

SENT VIA EMAIL: planningpolicy@wandsworth.gov.uk

ROK REF: JD/NJ/R00620

28 February 2022

Dear Sir / Madam,

REPRESENTATIONS TO THE REGULATION 19 PUBLICATION OF THE WANDSWORTH DRAFT LOCAL PLAN

ROK Planning have been commissioned to make representations in respect of the London Borough of Wandsworth's ('the Council') Local Plan Publication (Regulation 19) Version (January 2022). These representations are made in respect of draft Wandsworth local plan policy LP31 (Specialist housing for vulnerable people), and particularly part LP31 part B(4) (see bold below) which requires affordable housing to be provided for proposals for the development of specialist and supported housing:

LP31 Specialist Housing for Vulnerable People

A. Existing specialist and supported housing will be protected where it is considered suitable for its use and meets relevant standards for this form of accommodation. The loss of existing specialist and supported housing will not be supported unless:

1. the applicant can robustly demonstrate that there is no longer an identified need for the retention of the accommodation either in its current format or through the modernisation of the premises; or
2. the needs met by this form of accommodation will be re-provided elsewhere within the borough, resulting in no net loss of overall provision.

B. Proposals for the development of specialist and supported housing will be supported where:

1. the applicant can robustly demonstrate that the accommodation meets an identified need, having regard to the evidence set out in the Council's most up-to-date Local Housing Needs Assessment;
2. the accommodation is of a high quality and meets relevant best practice guidance for this type of accommodation;
3. the accommodation has access to good levels of public transport, and to shops, services and leisure facilities appropriate to the needs of the intended occupiers; and
- 4. affordable housing is provided, in accordance with Policies H4 and H5 of the London Plan.**

Use Class Order definition

The Use Class Order ('UCO') defines "care" as: "Personal care for people in need of such care for reasons of old age, disablement, past or present dependence on alcohol, drugs or past or present mental

disorder, and Class C2 also includes the personal care of children and medical care and treatment”.

The above definition is important in confirming the level of care on site and therefore whether the lawful use can be considered to be Class C2 use. The extra-care offer within the care home should be distinct from sheltered housing developments (i.e. Class C3 use), which provide no care on site and minimal ordinary warden facilities including self-contained units. The distinction between the accommodation within the proposed care home and sheltered housing accommodation is an important one in planning terms and should be clear from the outset as this could result in the need to provide affordable housing for any new development (i.e., for C3 types of accommodation).

Where all residents within the care home receive a basic level of care and have meals provided, with additional care tailored to meet individuals’ specific needs and requirements to deliver an integrated care and support environment for frail, elderly residents, this would fall within class C2 use. We consider this further below against the relevant planning policy.

The National Planning Policy Framework (2021) Requirements

Paragraph 35 of the Framework highlights how Local Plans must be examined to assess whether they are prepared in accordance with legal and procedural requirements, and whether they are sound. We have briefly set out below our assessment of the proposed policy intended by the Council to seek affordable housing from various forms and types of care homes in the borough and as contained in the proposed new Wandsworth Local Plan – namely, to be consistent with national, strategic (London Plan) policy and be justified, positively prepared and effective.

- a) **Positively prepared** – to be positively prepared, the draft Wandsworth Local Plan should be flexible to address any unmet need within the Borough over the whole plan period and from neighbouring authorities where it is reasonable to do so and be consistent with sustainable development. The requirement for affordable housing from care homes, particularly those providing specialist forms of nursing care and rehabilitation could negatively impact on the ability for new care homes of this nature to continue to be delivered, and in locations where they can prosper.
- b) **Justified** – to be justified, proportionate evidence should have been provided as to how all forms of care home can remain viable if affordable housing is required and this has not been set out.
- c) **Effective** – to be effective, the draft Wandsworth Local Plan policies, including draft Policy LP31 should assist the Plan to be deliverable over its operational period and based upon effective joint working on cross boundary strategic priorities. Due to the possibility of affordable housing

requirement for all forms of care homes, this does not provide Wandsworth, nor its care home providers, with the sufficient flexibility to deliver much needed care home accommodation targets as set within the London Plan, whilst also remaining adaptable to market changes during the plan period.

- d) **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant, it is clear the requirement for affordable housing for all forms of care home is not practical or viable, particularly where these are in C2 use.

London Plan (2021) Policy Requirements

London Plan Policies H4 (delivering affordable housing) and H5 (threshold approach to applications) set out the affordable housing requirements within London. There is no mention within these policies that developments should require affordable housing provision from class C2 uses; including extra care schemes that fall within the C2 use class.

London Plan Policy H12 sets out the requirement to plan for supported and specialised accommodation for identified need.

London Plan Policy H13 (specialist older persons housing) sets out strategic guidance towards the delivery of specialist and supported housing within the city. At part B(1) it does state, 'affordable housing in accordance with Policy H4 Delivering affordable housing, and Policy H5 Threshold approach to applications'. However, a clear distinction is made in paragraph 4.13.4 which is set out below for clarity.

London Plan para. 4.13.4 states that policy H13 applies to 'specialist older person housing' (as addressed and defined at London Plan para 4.13.6) **and does not apply** to accommodation that has the following attributes, which is considered 'care home accommodation':

- personal care and accommodation are provided together as a package with no clear separation between the two.
- the person using the service cannot choose to receive personal care from another provider.
- people using the service do not hold occupancy agreements such as tenancy agreements, licensing agreements, licences to occupy premises, or leasehold agreements or a freehold.

- likely CQC-regulated activity will be ‘accommodation for persons who require nursing or personal care’.

