



Appeal Decision

Site visit made on 8 April 2025

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 9th July 2025

Appeal Ref: APP/Q5300/W/24/3358004

24-26 Churchbury Lane, Enfield EN1 3TY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Buxton of Rosegem Ltd against the decision of the Council of the London Borough of Enfield.
 - The application Ref is 22/02248/FUL.
 - The development proposed is the demolition of the existing buildings providing supported living accommodation and erection of a detached 2-storey building with additional accommodation in the roof area, to provide 4 clusters of accommodation including 2 x 1-person self-contained units with associated office space for support staff, 5 individual bedrooms with ensuite facilities and shared facilities and 12 x 1 person self-contained units with additional and ancillary shared living accommodation and office space for support staff, all for residents receiving care (19 persons) (Class use Sui Generis) and provision of associated car parking, cycle parking and refuse/recycle storage
-

Decision

1. The appeal is allowed, and planning permission is granted for the demolition of the existing buildings providing supported living accommodation and erection of a detached 2-storey building with additional accommodation in the roof area, to provide 4 clusters of accommodation including 2 x 1-person self-contained units with associated office space for support staff, 5 individual bedrooms with ensuite facilities and shared facilities and 12 x 1 person self-contained units with additional and ancillary shared living accommodation and office space for support staff, all for residents receiving care (19 persons) (Class use Sui Generis) and provision of associated car parking, cycle parking and refuse/recycle storage at 24-26 Churchbury Lane, Enfield EN1 3TY in accordance with the terms of the application Ref is 22/02248/FUL, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by the appellant against the Council. This is the subject of a separate Decision.

Preliminary Matters

3. In the interests of clarity, I have adopted the description of development used by the Council in its consideration of the proposal, which matches that used in the appeal form. I have also removed any wording that does not relate directly to acts of development, as reflected in the banner heading above. This revised description is more accurate, as it specifies that up to 19 people reside on the site as a single household. In this context, it is more appropriate to describe the use as sui generis, rather than under Use Class C3(b) as previously suggested by the appellant. There is limited substantive evidence before me to support the alternative description,

which characterised the development as comprising four separate housing clusters. The available evidence indicates that the units are physically interconnected, share a substantial portion of the amenity space, and are overseen by the same staff team providing supervised care. Accordingly, the description used in the appeal form better reflects the nature and intensity of the proposed use. In any case, the effects of the proposal on the area, as well as the way the building would be used and occupied, are not in dispute.

4. A previous planning application (20/02821/FUL) for a similar development was dismissed on appeal (APP/Q5300/W/21/3273405) in April 2022. In that decision, the Inspector examined a range of objections from the Council and dismissed the appeal based on the effect of the proposal on the living conditions of future occupants, the effect of the side windows on the living conditions of the occupants of 28 Churchbury Lane, transport effects, trees, flooding and drainage. The Inspector found no harm in relation to the effect of the proposal on the character and appearance of the area or construction effects. Matters such as the need for the development and fire safety issues were not main issues in that appeal. The current proposal seeks to address the concerns raised by the Inspector in that decision.
5. The Council states that the appeal site has already been redeveloped under a separate planning permission (22/00916/FUL), which allowed for part single, part two storey side and rear extensions, front and rear rooflights and ancillary works to expand existing supported living facility to accommodate up to 8 residents. As a result, the original two semi-detached buildings referenced in the appellant's planning statement and plans no longer exist. They have been replaced by a single, significantly larger structure.
6. Interested parties submit that, due to the implementation of this earlier permission, it would no longer be possible to carry out the development proposed in this current appeal, effectively rendering it incapable of implementation. While the Council has acknowledged this inconsistency, it decided to consider the appeal on the basis that the application refers simply to the demolition of the "existing building," without specifying what type of building that is. On that basis, the Council deemed it appropriate to determine the application.
7. It is long settled in law that multiple planning permissions can exist on the same plot of land. Notwithstanding that there is an implemented permission on the land, there is nothing substantive to preclude the reaching of a decision, as it would be for the landowner to decide which permission to implement. It is perfectly valid for overlapping permissions to be granted with problems only being encountered where the implementation of one causes a conflict. In relation to the Pilkington Principle¹, this states that "a planning permission does not authorise development if and when, as a result of physical alteration of land to which the permission relates, it becomes physically impossible to carry out the development for which the permission was granted (without a further planning permission)".
8. In this case, there is limited evidence before me to suggest that any physical alteration to the land has made it impossible to carry out the proposed development. I am therefore satisfied that the appeal proposal can be considered on its own merits, notwithstanding references to the site's former configuration.

