and that social housing providers should be able to set rent levels without restrictions:



Extract from Kate Davies' CSJ report

1. In 2011, when the government introduced its controversial affordable rent tenure, allowing social rents to be converted and increased to up to 80% market rent, NHHT was one of just two housing associations that wrote in to the government's consultation supporting the proposed reforms. The other was Genesis (check), a housing association with equally profit driven objectives and which also helped [fund the research](https://www.theguardian.com/housing-network/2015/aug/07/housing-asssociation-no-longer-build-homes-poor-genesis) that influenced the government's reforms.
2. Indeed, Kate Davies was a key advisor to the extremely influential [Localis review](http://eprints.lse.ac.uk/5568/1/Ends_and_Means_The_future_roles_of_social_housing_in_England_1.pdf) (Principles for Social Housing Reform by John Hills), which had proposed the reforms.

[This account](https://redbrickblog.wordpress.com/2017/01/07/one-article-does-not-wipe-the-slate-clean/) from former NHHT board member Steve Hilditch, (also former head of policy for Shelter and housing adviser to the last Labour government) gives an insight into NHHT and its changed priorities:

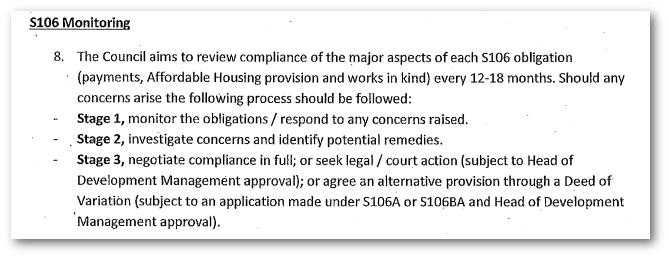
"the Trust came to be dominated by a philosophy which saw social renting as something to be disparaged, a ‘dead end’ and a route into ‘dependency’, and which also placed home ownership on a pedestal called ‘aspiration’. Provision of social rented homes was downgraded in priority, there were moves into making tenancies conditional (eg on seeking work), whilst more and more effort went into shared ownership and private development. There were skirmishes at the Board over individual schemes where the proposed balance between social rent and shared ownership was weighted in favour of the latter even though the finances of the scheme seemed to allow for more social renting in the mix.

It came to a head in early 2008 when a new 5 year development programme was put before the Board. It was fully costed, certified by the Director of Finance as a credible and viable plan, and it reflected in full the policy of the then mayor, Ken Livingstone, that development should be 50% affordable (35% social rent and 15% intermediate). Having drafted Ken’s housing strategy, I was delighted that NHHT planned to follow the lead. But the proposal was withdrawn by the chief executive and a different strategy was brought to the next Board. The amount of shared ownership was significantly increased and the share of social rent significantly decreased. After a long and difficult Board meeting, where I was an isolated advocate for the first strategy, the revision was passed (as I recall) by 8 votes to 1. The mix in the programme was proposed to shift from (social rent: intermediate) 70:30 to 40:60, much more extreme than even the policy of the incoming mayor Boris Johnson (although still much better than now).

I resigned. In my (July 2008) letter to the Chair, a clever businessman who helped improve the Trust in many other ways, I commented:

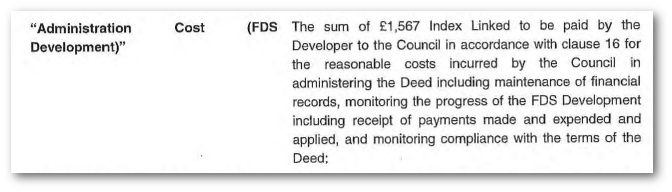
I cannot support the Board’s decision to approve the strategic plan proposed by the Corporate Management Team and the underlying attitudes it reflects. The basic premise of the growth strategy is that NHHT should make ‘shed loads of money’ from private development, which can then be applied to meeting housing needs. But this argument falls if CMT and the Board then decide to provide many fewer social rented homes than could be provided within reasonable business parameters. Real choices were available in deciding the strategy – and the final decision reflects serious differences of principle. In short terms, I feel that NHHT is fixated with promoting home ownership and has insufficient commitment to meeting housing need.

1. [This Guardian article](https://www.theguardian.com/society/2015/mar/29/tenants-face-70m-rent-rise-as-social-housing-converted-to-affordable-homes) shows that NHHT has switched 853 social rented homes to affordable rent over just the first 3 years of its introduction, earning it an extra £3.3m in annual rental income.
2. In July 2017, NHHT announced a merger with Genesis Housing association, the new group will become 'Notting Hill Genesis Housing Association'. Genesis is similar in size to NHHT and employs a simliar profit-driven approach. In August 2015 it announced that it would no longer be building social housing and that it would be considering selling or raising the rents on its existing social homes once they become vacant. (See this [Guardian article](https://www.theguardian.com/housing-network/2015/aug/07/housing-asssociation-no-longer-build-homes-poor-genesis))
3. The Objectors submit that the non-viability of the scheme will result in NHHT delivering affordable instead of social rent. At the previous inquiry, the Acquiring Authority argued that this would be prevented by the terms of the section 106 agreement requiring social rent rather than affordable rent. The Objectors responded that this was also the case at with the Bermondsey Spa regeneration where the Acquiring Authority had failed to monitor delivery and subsequently failed to enforce the terms of its section 106 agreement once the breach had been pointed out by the 35% Campaign.
4. At the previous inquiry the Acquiring Authority submitted [evidence](http://crappistmartin.github.io/images/CPO_ExplanatoryNote12May2015.pdf) claiming to have robust S106 monitoring procedures to ensure that providers deliver according to section 106 requirements.



