



**GERALDEVE**

**Objection to the London Plan  
(The Mayor of London's draft Spatial Development Strategy  
2017)**

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# 1 Introduction and overview

## *Introduction*

- 1.1 This report has reviewed the draft policies of the Mayor of London's draft Spatial Development Strategy 2017 (the London Plan) and sets out and supports an objection in respect of the policies relating to specialist housing for older people. Gerald Eve has significant experience in advising on planning matters relating to specialist accommodation for older people in the South and London and gave evidence on this matter to the Panel responsible for examining the draft of the current London Plan.
- 1.2 There is a greater need for specialist housing for older people (SHOP) than ever. This is well documented as a demographic fact. This need will grow, as our community ages. As drafted the London Plan will not support or encourage an expansion in the supply of SHOP developments to meet this need. This will result in even greater problems for the community, particularly older people but the resultant adverse effects will impact on the whole community.

## *Overview*

- 1.3 Evidence supporting the policies of the Plan<sup>1</sup> shows that planning policy in London does not encourage or support new, innovative models of specialist housing for older people. The draft Plan seeks only to increase the burden of planning policy constraints on developers of such accommodation. This will inevitably only reinforce this unsatisfactory and unsustainable situation.
- 1.4 As drafted the London Plan incorrectly defines all sheltered and extra care development as falling within Use Class C2<sup>2</sup>. This is incorrect as a matter of fact and law. The policy should be amended to reflect the fact that some Extra Care models can be considered as being Class C2 uses.
- 1.5 The result of the miss classification is that there will be an unjustified constraint on extra care development which favours residential development (Class C3). The effect of which will be that targets for specialist housing for older people set out in the Plan, which

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<sup>1</sup> GLA Older Persons Housing Needs Assessment Report 2017

<sup>2</sup> Town and Country (Use Classes) Order 1985

reflects the needs of the community, will not be met in any meaningful way.

## 2 Evidence supporting the draft Plan

- 2.1 The National Planning Policy Framework (The Framework)<sup>3</sup> makes it clear that development plans should; be prepared based on a strategy which seeks to meet objectively assessed development requirements; be the most appropriate strategy, when considered against the reasonable alternatives, be based on proportionate evidence; be deliverable over its period; and be consistent with national policy.
- 2.2 Chapter 6 of the Framework is concerned with delivering a wide choice of high quality homes. Paragraph 50 of the Framework makes specific reference to the need for housing policies to provide for specialist accommodation for older people.
- 2.3 The contribution that Housing for older people can make to housing supply is also recognised by paragraph 037 of Planning Practice Guidance:

“The need to provide housing for older people **is critical** given the projected increase in the number of households aged 65 and over accounts for over half of the new households.... Plan makers will need to consider the size, location and quality of dwellings needed in the future for older people in order to allow them to live independently and safely in their own home for as long as possible, or to move to more suitable accommodation if they so wish. Supporting independent living can help to reduce the costs to health and social services, and providing more options for older people to move could **also free up houses that are under occupied**. The future need for specialist accommodation for older people broken down by tenure and type (e.g. sheltered, enhanced sheltered, extra care, registered care) should be assessed.... The assessment should set out the level of need for residential institutions (Use Class C2). Many older people may not want or need specialist accommodation or care and may wish to stay or move to general housing that is already suitable, such as bungalows, or homes which can be adapted to meet a change in their needs. Local authorities should therefore identify particular types of general housing as part of their assessment.”

