

**PLANNING COMMITTEE**

20<sup>th</sup> June 2023

**REPORT OF:**

Director of Planning & Growth  
Brett Leahy

**Subject:**

**Planning Committee – 20<sup>th</sup> June 2023**

**Addendum on 24/26 Churchbury Lane**

Contact officer:

Andy Higham – Head of Development Management  
Email: andy.higham@enfield .gov.uk  
Tel: 020 8132 0711

**Update to Planning Committee**

Ahead of Tuesday's Planning Committee meeting, please note the following updates to the Committee report will be of assistance to Members in your assessment of the proposals.

**Agenda Item: 7**

**22/02248/FUL 24-26 Churchbury Lane, Enfield EN1 3TY**

A copy of the appeal decision which is a material consideration in the assessment of the current proposal accompanies this "Addendum"

The Inspector identified the main issues as follows:

- whether the proposal would provide suitable living conditions for future occupiers having regard to the quality and quantity of internal and external space,
- the effect of the proposal on the character and appearance of the area,
- the effect of the proposal on the living conditions of the occupiers of neighbouring properties with specific regard to loss of privacy,
- whether the transport related effects of the proposal are acceptable,
- whether the development can be carried out without conflict with road users or harm to the amenity of the area,
- whether the proposal would retain and protect trees on the site, and
- whether the proposal would appropriately manage flood risk

Overall, the Inspector concluded that

*"the proposal would be acceptable with regard to its effect on the character and appearance of the area and construction effects. I have also found that limited elements of it would be acceptable with regard to its effect on the living conditions of occupiers of adjoining properties. However, I have found that the proposal would cause significant, unacceptable harm with regard to the living conditions for future occupiers, the living conditions of occupiers of other adjoining properties, trees, flooding and drainage.*

*I note the suggestion in the Framework that it should be considered whether unacceptable development could be made acceptable through the use of planning conditions. However, given the breadth of issues with which I have found harm and development plan conflict on the basis of the evidence before me, I do not consider that conditions would be an*

*appropriate mechanism to resolve these issues. The fundamental nature of some of these issues, and the level of engagement of third-parties with them adds to my concerns over the potential use of conditions to make otherwise unacceptable development acceptable.*

*Also, there is an unresolved issue before me around conditions controlling and limiting the use of the proposal which the appellant considers could address concerns of the Council, but which the Council has not commented on, and the appellant has not provided suggested wording for.*

*I therefore conclude that on balance, as a result of the specific harm I have identified and the lack of information on other specific effects, the proposal as a whole would conflict with the development plan and there are no material considerations, including the established need for development of this nature in this area, which indicate that a decision be taken other than in accordance with it.*

*The appeal should therefore be dismissed*

The issues remaining for consideration therefore being:

- whether the proposal would provide suitable living conditions for future occupiers having regard to the quality and quantity of internal and external space,
- the effect of the proposal on the living conditions of the occupiers of the neighbouring property, No 28 Churchbury Lane,
- whether the development can be carried out without conflict with road users or harm to the amenity of the area through access / egress arrangements for car parking and servicing / delivery,
- whether the proposal would retain and protect trees on the site, and
- whether the proposal would appropriately manage flood risk

Whether the proposal would provide suitable living conditions for future occupiers having regard to the quality and quantity of internal and external space.

The Inspector highlighted that he did not consider it appropriate, on the basis of the evidence before him, to allow development which does not meet space quality and quantity standards with regards to indoor space, layout, outlook, light, ceiling heights and outdoor space.

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 as one person units. Further consideration of this issue is set out at Para 9.19 and 9.20 of the Committee report.

It is recognised that Cluster 3 (First floor) & Cluster 4 (Second Floor) each comprise 6 self-contained single person units with access to shared living/dining/kitchen. In each case, 3 of the units are not in themselves dual aspect but they have access to shared living accommodation which means the cluster as a whole does provide a range of aspects, but it is recognised that residents are likely to close and possibly lock their own doors. At such times, their individual spaces will not be dual aspect but it is not considered on balance, to represent a ground for refusal.