Extract from Southwark's [evidence to first Inquiry](http://crappistmartin.github.io/images/CPO_ExplanatoryNote12May2015.pdf)

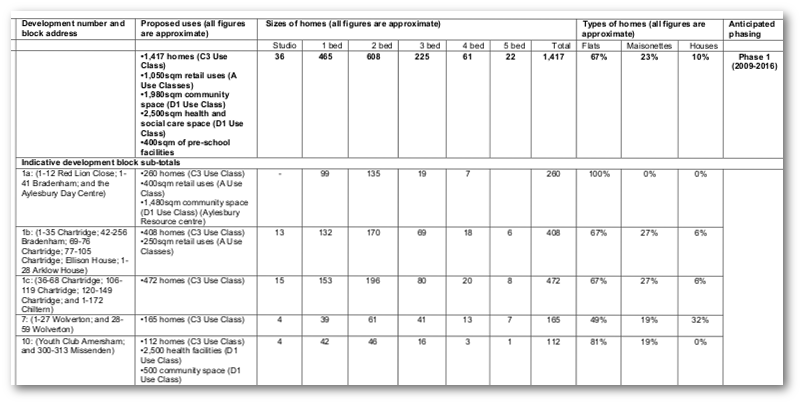
1. Following the close of the previous inquiry, the 35% Campaign submitted a detailed complaint to the Local Government Ombudsman, listing ca. 40 futher suspected breaches in affordable housing tenure delivery. Following an investigation, the Ombudsman issued a [decision](http://35percent.org/2016-12-12-ombudsman-slams-southwark-for-no-s106-monitoring/) in which it was found that the Acquiring Authority had no monitoring procedures and did no checks whatsoever to ensure that providers delivered affordable housing in accordance with s106 tenure requirements. The findings were summarised in [thi Sunday Times article](http://35percent.org/img/ST23April2017.pdf).
2. The Ombudsman directed the Acquiring Authority to conduct a borough-wide audit of compliance and introduce s106 monitoring procedures going forward. The AA has sinced allocated just £60,000 to this audit which will pay for software and staffing. The Objectors submit that this is insufficient means to ensure compliance over the 20-year build programme and beyond.
3. The section 106 agreement for the FDS negotiated a sum of just £1,567 for the ongoing monitoring of compliance with planning obligations. This is clearly insufficient.



1. The Objectors submit that the previous inquiry was misled and request full evidence to be provided to the inquiry that it has conducted the audit as directed by the Ombudsman and is taking enforcement action on any breaches discovered.

## Breach of dwelling size requirements

1. The AAAP says *"There will be a significant proportion of family homes with 23% houses, together with all the facilities needed by families, to make sure that the whole area is family-friendly."*
2. However, the approved FDS planning consent provides only 6% houses. Although it provides 10% maisonettes, these are classified as flats for planning purposes.
3. Appendix 5 of the AAAP sets out the required number of unit sizes per phase:



1. Of the 60 3-bed dwellings required by the AAAP on completed phases 1a/site 7 - only 30 were provided. The AAAP requires 149 3-bed dwellings on the FDS but only consented 108. The AAAP requires 38 4-bed dwellings but only 32 were in the planning consent.
2. The shortfalls in the family homes required by the AAAP are far more severe on the Outline scheme under the minimum specification.
3. Paragraph 93 of the planning committee report for the Outline Scheme shows that the minimum specification would result in the reprovision of just 263 'social rented' family homes (3-bed and above). This compares with 776 social rented family units on the existing Outline site right now (874 listed in the S106 Heads of Terms for Outline and FDS combined, minus 98 social rented family homes on FDS).
4. This will prevent the requirements of paragraph 7.2.6 of the AAAP being satisfied: *“We will accommodate approximately 50% of existing tenants through the re-provision of homes on site”.*
5. The AAAP says that:



Extract from the AAAP

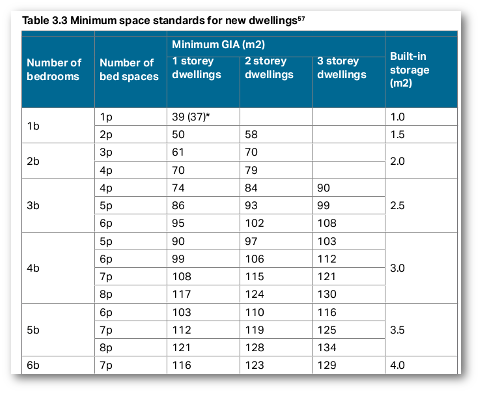
1. The Sustainability Assessment for the AAAP says:

"A recent Housing Needs Survey (2003) for Southwark identified 35,851 households stating a need to move in the next 5 years. Of those households, 48% stated the main reason for needing to move was that their home was too small and 54.3% needed a home with 3 or more bedrooms.

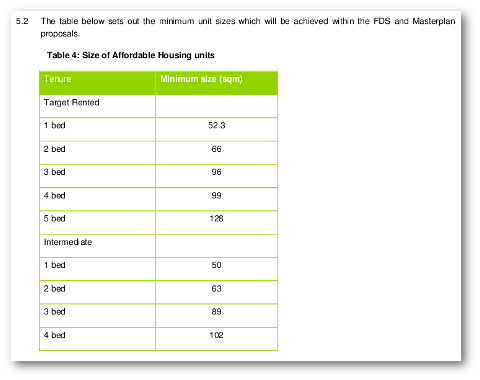
"The revised tenure mix new option was chosen as it minimises the loss of affordable housing and will help develop a mixed and sustainable community. It will also ensure that the rehousing needs of existing tenants are met."

