

35% Campaign witness evidence

Aylesbury estate CPO public inquiry, Oct 2017



Figure 1:

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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](#) 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](#) (“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](#) 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
 - 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

Breach of housing uplift requirements

4. The AAAP said that the scheme would deliver 4,200 new homes - a net uplift of 1,450 over the existing estate. The @AAP said that this would help contribute to and conform with the London Plan requirement of 16,300 new homes by 2016/2017.
5. Paragraph 88 of the [planning committee report](#) 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.
6. Appendix 5 of the AAAP specifies how many homes need to be delivered in each phase to achieve the 1,450 uplift in number of homes. It specifies a requirement for 425 new homes on (completed) phases 1a/site 7 but only 408 were provided. It also requires 880 new homes on the FDS, but the consented plans are to provide only 830 new homes.

| Development number and block address | Proposed uses (all figures are approximate) | Sizes of homes (all figures are approximate) | | | | | | | Types of homes (all figures are approximate) | | | Anticipated phasing |
|--|--|--|-------|-------|-------|-------|-------|-------|--|-------------|--------|---------------------|
| | | Studio | 1 bed | 2 bed | 3 bed | 4 bed | 5 bed | Total | Flats | Maisonettes | Houses | |
| | <ul style="list-style-type: none"> • 1,417 homes (C3 Use Class) • 1,050sqm retail uses (A Use Classes) • 1,980sqm community space (D1 Use Class) • 2,500sqm health and social care space (D1 Use Class) • 400sqm of pre-school facilities | 36 | 465 | 608 | 225 | 61 | 22 | 1,417 | 67% | 23% | 10% | Phase 1 (2009-2016) |
| Indicative development block sub-totals | | | | | | | | | | | | |
| 1a: (1-12 Red Lion Close; 1-41 Bradenham; and the Aylesbury Day Centre) | <ul style="list-style-type: none"> • 260 homes (C3 Use Class) • 400sqm retail uses (A Use Classes) • 1,480sqm community space (D1 Use Class) (Aylesbury Resource centre) | - | 99 | 135 | 19 | 7 | | 260 | 100% | 0% | 0% | |
| 1b: (1-35 Chartridge; 42-256 Bradenham; 69-76 Chartridge; 77-105 Chartridge; Ellison House; 1-28 Arklow House) | <ul style="list-style-type: none"> • 408 homes (C3 Use Class) • 250sqm retail uses (A Use Classes) | 13 | 132 | 170 | 69 | 18 | 6 | 408 | 67% | 27% | 6% | |
| 1c: (36-68 Chartridge; 106-119 Chartridge; 120-149 Chartridge; and 1-172 Chiltern) | <ul style="list-style-type: none"> • 472 homes (C3 Use Class) | 15 | 153 | 196 | 80 | 20 | 8 | 472 | 67% | 27% | 6% | |
| 7: (1-27 Wolverton; and 28-59 Wolverton) | <ul style="list-style-type: none"> • 165 homes (C3 Use Class) | 4 | 39 | 61 | 41 | 13 | 7 | 165 | 49% | 19% | 32% | |
| 10: (Youth Club Amersham; and 300-313 Missenden) | <ul style="list-style-type: none"> • 112 homes (C3 Use Class) • 2,500 health facilities (D1 Use Class) • 500 community space (D1 Use Class) | 4 | 42 | 46 | 16 | 3 | 1 | 112 | 81% | 19% | 0% | |

Figure 2: AAAP Appendix 5

7. 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.
8. The shortfall between the minimum number of homes guaranteed in the planning consent for remaining outline phases and the number required by the AAAP is much greater. Given that the FDS Scheme was approved in conjunction with the outline phases and shares the same section 106 agreement, the outline Scheme is inseparable from the FDS Scheme.

