LONDON BOROUGH OF ENFIELD PLANNING COMMITTEE Date: 20th June 2023 Report of Contact Officers: Category Director of Planning & Growth - Brett Leahy Tendai Mutasa Sharon Davidson Minor Ward Councillor Request Town Clir Emma Supple

LOCATION: 24 - 26 Churchbury Lane, Enfield, EN1 3TY

APPLICATION NUMBER: 22/02248/FUL

PROPOSAL: 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 four class C3(b) uses (up to six people living together as a single household and receiving care) and provision of associated car parking, cycle parking and refuse/recycle storage.

Applicant Name & Address:

Mr Paul Buxton 163 Church Hill Road East Barnet EN4 8PQ

Agent Name & Address:

Mr Joe Henry 163 Church Hill Road East Barnet EN4 8PQ

Recommendation:

- 1. That the Head of Development Management be authorised to GRANT planning permission subject to conditions listed in this report:
- That the Head of Development Management be granted delegated authority to agree the final wording of the conditions.



1 Note for Members

1.1 Although an application of this scale and nature would normally be determined under delegated authority, the application has been reported to committee for determination at the request of Councillor Emma Supple due to the local interest.

2 Recommendation

- 1. That the Head of Development Management be authorised to GRANT planning permission subject to conditions outlined below:
- 2. That the Head of Development Management be granted delegated authority to agree the final wording of the conditions.

Conditions:

- 1. Time limit
- 2. Approved plans
- 3. The flank windows on the side elevations shall be fixed/obscure-glazed
- 4. Details of materials
- 5. Water consumption
- 6. Energy statement
- 7. Details of access and parking arrangements, including electric charging provision.
- 8. Details of levels
- 9. Details of refuse
- 10. Details of enclosure, boundary treatments
- 11. Details of cycle parking
- 12. Private vehicles only parking areas
- 13. Construction Management Plan
- 14. Tree Protection measures/method of construction of cycle store
- **15. SUDS**
- 16. Restriction on number of residents (maximum 19)
- 17. Use class restriction Class C3b only
- 18. Delivery and servicing
- 19. Landscaping details and replacement tree planting.
- 20. Biodiversity enhancement provision

3 Executive Summary

- 3.1 The applicant seeks permission for the demolition of the existing building that provide supported living accommodation and erection of a detached 2-storey building with additional accommodation in the roof area, to provide four class C3(b) uses (up to six people living together as a single household and receiving care) and provision of associated car parking, cycle parking and refuse/recycle storage.
- 3.2 This application follows a recent refusal of planning permission under application reference 20/02821/FUL. An appeal against this decision (appeal reference number APP/Q5300/W/21/3273405) was dismissed on 8 April 2022.

- 3.3 The appeal Inspector raised no concerns regarding:
 - the design, height and massing of the proposed building and found no harm to character and appearance of the area;
 - harm to the amenities of the occupiers of Nos. 1 and 3 Fyfield Road in terms of light, outlook or privacy;
 - the level of parking provision to support the quantum of development proposed.
- 3.4 However, the Inspector did find harm from:
 - overlooking and loss of privacy to number 28 Churchbury Lane from proposed side windows.
 - quality of accommodation for future residents in terms of floorspace, ceiling heights and amenity space;
 - the accessibility of the parking spaces to the rear of the site and the requirement to reverse onto Churchbury Lane to leave the site;
 - lack of clarity over deliveries and servicing;
 - the lack of a tree survey and impact assessment meant the impact on trees and the tree the subject of the TPO was not known.
 - Lack of information on sustainable drainage
- 3.5 In response, this application now proposes obscure or partially obscure glazed windows to the flank elevation of the new building along the shared boundary with number 28. The floor areas of the self-contained supported living units meet or exceed the minimum floor space standards for 1 person units. Ceiling heights have increased to 2.5m to meet the relevant guidelines for the ground and first floor accommodation, with the 2nd floor accommodation achieving 2.8m. Amenity space has been apportioned so one of the ground floor units and the 5 bedspace cluster have access to some private space, with the communal space separated from this and away from habitable windows of the ground floor units. The number of parking spaces in the rear garden has been reduced from 5 to 3, with the turning area available sufficient to ensure cars are able exit the site in forward gear. A tree survey and impact assessment has been submitted identifying the trees for removal and the protection measures for the protected tree. Clarity is being sought on the servicing and delivery arrangements to support the use and an update will be provided at the meeting. Notwithstanding, no objections are raised to the impact of the development on highway safety grounds by the Transportation Team. A drainage strategy has been provided.
- 3.6 The Inspector accepted conditions could be used to cover a construction management plan.
- 3.7 Having regard to the above, it is considered that the reasons for refusal have now been overcome and hence the recommendation is for approval subject to conditions as identified above.

4 Site Description

4.1 The subject site is located on Churchbury Lane opposite the junction with Fyfield Road.

- 4.2 The site contains a pair of semi-detached two storey buildings, with access for vehicle parking shared between Nos.26 and 28 to the north and a driveway to the west providing access to an outbuilding (garage) for No.24.
- 4.3 The site is currently used for the accommodation of 5 adults with physical and learning disabilities.
- 4.4 The site contains several trees to the front, side and rear. The mature Ash tree to the rear is the subject of a Tree Preservation Order (TPO NO 107 1980).
- 4.5 The site is not located within a conservation area nor is it statutorily or locally listed.

5 Proposal

- 5.1 This application proposes the demolition of the existing buildings which provide supported living accommodation for 5 residents and the erection of a detached 2-storey building with additional accommodation in the roof area, to provide four class C3(b) uses (up to six people living together as a single household and receiving care) and provision of associated car parking to the front and side, cycle parking and refuse/recycle storage. The applicants have outlined that the development would consist of 4 clusters of accommodation. They will share a common single entry point to the south elevation of the building. The clusters are as follows:
 - Cluster 1(Ground Floor) 2 x 1person self-contained units with a small ancillary office space and toilet;
 - Cluster 2 (Ground Floor) 5 individual bedrooms with ensuite facilities, shared living, eating and cooking facilities, shared special care bathroom and WC, ancillary office space and toilet facilities;
 - Cluster 3 (First Floor) 6 x 1 person self-contained units, shared living, dining and cooking space, ancillary office and WC
 - Cluster 4 (Second floor)– 6 x 1 person self-contained units, shared living, dining and cooking facilities, ancillary off and WC.
- 5.2 Five parking spaces in total are proposed; two to the site frontage and 3 to the rear garden area. Refuse storage and cycle parking spaces are proposed to the rear.