## Breach of minimum space standards

1. Paragraph 124 of the planning committee report for the Outline Scheme acknowledges that *"Since the AAAP was adopted, space standards have increased with the introduction of minimum dwellings sizes in the London Plan (2011) and the adoption of the Southwark Plan Residential Design SPD (2011). The result is that the minimum space standards in the AAAP have been superseded by larger space standards in these more recent documents."*
2. The London Plan's and the New Southwark Plan's minimum space requirements are identical and are as follows:



1. The Outline Scheme's Affordable Housing Statement provides a breakdown of the minimum sizes of the social rented and intermediate affordable housing units across the Outline and FDS scheme:



1. Read in conjunction with the schedule of accommodation in NHHT's [Design & Access Statement](http://planbuild.southwark.gov.uk/documents/?GetDocument={{{!SP7j9NgvVQ81I%2Fbtk2kPWQ%3D%3D!}}}), we can see that not one of the proposed dwelling sizes for any of the **flats** on the FDS or Oultine Scheme complies with the London Plan's or the New Southwark Plan's minimum space requirements.

## Breach of wheelchair accessibility requirements

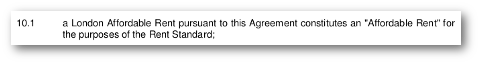
1. Paragraph 7.22 of the Acquiring Authority's updated Statement of Case claims that the planning consent for the FDS complies with the minimum policy requirement of 10% Wheelchair accessible housing. It claims that there are 40 wheelchair accessible dwellings in the FDS planning consent. It also says that in addition there will be 13 wheelchair accessible homes in the Extra Care Unit.

@ This claim is inaccurate and misleading; firstly 53 homes out of a total of the 830 consented represents just 6.3%; secondly, the accommodation schedule (Table 6.2.1) of [Chapter 6.2 of the Design and Access Statement](http://planbuild.southwark.gov.uk/documents/?GetDocument={{{!pnGrAnPLMbqJKtFYPDeAWw%3D%3D!}}}) for the FDS planning consent says that there will be only 21 wheelchair accessible units. It says that in addition to these there will be 19 dwellings which will be **adaptable**; i.e. capable of being converted to wheelchair accessible homes: *"Of the 40 standard homes designated as wheelchair units, half will be* ***adaptable.****"*

1. The Acquiring Authority's Southwark Plan Policy DM6 says nothing about enabling **wheelchair adaptable** units to be counted in calculating provison. As such the consented Scheme will provide only 21 **wheelchair accessible** dwellings in the mixed tenure block and 13 wheelchair accessible homes in the Extra Care Unit.
2. Policy DM6(1.3) of the Southwark Plan further stipulates that all wheelchair accessible must *"meet the saved minimum space standards of the South East London Wheelchair Housing Design Guide"* and designed to comply with Building Regulation M4(3). Section 6.3, paragraph 1 of the Design and Access statement confirms that just 9 of the dwellings in the Extra Care Units conform to these standards. There is no evidence that any of the 21 wheelchair accessible homes in the remainder of the development comply to these standards or Building Regulation M4(3).
3. The Table 6.2.1 referred to above also shows that just 11 of these 21 homes will be social rented homes.
4. As a result, the Scheme fails to comply with a key policy objective of the AAAP, which is to provide *"high quality social rented and private homes that address a variety of local needs, including those of the elderly and vulnerable."* (Policy 1.6.2)

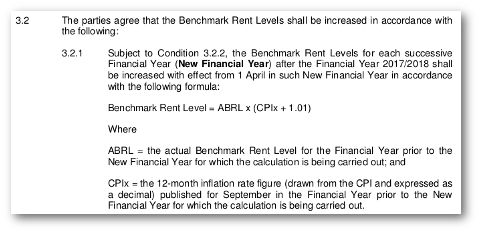
## Breach of tenure requirements

1. The AAAP requires 37. 5% of all new homes to be social rented tenure. The AAAP was adopted before the introduction of the incoming Tory government's new Affordable Rent tenure.
2. It is understood that NHHT is funding the social rented homes on the FDS with a grant from the GLA's Affordable Housing Programme 2016-2021. The GLA's [funding agreement](http://35percent.org/img/standardformagreement2017.pdf) for this programme does not provide for social rent. Instead it offers funding for a tenure named 'London Affordable Rent' (LAR). The funding agreement makes it clear that this effectively the Affordable Rent tenure and subject to regulations and legislation governing Affordable Rent:



Extract from the Mayor's [funding agreement](http://35percent.org/img/standardformagreement2017.pdf)

1. Furthermore, the funding agreement prescribes a specific formula for how LAR rent levels are to be set:



Extract from the Mayor's [funding agreement](http://35percent.org/img/standardformagreement2017.pdf)

1. This formula conflicts with the formula for the setting of social rents prescribed in the Rent Standard Guidance and will result in LAR rents increasing proportionally by more than social rents year on year, as social rents are required to be reduced by 1% each year (see section 23 of the Welfare, Reform and Work Act 2016).
2. LAR tenure is not social rented tenure required by the AAAP, it is subject to different regulation and legislation (enabling fixed-term rather than secure tenancies, pay to stay, etc).

The London Tenants Federation have published [detailed guidance](http://www.londontenants.org/publications/briefings/Briefing - Genuinely affordable housing (FF).pdf) on the various different affordable housing tenures. They explain that *"Rents at this level are quite a lot higher than average social-rents in London. According to the latest available data (2015/16) the average London council rent in was £107.931 and the average London Private Registered Provider rent was £125.27.*" They go on to conclude:

"London Affordable Rents are almost 50% higher than average council rents and 43% higher than average private registered provider (housing association) rents. As average social-rented household incomes in London are only £17,500 this is a significant hike in rent levels. This hasn’t stopped many authorities and the Mayor’s office saying that ‘London Affordable Rent’ homes are the same as, or ‘equivalent’ to, social-rents , when actually in cost terms they are actually pretty much the same as the previous Mayor’s capped affordable rents homes. Indeed London Affordable Rents, once service charges are added, can be higher than 50% market rents. The example on page 4 relates to the Oaklands development, approved by the Old Oak and Park Royal Development Corporation. Note that in this example London Affordable Rent homes are described as ‘social rents’ but some are also (once indicative service charges are added) above 50% market rents."

