Case No: L40CL406

IN THE COUNTY COURT AT CENTRAL LONDON

Thomas More Building
Royal Courts of Justice
Strand
London
WC2A 2LL

Date: 28 April 2025

Before :

HHJ SAGGERSON

- -

Between :

MS HILAL HAJI MOHAMED	**Appellant**
- and -	
LONDON BOROUGH OF HOUNSLOW	**Respondent**

- -

- -

Mr Daniel Clarke: Counsel for the **Appellant**
Mr Michael Paget: Counsel for the **Respondent**

Hearing date: 10 April 2025

Approved Judgment

Handed down electronically effective 10.30am 28 April 2025

His Honour Judge Saggerson:

Introduction

1. This is the hearing of the Appellant's s.204 Housing Act 1996 ("the Act") appeal against the Respondent's homelessness review decision dated 2 December 2024 that temporary accommodation provided to the Appellant under s.193 of the Act at 9 Alexandra Court, Lampton Road, Hounslow, TW3 4DL ("the Accommodation") is suitable for her for her family.

2. Mr Clarke of Counsel appears on behalf of the Appellant. I am grateful for his perfected skeleton argument, dated 7 April 2025. Mr Paget of Counsel appears on behalf of the Respondent. I am grateful for his perfected skeleton argument, dated 8 April 2025.

3. There is a bundle of documents and a bundle of authorities before the Court. References to page numbers "[ ]" are to the bundle of documents unless otherwise stated.

Appellant's application to adduce further evidence

4. The Appellant issued an application, dated 4 February 2025, to adduce and rely on a further witness statement from the Appellant dealing with matters and events after the date of the review decision.

5. The application was opposed.

6. I refused the application for reasons I gave in an oral ruling at the time.

7. In all the circumstances the application is dismissed with no order as to costs.

Respondent's skeleton argument

8. It is common ground that the Respondent filed its skeleton argument late, that is, outside the time permitted in the directions order given by HHJ Saunders. No application was made to extend that time or for relief from such sanction as might arise. Mr Clarke did not submit that I should not rely on the Respondent's skeleton, rather I should impose a costs penalty.

9. For reasons I gave orally at the time I allowed the Respondent to rely on the skeleton without costs sanction on this occasion notwithstanding that it had been reminded of its obligations by the Appellant's solicitors.

Appellant's relevant background & housing history

10. I gratefully take what follows in summary form mostly from Mr Clarke's skeleton argument because it is uncontroversial.

11. The Appellant is a single mother who lives with four children (three of whom are adults), including Zubair, aged 13. Zubair is disabled. He is diagnosed with Autism Spectrum Disorder (ASD), Severe Learning Difficulties, Attention Deficit and Hyperactivity Disorder (ADHD), and a generalised seizure disorder. He has severe challenging behaviour and is non-verbal. The Appellant is Zubair's full-time carer.

12. The Appellant first approached the Respondent for housing assistance on 28 January 2022. The Respondent provided the Appellant with temporary accommodation at 12 Boyd Avenue, Southall, which was not suitable for the Appellant and Zubair's needs. In July 2023, the Respondent offered the Appellant alternative temporary accommodation at 242 Elmwood Avenue which was also unsuitable. The Respondent failed to undertake an assessment of the Appellant's housing needs and prepare a Personal Housing Plan ("PHP"). As a result, judicial review proceedings were issued on 14 August 2023.

13. However, the Respondent prepared a PHP and housing needs assessment on 19 October 2023 [184] and on 27 November 2023, the Respondent accepted the main housing duty under section 193(2) Housing Act 1996 [190]. The PHP and the housing needs assessment were revised on 11 January 2024 [209]. This was followed by a consent order on 12 January 2024 settling the judicial review [207].

14. On 30 January 2024, the Appellant's solicitors provided the Respondent with an Occupational Therapist report from Mrs Meera Vitarana. The assessment took place on

10 January 2024 at Elmwood Avenue ("the First Report") [193]. At §13.2 [205], Zubair's housing needs and recommendations for any future offer of accommodation were:

i) A property with five bedrooms, with Zubair having his own bedroom, or in the alternative a four-bedroom property with a separate lounge that can accommodate a bed.

ii) Ground floor flat or bungalow due to the risk of Zubair exiting the property through a window.

iii) Hard flooring due to Zubair's issues with spillages and continence.

iv) Garden provision.

v) Window restrictors and locks with keys to reduce the risk of Zubair absconding.

vi) Parking facility nearby to reduce the risk of Zubair absconding.

vii) Property without dampness or infestation.