¹ Pilkington v Secretary of State for the Environment and Others [1973] 1 WLR 1527 CA

Both the Council and the appellant have approached the matter on this basis, and I shall do the same.

Main Issues

9. The main issues are:

- whether or not the development would provide acceptable living conditions for future occupiers, with regard to space standards, communal amenity provision, inclusive access, outlook, and fire safety, and;
- the effect of the development on the living conditions of the neighbouring occupiers at No.28 Churchbury Lane, with particular regard to privacy.

Reasons

Living Conditions of future occupiers

10. The application relates to the demolition of an existing supported living building and the erection of a detached 2-storey building to offer a form of assisted or supported living for up to 19 residents, providing a mix of 24 hour on site supported and care-provided accommodation. On-site supervision will be provided by up to 20 full time staff. The proposal would result in a significant increase in specialist housing.
11. It is common ground that the London Housing Supplementary Planning Guidance nationally described space standards do not apply to specialist forms of housing which are not in the C3 use class, such as care homes. Nonetheless, Policy D6 of The London Plan 2021 (“LP”) does require that housing development should provide adequately sized rooms with comfortable and functional layouts which are fit for purpose, with reference to the standards which are set out in table 3.1 of that policy. This asserts that for one bedroom, one person dwellings, the minimum internal space standards should be 39 sqm or 37 sqm if that dwelling has a shower room instead of a bathroom. The plans indicate that each of the units would have access to shower rooms, rather than bathrooms, therefore the relevant minimum size is 37 sqm. The Council’s planning report notes that each self-contained unit provides a minimum of 37 sqm in floor space, with some units larger than others up to 43 sqm. The proposed development thereby meets the relevant standards for single person units. This represents an improvement on the previous scheme, with improvements to the size of the accommodation units addressing some of the concerns raised by the previous Inspector.
12. Policy DMD 9 of the Enfield Development Management Document 2014 (“DMD”) requires a minimum of 4sqm of private amenity space for individual one-person dwellings with access to communal amenity space. Policy D6 of the LP also states that where there are no higher local standards, a minimum of 5 sqm of private outdoor space should be provided for each 1 person dwelling, with a minimum depth and width of 1.5m. In accordance with the approach set out in the relevant section² of the Planning Policy Guidance (“PPG”), where there is conflict between development plan policies, it must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published. As Policy D6 forms part of the more recent London Plan (2021), it takes precedence over Policy DMD 9. Although neither policy explicitly refers to assisted living accommodation,

² Paragraph: 012 Reference ID: 21b-012-20140306

both standards remain relevant as a comparable benchmark, given their application to one-person dwellings.