1. It is also noted that NHHT's revised planning applications for the FDS now include the provision of 'market rent' rather than private for-sale housing. This is a breach of the AAAP's tenure requirements, which specifically state 'private homes'. Homes rented on short-term tenancies by a housing association at market rent are not interchangeable with private for-sale homes; they are two separate types of tenure for planning purposes (check this?).

## Breach of renewable energy requirements

@ . Sustainable development was one of the core principles of the development plan. Policy BH6([I] - ENERGY SUPPLY) of the AAAP requires new developments in the core action area to be serviced by one centralised energy plant:

"The energy supply for the action area core will be generated by combined heat and power (CHP). The CHP plant should be part of an energy centre located immediately south of the junction of Thurlow Street and Inville Road and appropriately sized to accommodate plant required to deliver services to the development. The redevelopment of the action area core will result in zero carbon growth. All developments within the action area core must connect to the CHP system. Developments completed prior to the implementation of CHP should be designed so that they can switch to the CHP once it is available."

1. Policy BH6([II] - USE OF RENEWABLE ENERGY TECHNOLOGIES) envisaged that the CHP plant would be fuelled by renewable energy (biomass) and required developments completed prior to be fuelled by a minimum 20% **on-site** renewable energy:

"Developments should meet the London Plan target of a 20% reduction in CO2 emissions through the use of renewable technologies. Until such time as the CHP is fuelled by renewable energy sources and is capable of meeting the London Plan target, we will require developments to use their own CHP compatible on-site renewable energy technologies.

1. Paragraph 6.3.3 of the the AAAP's Sustainability Assessment explains the vision futher:

"New developments will also need to reduce carbon emissions by 20% using carbon renewable technologies. Currently, the most feasible way of doing this would appear to be by providing biomass CHP in the energy centre."

1. However, the Scheme falls short of these requirements in that the biomass plans have been dropped and the development on the FDS will be serviced by its own separate individual (non-renewable) gas-fired CHP plant, which will have the 'potential' to be connected to the proposed energy centre on Thurlow St, but won't be serviced by it. This is acknowledged in the planning committee report for the FDS application, which says:

"Whilst the AAAP envisaged a single energy centre being provided, the proposal is for an Energy Centre within Block 5 of the FDS with another energy centre being located close to the Albany Road/Thurlow Street junction as part of the Outline Scheme."

1. Justification for shelving the biomass plans is given in the FDS planning application's Revised Energy Strategy which says:

"Site specific analysis for Solar Thermal, Biomass Heating, Wind turbines and Heat Pumps are shown in Appendix A as they are not recommended for the site. This applies to both the Detailed and Outline application at this stage."

Appendix A - "BIOMASS HEATING: This technology is not recommended due to additional air quality concerns involved when including this technology in an urban area. This fuel source is also not considered for CHP as a larger scale of plant is required before this is suitable. The additional burden of fuel storage and delivery would also hamper development."

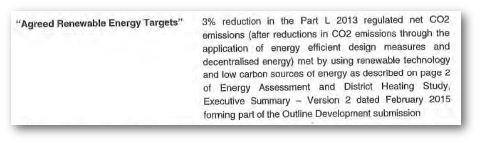
1. The planning committee report for the application acknowledges that the Scheme *"falls far short"* of complying even with the 20% minimum on-site renewable energy requirement:

"Photovoltaic panels are proposed for the areas of roof that will achieve enough sunshine tomake them viable. Currently this stands at 697sqm. It is acknowledged that this represents a small proportion of the available roof space across the FDS however, as a result of the townscape requirements that sought taller buildings on the park edge with heights reducing incrementally northwards, much of the remaining roof space is overshadowed by the taller elements to the south. The proposed photovoltaic panels will achieve a 3.72% carbon dioxide saving and 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." (Paragraph 365)

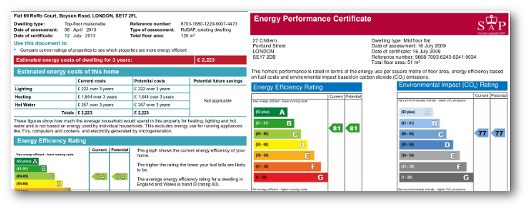
1. The 20% minimum on-site renewable energy requirement is not just a requirement of the AAAP, it is also a requirement of both the AA's strategic planning framework [(Core Strategy)](http://www.2.southwark.gov.uk/download/downloads/id/13131/core_strategy_2011) and the London Plan.
2. Policy 3.6.1 of 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."

1. The Acquiring Authority has produced no evidence that the Scheme complies with this requirement of the AAAP. Moreover, the section 106 agreement only requires a minimum 3% renewable energy across the FDS and outline scheme:

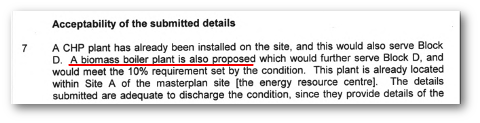


1. The planning consent for the order land fails to comply with any of these policies, which are a core objective of the development plan. The Objectors have submitted a [sample](http://35percent.org/img/aylesburynewvsoldepc.pdf) of Energy Performance Certificates (EPC) showing that, despite not having double glazing installed, the existing dwellings on the order land are more energy efficient than the Aylesbury new-build apartments on the neighbouring completed phase 1a of the Scheme (Roffo Court).