15. Following correspondence, the PHP and housing needs assessment was further revised on 28 February 2024 [218], with the Respondent accepting the following housing needs given Zubair's disabilities: "*4-bedrooms, as Zubair requires his own bedroom; at least two toilets (as Zubair requires his own toilet); nearby parking; windows to have restrictors for safety; a garden; a ground floor property.*"

16. On 3 June 2024, the Appellant applied to reinstate the judicial review and enforce the consent order dated 12 January 2024, because the Respondent had failed to provide alternative accommodation by 25 March 2024 as agreed [239]. The judicial review was finally settled on 25 June 2024 [262].

17. On 7 June 2024, the Appellant had been contacted by the Respondent and was offered the Accommodation [244]. On the ground floor, there are two bedrooms and a toilet, shower and wet room. On the first floor, there is a living room and a kitchen. On the second floor, there are two bedrooms, including the largest bedroom, and a shower room. The Appellant viewed the property and accepted the offer on 10 June 2024, subject to a review as to its suitability, which the Appellant requested on 21 June 2024.

18. On 17 July 2024, Mrs Meera Vitarana attended the Accommodation, to assess the property and Zubair's needs. The report dated 27 August 2024 ("the Updated Report") [251] confirmed that the Appellant's and Zubair's needs were the same as detailed in the First Report, with two additional points: bath provision; and two toilets for access.

19. The Appellant's solicitors sent representations by email dated 20 September 2024 in support of a review [264].

20. A 'minded to' letter was sent by the Review Officer to the Appellant's solicitors by email on 7 November 2024 [274].

21. By email on 15 November 2024, the Appellant's solicitors provided further review submissions on behalf of the Appellant [286], enclosing, *inter alia*, an email from the Occupational Therapist dated 11 November 2024 [284], and a photo of a rat at the Accommodation dated 29 October 2024.

22. On 2 December 2024, the Respondent's decision [3], sent by email to the Appellant's solicitors, upheld the finding that the property was suitable.

General: statutory housing appeals

23. In *Holmes-Moorhouse v Richmond-upon-Thames LBC* [2009] 1 WLR 413 Lord Neuberger gave general guidance as to how circuit judges should approach statutory housing appeals:

> "46. The rights granted by Part VII of the 1996 Act to those claiming to be homeless or threatened with homelessness are based on humanitarian considerations, and this underlines the fact that any challenge to a review decision should be carefully considered by the County Court to whom such challenges are directed. Given that the challenge in the County Court is treated as a first appeal, the responsibility on the Judge considering the challenge is heavy, and, if he or she is satisfied that there is an error in the reasoning which undermines the basis upon which the decision was arrived at, then the decision should obviously be set aside.
>
> 47. However, a Judge should not adopt an unfair or unrealistic approach when considering or interpreting such review decisions. Although they may often be checked by people with legal experience or qualifications before they are sent out, review decisions are prepared by housing officers, who occupy a post of considerable responsibility and who have substantial experience in the housing field, but they are not lawyers. It is not therefore appropriate to subject their decisions to the same sort of analysis as may be applied to a contract drafted by solicitors, to an Act of Parliament, or to a court's judgment.
>
> …
>
> 49. In my view, it is therefore very important that, while Circuit Judges should be vigilant in ensuring that no applicant is wrongly deprived of benefits under Part VII of the 1996 Act because of any error on the part of the reviewing officer, it is equally important that an error which does not, on a fair analysis, undermine the basis of the decision, is not accepted as a reason for overturning the decision.
>
> 50. Accordingly, a benevolent approach should be adopted to the interpretation of review decisions. The court should not take too technical view of the language used, or search for inconsistencies, or adopt a nit-picking approach, when

> confronted with an appeal against a review decision. That is not to say that the court should approve incomprehensible or misguided reasoning, but it should be realistic and practical in its approach to the interpretation of review decisions."

Suitability

24. S.206(1) of the Act provides that the authority may discharge its housing functions only by securing 'suitable' accommodation. Suitability applies to the Appellant and her household including Zubair and falls to be assessed as of the date of the review.

25. Under s.182(1) of the Act, local authorities are required to have regard to such guidance as may from time to time be given by the Secretary of State. The current general guidance is contained in the Homelessness Code of Guidance for Local Authorities 2018 ("the Code").

26. The Code says at Chapter 17, "Suitability of accommodation" (emphasis added):

> "17.4 Space and arrangement will be key factors in determining the suitability of accommodation. However, consideration of whether accommodation is suitable will require an assessment of all aspects of the accommodation *in the light of the relevant needs, requirements and circumstances of the homeless person and their household.*"

27. In *Balog v Birmingham CC* [2014] HLR 14, Kitchin LJ said at §46 to 51 that while a decision need not expressly cite each relevant paragraph of the Code, it must demonstrate that regard has been had to the relevant parts and undertake the analysis envisaged by them.