(My emphasis)

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<sup>3</sup> Paragraph 182

2.4 Against this background of national policy the GLA has most recently produced its “Older Persons Housing Needs Assessment Report 2017. This is the evidence base for the draft London Plan. The Report states:

- i The total stock of specialist older persons housing in London fell by just over 600 units between 2015 and 2017 and in 2017 totalled 56,418 units;
- ii Between 2015 and 2017 planning consent was granted for an average of 470 specialist older person housing units a year
- iii At present there is very limited supply of specialist retirement housing for market rent
- iv Total potential demand across London adds up to 4,115 units a year
- v There is demand for both extra-care and sheltered housing.
- vi London currently has numerically enough care home beds but there are insufficient good quality beds and this shortage is particularly acute for dementia patients.
- vii There were no planning consents for specialist older persons housing in 14 London boroughs;
- viii Based on comparisons with the USA and Australia, where the stock of older persons housing is higher and those people who wish to live in specialist accommodation have a practical option to do so, the proportion of older person households moving into specialist older persons housing could be as high as 13-17%; and
- ix The total number of older people with dementia in London rises from 73,825 in 2017 to 96,939 in 2029, an increase of 31%.

2.5 This report describes a picture of non-delivery of specialist housing for older people in London. Current planning policy in the FALP has not facilitated new development to meet defined need identified. In fact the operation of planning policy has been a barrier to new development. The new Plan does nothing to change this situation and facilitate a step change in the provision and supply of special housing for older people.

2.6 Most recently the Communities and Local Government (CLG) Committee has published its report on Housing for Older People. The Committee calls on the Government to recognise the link between homes and health and social care in the forthcoming social care green paper. The Committee also recommends that the National Planning Policy Framework be

amended to encourage the development of more housing for older people and that councils identify a target proportion of new housing to be developed for this purpose, as well as publishing a strategy which explains how they intend to meet the housing needs of older people in their area.

2.7 The report concludes on planning matters as follows:

“We believe that older people should be able to choose from a wide choice of housing which can accommodate their needs and preferences. This will include, across the social and private sectors, smaller, or better designed, general needs housing, accessible housing, specialist housing, including retirement homes and extra care housing, and cohousing. To enable them to make this choice, and move to a home which better suits their needs, the guidance required under the Neighbourhood Planning Act 2017 should recommend that:

- Local authorities produce and publish a strategy explaining how they intend to meet the housing needs of older people in their area, including the scale and mix of housing and the tenures needed, and setting out the evidence relating to current housing need.
- Local Plans should, based on an assessment of local need, identify a target proportion of new housing to be developed for older people and identify suitable well-connected sites, close to local amenities. They should identify a range of different types of housing, including accessible homes, extra care housing and smaller mainstream homes to be built. The number of homes developed against this target should be published each year.
- There should be greater collaboration within local authorities between planning, social care, health and housing teams, particularly on the production of Local Plans. Local authority planning, health and social care teams should work together to assess the savings to health and social care budgets which may arise from additional specialist housing in their area and consider this in the context of negotiations over planning charges.
- Local authorities should be more receptive to private developers who wish to build housing for older people in their area, and appreciate the potential health and wellbeing benefits leading to reduced need to health and social care services to be gained.

2.8 On the matter of viability and the use classes order the report concludes as follows:

“We also heard that the “inconsistent and cumbersome” application of the C2 and C3 planning classifications to extra care housing was problematic for developers.<sup>320</sup> Some local authorities apply the C2 classification, applied to residential care homes and nursing homes, to extra care housing which reduces planning charges. Others classify this type of housing as C3, along with mainstream housing, which means full charges apply. Audley Retirement argued that extra care housing should fall within the C2 class:

Extra care is set up to fulfil many of the functions that care homes can provide in terms of care delivery as and when the resident requires it, monitored by an onsite care team and there is access to communal facilities. There are controls over who can occupy them by age and a need for care that do not exist on C3 standard dwellings.

Extra care housing developers had a range of suggestions for countering this issue: an “extension and additional clarity” on C2 so that it captures extra care housing; the creation of a sub-section of C2 which attracts lower planning charges; and the creation of a “dedicated use class” for extra care housing which would enable planning contributions to be streamlined.