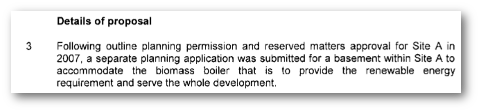
New-build EPC (left) existing Aylesbury estate (right)

1. The EPC certificates for completed phase 1a of the Scheme confirm that it did not provide any renewable energy either. Futher [documentation](http://35percent.org/img/Totters_Court.pdf) shows that the development is fuelled by a central gas boiler.
2. This is a breach of the planning consent for phase 1a; the [planning committee report](http://planbuild.southwark.gov.uk/documents/?GetDocument={{{!EBAeY2lWKnBCMyOrbAnyPA%3D%3D!}}}) for the development said that it would be fuelled by a biomass energy plant (100% renewable energy):



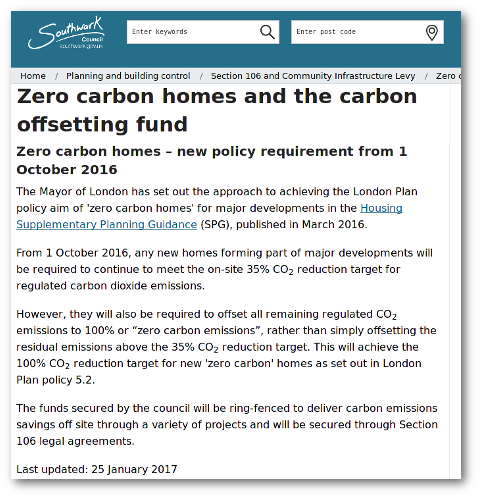
Extract from the phase 1a planning committee report

1. An extract from the [planning committee report](http://planbuild.southwark.gov.uk/documents/?GetDocument={{{!ZjnzKbe5kK9g1qbkCkoQdQ%3D%3D!}}}) further confirms the intention to service the development with a biomass energy plant.



Extract from officer report re- application to discharge biomass requirement

1. The Objectors seek clarification on what appears to be a clear breach of planning consent in relation to Phase 1a's renewable energy requirements and question what assurances will be provided that similar breaches will not occur on the Scheme underlying the order.
2. In reponse to the current FDS planning consent's failure to comply with the renewable energy requirements of the AAAP, the Acquiring Authority may argue that a revised planning application is currently being prepared. The Objectors point out that this will now have to meet the more stringent zero carbon policies introduced since the original 2014 planning consent was granted;
3. In March 2016, The Mayor of London set out the approach to achieving the London Plan policy requirement of 'zero carbon homes' for major developments in the Housing Supplementary Planning Guidance (SPG), published in March 2016. In January 2017 the Acquiring Authority confirmed that developments in the borough must comply with this policy:



1. Policy 3.6.7 of the AAAP envisaged this requirement for zero carbon homes: *"The government has announced the intention of ensuring that all homes are CfSH Level 6 by 2016. Proposals will need to comply with these regulations where these are more stringent than CfSH Level 4."*

## Breach of public realm and sunlight/daylight requirements

1. It was pointed out during the previous inquiry that the tall buildings (all private units) running east to west along the frontage to Burgess Park, will result in a significant number of homes in the affordable blocks behind them failing to meet BRE minimum daylight requirements.
2. This was taken up by the inspector at the previous inquiry and the criticisms outlined in detail in paragraphs 368-370 of her report do not need repeating. The planning committee report also openly acknowledges the Scheme's shortcomings in relation to daylight requirements:

"It is acknowledged that failure to achieve full compliance with BRE guidance for minimum ADF levels is a less positive aspect of the proposal" (paragraph 139)

1. Paragraph A6.6.3.7 says that *"Tall buildings should achieve some visual separation from adjacent developments."*
2. Policy PL4 says 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, ranging from 14 to 20 storeys.
3. Policy PL4 also says: "The design of these taller buildings needs careful consideration. They should be elegant and slender. Proposals should demonstrate that harmful effects on residents, pedestrians and cyclists, such as overshadowing and wind funnelling, will be minimised.
4. Paragraph 5.223 of NHHT's planning statement explains that one of the reasons for the sunlight/daylight failure is because *"the development proposes the tall buildings along the park boundary to maximise the number of apartments with a view of the park".*
5. Policy A6.5.5 of the AAAP provides some mitigation for the impact of the tall blocks:

"The frontage along Burgess Park must include a strong building line, allow for a range of heights and massing and include excellent architectural design. The park front should be designed to allow for light into rear courtyards and allow for views and glimpses from the park into the areas beyond the immediate front."

1. Policy A6.5.7 envisages that this will be achieved using a series of 'green fingers' - *"a series of 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 AAAP's Visual Impact Assessment

1. Besides enabling daylight, the AAAP 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)
2. The green fingers also enable several key 'green links' envisaged by the AAAP, which link neighbouring local parks to Burgess Park.

 @. The AAAP diagram for the order land shows one of the green fingers dissecting the FDS (10) and a second open space, Westmoreland Plaza (9) on the north-west corner of the order land.



Extract from AAAP

1. However, the planning application for the FDS Scheme and masterplan failed to include the green finger (labelled in the AAAP as 'King William IV Green Finger'[0.24ha]) and Westmoreland Plaza is now shown as being provided on the existing open space situated on the adjacent completed phase 1a site.



Extract from Design & Access Statement [CD43]

1. The removal of the green fingers from the Scheme, means that the propsals for the order land will now suffer from the very problems that the AA has attributed to the estate in its grounds for redevelopment - lack of permeability, dark alleyways etc and will not enable the AAAP's objective of creating better quality open space/public realm. Moreover, the consented scheme will result in a significant net loss of open space.
2. Paragraphs 154 to 162 of The planning committee report for the FDS say:

"BRE guidance recommends that for outdoor amenity areas to be adequately sunlit throughout the year at least half of a garden or amenity area should receive at least 2 hours of sunlight on 21 March. In terms of the communal courtyards within Blocks 1, 4, 5 and 6 only the courtyards within Blocks 4 and 5 achieve the minimum requirement of at least 50% of the space receiving at least 2 hours sunlight on the 21 March."