6 Relevant Planning History

24 Churchbury Lane

6.1 TP/04/2322 - Part single, part two storey side and rear extension. (Revised scheme). Granted With Conditions 30 Dec 2004. This permission was implemented in 2005

26 Churchbury Lane

24-26 Churchbury Lane

- 6.3 20/02821/FUL 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 four class C3(b) uses (up to six people living together as a single household and receiving care) and provision of associated car parking to the front and side, cycle parking and refuse/recycle storage. Refused 18.03.2021 for the following reasons:
 - 1. The proposed development, by virtue of inadequate floor areas, floor to ceiling heights, internal layouts, poor quality of outlook, insufficient natural light, the insufficient provision of private/communal amenity space and required measures to ensure privacy would result in substandard accommodation and be harmful to the amenities of future occupiers, contrary to Policy D6 of the London Plan (2021), Policies CP4 and CP30 of the Enfield Core Strategy (2010), Policies DMD6, DMD8 and DMD9 of the Enfield Development Management Document (2014).
 - 2. The proposed development, by virtue of its form, height, depth, bulk, massing and detailed design would appear visually intrusive, overly dominant and out of keeping with the character and appearance of the streetscene of which it forms part and the surrounding area, contrary to the Policies D3 and D4 of the London Plan (2021), Policy CP30 of the Enfield Core Strategy (2010) and Policies DMD8 and DMD37 of the Enfield Development Management Document (2014).
 - 3. The proposed development, by virtue of its size, proximity and siting would give rise to an unneighbourly loss of privacy as perceived from neighbouring properties including No. 28 Churchbury Lane and Nos.1 and 3 Fir Tree Walk, contrary to Policies D3 and D6 of the London Plan (2021), Policies CP4 and CP30 of the Enfield Core Strategy (2010) and Policies DMD8 and DMD10 of the Enfield Development Management Document (2014).
 - 4. The proposed development, in the absence of an adequate justification to demonstrate vehicle parking commensurate with the use proposed, would give rise to conditions prejudicial to the free flow and safety of vehicular traffic and fail to promote or prioritise the use of sustainable modes of transport or reduce car use, contrary to Policies T4, T6 and T6.1 of the London Plan (2021), Policies CP 24 and CP25 of the Enfield Core Strategy (2010) and Policies DMD45, DMD47 and DMD48 of the Enfield Development Management Document (2014).
 - 5. The proposed development, in the absence of a legal agreement securing a construction and demolition management plan, would be likely to give rise to conflicts with other road users and be detrimental to the amenities of the area generally, contrary to Policy T7 of the London Plan (2021), Policy CP24 and 32 of the Enfield Core Strategy 2010 and Policies DMD48 and DMD 68 of the Enfield Development Management Document 2014.
 - 6. The proposed development, in the absence of an adequate arboriculture report, has failed to demonstrate that the proposal would retain and protect trees (including those the subject of a Tree Preservation Order) of visual amenity and

- biodiversity value within the site / in adjacent sites and the surrounding area, contrary to Policy G7 of the London Plan (2021), Policies CP30 of the Enfield Core Strategy (2010) and Policies DMD37 and DMD80 of the Enfield Development Management Document (2014) and the British Standard for Trees in relation to design, demolition and construction (BS 5837:2012).
- 7. The proposed development, in the absence of an adequate sustainable drainage strategy, fails to demonstrate how proposed measures manage the risk of flooding from surface water run-off and follow the drainage hierarchy in the London Plan, contrary to Policy SI 13 of the London Plan (2021), Policies CP21 and CP28 of the Enfield Core Strategy (2010), Policies DMD59, DMD60, DMD61 and DMD62 of the Enfield Development Management Document (2014) and the Enfield Strategic Flood Risk Assessment (2008).
- 6.4 The subsequent appeal against this decision was dismissed. The Inspector did not support the Council's decision in terms of reasons 2, and 5, accepting in relation to reason 5 that a construction management plan could be secured by condition. He partially supported the Council's decision in respect of reason 3, accepting a harmful impact on No.28 Churchbury arising from windows in the side facing elevation but considered there would be no harmful impact on the amenities of the occupiers of 1 and 3 Fyfield Road. He did not support the Council's concern about the level of parking but did raise concerns about the inability of vehicles to exit the rear parking spaces in a forward gear. He supported the Council's decision in terms of the quality of the accommodation to be provided, lack of information on servicing and delivery and the lack of information to assess impact on trees and flood risk
- 6.5 TP/05/1025 Use of single-family dwelling house as a residential care home for 5 people with learning and physical disabilities. Granted With Conditions 21 Jul 2005
- 6.6 21/02621/FUL Change of use from Care Home(C2) into 8 supported Living accommodation units with 24 hour care involving two-storey side, rear and roof extensions, rear rooflights, Juliet balconies and associated works. Refused on 27.09.2021 for the following reasons:
 - The proposed development, by virtue of its form, height, depth, bulk, massing and detailed design would appear visually intrusive, overly dominant and out of keeping with the character and appearance of the streetscene of which it forms part and the surrounding area, contrary to Policies CP30 of the Enfield Core Strategy (2010), DMD8 and DMD37 of the Enfield Development Management Document (2014), D3 and D4 of the London Plan (2021) and the National Planning Policy Framework 2021 as a whole.
 - The proposed development, in the absence of an adequate arboriculture report, has failed to demonstrate that the proposal would retain and protect trees (including those the subject of a Tree Preservation Order) of visual amenity and biodiversity value within the site / in adjacent sites and the surrounding area, contrary to Policies CP30 of the Enfield Core Strategy (2010), DMD37 and DMD80 of the Enfield Development Management Document (2014), G7 of the London Plan (2021), the National Planning Policy Framework 2021 as a whole and the British Standard for Trees in relation to design, demolition and construction (BS 5837:2012).