9. The Outline planning application sought consent to build a *minimum* of 1,700 new homes and *maximum* of 2,745 across the outline Scheme. It is understood that some flexibility may be required in an outline application, but there is no explanation as to why NHHT required such a significant amount of flexibility (1000 homes). The Outline application for the neighbouring Heygate estate regeneration (2,700 new homes) gave a flexibility between min and max provision of just 200 homes.
10. The minimum specification of 1,700 homes is well below the AAAP requirement of 2,898 homes across the Outline phases and would result in the provision of just 2,948 new homes across all phases (1,700 plus 408 on completed phases plus 840 on FDS) - well short of the 4,200 required and an uplift of just 200 homes on the estate baseline[^2].
11. If the order is confirmed then there is nothing preventing NHHT delivering the Scheme according to the minimum specification, thereby failing to comply with key objective AAAP (Policy BH1 Increasing the Number of Homes).

Net loss of affordable housing requirements

12. The [planning committee report](#) for the Outline Scheme acknowledges that if NHHT builds to the *minimum* specification, then “*the outline minimum scenario would result in a net loss of -559 affordable dwellings or -1542 affordable habitable rooms*” (para. 98). It acknowledges that this would fail to comply with the London Plan requirements on net loss of affordable housing and the AAAP’s requirement that there would only be a small net loss of affordable housing (150 dwellings). It will also result in the provision of just 1,634 affordable dwellings (210 in the completed phases, plus 560 in the revised FDS application, plus 864 affordable units in the consented Outline minimum specification). This falls well short of the 2,100 affordable housing dwellings required by the AAAP:

3.3.1 At present there are around 2,250 social rented homes in the action area core and 500 homes in private ownership sold through the ‘right to buy’ scheme. Ensuring that 50% of new housing in the action area core is affordable will ensure that about 2,100 affordable homes are re-provided. There will be a small loss of about 150 affordable units. However, because we are providing more larger units, the loss when considered in terms of habitable rooms is much less significant.

Figure 3: Extract from the AAAP

13. In response to the shortcomings in NHHT’s minimum proposed specification, the planning committee report goes on to explain (emphasis added):

“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.” (para. 101)

“The applicant has therefore confirmed that they will commit to provide 50% of all habitable rooms as affordable housing, in line with AAAP policy BH3, or a minimum of 4790 habitable rooms of affordable

housing **under the outline application**, whichever is the greater. This would ensure future phases will secure full replacement affordable housing, when measured by habitable rooms. This will be secured by a legal agreement along with a site wide affordable housing delivery strategy that will set **milestones for the required number of affordable habitable rooms on a phase by phase basis.**" (paras 102/103)

14. However, the section 106 legal agreement failed to secure these minimum requirements. It failed to set any "*milestones for the required number of affordable habitable rooms on a phase by phase basis*" and failed to require "*a minimum of 4790 habitable rooms of affordable housing under the outline application*". The provisions of the section 106 agreement instead required a minimum of 4790 affordable habitable rooms on the Outline Development **OR** 50% of all habitable rooms as affordable housing **across the FDS and the Outline applications combined - whichever is the greater**.

| | |
|---|---|
| "Minimum Affordable Housing Requirement" | The minimum of 4790 Habitable Rooms to be constructed upon the Outline Development OR the provision of 50% of the total number of Habitual Rooms across the Development whichever is the greater pursuant to the Approved Affordable Housing Mix in line with AAAP Policy BH3; |
|---|---|

Figure 4: Extract from S106 agreement

| | |
|----------------------|--|
| "Development" | Stage: Together the FDS Development and the Outline Development; |
| "Development" | Partnership The agreement dated 28 April 2014 and made between |

Figure 5: Extract from S106 agreement

15. 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, as long as this represents 50% of the total housing across the sites.
16. As a result of the Acquiring Authority's failure to properly negotiate the minimum affordable housing requirement, and its failure to secure any minimum affordable housing requirement in its DPA with NHHT, if the order is confirmed it or (any other developer it may choose to assign the planning consent to (check this?)), will be able to build the Scheme out to the minimum specification and there will be nothing the Acquiring Authority can do to stop it. Note also the Acquiring Authority's failure to action against NHHT when it breached the terms of the section 106 agreement for the Bermondsey Spa regeneration.
17. The Acquiring Authority may argue that the section 106 provision governing the minimum affordable housing requirement should be interpreted according to its intention.
18. However, NHHT's intention and interpretation of the provision is clear; its [June 2016 Housing Delivery Strategy](#) submitted pursuant to the requirements of the s106 agreement, clearly show how it has combined both the FDS and the outline Schemes within the minimum 4790 affordable habitable rooms requirement.
19. A further loophole in the section 106 agreement's affordable housing provisions, can be found in the definition of habitable room for the purposes of calculation the minimum affordable housing provision. This allows any room larger than 27.5m² to be counted as two habitable rooms for affordable housing provision.