"The courtyards of Block 1 and 6 will achieve 2 hours of sunlight on the 21 March across 39.6% and 26.7% of their respective areas and as such fall below the 50% target. Whilst this does not mean the amenity space is of poor value it does mean that the greater proportion of the courtyards will be in the shade and as such careful consideration will need to be given to the type and form of landscaping that will be provided within these communal areas to allow them to be used effectively throughout the year. 160. Blocks 2 and 3 both contain a significant amount of terraced housing with private rear gardens. These gardens are located between the rear facades of the blocks of terraced dwellings which face north and south away from each other. Of these 49 private amenity spaces only three meet the March target with the rest of the gardens in the shade as a result of shadows cast by the taller elements of Blocks 4 and 5. During the summertime, when amenity spaces will be more intensively used, all but two will be well lit in terms of having in excess of 50% of the area receiving at least two hours of sunlight."

"Of the amenity spaces that fail to meet the March target, there are 26 spaces that do not receive any sunlight on the 21 March and will be completely in the shade. As is the case with the courtyards of Block 1 and 6, this does not mean that the amenity space is unusable for this part of the year subject to careful landscaping considerations. Achieving compliant sunlight levels within the private and communal amenity spaces on the FDS has been a challenge largely due to the need to provide a significant uplift in housing units and density whilst meeting the townscape objectives of the AAAP which sought taller development along the park edge, perimeter blocks and then lower density housing towards the north of the site to manage the transition between high and low density areas. Having the taller buildings to the south of the site results in long shadows being cast which has resulted in many amenity spaces being in the shade."

1. Inspector Coffey's report summarises the sunlight/daylight issues well:

"given that it is intended that these dwellings will replace existing housing which benefits from good standards of daylight internally and well lit sunny amenity areas, the scheme for the FDS would not improve the environmental well-being of the Order Land." (paragraph 370)

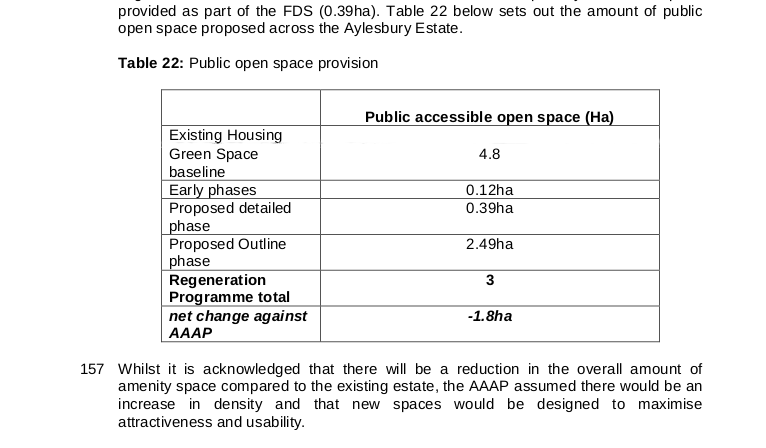
Note to Chris: obviously we are going to have to revise this section once the revised planning application is submitted and we have been able to review how the sunlight/daylight issues have been address, or not as the case may be.

## Breach of open space requirements

1. Policy PL5 (Open Space) of the AAAP says:

"New development must provide a high quality network of public open spaces of different sizes and functions which link well together and contain good pedestrian and cycling routes."

1. Policy 4.5.1 of the AAAP requires no net loss of open space through the Scheme. There is no information provided on the net loss of open space on the FDS site alone, but the planning committee report for the Outline Scheme does provide an analysis which aggregates net loss including the FDS site and it acknowledges that there will be a net loss of 1.8 hectares of open space:



Extract from the planning committee report for the masterplan application.

1. Furthermore, the majority of the replacement open space will be privately managed by a subsidiary company set up by NHHT. Only the smallest of the three new open spaces on the FDS (Albany Rd Frontage[400sqm]) will be public open space adopted by the Council.



Extract from FDS planning application docs 15/AP/4584

1. Paragraph 261 of the planning committee report for the FDS confirms that the planning consent will include 157 on-street parking spaces.
2. There has been double counting in the calculations for the provision of open space on the FDS. The planning application has sought to include 'Westmoreland Square' - an existing amenity space on the neighbouring phase 1a site, measuring 1,350sqm. Paragraph 207 of the FDS planning committee report acknowledges that the application merely *"expands and completes Westmoreland Square Plaza, the first part of which was laid out within Phase 1a"*.
3. The other public open spaces proposed on the order land comprise:

* 'Westmoreland Park': 1,130sqm
* 'Portland Park': 880sqm
* Albany Road frontage: 400sqm

1. The combined floorspace of these represents approximately 10% of the existing open amenity space on the order land.
2. As mentioned in the previous section, the AAAP said required a 'Green Finger' open space to be provided on the FDS named "King William IV green finger", which was supposed to provide 0.24ha of new public open space (2,400sqm).
3. The current FDS planning consent clearly falls well short of the open space requirements proposed in the AAAP.

## Breach of transport/public realm requirements

1. The AAAP says that the Scheme should provide an improved and modern cycle enviroment (quotes).
2. As a statutory consultee, TFL objected to NHHT's planning application, in its [formal response to the application](http://planbuild.southwark.gov.uk/documents/?GetDocument={{{!4pokZj%2FGk2vz59bcWED5rw%3D%3D!}}}) it said that *"The Masterplan is a once-in-a-generation opportunity to provide an exemplar walking and cycling environment .. However, TfL is concerned that the application material fails to demonstrate this."*

"The proposals for Thurlow Street and Albany Street in particular, key streets in the Masterplan, are considered poor. These two roads are also earmarked in the TA for freight, servicing and construction traffic, which underlines the need for better provision for cyclists. East-west links, and permeability to the surrounding areas, particularly beyond Old Kent Road and Walworth Road, are not adequately considered, nor are the linkages to the Council’s proposed ‘Southwark Spine’ cycle route along Portland Street."