6.7 This refusal was not appealed.

7 Consultation

7.1 Statutory and Non-Statutory Consultees

- 7.1.1 Transport No objections subject to conditions.
- 7.1.2 SUDS No objections subject to conditions.
- 7.1.3 Trees The Tree Officer raises no objection to the removal of the 7 category U trees proposed. However, the proposal to plant 14 new trees within the root protection area of the protected Ash Tree raises concerns. Whilst new tree planting would ordinarily be encouraged, planting so many trees in this location would be undesirable in the long term, as they would ultimately compete with the existing tree for light, moisture and nutrients. A more appropriate proposal is required. The bike store as proposed is located within the root protection area of the protected Ash and this is not considered as part of the Arboricultural Report submitted, which shows it in a different position. Further details are required on the protective fencing to be installed during the construction period. A soft landscaping scheme ought to be required through condition.
- 7.1.4 Officer comment The provision of new tree planting can be secured by condition. Given the limited size of the garden space on site, it is considered more appropriate to plant fewer trees that have a better chance of reaching maturity. This should be to rear garden area and to the front of the building. Conditions requiring details of the landscaping proposals and new tree planting, together with details of tree protection measures during the construction process and a method statement for the construction of the cycle store are recommended.

7.2 Public Consultation

7.2.1 Addresses notified (22) Representations received (14) and Summary:

A total of 14 representations have been received, and the issues raised have been summarised below given additional comment in the body of the report:

Summary of responses

- Overdevelopment
- Incorrect use proposed
- Strain on existing community facilities
- Out of Keeping with the character of area
- Detrimental scale of building proposed
- Detrimental impact on privacy / light
- Detrimental proximity to neighbouring building
- Loss of privacy to houses and gardens
- Windows and balconies overlook gardens
- Detrimental impact on parking
- Insufficient parking provision
- Increased congestion/pollution

- Traffic volume and noise will be increased
- Affect local ecology/TPO trees

Officers' response

Whilst these objections are noted a number of the issues raised have been considered by the Inspector at appeal and have not been supported, particularly related to the principle of this form of development, the nature of the use, the number of residents to be accommodated, the size/form and massing of the building and the level of parking provision. Other matters raised are assessed in the analysis section of this report.

8 Relevant Planning Policies

8.1 Section 70(2) of the Town and Country Planning Act 1990 requires the Committee have regard to the provisions of the development plan so far as material to the application: and any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise.

8.2 National Planning Policy Framework (NPPF) 2021

- 8.2.1 The National Planning Policy Framework (NPPF) introduces a presumption in favour of sustainable development. In this respect, sustainable development is identified as having three dimensions - an economic role, a social role and an environmental role. For decision taking, this presumption in favour of sustainable development means:
 - a) an economic objective to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - b) a social objective to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
 - c) an environmental objective to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
- 8.2.3 The NPPF recognises that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF does not change the statutory status of the development plan as the starting point for decision making.

- 8.2.4 In relation to achieving appropriate densities Paragraph 124 of the NPPF notes that planning policies and decisions should support development that makes efficient use of land, whilst taking into account:
 - a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;
 - b) local market conditions and viability;
 - c) the availability and capacity of infrastructure and services both existing and proposed as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;
 - d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and
 - e) the importance of securing well-designed, attractive and healthy places.
- 8.2.5 Paragraph 48 of the NPPF details when weight may be given to relevant emerging plans. This guidance states that the stage of preparation, the extent to which there are unresolved objections and the degree of consistency of relevant policies to the Framework are relevant.

Housing Delivery Test / Presumption in Favour of Sustainable Development:

- 8.2.6 The NPPF sets out at Paragraph 11 a presumption in favour of sustainable development. For decision taking this means:
 - "(c) approving development proposals that accord with an up-to date development plan without delay; or
 - (d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (8), granting permission unless:
 - (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (7); or
 - (ii) any adverse impacts of so doing would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.2.7 Footnote (8) referenced here advises "This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous 3 years."
- 8.2.8 In summary, the presumption in favour of sustainable development applies in two situations where a Council is unable to demonstrate a five-year housing land supply, and when a Council fails to achieve 75 per cent or more in the Housing Delivery Test.

- 8.2.9 Enfield Council currently fails against both criteria and is therefore subject to the most severe government sanctions which impact the Council's consideration of housing-led planning applications.
 - a) **5-year housing land supply**: Members will be aware of the need to be aware of the Council's housing land supply and how it impacts on decision making. When there is not an up-to-date Local Plan and 5-year housing land supply cannot be demonstrated then this has a significant impact on the weight given to material planning considerations. The NPPF presumption, or 'tilted balance', applies in Enfield due to the Council's inability to demonstrate the required five-year housing land supply. The Council is unable to demonstrate a 5-year supply of deliverable housing sites and this impacts on the status of its Local Plan policies.
 - b) **Housing delivery test**: The NPPF presumption, or 'tilted balance', also applies in Enfield because Enfield is one of 51 Councils which have achieved below 75 per cent against the Housing Delivery Tests it is therefore also subject to the Housing Delivery Tests most severe government sanction, the NPPF's presumption in favour of sustainable development.
- 8.2.10 The Housing Delivery Test (HDT) is an annual measurement of housing delivery introduced by the Government through the NPPF. It measures the performance of local authorities by comparing the completion of net additional homes in the previous three years to the housing targets adopted by local authorities for that period.
- 8.2.11 Local authorities that fail to meet 95% of their housing targets need to prepare a Housing Action Plan to assess the causes of under delivery and identify actions to increase delivery in future years. Local authorities failing to meet 85% of their housing targets are required to add 20% to their five-year supply of deliverable housing sites targets by moving forward that 20% from later stages of the Local Plan period. Local authorities failing to meet 75% of their housing targets in the preceding 3 years are placed in a category of "presumption in favour of sustainable development".
- 8.2.12 The Council's recent housing delivery has been below our housing targets. This has translated into the Council being required to prepare a Housing Action Plan in 2019 and being placed in the "presumption in favour of sustainable development category" by the Government through its Housing Delivery Test. This status has recently been confirmed for the period 2022-23.
- 8.2.13 In 2020 Enfield delivered 56% of the 2,328 homes target and was as a result placed into the "presumption in favour of sustainable development" category. In January 2021 Enfield delivered 67% of its homes target. The Council therefore remains in the "presumption in favour of sustainable development".
- 8.2.14 This is referred to as the "tilted balance" and the NPPF states (see paragraph 8.6 above) that for decision-taking this means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole which also includes the Development Plan.
- 8.2.15 Under the NPPF paragraph 11(d) where the most important development plan policies for the application are deemed to be 'out of date', planning permission should be granted. That does not mean out of date policy can be disregarded, but it means that less weight can be applied to it, and applications for new homes should be given weight

by the Planning Committee when undertaking their assessment taking account of the "tilted" balance that applies. The level of weight given is a matter of planning judgement and the statutory test continues to apply, that the decision should be, as section 38(6) of the Planning and Compulsory Purchase Act 2004 requires, in accordance with the development plan unless material considerations indicate otherwise.