When we asked about this, the then Housing Minister, Alok Sharma, told us that the guidance will look at the “precise terminology that is used to describe the different types of older people’s housing”. We believe that the level of planning contributions on specialist housing, which are increased as a result of the non-saleable communal areas which are a feature of this type of housing, is impeding the delivery of homes. We recommend either the creation of a sub-category of the C2 planning classification (which currently applies to residential care and nursing homes) for specialist housing, which would reduce the contributions required from developers, or the creation of a new use class for specialist housing which would have the same effect.”

### **3 Why planning policy in respect of specialist accommodation for older people has failed**

- 3.1 Specialist accommodation for older people, whilst providing a residential option, comes with significant levels of communal, specialist accommodation including care and medical facilities. The development costs attached to these result in a cost profile which is, far greater than general housing development, providing all other parameters are equal. The London Plan allows the application of affordable housing policy onto specialist housing for

older people developments and therefore the general residential developer, in principle, can outbid the specialist developer on all available sites. This imbalance in the land market, created by policy, is an effective barrier to specialist development. The specialist developer cannot fairly compete in the land market and their developments will therefore not be built.

3.2 Much is assumed in respect of the ability to classify developments as class C2 (residential institution) and Class C3 (Residential). This is a question which has been addressed in papers from the Housing Learning Institute, the Royal Town Planning Institute and Inspectors at appeal.

3.3 Very recently this has been tested at appeal where the Inspector gave the following assessment and conclusion:

“<sup>4</sup>Use class and affordable housing

46. If the Council is correct in its assertion that the proposed development would fall within the C3 Use Class (Dwelling Houses) then a substantial contribution to, or provision of, affordable housing units would be required. Both parties agreed that if this were the case there would be conflict with the development plan but if I were to find it was C2 (Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses))) then no such provision would be necessary.

47. The units would be occupied by persons aged over 65 years old who had been assessed as needing 1.5 hours per week care as a minimum. The appellant confirmed that it would be a requirement of the terms of occupation that occupiers had an assessment of their needs and that they would contract to pay for, and accept, the level of assessed care. Staff would be on call 24 hours a day and each unit would have an alarm system and the residents would be able to use the communal facilities in the apartment block. Although this would be restricted to a small lounge area and be of little practical use, I am mindful that the Use Classes Order does not require any communal facilities to be provided.

48. There are a large number of terms used to describe this type of provision including extra care housing, enhanced sheltered housing and assisted living and the Use Class

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<sup>4</sup> APP/M2270/W/16/3161379 Balcombes Hill, Goudhurst, Cranbrook, Kent TN17 1AT

in which they fall depends on the facts and circumstances of each case. I cannot imagine there would be many potential residents who were not in need of, or not anticipating being imminently in need of, at least a modicum of regular care. Moreover, reinforcement of the premises-specific culture of care and support would be effected by the terms of occupation based on minimum age and minimum take-up of care services (albeit limited in terms of hours).

49. Furthermore, the service charges are likely to be well beyond those that might reasonably be expected in non-institutional accommodation. The illusion of independent living would come through the physical self-containment and saleability (to qualifying occupiers) of the individual units, whereas the reality would probably be one of a tightly knit community unified by access to a dedicated enterprise of specialist care and security for the elderly.

50. I also see no reason why the location of care provision off site at Ticehurst is determinative, not least because this provides operational efficiencies whilst ensuring a dedicated responder service is available. Furthermore, in response to the Council's concerns the appellant clarified that it is his intention to recruit a local registered manager and to register the domiciliary care business with the Care Quality Commission or to identify a suitable local domiciliary care provider. The details of which could be secured by condition, as agreed by the parties.

51. These characteristics, when combined with the scope to secure them through the use of a planning condition (which was agreed by the parties during the course of the Hearing in light of the failure to agree the content and form a legal agreement) leads me to conclude that, on the evidence before me and in this particular case, the proposal is properly classified as within the C2 use class.

52. However desirable affordable housing might be as a matter of principle or, as put to me by the Council and interested persons at the Hearing, to be locally appropriate, I conclude that there is no requirement for the proposal to provide any and the lack of affordable housing in this case does not weigh against the proposal."