13. The plans indicate that only one self-contained unit (Unit 2, G2) includes 27 sqm of private amenity space. Unit 1, a cluster of 5 bedrooms, has access to 47sqm of private amenity space. The remainder of the units would be reliant on a communal amenity area of 169 sqm. Accordingly, not all units would have access to private outdoor amenity space. However, the appellant has indicated that residents would be able to access 'drop-in' facilities at nearby day care centres, which include an artificial lawn play area. I have also considered that the proposal represents a more communal form of accommodation, with access to shared internal living spaces. Although none of the communal space is private, the overall provision equates to approximately 8.9 sqm per resident, which exceeds the minimum 5 sqm of private outdoor space required per one-person dwelling under Policy D6 of the London Plan. In this context, the reliance on communal amenity provision for residents is considered acceptable and a reasonable approach in terms of the nature of the assisted living accommodation that the building would provide.
14. Policy D5 of the LP states that proposals should achieve the highest standards of accessible and inclusive design. Amongst other criteria, they should be convenient and welcoming with no disabling barriers, providing independent access without additional undue effort, separation or special treatment, be able to be entered, used and exited safely, easily and with dignity for all. They must also be designed to incorporate safe and dignified emergency evacuation for all building users. The Council's planning report states that the plans demonstrate compliance with wheelchair accessibility. I note that they show wheelchair turning points and manoeuvring space. The Council's Building Control Officer has also been consulted and has not raised any objections in terms of the accessibility of the internal arrangements. I have no reason to disagree with this assessment.
15. Interested parties have submitted a Part M accessibility assessment prepared by Proudlock Associates, which concludes that the proposed development fails to meet key standards in several areas, including internal space, layout, wheelchair accessibility, landscaping, and general circulation. However, the Council's planning officer has found that previous concerns regarding living conditions have been satisfactorily addressed and that the amended plans demonstrate compliance with relevant building regulation standards.
16. From my own review of the submitted plans, it is evident that accessibility, particularly for disabled users, has been thoroughly considered. In any event, it is important to note that compliance with Building Regulations falls under a separate statutory regime from the planning process and detailed design and layout will be assessed at the appropriate stage. Based on the evidence before me, the proposed development appears to meet, or should be capable of meeting, the relevant standards, nonetheless, final compliance will be determined under Building Regulations.
17. Policy DMD 8 of the DMD requires new residential development to preserve amenity in terms of daylight, sunlight, and outlook. The plans indicate that the upper bedrooms would be served by relatively large rooflights. While some bedrooms bedroom would have obscured glazing to protect the privacy of the neighbouring property, the occupier would still have access to a well-lit communal living area with views over the amenity space. The remaining building elevations

predominantly face the public highway or amenity space, offering a pleasant and open visual environment. I am therefore satisfied that the development would provide future occupiers with an acceptable standard of outlook.

18. Policy D12 of the LP states that proposals must achieve the highest standards of fire safety. The scheme includes a communal garden area towards the rear. The plans do not indicate that there are any obstructions which prevent access to the private amenity spaces. Fire doors and evacuation routes have been annotated on the plans. A fire strategy document has been submitted, which amongst other details, includes details of fire brigade access, the evacuation strategy, use of fire-resistant construction and fire rated lobbies. There is no objection from the Council's Building Control Officers regarding the proposed development. I have no reason to disagree with this assessment.
19. In conclusion, the scheme has been amended since the previous appeal decision, and the proposed development would now provide acceptable living conditions for future occupiers, with regard to space standards, communal amenity provision, inclusive access, outlook, and fire safety. The proposal would deliver high-quality, design-led accommodation with a functional, accessible layout, good quality amenity space, which is tailored to the needs of its intended occupants. It complies with the Enfield Core Strategy (2010) (the "ECS") (Policies CP4 and CP30), the DMD (Policies DMD 6, 8, 9, and 15), and the London Plan (Policies D5, D6, and D12).

Living Conditions of neighbouring occupier – 28 Churchbury Lane

20. Policy DMD 8 of the DMD requires new residential development to preserve amenity in terms of privacy. The plans show that a number of windows in the proposed development would face the side elevation of 28 Churchbury Lane. These proposed windows serve bathrooms, bedrooms, kitchens, and living rooms, and are positioned across the ground, first, and second floors. These windows are proposed to be either fully obscure glazed or obscure glazed up to approximately 1.7 metres above the intended finished floor level, with the upper portion left clear glazed and openable to allow for light and ventilation. During my site visit, I also noted that some of the existing windows on the side elevation of No. 28 already appear to be obscure glazed.
21. It is acknowledged that the proposed increase in intensity of use particularly in accommodating up to 19 residents, could lead to some increase in noise, activity, and potential privacy concerns. I also note the previous Inspector's finding that the use of obscure glazing might be inadequate, as individuals over 1.7 metres in height could potentially see into neighbouring properties. However, given the limited extent of clear glazing in the proposed windows that face No 28 and the specific design measures proposed, I am satisfied that any no undue level of overlooking, or loss of privacy would result. Accordingly, I am satisfied that the proposal before me would overcome the concerns of the previous Inspector.
22. In conclusion, the proposed development would have an acceptable effect on the living conditions of the neighbouring occupiers at No.28 Churchbury Lane, with particular regard to privacy. The scheme would not adversely affect amenity in terms of privacy, noise, and/or disturbance, and would comply with Policy DMD 8 of the ECS. The proposal would not result in an adverse degree of loss of privacy, in compliance with Policy DMD 10 of the ECS and Policy D3 of the LP

23. The Council also cites conflict with Policies CP4 and CP30 of the ECS, which relates to housing quality and the built and open environment. Similarly, conflict is cited with Policy D6 of the LP. However, these policies are primarily concerned with design and construction policies, housing quality and standards. As such, limited criteria have been identified that directly relates to this main issue. Accordingly, these policies have not been referenced in this conclusion.