8.3 <u>London Plan (2021)</u>

8.3.1 The London Plan together with Enfield's Local plan forms the Development Plan for this application. It is the overall strategic plan for London setting out an integrated economic, environmental, transport and social Framework for the development of London for the next 20-25 years. The following policies of the London Plan are considered particularly relevant:

Policy D3 Optimising site capacity through the design-led approach

Policy D4 Delivering good design

Policy D5 Inclusive design

Policy D6 Housing quality and standards

Policy D7 Accessible housing

Policy D14 Noise

Policy H10 Housing size mix

Policy H12 Supported and specialised accommodation

Policy G6 Biodiversity and access to nature

Policy G7 Trees and woodlands

Policy SI 1 Improving air quality

Policy SI 2 Minimising greenhouse gas emissions

Policy SI 13 Sustainable drainage

Policy T3 Transport capacity, connectivity and safeguarding

Policy T4 Assessing and mitigating transport impacts

Policy T5 Cycling

Policy T6 Car parking

Policy T6.1 Residential parking

Policy T7 Deliveries, servicing and construction

8.4 Enfield Core Strategy

8.4.1 The Core Strategy was adopted in November 2010 and sets out a spatial planning framework for the development of the Borough through to 2025. The document provides the broad strategy for the scale and distribution of development and supporting infrastructure, with the intention of guiding patterns of development and ensuring development within the Borough is sustainable. The following policies of the Core Strategy is considered particularly relevant:

CP4: Housing quality

CP5: Housing types

CP6: Meeting Particular Housing Needs

CP20: Sustainable energy use and energy infrastructure

CP21: Delivering sustainable water supply, drainage and sewerage infrastructure

CP24: The road network

CP25: Pedestrians and cyclists

CP26: Public transport

CP28: Managing flood risk through development

CP30: Maintaining and improving the quality of the built and open environment

CP32: Pollution CP36: Biodiversity

8.5 Enfield Development Management Document

8.5.1 The Council's Development Management Document (DMD) provides further detail and standard based policies by which planning applications should be determined. Policies in the DMD support the delivery of the Core Strategy. The following local plan Development Management Document policies are considered particularly relevant:

DMD3 Providing a Mix of Different Sized Homes

DMD4 Loss of Existing Residential Units

DMD6 Residential Character

DMD8 General Standards for New Residential Development

DMD9 Amenity Space

DMD 10 Distancing

DMD15 Specialist Housing Needs

DMD37 Achieving High Quality Design-Led Development

DMD38 Design Process

DMD45 Parking Standards

DMD47 New Roads, Access and Servicing

DMD48 Transport Assessments

DMD49 Sustainable Design and Construction Statements

DMD50 Environmental Assessment Methods

DMD51 Energy Efficiency Standards

DMD53 Low and Zero Carbon Technology

DMD58 Water Efficiency

DMD61 Managing Surface Water

DMD65 Air Quality

DMD68 Noise

DMD69 Light Pollution

DMD70 Water Quality

DMD72 Open Space Provision

DMD79 Ecological Enhancements

DMD80 Trees on Development Sites

DMD81 Landscaping

8.6 Enfield Local Plan (Regulation 18) 2021

- 8.6.1 Work on a New Enfield Local Plan has commenced so the Council can proactively plan for appropriate sustainable growth, in line with the Mayor of London's "good growth" agenda, up to 2041. The Enfield New Local Plan will establish the planning framework that can take the Council beyond projected levels of growth alongside key infrastructure investment. As the emerging Local Plan progresses through the planmaking process the draft policies within it will gain increasing weight but at this stage it has relatively little weight in the decision-making process.
- 8.6.2 Key local emerging policies from the plan are listed below:

Policy DM SE2 Sustainable design and construction

Policy DM SE4 Reducing energy demand

Policy DM SE5 Policy DM SE7 Policy DM SE8 Policy DM SE10 Policy SPBG3	Greenhouse gas emissions and low carbon energy supply Climate change adaptation and managing heat risk Managing flood risk Sustainable drainage systems Biodiversity net gain, rewilding and offsetting
Policy DM BG8	Urban greening and biophilic principles
Policy DM DE1	Delivering a well-designed, high-quality and resilient environment
Policy DM DE2	Design process and design review panel
Policy DM DE11	Landscape design
Policy DM DE13	Housing standards and design
Policy DM H3	Housing mix and type
Policy DM T2	Making active travel the natural choice
Policy SP D1	Securing contributions to mitigate the impact of development

8.7 Other Material Considerations

National Planning Practice Guidance London Housing SPG (2016) DCLG Technical Housing Standards (2015) Refuse and Recycle Storage Guide Enfield (2020)

9 Analysis

- 9.1 The principal considerations material to the determination of this application are considered as follows:
 - Land Use
 - Design
 - Impact on occupying and neighbouring amenity
 - Transport
 - Trees
 - Biodiversity
 - Energy and Sustainability
 - Sustainable Drainage Systems (SuDS)
 - Community Infrastructure Levy (CIL)
- 9.2 This application follows a refusal of planning application number 20/02821/FUL which was refused and appealed. The appeal (reference APP/Q5300/W/21/3273405) was dismissed on 8 April 2022 and a summary of the Inspectors findings is given above. This decision carries significant weight in this assessment.

Land Use

- 9.3 Permission was granted in 2005 (TP/05/1025) for the use of the site as a residential care home for 5 people with learning and physical disabilities. The submitted documents forming part of this application noted:
 - All of the residents need a high level of support because of their physical disabilities which includes periodic care over the 24 hour period and the provision of personal care. It is anticipated that three members of staff will be at the

premises during the day with one or two at night. The plans indicate the provision of a staff bedroom but staff would normally be awake and they would not reside at the premises. Additional parking space has been provided for staff and visitors and 6 off-street spaces are available.