- 3.4 For a development to be classified as Class C2 it must have an identified (and if required) a controlled provision of care.
- 3.5 This issue has been highlighted by the Local Government Associate in its publication "Housing our Ageing Population". It recommends that:

- i “Guidelines are published by the Government that clarify the different housing models/ typologies for older people with appropriate recommendations regarding planning Use Class and planning facilitation measures for the assessment of applications.
- ii Councils are supported and incentivised to build age-friendly neighbourhood principles into planning policies, integrating All Age Friendly housing as part of healthy, inclusive mixed tenure housing developments.”

3.6 In contrast the new London Plan seeks to define “extra care housing” as Class C3 residential use. This is incorrect, inappropriate and wrong in law. It also fails to reflect the approach to this by all relevant authoritative bodies.

## 4 The analysis of viability and affordable housing

4.1 In this respect we rely on the representations made on behalf of London First which highlight the fundamental flaws in the evidence base. This must lead to the re assessment of the application to affordable housing policy to Class C2 extra care development.

## 5 Suggested Policy approach

5.1 The following changes to the Plan should be made:

Existing Policy

Policy H15 Specialist older persons housing

...

C. Sheltered accommodation and ~~extra care accommodation~~ is considered as being in Use Class C3. Residential nursing care accommodation (including end of life/ hospice care and dementia care home accommodation) is considered as being in Use Class C2.

**Extra care accommodation, where care is an integral part of the development is also considered to be Class C2 accommodation**

14.15.3 In some circumstances, older people may choose to seek alternative, more tailored specialist accommodation. There is a range of specialist accommodation options and the following definitions should be applied in London:

- Sheltered accommodation and ~~extra care accommodation~~ should be considered as C3

housing:

- Sheltered accommodation (also referred to as supported housing) is self-contained accommodation specifically designed and managed for older people (minimum age of 55 years) who require no or a low level of support. Schemes normally include additional communal facilities such as a residents' lounge and a scheme manager, warden or personal alarm/telecare system

- extra care accommodation (also referred to as assisted living, close care, or continuing care housing) **should be considered Class C2 housing** it is self-contained residential accommodation and associated facilities, designed and managed to meet the needs and aspirations of older people, and which provides 24-hour access to emergency support. A range of facilities are normally available such as a residents' lounge, laundry room, a restaurant or meal provision facilities, classes, and a base for health care workers. Domiciliary care will be available to varying levels, either as part of the accommodation package or as additional services which can be purchased if required. **These facilities will be registered with the Care Quality Commission ( or subsequent body responsible for their work)**

- residential nursing care accommodation (including end of life/ hospice care and dementia care home accommodation) should be considered as C2 as it provides non-self contained residential accommodation for people who require additional personal or nursing care. Rooms may be private or shared and may provide an ensuite bathroom. Communal facilities are likely to include a dining room and residents' lounge, with meals and personal services routinely provided to all residents. Personal or nursing care is a critical part of the accommodation package at residential/nursing care accommodation. ~~Care homes are unlikely to provide more than 80 bed spaces in total.~~

**4.15.4 Research identifies that the Provision of accommodation for older Londoners is far behind that of countries such as Australia, Holland and the United States of America. The London Plan will redress this by supporting developments which would increase the number of "fit for purpose" care units. New models of care are emerging and these will be supported. The aim of the London Plan will be to encourage modern models of care accommodation to meet the needs and aspirations on our ageing community.**

## **6 Conclusions**

- 6.1 This report has reviewed the draft policies of the London Plan and sets out and supports an objection in respect of the policies relating to specialist housing for older people.
  
- 6.2 A fundamental change to the London Plan is required to establish its planning policies as a real and feasible basis to address the needs of older people in London. As they have been currently drafted they ignore the evidence base of the Plan and will not meet the needs of older people in London.