Other matters

24. The Public Sector Equality Duty (PSED) requires that I have had due regard to section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment, and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. There is no evidence before me to suggest that my overall conclusion to grant planning permission would disadvantage people who share any of the different nine protected characteristics compared to those who do not have those characteristics. As such, I consider the requirements of the PSED to be fulfilled.
25. Interested parties have raised concerns about the need for this type of supported accommodation, particularly whether there is a borough-level need for facilities for adults with learning disabilities. Both the appellant and interested parties have referred to various documents to support their positions, resulting in conflicting claims regarding the extent of need. Given the background details that have been submitted in support the proposal, on behalf of a provider of similar services and accommodation within the Borough, I am satisfied that a sufficient case has been made for the provision of 19 units of purpose-built assisted accommodation. In any event, regardless of the precise level of need, the evidence before me suggests that the proposed development would boost the supply of homes, in accordance with paragraph 61 of the National Planning Policy Framework (the Framework). Furthermore, the proposed development would not represent a departure from development policies, as no conflict has been identified.
26. Interested parties consider that no clear rationale has been provided to justify the description of the development as comprising four clusters. They contend that the scheme should be treated as major development, with associated implications for affordable housing contributions. As noted in my Preliminary Matters, I am not also persuaded that the clustering description is appropriate, as there is insufficient evidence before me to demonstrate a meaningful separation between the alleged housing groupings. I have therefore adopted the description of development provided in the appeal form, which refers to a sui generis supported accommodation use for up to 19 persons. In any event, this issue is not a matter which materially affects any of the key issues in this appeal, the impacts of which are clear and understandable.
27. Interested parties have also raised concerns about the environmental implications of demolishing the existing building permitted under application 22/00916/FUL to facilitate the proposed development. Additional concerns have been expressed about the removal of trees, aside from the protected ash tree, and the potential visual effect of the proposal on the character and appearance of the surrounding area. While I acknowledge these concerns, the Council has not objected on these grounds. Accordingly, I have found no reason why they should be matters that weigh or fall against the proposal.

Conditions

28. The Council has suggested a number of conditions, were I minded to allow the appeal, which I have considered against advice in the Framework and Planning Practice Guidance. I have undertaken some minor editing of the conditions proposed by the Council in the interests of precision and clarity. The parties have been consulted and have submitted their responses regarding the revised conditions.
29. In addition to the standard time limit (Condition 1), the plans condition (2) is necessary to provide certainty about what has been approved. The construction method statement (3) is required to manage and mitigate the impacts of construction activities on the surrounding area. Tree protection measures (4) are necessary to safeguard existing trees on site and secure suitable replacements if needed. The condition on finished floor levels (5) ensures that the building sits appropriately within the street scene and would avoid adverse visual or drainage impacts. Conditions relating to refuse storage (6), landscaping (7), and surface water drainage (8) are required to protect environmental quality and amenity. These conditions seek to ensure waste is managed properly, the scheme integrates appropriately with its setting, and surface water is adequately controlled to prevent flooding and pollution.
30. The external materials condition (9) safeguards the visual amenity of the area, while the energy strategy (10) is necessary to demonstrate the development's contribution to local and national sustainability objectives. The biodiversity protection and enhancement plan (11) ensures that ecological considerations are incorporated into the development and maintained over time.
31. The obscured glazing condition (12) addresses privacy concerns by restricting views from specific windows. The water consumption requirement (13) ensures efficient use of water in accordance with optional building regulations. Electric vehicle charging provision (14) supports sustainable transport infrastructure. The boundary treatment (15) condition ensures that the boundaries are appropriate for the area. The cycle parking (16), and vehicle parking (17) conditions ensure appropriate, accessible facilities are in place and retained to meet the needs of future residents and support sustainable travel.
32. The occupancy restriction (18) regulates both the permitted use and the number of individuals residing in the accommodation, ensuring it continues to provide care for the appropriate number of persons. Finally, the delivery hours restriction (19) manages noise and traffic impacts from servicing activity and helps protect local amenity.