- 9.4 Condition 2 of this planning permission number requires:
 - Notwithstanding the provisions of the Town and Country Planning Use Classes Order 1987, or any amending Order, the premises shall only be used for the accommodation of adult residents with physical and learning disability and shall not be used for any other form of accommodation or purpose within use class C2. Reason: To safeguard the residential amenities of adjoining occupiers.
- 9.5 The site is therefore established to provide supported living accommodation for 5 people.
- 9.6 With respect to the current application, the applicant's description reads:
 - 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 four class C3(b) uses (up to six people living together as a single household and receiving care) and provision of associated car parking to the front and side, cycle parking and refuse/recycle storage.
- 9.7 The submitted documents forming part of this application noted:
 - Residents live in an environment where they have control over their day to day lives but with the ability to immediately call upon a range of flexible services. Level of care and services provided can increase or decrease dependent upon the needs of the individual.
- 9.8 The nature of the proposal is therefore for 'assisted' or 'supported living', with residents being able to reside in the property with supervision (Use Class C3(b)). Four clusters of accommodation are proposed, with some comprising single person self-contained accommodation and access to shared facilities and one comprising a group of en-suite bedrooms with access to shared living/kitchen and dining facilities. This was the description of development applied to the earlier application, the subject of the appeal and was accepted by the appeal Inspector.
- 9.9 The proposal does not result in the loss of a conventional single family residential unit, as the permitted use of the property is as a residential care home for 5 people with learning and physical disabilities. Instead, the scheme proposes the replacement of one type of residential accommodation with an alternative form of supported living accommodation, albeit now accommodating up to 19 people. The proposed use would not conflict with Enfield Core Strategy Policy CP4 (Housing quality) and Enfield Development Management Document Policy DMD4 (Loss of Existing Residential Units).

- 9.10 It is noted that the proposal would result in an intensification of the site, with up to 19 persons living on site in either the self-contained units or within the shared accommodation.
- 9.11 The applicant states each of the clusters would be operated independently as follows:
 - Cluster 1 2 x 1-person flats and 1 small office. These units will be supported by 1/2 carers depending on need.
 - Cluster 2 5 bedrooms each with ensuite bathrooms and a shared dining/kitchen area and 1 small office which will be used by the current 5 residents residing in Churchbury Lane receiving care already by an existing provider.
 - Cluster 3 6 x 1-person flats and a shared communal living/dining/kitchen area and 1 small office. These units will be supported by 2-3 staff, depending on need.
 - Cluster 4- 6 x 1-person flats and a shared communal dining/kitchen area and 1 small office. These units will be supported by 2-3 staff, depending on need.
- 9.12 The site is currently occupied by 5 residents, occupying 5 rooms and are assisted by 5 full time staff (3 during the day and 2 during the night). The proposal would result in 19 residents, assisted by 20 full time staff (10 during the day and 10 during the night).
- 9.13 Notwithstanding the intensification in the use of the site, the appeal decision did not find this harmful and therefore the proposals are acceptable in terms of land use. A condition is recommended requiring the accommodation to only be occupied for supported living, Class C3b and not for any other purposes within Class C3 and not to be occupied by more than 19 residents, given the mix of accommodation proposed, and the lack of private amenity space to support all units.

Standard of Accommodation

- 9.14 The Mayor's Housing SPG advises that the nationally described space standards and the optional Building Regulations do not apply to specialist forms of housing such as student housing and supported living; however, the space needed for furniture, activity and movement should be considered when designing all forms of housing. Policy D6 of the London plan states the standards apply to all new self-contained dwellings of any tenure. This application includes units of self-contained accommodation, albeit the majority also have access to shared living/dining and kitchen facilities in addition to those within the individual units.
- 9.15 Policy DMD 8 (General Standards for New Residential Development) of the Enfield Development Management Document provides wider considerations of what constitutes acceptable levels of habitable accommodation within development.
- 9.16 With the refused application, 20/02821/FUL it was considered that the proposed development, by virtue of inadequate floor areas, floor to ceiling heights, internal layouts, poor quality of outlook, insufficient natural light, the insufficient provision of private/communal amenity space and required measures to ensure privacy would have resulted in substandard accommodation and be harmful to the amenities of future occupiers, contrary to Planning Policy.

- 9.17 The Appeal Inspector supported the Council on this reason for refusal and concluded that that on balance, the proposal would not provide suitable living conditions for future occupiers having regard to the quality and quantity of internal and external space.
- 9.18 In addressing the above reasons for refusal, the applicants have amended the plans so that each self-contained unit is provided with a minimum of 37sqm in floor space which meets the London Plan floorspace standard for a single person unit. With the exception of the two ground floor self-contained units, the remainder of the units also have access to additional shared communal living/dining/cooking space. A condition is recommended to ensure that the units remain in use as supported living accommodation only and and as one person units..
- 9.19 In terms of floor to ceiling heights, the earlier refused application's had ceiling heights of 2.4m to the ground and first floor level of the building, whilst the second floor had 2.8m. The current application proposes a floor to ceiling height of 2.5m to the ground and first floor and retains the 2.8m height at second floor level. This is in compliance with planning guidance. The units overall have adequate light and outlook. One of the ensuite bedrooms within Cluster 2 its sole bedroom window to the flank elevation that needs to be fixed and obscured to a certain degree to protect the privacy of the occupiers of No.28 Churchbury Lane. As this is a bedroom and the occupier would have access to a sizable communal living/dining/kitchen space, with good natural light, this in the overall planning balance is considered acceptable.
- 9.20 Within the refused application the garden space available to support the development had not been clearly defined in terms of how it would be used by future residents. This amended scheme identifies a private garden for one of the ground floor self-contained units and for the residents of Cluster 2. A further communal area beyond would be accessible to all residents. This application has now therefore clarified the apportionment of amenity space. Whilst all units do not have access to private amenity space, given this is supported living where residents live in a more communal way, encouraged through the provision of communal living/dining and kitchen facilities, the reliance on communal amenity space for the majority of units is considered acceptable.
- 9.21 Having regard to the amendments to the scheme, it is considered that the concerns previously raised regarding the quality of the accommodation have been satisfactorily addressed.

Design

9.22 Enfield Core Strategy Policy CP30 (Maintaining and improving the quality of the built and open environment) seeks to ensure that new developments are high quality and design-led, having regard to their context.