Section 106 Agreed Housing Targets

The Minimum Affordable Housing Requirement

4.9 The following table shows the number of habitable rooms of the affordable housing against the minimum Affordable Housing Requirement for each reserved matter application:

| | Number of Habitable Rooms of Affordable Housing |
|---|--|
| FDS | |
| Plot 1 | |
| Plot 2 | |
| Plot 3 | |
| Phase 2A | |
| Plot 18 | 154 |
| Phase 2B/2C | |
| Plot 4 | |
| Plot 5 | |
| Plot 6 | |
| Plot 7 | |
| Phase 3 | |
| Plot 8 | |
| Plot 9 | |
| Phase 4 | |
| Plot 10 | |
| Plot 11 | |
| Plot 12 | |
| Plot 13 | |
| Plot 14 | |
| Plot 15 | |
| Plot 16 | |
| Plot 17 | |
| Total | 154 |
| Minimum number of Affordable Habitable Rooms | 4790 |

Figure 6:

| | |
|---------------------------------|---|
| <p>“Habitable Rooms”</p> | <p>A room with at least one window within a Dwelling which room is:</p> <ul style="list-style-type: none"> (a) capable of use for sleeping, living or dining; or (b) a kitchen with an overall floor area of not less than 11 m² <p>but excluding in all cases toilets, bathrooms, landings, halls and lobbies;</p> <p>PROVIDED ALWAYS that any room in excess of 27.5 m² will be treated as at least 2 habitable rooms in the determination of the quantum of Affordable Housing provision</p> |
|---------------------------------|---|

Figure 7: Extract from S106 agreement

20. 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.

21. 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.

22. 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.

23. 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.”

24. The London Plan is very clear that net loss of affordable housing is resisted and should be calculated in terms of **floorspace**.

25. 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*”.

26. 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.

84. When built, the existing units on the FDS provided 100% social rented housing. 55 units within the FDS have since become leasehold housing as a result of the 'Right to Buy' programme. The Mayor's Housing SPG clarifies that the 'right to buy' properties should not be included within the affordable housing baseline for the estate. Based on the information available, the housing baseline for the FDS (dated February 2008) is set out in Table 18 below. This baseline formed the basis for the AAAP, and pre-dates the redevelopment of sites 1A and 7.

Table 18

| | Baseline Housing - FDS | | |
|-----------------------|------------------------|----------------|--------|
| Unit type | Social Rent | Private market | Totals |
| One-bedroom | 278 | 14 | 292 |
| Two-bedroom | 129 | 20 | 149 |
| Three-bedroom | 72 | 16 | 88 |
| Four-bedroom | 26 | 4 | 30 |
| Total Units | 511 | 55 | 566 |
| Total habitable rooms | 1397 | 178 | 1575 |

Figure 8: Extract from the [planning committee report for the FDS](#)

| 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 |

27. 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."

28. 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.
29. 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](#) requires all estate regeneration schemes funded by his programme to comply with his [Good Practice Guide to Estate Regeneration](#):

Minimum Requirements as set out in the DPA, Schedule 3

The minimum requirements relating to Section 5 are set out in Schedule 3 of the DPA. These minimum requirements are as follows:

4. The delivery of the minimum requirement (calculated by reference to numbers of Habitable Rooms) of 50% Affordable Residential Units over the whole of the Development Area is to be structured on the basis of a minimum of 50% Affordable Residential Units measured cumulatively over sequential Plots through the Development Period.
5. Of the Units to be delivered as Affordable Residential Units referred to at paragraph 4 above, 75% must be Target Rent Units (provided that the overall requirement of 50% of Units to be delivered as Affordable Units must be achieved) measured cumulatively over sequential plots through the Development Period but excluding the Affordable Residential Units delivered on Plot 18.