"The Masterplan should encourage active travel, prioritising walking and cycling over motorised modes. This can only be achieved through the creation of safe and appealing streets, easy access to public transport, a coherent cycle network, and attractive cycling facilities. TfL is not currently satisfied that this approach is being taken."

"The application material fails to propose a coherent network of safe, accessible and welcoming cycle routes. All of the pedestrian routes should be accessible to cycling unless there is a clear and justified reason they should not be. The total lack of segregation proposed in the Masterplan does not reflect current policy and guidance."

"The TA predicts a significant uplift in bus passenger demand (over 280 additional trips in the AM peak). Buses passing the site are already crowded, and TfL is seeking an extension of a route from Elephant and Castle to support the FDS, funded through the s106 agreement for that site. The additional demand from the Masterplan will require further capacity enhancements. Therefore £3.75m (indexed) is sought, to be secured in the s106 agreement for the Masterplan, to fund for these enhancements for the first five years of operation, for example increasing the frequency of operation on route 42."

1. It is unerstood that NHHT only agreed to pay £1.5??m... check s106 agreement

"TfL recommends that across the Masterplan area, at least two medium sized (30) point docking stations should be provided, one of which should be located in the FDS. At an absolute minimum 60 docking points are required across the Masterplan area. This will reduce stress arising from the development on the already heavily used nearby existing Cycle Hire docking stations. Space should be reserved in the masterplan for a Cycle Hire docking station together with one in the FDS, and should be secured in any subsequent planning permission. Further details of the location and space requirements for this can be provided by TfL. £200,000 (index linked) should be secured in the Masterplan s106 agreement, to cover the cost of delivery and maintenance of this docking station."

1. It is understood that NHHT resisted TFL's requirement for a cycle docking station on the FDS. (obviously need to check whether revised application incorporates it)
2. This is a breach of the Acquiring Authority's Cycle Strategy, Sustainable Transport SPD and Policy DM46(5) of the New Southwark Plan which makes requirements for cycling including: *"providing space within the development, where required for the expansion of the cycle hire scheme;"*
3. The Objectors note that this of particular relevance given that the order land adjoins the Acquiring Authority's proposed 'Quietway 7' cycle route from Crystal Palace to Elephant & Castle (along Portland Street on the west border of the order land) and the site was recommended for a docking station by the Acquiring Authority's own 'Cycle Survey' commissioned by LB Southwark road safety team in 2015 (Site UniqueID:132).

## Breach of private amenity space requirements

1. Policy PL7 of the AAAP 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."

1. The appendix 6 refererred to in appendix 6 says:

"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."

1. The Residential Design Standards SPD requires 3 bed flats to have a minimum of 10sqm and *"For new housing, a minimum of 50sqm of private garden spaces is required and this should be at least 10m in length. The private gardens should extend across the entire width of the dwellings."*
2. Paragraphs 143 and 144 of the planning committee report re-affirm these requirements:

"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. 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."

1. Paragraph 147 of the planning committee report for the FDS, 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. Paragraph 148 confirms that none of the dwellings in block 3 meet with the 10 metre depth and only five meet with the 50sqm garden space requirement.
2. The Objectors note that the planning committee report has incorrectly sought to offset the above shortfalls against the communal amenity space provided. The Residential Design SPD says that this is permissible, but only in relation to new flat developments (policy 3.2) not new detached, semi-detached or terraced houses (policy 3.1).

## Breach of dual aspect design requirements

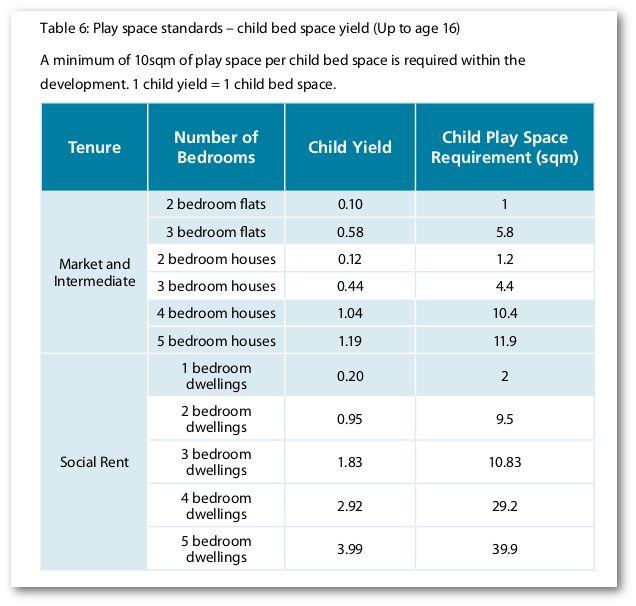
1. Policy A6.7.8 of the AAAP says *"At least 75% of apartments in each development should have dual aspect."*
2. Paragraph 128 of the planning committee report confirms that only *"70% of apartments and maisonettes/duplex units"* on the FDS site will be dual aspect

## Breach of privacy and overlooking requirements

1. 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.
2. 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."*

## Breach of play space requirements

1. 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"*.
2. 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. New youth space should be provided within the larger areas of public open space."*
3. The New Southwark Plan provides further detail on how the 10sqm of play space per bed space requirement should be calculated:



Both the consented FDS and Outline plans fall well short of this requirement - (exact figures to be inserted here).