- 9.23 Enfield Development Management Document Policy DMD8 (General Standards for New Residential Development) states that new developments should preserve amenity in terms of daylight, sunlight, outlook, privacy, overlooking, noise and disturbance. DMD37 (Achieving High Quality Design-Led Development) states that development that is not suitable for its intended function that is inappropriate to its context, or which fails to have appropriate regard to its surroundings, will be refused. However, it also recognised there is a degree of subjectivity in this assessment of acceptable design.
- 9.24 The principle of demolition has already been accepted under the refused application and this was not disputed in the appeal decision. It was concluded that the existing buildings are of limited value and therefore limited weight shall be given to their conservation. In the absence of making a significant positive contribution to the wider area, the complete demolition of all site buildings is acceptable subject to a suitable replacement.
- 9.25 The proposal would result in a change to the form/shape of the building and the extent of site coverage. The proposed building is neither massed to address the recognised and typical principal elevation (east), nor the south facing elevation and surrounding views. The proposal will result therefore in an atypical building, formed in an 'L' shape with an apex serving as an entrance on the corner of Churchbury Lane, with principal elevations facing east (14.9m) and south (18.5m). Where the more typical built format in the locality is that of semi-detached rectangular buildings with a single principal elevation, this proposal would introduce 2 principal elevations which under the previous scheme was previously considered to be at odds with the locality.
- 9.26 The Inspector did not support the Councils earlier objections to the design of the building. He considered the area to be of mixed character and that there was no single, defining dominant character and appearance at the site or around it. He did not therefore consider the form of development proposed to be harmful to the character and appearance of the area. This current scheme has the same form and massing and therefore in the light the appeal decision, which carries significant weight in the assessment of this application, no objection is now raised to the design of the building.

Impact on neighbouring amenity

- 9.27 Enfield Core Strategy Policy CP9 (Supporting community cohesion) supports community cohesion by promoting attractive, safe, accessible and inclusive neighbourhoods. Enfield Development Management Document Policies DMD 8 and 10 seek to ensure that developments do not negatively impact on the residential amenities of neighbouring properties. Policy DMD 8 states residential development will only be permitted if it preserves amenity in terms of daylight, sunlight, outlook, privacy, overlooking, noise and disturbance. Policy DMD 10 states that distancing between developments serves a number of purposes: it helps to maintain a sense of privacy; it is also key to avoiding overshadowing and ensuring adequate amounts of sunlight are available for new and existing developments. The spacing between development at the rear offers the space for amenity uses. It is therefore important that an appropriate distance is achieved and maintained as a result of the development of new residential units and extensions. Development should be designed to protect the privacy of both new and existing dwellings to a reasonable degree. Spaces that are overlooked lack privacy. The most sensitive areas to overlooking are habitable spaces such as living rooms, bedrooms, kitchens and the part of a garden nearest to the house.
- 9.28 The massing and form of the proposed building would be greater than the existing built form and therefore the impacts to the neighbouring residential amenity requires assessment.
- 9.29 The area surrounding the site is predominantly residential. The following properties are contiguous to the application site:
 - No.28 Churchbury Lane neighbouring to the north of the application site. This
 building has several flank wall windows facing the development site, serving
 habitable spaces at ground and second floor level.
 - Nos.1 and 3 Fir Tree Walk neighbouring to the west of the application site. These
 buildings have a number of upper floor windows facing the development site
 serving habitable spaces.
- 9.30 All other adjacent properties on the opposite side of Churchbury Lane (including Nos.1 and 3 Churchbury Lane, Nos. 1 and 2 Fyfield Road and 5 Fir Tree Walk), by virtue of their proximity and orientation are considered to experience no greater harm as a result of the development than the existing arrangement.
- 9.31 The proposal would result in the greatest depth located towards the junction with Fyfield Road. The proposal would result in an 'L' shaped building to both frontages along Churchbury Lane. The east facing elevation would be 14.9m in width and 15m in depth, approximately 2m deeper at ground floor level than the neighbouring No.28 Churchbury Lane, whilst the south facing elevation would be 18.5m in width and 11.3m in depth. The flank wall of the proposed building would be 3.7m away from No.28 Churchbury Lane and 11.4m away from the rear boundary wall with Nos.1 and 3 Fir Tree Walk. The rear elevation of the south facing section would be 12.7m away from the side boundary wall of No.28 Churchbury Lane.

- 9.32 Within the refused application it was considered that due to new upper floor windows facing the windows and gardens of number 28 Churchbury Lane and Nos.1 and 3 Fir Tree Walk, this would give rise to an unneighbourly loss of privacy from overlooking which would be harmful to the amenities of these neighbouring properties.
- 9.33 The Appeal Inspector disagreed with the harm to numbers Nos.1 and 3 Fir Tree Walk but concluded that whilst he was satisfied that the proposal would not cause harmful overlooking or loss of privacy to the gardens of No 28 Churchbury Lane and Nos.1 and 3 Fir Tree Walk, as the relationship would be fundamentally the same as existing, he found that the side facing windows would give rise to an unacceptable loss of privacy and perceived loss of privacy to the occupiers of No 28.
- 9.34 In addressing the above reason for refusal, the applicant has made changes to the scheme by removing some windows from some rooms including a bedroom and also by designing the rooms such that all the side windows facing number 28 are obscure glazed and non opening, with that to the bedroom being obscured glazed and fixed to a height and thereafter clear glazed. The quality of accommodation is not compromised by inserting obscure glazed windows as most of these rooms are non-habitable rooms. One of the ensuite bedrooms within Cluster 2 would have its sole window as a partially obscure glazed window. However, as this is a bedroom and the occupier would have access to a large communal living/dining/kitchen space. In the overall planning balance, this is considered acceptable. The reason for refusal on harm to the amenities of number 28 is therefore considered to have been overcome.

Transport

- 9.35 Policies DMD45 and DMD47 provide the criteria upon which developments will be assessed with regard to parking standards / layout and access / servicing. Enfield Development Management Document Policy DMD 45 (Parking Standards and Layout) and DMD48 (Transport Assessments) seeks to minimise car parking and to promote sustainable transport options. The Council recognises that a flexible and balanced approach needs to be adopted to prevent excessive car parking provision while at the same time recognising that low on-site provision sometimes increases pressure on existing streets.
- 9.36 The site is located on the corner junction of Churchbury Lane and Fyfield Road. The site is located within the Enfield Town Controlled Parking Zone (CPZ), and the site has a PTAL of 4, which is good.