| Term | Definition |
|------------------------|--|
| Habitable Rooms | Means all rooms with at least one window which are rooms a) capable of use for sleeping or living or dining (but excluding kitchens save where (b) applies; or b) a kitchen with an overall floor area of not less than 11m ² Internal Area but excluding in all cases toilets, bathrooms, landings, halls and lobbies Provided That any room in excess of 27.5m² Internal Area will be treated as 2 Habitable Rooms in the determination of the quantum of Residential Units. |

Figure 10: Extract from the DPA

Breach of dwelling size requirements

33. 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.*”
34. However, the approved FDS planning consent provides only 6% houses. Although it provides 10% maisonettes, these are classified as flats for planning purposes.
35. Appendix 5 of the AAAP sets out the required number of unit sizes per phase:

| Development number and block address | Proposed uses (all figures are approximate) | Sizes of homes (all figures are approximate) | | | | | | | Types of homes (all figures are approximate) | | | Anticipated phasing |
|--|--|--|-------|-------|-------|-------|-------|-------|--|-------------|--------|---------------------|
| | | Studio | 1 bed | 2 bed | 3 bed | 4 bed | 5 bed | Total | Flats | Maisonettes | Houses | |
| | <ul style="list-style-type: none"> • 1,417 homes (C3 Use Class) • 1,050sqm retail uses (A Use Classes) • 1,980sqm community space (D1 Use Class) • 2,500sqm health and social care space (D1 Use Class) • 400sqm of pre-school facilities | 36 | 465 | 608 | 225 | 61 | 22 | 1,417 | 67% | 23% | 10% | Phase 1 (2009-2016) |
| Indicative development block sub-totals | | | | | | | | | | | | |
| 1a: (1-12 Red Lion Close; 1-41 Bradenham; and the Aylesbury Day Centre) | <ul style="list-style-type: none"> • 260 homes (C3 Use Class) • 400sqm retail uses (A Use Classes) • 1,480sqm community space (D1 Use Class) (Aylesbury Resource centre) | - | 99 | 135 | 19 | 7 | | 260 | 100% | 0% | 0% | |
| 1b: (1-35 Chartridge; 42-256 Bradenham; 69-76 Chartridge; 77-105 Chartridge; Ellison House; 1-28 Arklow House) | <ul style="list-style-type: none"> • 408 homes (C3 Use Class) • 250sqm retail uses (A Use Classes) | 13 | 132 | 170 | 69 | 18 | 6 | 408 | 67% | 27% | 6% | |
| 1c: (36-68 Chartridge; 106-119 Chartridge; 120-149 Chartridge; and 1-172 Chiltem) | <ul style="list-style-type: none"> • 472 homes (C3 Use Class) | 15 | 153 | 196 | 80 | 20 | 8 | 472 | 67% | 27% | 6% | |
| 7: (1-27 Wolverton; and 28-59 Wolverton) | <ul style="list-style-type: none"> • 165 homes (C3 Use Class) | 4 | 39 | 61 | 41 | 13 | 7 | 165 | 49% | 19% | 32% | |
| 10: (Youth Club Amersham; and 300-313 Missenden) | <ul style="list-style-type: none"> • 112 homes (C3 Use Class) • 2,500 health facilities (D1 Use Class) • 500 community space (D1 Use Class) | 4 | 42 | 46 | 16 | 3 | 1 | 112 | 81% | 19% | 0% | |

Figure 11:

36. 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.
37. The shortfalls in the family homes required by the AAAP are far more severe on the Outline scheme under the minimum specification.
38. 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).
39. 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*”.
40. The AAAP says that:
41. 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.

3.4 Size of homes

BH4: Size of homes

The following mix of housing sizes will be provided in the action area core:

- A maximum of 3% studios all in private tenure;
- At least 70% of homes to have two or more bedrooms;
- At least 20% of homes to have three bedrooms;
- At least 7% of homes to have four bedrooms; and
- **At least 3% of homes to have five or more bedrooms.**

Figure 12: Extract from the AAAP

“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

42. 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.*”
43. The London Plan’s and the New Southwark Plan’s minimum space requirements are identical and are as follows:
44. 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:
45. Read in conjunction with the schedule of accommodation in NHHT’s [Design & Access Statement](#), 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

46. 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.