The plans show the communal amenity space to serve all units, accessed from Churchbury Lane is 169sq.m

The effect of the proposal on the living conditions of the occupiers of the neighbouring property, No 28 Churchbury Lane

The Inspector concluded that that due to facing windows towards No 28 Churchbury Lane, this would give rise to an unneighbourly loss of privacy from overlooking which would be harmful to the amenities of these neighbouring properties.

In addressing the above reason for refusal, the applicant has made changes to the scheme by removing windows from several rooms including a bedroom and also by designing the rooms such that all the side windows facing No 28 are obscure glazed and non-opening with that to the bedroom being obscured glazed and fixed to a height of 1.7 metres above internal floor level; and thereafter clear glazed. It is considered 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 No 28 is therefore considered to have been overcome.

Whether the development can be carried out without conflict with road users or harm to the amenity of the area through access / egress arrangements for car parking and servicing / delivery

The Inspector's two specific issues in terms of traffic impact were:

- 1 The impact of cars having to reverse out of their parking spaces in the rear garden onto Churchbury Lane at this point. The two parking spaces in question have been removed.
- 2 A lack of clarity of the servicing and delivery proposals given the intensification of development on the site.

The delivery and servicing arrangements have now been explained and this is set out in the update report circulated Friday. The applicant has also today provided some additional information as follows:

*"Some of the clients will have Daycare Services (in this proposed site we estimate 30 - 50%). They usually get collected at around 9am and returned 4pm, either a minibus from the provider or get taken and collected by a Guardian or minicab. The vehicles would wait on Churchbury Lane next to the car park area where there are no restrictions for maximum 10 minutes - collection or drop off is usually around 5 min. If a longer collection or drop off is required, then the allocated car parking spaces on the site will be used if available.*

*Also, all residents will not have the ability to drive as they will all have learning disabilities/physical disabilities. Staff will mainly use public transport or walking because the majority of the staff reside locally. We have a similar template at Phylo Court , 1 Bodiam Close , EN1 3HZ.*

*Every flat has a fully functioning kitchen with a washing machine/dryer. Laundry will be done by the client under the supervision of the carer within their flat. (There is no external laundry service)*

*A gardener will attend the gardens once a month"*

It should also be noted that the refuse stores are located immediately adjacent to the public highway. The refuse vehicle will do as it does for all residential properties, by waiting on the carriageway while refuse bins are collected / emptied.

Transportation raise no objection to these arrangements and comment that the traffic calming interventions put in since the Inspector's comments make it safer and quieter road. Deliveries

likely to be daytime/off peak, further reducing impact on parking, and Inspector didn't have concerns over parking provision due to good PTAL.

#### Whether the proposal would retain and protect trees on the site

The Inspector recognised that there were a number of trees on site, including one protected by a TPO that make a positive contribution to the character and appearance of the area. However, there was a lack of information available to the inspector to assess or measure the likely effects of the proposal on the trees or any mitigation measures that supported the Inspectors conclusion that a condition was not appropriate.

This application is supported by an Arboricultural Impact Assessment. This clearly identifies 7 trees for removal and categorises them as Category U. The AIA has been considered by the Tree Officer and he has not concluded differently.

It is clear therefore from the information submitted what the impact on the trees on site is, including the protected tree. The update report circulated Friday made it clear that the cycle store position was acceptable subject to a condition on the method of construction.

The AIA shows the position of the new planting – 8 new trees are proposed, 5 to the front garden area and three to the rear. A condition is required to ensure this is delivered and to include details of the nursery stock sizes of all trees. Shrubs and plants, planting densities for herbaceous plants and detailed method of planting; a five year maintenance plans and replacement planting if they die within a 5 year period.

It should also be noted that although the Arboricultural Assessment is based on a tree survey conducted in October 2021 with the report highlighting these findings are only relevant for 12 months, the report has been considered by the Tree Officer and he had not highlighted any matters that would suggest the report's findings are changed since the survey was undertaken. It is therefore considered appropriate weight can still be given to this assessment.

#### Whether the proposal would appropriately manage flood risk

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.