- 9.37 There are currently two vehicle access points into the site; one on the north (closest to the junction with Orchard Way) which is shared with No.28 Churchbury Lane and one to the south of the site, facing the junction with Fyfield Road. The Council recognises that a flexible and balanced approach needs to be adopted to prevent excessive car parking provision while at the same time recognising that low on-site provision sometimes increases pressure on existing streets. As part of this proposal, both crossovers would remain, with formal parking areas provided serving the front and rear of the site with 2 spaces and 3 spaces respectively. The provision of 7 car parking spaces to service the previous scheme as was considered excessive within the refused application. However, the Inspector did not agree with the Council on this issue and was satisfied that the over-provision of parking would not in itself be harmful to the free flow and safety of vehicular traffic. It is considered a reduction in parking as now proposed from 7 to 5 spaces, does not undermine the Inspectors decision and is more in line with the Council's original position.
- 9.38 The Inspector was concerned that a combination of the particular layout and access to the car parking spaces, meaning vehicles would need to reverse onto the public highway and the uncertainty over deliveries and servicing which would give rise to harm to the free flow of vehicular traffic and the safety of all other road users. In reducing the number of parking spaces in the rear garden, the two spaces that required a reversing movement have been removed. This area of concern has therefore been addressed. The Council's Transport Team raise no objections to the proposed parking layout. Clarity is being sought on the proposed servicing and delivery arrangements, including numbers and frequency of any deliveries. However, the existing facility is serviced from the highway and the Transportation Team have confirmed that whilst there could be further deliveries as a consequence of the intensification of the use of the site, this is not considered to be at levels that would prejudice highway safety and traffic flow. An update will be provided at the meeting.
- 9.39 A condition is recommended to require a Construction Management Plan as directed by the Planning Inspector who stated that subject to the imposition of an appropriate condition, the implementation of the proposal would not be likely to give rise to conflicts with other road users and not be detrimental to the amenity of the area.
- 9.40 With regard to cycle parking, the proposal indicates an area for 10 cycle spaces., Policy DMD 45 (Parking Standards and Layout) would expect a pre-commencement condition to secure the siting, number and design of the secure and covered cycle parking spaces. A condition is recommended to cover this.

<u>Trees</u>

9.41 Enfield Development Management Document Policy DMD80 (Trees on Development Sites) states that all development including subsidiary or enabling works that involve the loss of or harm to trees covered by TPO's or trees of significant amenity or biodiversity value will be refused. Policy DMD81 states that development must provide high quality landscaping that enhances the local environment.

9.42 The site contains a number of trees, including an Ash Tree in the rear garden that is the subject of a Tree Preservation Order. The application is now supported by a Tree Survey and Impact Assement. This confirms that 7 trees are to be removed to support the development and all those to be removed are category 'U', The protected tree will be retained within an area of communal garden to the rear. Subject to clarification on the position of the proposed cycle store in relation to the root protection zone for the protected tree, no objection is raised to the development in terms of impact on trees. A condition is recommended to require details of tree protection measures during construction and for the foundation and construction method of the proposed cycle store. This reason for refusal is now considered to be satisfactorily addressed.

Biodiversity

9.43 Policy G6 of the London Plan (Biodiversity and access to nature), Enfield Core Strategy Policy 36 (Biodiversity) and Development Management Document Policy DMD79 (Ecological Enhancements) would expect a condition to secure appropriate features to conserve and enhance wildlife habitats and biodiversity measures including bird and bat boxes.

Energy and Sustainability

- 9.44 Enfield Core Strategy Policy CP4 sets a strategic objective to achieve the highest standard of sustainable design and construction throughout the Borough, whilst policies 49 (Sustainable Design and Construction Statements) and 50 (Environmental Assessment Methods) of the Development Management Document relate to the highest sustainable design and construction standards having regard to technical feasibility and economic viability and compliance with targets relating to the relevant adopted environmental assessment methods respectively.
- 9.45 An Energy Statement has not been provided at this stage and therefore a condition is recommended requiring the submission of one pre-commencement.

Sustainable Drainage Systems (SuDS)

- 9.46 London Plan policy SI 12 (sustainable drainage) outlines that development proposals should aim to achieve greenfield run-off rates and ensure that surface water run-off is managed as close to its source as possible. There should also be a preference for green over grey features, in line with the following drainage hierarchy:
 - 1. rainwater use as a resource (for example rainwater harvesting, blue roofs for irrigation)
 - 2. rainwater infiltration to ground at or close to source
 - 3. rainwater attenuation in green infrastructure features for gradual release (for example green roofs, rain gardens)
 - 4. rainwater discharge direct to a watercourse (unless not appropriate)
 - 5. controlled rainwater discharge to a surface water sewer or drain
 - 6. controlled rainwater discharge to a combined sewer.

- 9.47 Enfield Core Policy 28 (Managing flood risk through development) confirms the Council's approach to flood risk, inclusive of the requirement for SuDS in all developments Policy DMD 61 (Managing Surface Water) expects a Drainage Strategy will be required for all developments to demonstrate how proposed measures manage surface water as close to its source as possible and follow the drainage hierarchy in the London Plan.
- 9.48 The previous application was refused as it was considered that the proposals had failed to demonstrate how proposed measures manage the risk of flooding from surface water run-off and follow the drainage hierarchy. The Appeal Inspector concluded that given it is fundamental to the acceptability of the proposal, it would be inappropriate to defer such an important detail to condition. The applicants have now submitted a SUDS strategy which has been assessed by the Council's drainage team who have concluded that these details are sufficient and can be supported in principle with a condition requiring further technical details. This reason for refusal of a previous application has been addressed.

Community Infrastructure Levy (CIL)

9.49 This development would be liable for both Mayoral and Enfield CIL. The Mayoral CIL liability is expected to be £33,060.00 and the Enfield CIL liability is also expected to be £33,060.00. Final calculations would be undertaken at the point a CIL liability notice is issued.

Public Sector Equality Duty

9.50 In line with the Public Sector Equality Duty the Council must have due regard to the need to eliminate discrimination and advance equality of opportunity, as set out in section 149 of the Equality Act 2010. Section 149 of the Act requires public authorities to have due regard to several equality considerations when exercising their functions including decision making on planning applications. It is considered that the proposal to grant planning permission for this development would not disadvantage people who share any of the different nine protected characteristics compared to those who do not have those characteristics and therefore it is considered that the development would not have a disproportionate equalities effect. Accordingly, the recommendation is considered appropriate in upholding the council's adopted and emerging policies and is not outweighed by any engaged rights.

10. Conclusion

- 10.1 The starting point for the determination of any planning application is the development plan. Paragraph 11(d) of the NPPF, and the application of the tilted balance means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, which also includes the Development Plan. Moreover, planning permission should be approved unless "the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed".
- 10.2 It is acknowledged that the consideration of this report has involved some balanced judgements, in relation to residential quality, the impacts of the development on neighbouring occupiers and transport impacts. The appeal decision has been a material consideration in this balance. The Inspector raised no issues with the description of development, the land use proposed, the design, height or massing of the building and its impact on the character or appearance of the area. The issues raised with regard to residential quality, overlooking of the neighbouring property at No.28 Churchbury Lane and highways impact, trees and sustainable drainage are now considered to have been satisfactorily addressed. There is a strong need for this type of supported accommodation which would be consistent with adopted policy and therefore carries significant weight. For these reasons it is recommended that planning permission be granted with conditions as set out above.