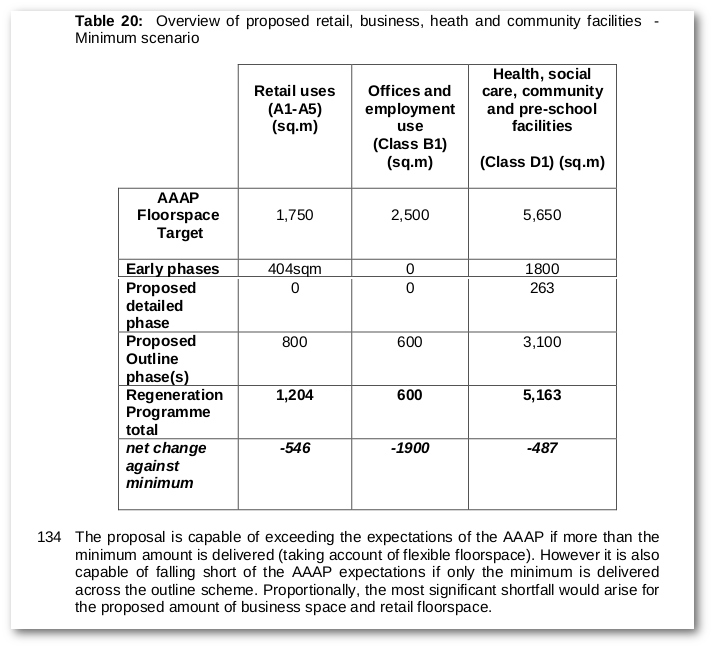
Play space on the FDS that is not being replaced

## Breach of Layout/land use requirements

1. The AAAP laid out the parameters for the layout of the development on the FDS as six blocks. The layout for the consented plans proposes just four blocks.

@.AAAP policy **'COM6'** requires the Scheme to *"Provide 1,750 square metres of new local retail facilities (convenience retail, cafes and restaurants) within the action area core"*, in order to create a mix of uses.

1. Appendix 5 of the AAAP 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"*.
2. The shortfalls on the Outline Scheme against the AAAP's land use requirements are greater: there is a shortfall of 546sqm of retail; 1900sqm of offices and employment use; and 487sqm of community use.
3. The AAAP requires 263sqm of community use facilities on the FDS, but the consented plans only make provision for 250sqm. for the outline application shows how both the FDS and Outline Schemes fall short of the AAAP mixed use requirements:



[Planning committee report](http://planbuild.southwark.gov.uk/documents/?GetDocument={{{!Vbu5QpckfYCnJrulzlWyuQ%3D%3D!}}}) for the outline application

## Breach of infrastructure funding requirements

1. Page 75 of the AAAP describes infrastructure funding. It says the developer will pay a tariff which will fund community facilities like the health centre and other community facilities. However, we now know that the Council is paying for the £35m cost of them mainly from its own funds.
2. [This press release](http://www.southwark.gov.uk/news/2017/feb/a-35m-investment-into-new-community-facilities-at-heart-of-one-of-london-s-biggest-regeneration-projects-has-been-approved) confirms that the Acquiring Authority is footing £23m of the £35m required from its capital budget. The DPA confirms that the remainder is being sourced from s106 contributions from other developments in the borough plus a £9m contribution from NHHT.
3. Paragraphs 7.8 and 7.9 of the Acquiring Authority's updated Statement of Case acknowledges that NHHT taking role of delivery partner is a change to Policy D2 of the AAAP. Are NHHT meeting full financial obligations under Policy D2? A table of expected payments, totalling c £50m, is given at A7.1.40 AAP pg 174; it includes £1.47m for green fingers and £12m for improvements to Burgess Park. There is nothing in the DPA obliging NHHT to make a contribution towards improving Burgess Park. (xx - more research required)

END of draft.

## Breach of requirements of Mayor's new [Equality and Diversity SPG](https://www.london.gov.uk/file/8173/download?token=1Svk6LBu)

To do: read requirements of the SPG.

Also to do: The District Auditor in his Public Interest Report of February, 2004 found there to be general procedural weaknesses in Southwark’s Planning department, in addition that consultation in respect of the residential development was flawed and that reports prepared by officers were inaccurate, inadequate and incomplete.

He wrote: *“My investigations have revealed serious deficiencies in the planning processes and procedures of the Council which have not been satisfactorily explained. I believe that urgent action is required by the Council to ensure that there is openness, honesty, transparency and public confidence in all planning-related matters and to prevent similar failings In the future”*

[The Audit Commission public interest report, Award of Planning Permission at 295-297 Camberwell New Road and 299 Camberwell New Road]

Include screenshot of Bermondsey Spa flats advertised on Homesearch at £280 pw.

REMOVED PARAGRAPHS:

1. Paragraph 88 of the [planning committee report](http://planbuild.southwark.gov.uk/documents/?GetDocument={{{!Vbu5QpckfYCnJrulzlWyuQ%3D%3D!}}}) for the outline application re-iterates that *"A key objective of the AAAP (Policy BH1 Number of homes) is to increase the number of homes on the estate"*. The Scheme underlying the order as it stands will fail to achieve this objective.
2. The Acquiring Authority may argue that NHHT is submitting a revised planning application for the FDS (see paragraph 7.2 of its Statement of Case), but this will only increase the overall number of homes by 10 to 840. There still remains a significant shortfall.

The NHF has said that funding cuts mean that HA's are not building the homes they planned: http://www.housing.org.uk/press/press-releases/government-plans-cause-85-drop-in-new-homes-for-most-vulnerable/

NHF data showing just 8% of new starts are social rent: https://speyejoe2.wordpress.com/2017/09/07/housing-associations-social-purpose-of-the-carcinogenic-variety

/img/How\_many\_homes\_did\_housing\_associations\_build\_in\_2016-17.pdf

Council rents confirmed at an average of £99.48 per week: http://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?Id=6002