Conclusion

33. The scheme has been amended since the previous appeal decision. The Council is satisfied that issues regarding trees, transport effects, trees and flooding have been addressed. I also find that these matters are satisfactory. In terms of the reasons for refusal, I have found that the accommodation would now provide future occupants with acceptable living conditions and that there would be no undue or adverse effects on the living conditions of the occupants of 28 Churchbury Lane by way of overlooking and any other impacts.

34. The objections raised by the previous Inspector have been addressed, and the other issues raised by interested parties are not, for the reasons given, determinative or sufficient to alter my conclusion on the acceptability of the scheme. The development is now in a form that is compliant with the development plan and there are no material considerations that indicate that a decision should be made other than in accordance with the development plan. Accordingly, the scheme is acceptable and for the reasons given above, the appeal should be allowed.

S Lo

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with drawing nos: Chu/22/P/08/D; Chu/22/P/04/M; Chu/22/P/05/H; Chu/22/P/06/E; Chu/22/PP/07C; Chu/22/P/08/D.
3. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - a. the parking of vehicles of site operatives and visitors;
 - b. loading and unloading of plant and materials;
 - c. storage of plant and materials used in constructing the development;
 - d. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - e. wheel washing facilities;
 - f. measures to control the emission of dust and dirt during construction;
 - g. a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - h. delivery, demolition, and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

4. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

If, within a period of 5 years from the date of planting, the retained tree (or any tree planted in replacement for it) is removed, uprooted, destroyed or dies or becomes seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree unless the local planning authority gives its written consent to any variation.

5. No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

6. No development shall take place until details of the refuse or other waste storage units for the proposed development have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the approved refuse or other waste storage units shall be retained thereafter.
7. No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all existing trees and hedgerows on the land, identify those to be retained, and set out measures for their protection throughout the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

8. No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The submitted details shall:
 - a. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - b. include a timetable for its implementation; and,
 - c. provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

9. No development above ground level shall take place until details / samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details / samples.
10. No development above ground level shall take place until a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources has been submitted to and approved in writing by the local planning authority.

The approved scheme shall be implemented and thereafter retained in operation.

11. No development above ground level shall take place until a biodiversity protection and enhancement plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

- a. A plan showing existing valuable habitats and proposed enhancement areas;
- b. Details of development and construction methods within sensitive zones and measures to be taken to minimise negative impacts;
- c. Details of proposed biodiversity enhancement features (e.g., specific planting, nesting boxes, habitat creation);
- d. Details of phasing of construction.

The plan shall be implemented in accordance with the approved details and maintained thereafter.

12. The building hereby permitted shall not be occupied until the windows directly facing 28 Churchbury Lane have been fitted with obscured glazing, and no part of those windows that are less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

13. The development hereby permitted shall not be occupied until the Building Regulations optional requirement of a water consumption rate of no more than 110 litres per person per day has been complied with.

14. The building shall not be occupied until active electric vehicle charging points have been provided, in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The charging point shall thereafter be retained, maintained in a working condition, and kept available for use at all times.

15. Prior to the occupation of the development hereby permitted, details of the positions, height, design, materials, and type of boundary treatment to be erected shall be submitted to and approved by the local planning authority. The boundary treatment shall be completed in accordance with the approved details before the building is occupied.

16. No unit of accommodation shall be occupied until space has been laid out within the site in accordance with drawing no. Chu/22/P/04/M for 10 bicycles to be stored and that space shall thereafter be kept available for the storage of bicycles.

17. The development hereby permitted shall not be occupied until the vehicle parking spaces have been provided in accordance with drawing no. Chu/22/P/04/M. Thereafter those spaces shall be retained for the parking of vehicles only.

18. The premises shall be used for sui generis use to provide supported living accommodation and for no other purpose (including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). The occupation of the supported living accommodation hereby approved shall be limited to nineteen individuals.
19. Deliveries shall be taken at or despatched from the site only between 09.00 to 17.00 on Monday to Friday, and not at any time on Sundays or on Bank or Public Holidays.

End of schedule