Table 3.3 Minimum space standards for new dwellings⁵⁷

| Number of bedrooms | Number of bed spaces | Minimum GIA (m ²) | | | Built-in storage (m ²) |
|--------------------|----------------------|-------------------------------|--------------------|--------------------|------------------------------------|
| | | 1 storey dwellings | 2 storey dwellings | 3 storey dwellings | |
| 1b | 1p | 39 (37)* | | | 1.0 |
| | 2p | 50 | 58 | | 1.5 |
| 2b | 3p | 61 | 70 | | 2.0 |
| | 4p | 70 | 79 | | |
| 3b | 4p | 74 | 84 | 90 | 2.5 |
| | 5p | 86 | 93 | 99 | |
| | 6p | 95 | 102 | 108 | |
| 4b | 5p | 90 | 97 | 103 | 3.0 |
| | 6p | 99 | 106 | 112 | |
| | 7p | 108 | 115 | 121 | |
| | 8p | 117 | 124 | 130 | |
| 5b | 6p | 103 | 110 | 116 | 3.5 |
| | 7p | 112 | 119 | 125 | |
| | 8p | 121 | 128 | 134 | |
| 6b | 7p | 116 | 123 | 129 | 4.0 |

Figure 13:

- 5.2 The table below sets out the minimum unit sizes which will be achieved within the FDS and Masterplan proposals.

Table 4: Size of Affordable Housing units

| Tenure | Minimum size (sqm) |
|---------------|--------------------|
| Target Rented | |
| 1 bed | 52.3 |
| 2 bed | 66 |
| 3 bed | 96 |
| 4 bed | 99 |
| 5 bed | 128 |
| Intermediate | |
| 1 bed | 50 |
| 2 bed | 63 |
| 3 bed | 89 |
| 4 bed | 102 |

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Figure 14:

@ 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](#) 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.*”

47. The Acquiring Authority’s Southwark Plan Policy DM6 says nothing about enabling **wheelchair adaptable** units to be counted in calculating provision. 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.
48. 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).
49. The Table 6.2.1 referred to above also shows that just 11 of these 21 homes will be social rented homes.
50. 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

51. 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.
52. 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](#) 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:

10.1 a London Affordable Rent pursuant to this Agreement constitutes an "Affordable Rent" for the purposes of the Rent Standard;

Figure 15: Extract from the Mayor’s [funding agreement](#)

53. Furthermore, the funding agreement prescribes a specific formula for how LAR rent levels are to be set:
54. 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).
55. 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).
56. 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?).

3.2 The parties agree that the Benchmark Rent Levels shall be increased in accordance with the following:

3.2.1 Subject to Condition 3.2.2, the Benchmark Rent Levels for each successive Financial Year (**New Financial Year**) after the Financial Year 2017/2018 shall be increased with effect from 1 April in such New Financial Year in accordance with the following formula:

$$\text{Benchmark Rent Level} = \text{ABRL} \times (\text{CPIx} + 1.01)$$

Where

ABRL = the actual Benchmark Rent Level for the Financial Year prior to the New Financial Year for which the calculation is being carried out; and

CPIx = the 12-month inflation rate figure (drawn from the CPI and expressed as a decimal) published for September in the Financial Year prior to the New Financial Year for which the calculation is being carried out.

Figure 16: Extract from the Mayor's [funding agreement](#)

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."

57. 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.

58. 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."

59. 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."

60. 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."

61. 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 to make 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)

62. 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](#)) and the London Plan.
63. 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."

64. 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:

"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

Figure 17:

65. 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](#) 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).