Existing Photographs of Site











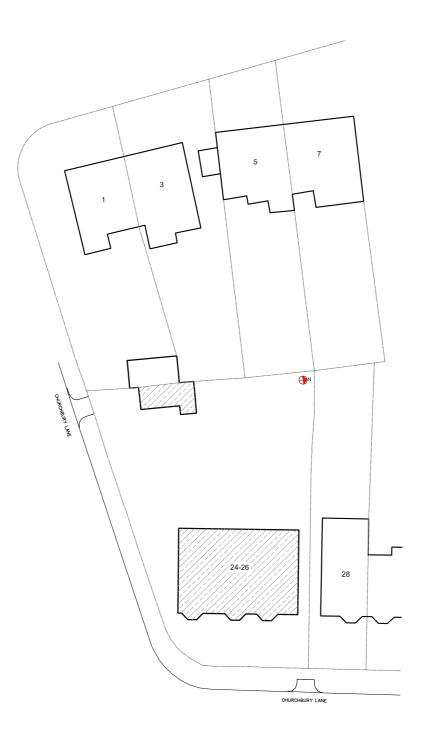




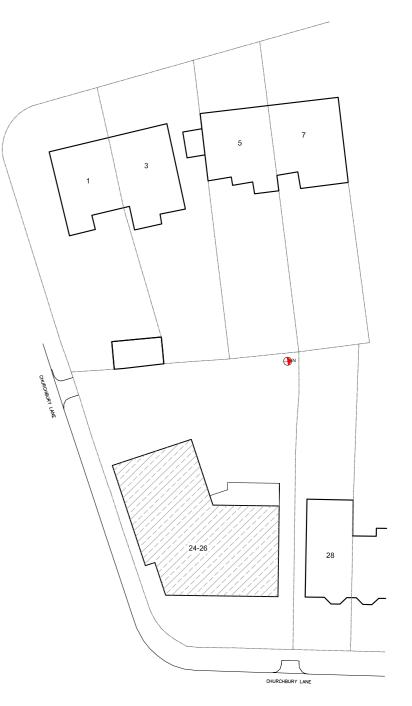


Existing Site Location Plan Scale 1:1250





Existing Site Plan (Scale 1:500)



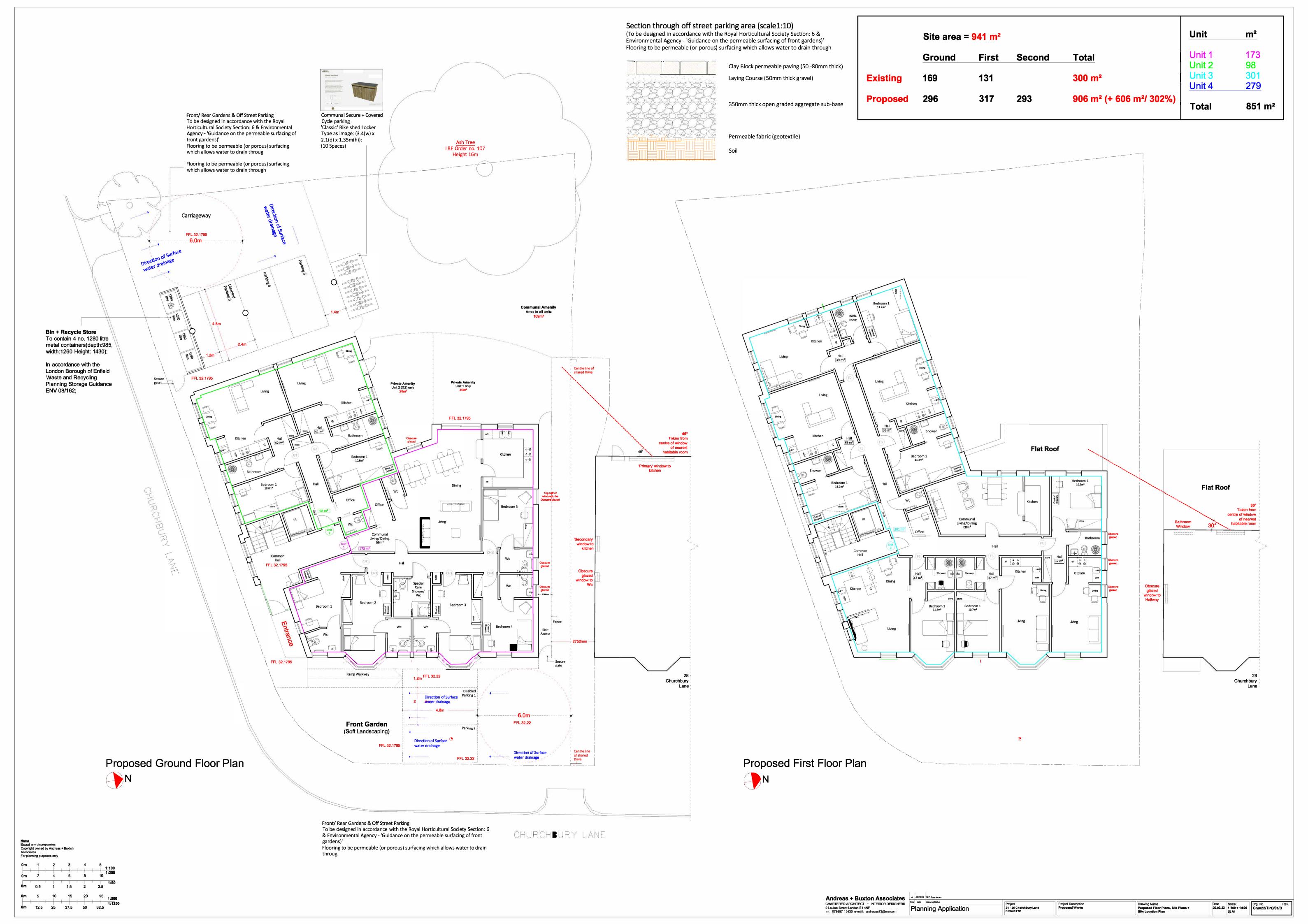
Proposed Site Plan (Scale 1:500)



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Date Scale: Drg. No. Rev. Chu/22/P/06/B





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317 293

Total

851 m²