It is understood that these policies do not cover ‘care homes’ themselves, although the London Plan does assert that care home accommodation is an important element of the suite of accommodation options for older Londoners and this should be recognised by boroughs and applicants. To meet the predicted increase in demand for care home beds to 2029, London needs to provide an average of 867 care home beds a year. Importantly, we take this to mean, that care home accommodation, i.e., class C2 uses, are not ‘related’ to this policy and this means no affordable housing is expected or required from such uses at a strategic level.

Notwithstanding the above, the Council states that Draft Wandsworth Local Plan Policy LP31 has been prepared to be consistent with national policy and in general conformity with the London Plan (2021), however we would contend this on the following reasons.

Specific Comments on draft care home policy – LP31 specialist housing for vulnerable people

As a starting point, our client would like to acknowledge and support the Council’s intention broadly to promote the delivery of new specialist and supported forms of housing such as care home accommodation. This is an identified and important land use in the borough where there is an unmet need.

Notwithstanding, our client takes issue with a lack of clarity and/ or certainty as to which forms of specialist and supported housing a requirement for affordable housing, as stated in LP31B(4) would apply. Subject to confirmation and clarity on the approach from Wandsworth, our client **strongly objects** to any requirement for affordable housing for any form of care home accommodation, particularly for those clearly falling within C2 Use.

Paragraph 17.55 includes the following examples of ‘specialist and supported housing’ to which Wandsworth Draft Policy LP31 applies, and therein creates some confusion as to which forms of care home or specialist housing require affordable housing:

- *Sheltered housing – commonly self-contained homes with limited on-site support.*
- *Residential care homes – commonly bedsit rooms with shared lounges and eating arrangements.*
- *Nursing homes – similar to residential care, but accommodating ill or frail elderly people, and*

staffed by qualified nursing staff.

- *Dual-registered care homes – residential care homes where nursing care is provided for those residents who need it.*
- *Extra-care homes – combinations of the above providing independent living alongside care and support, and sometimes also offering support for older people in the wider community.*
- *Staff accommodation ancillary to a relevant use will also be appropriate.*

We have the following concerns:

In line with national and regional planning policy, this policy should not be intended to require affordable housing from class C2 uses.

Wandsworth Draft Local Plan para. 17.55 includes 'residential care homes' and 'nursing homes' and other Class C2 Uses under the examples of 'specialist and supported housing' to which Draft Policy LP31 applies and suggests affordable housing would be required in line with London Plan policies H4 and H5 for care home accommodation. This is because there is no distinction at part B of the policy LP31 despite London Plan policy H13 paragraph 4.13.4 confirming that policies H4 and H5 do not apply to care home development (Class C2). We do not interpret this policy as setting clearly which forms of care home accommodation requires affordable housing, for instance it is noted some forms of extra care accommodation is Class C3 use and does not represent conformity to the London Plan on this basis.

In addition, and to be considered sound, the draft Wandsworth Plan should be positively prepared, and provide a strategy which, as a minimum, seeks to meet the area's objectively assessed needs. For care home accommodation, Wandsworth's Local Housing Needs Assessment (2020) (LHNA) provided in the Draft Local Plan evidence base, identifies how the shortage of specialist housing for older people in Wandsworth has led to a substantial under-occupation of the general housing supply (paras 10.23 - 10.26). The LHNA identifies that the population of Wandsworth is ageing (paras. 11.17 - 11.18) and this leads to an overall need for 1,453 additional dwellings for older person's and an additional 1,258 care-bed spaces by 2037 (para. 11.23). It should be noted draft paragraph 17.57 of the draft Wandsworth plan acknowledges an indicative London Plan annual benchmark for the borough of 120 units of specialist older persons housing.

The current lack of stock is currently resulting in 'bed blocking' whereby patients who are ready to be discharged to an appropriate care home are remaining in hospital beds due to a lack of sufficient care facilities in line with their assessed care needs. This is also acknowledged in London Plan policy H12

which states that specialised accommodation could include reablement accommodation (intensive short-term) for people who are ready to be discharged from hospital but who require additional support to be able to return safely to live independently at home, or to move into appropriate long-term accommodation

The COVID-19 outbreak has resulted in additional pressures, such as re-thinking around current stock which has shared bedrooms and bathrooms due to infection control. It is therefore apparent that the current stock is not sufficient in terms of the ever-evolving needs of the population.

When added to the above, requiring affordable housing, in the manner set out by LP31, is counterproductive and has the potential to hinder the delivery of much needed care home accommodation further and significantly in the borough. Clarity is therefore needed on this.

Suggested Policy Wording Change

1. The blanket approach to requiring affordable housing, stated at LP31 B(4), from all forms of care home accommodation, including class C2 uses, needs to be removed.
2. At the very least the policy wording should be amended and clarified to ensure it plainly sets out, such as at draft paragraph 17.55, and for the avoidance of doubt, which forms of specialist and supported forms of housing, which are more akin to a class C3 use or class C3 element of development proposals, rather than class C2 uses, would be affected by the requirement for affordable housing.
3. The different forms of care home, specialist and sheltered housing that fall either within class C2 use or class C3 use should be set out clearly in the glossary of the Local Plan.

We trust this representation will be considered as part of the consultation and is helpful. We look forward to being informed as to later stages of the plan preparation process. If you should have any questions in the meantime, please do not hesitate to contact Will Thompson on [REDACTED] or [REDACTED], or myself at this office.

Yours faithfully,

[REDACTED]

Jamie Dempster

Associate Director