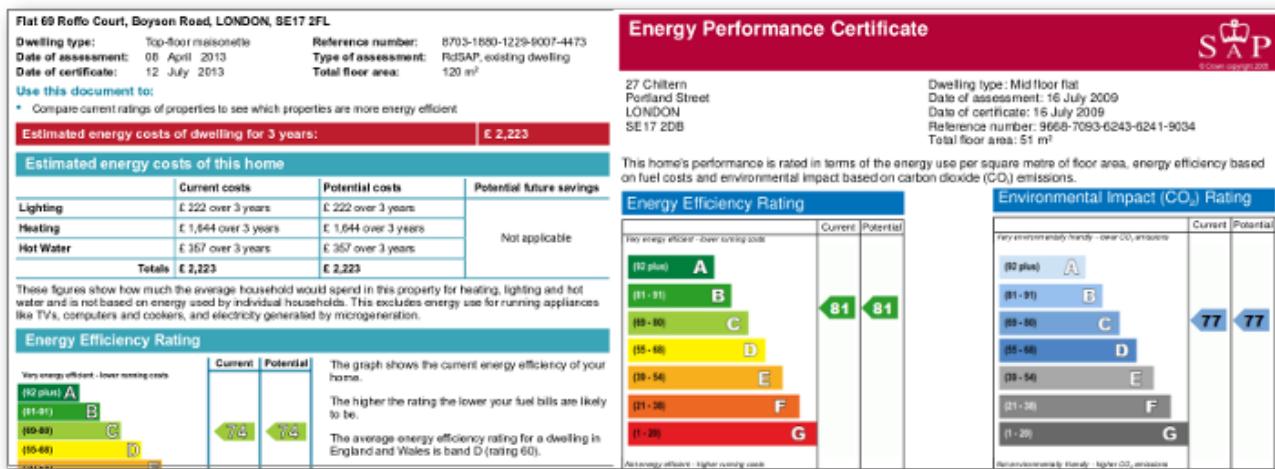


Figure 18: New-build EPC (left) existing Aylesbury estate (right)

66. The EPC certificates for completed phase 1a of the Scheme confirm that it did not provide any renewable energy either. Further [documentation](#) shows that the development is fuelled by a central gas boiler.
67. This is a breach of the planning consent for phase 1a; the [planning committee report](#) for the development said that it would be fuelled by a biomass energy plant (100% renewable energy):

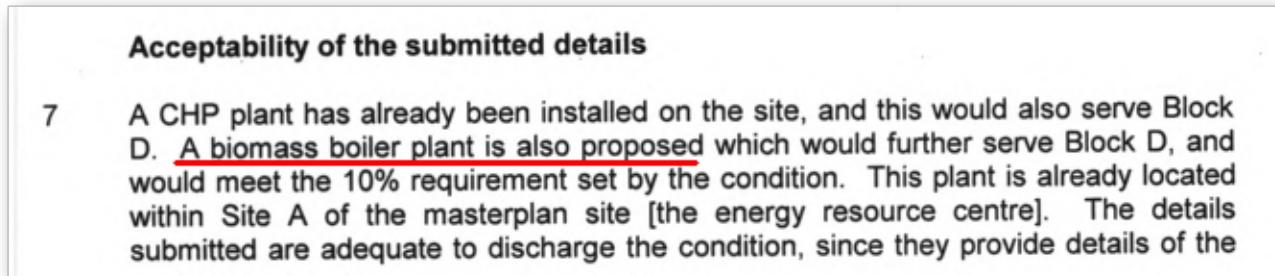


Figure 19: Extract from the phase 1a planning committee report

68. An extract from the [planning committee report](#) further confirms the intention to service the development with a biomass energy plant.
69. 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.
70. In response 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;

Details of proposal

- 3 Following outline planning permission and reserved matters approval for Site A in 2007, a separate planning application was submitted for a basement within Site A to accommodate the biomass boiler that is to provide the renewable energy requirement and serve the whole development.

Figure 20: Extract from officer report re- application to discharge biomass requirement

71. 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:
72. 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

73. 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.
74. 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)
75. Paragraph A6.6.3.7 says that “*Tall buildings should achieve some visual separation from adjacent developments.*”
76. 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.
77. 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.
78. 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*”.
79. 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.”

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Home / Planning and building control / Section 106 and Community Infrastructure Levy / Zero carbon homes and the carbon offsetting fund

Zero carbon homes and the carbon offsetting fund

Zero carbon homes - new policy requirement from 1 October 2016

The Mayor of London has set out the approach to achieving the London Plan policy aim of 'zero carbon homes' for major developments in the [Housing Supplementary Planning Guidance](#) (SPG), published in March 2016.

From 1 October 2016, any new homes forming part of major developments will be required to continue to meet the on-site 35% CO₂ reduction target for regulated carbon dioxide emissions.

However, they will also be required to offset all remaining regulated CO₂ emissions to 100% or "zero carbon emissions", rather than simply offsetting the residual emissions above the 35% CO₂ reduction target. This will achieve the 100% CO₂ reduction target for new 'zero carbon' homes as set out in London Plan policy 5.2.

The funds secured by the council will be ring-fenced to deliver carbon emissions savings off site through a variety of projects and will be secured through Section 106 legal agreements.

Last updated: 25 January 2017

Figure 21:

80. 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.”



Figure 22: Extract from the AAAP’s Visual Impact Assessment

81. 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)
82. The green fingers also enable several key ‘green links’ envisaged by the AAAP, which link neighbouring local parks to Burgess Park.



Figure 11: The network of public open spaces

- ①. 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.
- 83. 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.
- 84. The removal of the green fingers from the Scheme, means that the proposals 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.
- 85. 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



Figure 23: Extract from AAAP



Figure 24: Extract from Design & Access Statement [CD43]

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.”

86. 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

87. 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.”

88. 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:
89. 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.
90. Paragraph 261 of the planning committee report for the FDS confirms that the planning consent will include 157 on-street parking spaces.
91. 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*”.

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.

Figure 25: Extract from the planning committee report for the masterplan application.

92. The other public open spaces proposed on the order land comprise:
- ‘Westmoreland Park’: 1,130sqm
 - ‘Portland Park’: 880sqm
 - Albany Road frontage: 400sqm
93. The combined floorspace of these represents approximately 10% of the existing open amenity space on the order land.
94. 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).
95. The current FDS planning consent clearly falls well short of the open space requirements proposed in the AAAP.

Breach of transport/public realm requirements

96. The AAAP says that the Scheme should provide an improved and modern cycle environment (quotes).
97. As a statutory consultee, TfL objected to NHHT’s planning application, in its [formal response to the application](#) 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



Figure 26: Extract from FDS planning application docs 15/AP/4584

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."

98. It is understood 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."

99. 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)
100. 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,*"
101. 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

102. 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."

103. The appendix 6 referred 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."

104. 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.*"
105. 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."

106. 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.
107. 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

108. Policy A6.7.8 of the AAAP says "*At least 75% of apartments in each development should have dual aspect.*"
109. 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

110. 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.
111. 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

112. 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*".
113. 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.*"

114. The New Southwark Plan provides further detail on how the 10sqm of play space per bed space requirement should be calculated:

Table 6: Play space standards – child bed space yield (Up to age 16)

A minimum of 10sqm of play space per child bed space is required within the development. 1 child yield = 1 child bed space.

| Tenure | Number of Bedrooms | Child Yield | Child Play Space Requirement (sqm) |
|-------------------------|---------------------|-------------|------------------------------------|
| Market and Intermediate | 2 bedroom flats | 0.10 | 1 |
| | 3 bedroom flats | 0.58 | 5.8 |
| | 2 bedroom houses | 0.12 | 1.2 |
| | 3 bedroom houses | 0.44 | 4.4 |
| | 4 bedroom houses | 1.04 | 10.4 |
| | 5 bedroom houses | 1.19 | 11.9 |
| Social Rent | 1 bedroom dwellings | 0.20 | 2 |
| | 2 bedroom dwellings | 0.95 | 9.5 |
| | 3 bedroom dwellings | 1.83 | 10.83 |
| | 4 bedroom dwellings | 2.92 | 29.2 |
| | 5 bedroom dwellings | 3.99 | 39.9 |

Figure 27:

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

Breach of Layout/land use requirements

115. 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.

116. 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



Figure 28: Play space on the FDS that is not being replaced

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*”.

117. 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.
118. 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:

Breach of infrastructure funding requirements

119. 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.
120. [This press release](#) 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.
121. 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)

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 |
| <i>net change against minimum</i> | -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.

Figure 29: Planning committee report for the outline application