28. In *Nzolameso v Westminster CC* [2015] 2 All ER 942 Baroness Hale said:

> "32. It must be clear from the decision that proper consideration has been given to the relevant matters required by the Act and the Code. While the court should not adopt an overly technical or 'nit-picking' approach to the reasons given in the decision, these do have to be adequate to fulfil their basic function".

29. In *Kannan v Newham LBC* [2019] HLR 22 Lewison LJ said amongst much else:

> "7. In considering whether accommodation is suitable the reviewing officer is entitled to have regard to 'the realities given the practical constraints imposed, both by the numbers of competing applicants for a housing stock limited in quantity and quality by financial constraints': *R (Omar) v Brent LBC* (1991) 23 HLR 446 at 459. He is equally entitled to take into account 'the background of serious shortage of housing and overwhelming demand from other applicants, many no doubt equally deserving': *Poshteh v Kensington and Chelsea RLBC* [2017] UKSC 36, [2017] AC 624 at [39]".

…

30. In *R (Sacupima) v Newham LBC* [2001] 1 WLR 563 Latham LJ said at page 573 (emphasis added):

> "Although financial constraints and limited housing stock are matters that can be taken into account in determining suitability, 'there is a minimum and … *one must look at the needs and circumstances of the particular family and decide what is suitable for them, and there will be a line to be drawn below which the standard of accommodation cannot fall.'"*

Adjustments, Mitigation, Alterations.

31. The Court of Appeal held in *Boreh v Ealing* [2008] EWCA Civ 1176, a case about wheelchair access (Rimer LJ at § 27 endorsed by Wall LJ at § 57) that the review officer may take into account "proposals" for adaptations or alterations where they are "certain, binding and enforceable":

> " … suitability of offered accommodation is not to be judged exclusively by reference to the condition of the accommodation at the time of the [offer or review], but *that the assessment of its suitability can and should also take into account any adaptations or alterations that are, at that time, proposed to be made. I would, however, qualify that by saying that I consider that any such proposals would have to be the subject of assurances that the applicant could fairly regard as certain, binding and enforceable.* I also agree with the recorder that, if the accommodation as it currently stands is unsuitable, it will be a matter of fact and degree as to whether any such proposed adaptations and alterations will be such as to make it suitable" (emphasis added).

32. There is no reason why these principles should not be applicable to a case such as the present where an offer of temporary accommodation has been accepted subject to a suitability review and the relevant date is the date of that review as compared to a case such as *Boreh* where an offer was refused and the relevant date was the date of the offer.

Children Act 2004 – Public Sector Equality Duty

33. Zubair is 13 years old and disabled (s.6 Equality Act 2010).

34. From *Nzolameso* can be derived the proposition that in making a multi-factorial evaluation such as suitability the welfare duty (s.11 Children Act 2004) encompasses an obligation to safeguard, assess and promote the welfare of children, not only in the formulation of policy but in the application of policy to specific cases. S.11(2) provides:

> "(2) Each person and body to whom this section applies must make arrangements for ensuring that—
>
> (a)their functions are discharged having regard to the need to safeguard and promote the welfare of children;"

35. S.149 of the Equality Act 2010 provides (so far as material):

> "(1) A public authority must, in the exercise of its functions, have due regard to the need to—
>
> (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
>
> (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; …
>
> …
>
> (3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
>
> (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
>
> (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; …
>
> (4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
>
> …
>
> (7) The relevant protected characteristics are … disability."

Hackney LBC v Haque [2017] PTSR 769 was a case involving a challenge to the suitability of accommodation offered under Part 7. Briggs LJ, as he then was, said at §43 that when considering the PSED in s.149 of the Equality Act 2010, the reviewing officer should:

i) recognise that the applicant had a disability;

ii) focus on specific aspects of his impairments to the extent that they were relevant to the suitability of the accommodation;

iii) focus on the disadvantages he might suffer when compared to a person without those impairments;

iv) focus on his accommodation needs arising from those impairments and the extent to which the accommodation met those needs;

v) recognise that the applicant's particular needs might require him to be treated more favourably than a person without a disability; and

vi) review the suitability of the accommodation, paying due regard to those matters.

36. Briggs LJ continued at paragraph 44:

> "… the PSED did not in my judgement require Mr Banjo [the reviewing officer] to consider whether Mr Haque needed accommodation which was more than suitable for his particular needs. It required him to *apply sharp focus upon the particular aspects of Mr Haque's disabilities and to ask himself with rigour, and with an open mind, whether the particular disadvantages and needs arising from them* were such…"

Zubair's Behaviour

37. The diagnoses outlined in paragraph 11 above puts labels on some very challenging behaviours. The medical position is not disputed. The following summary outlines some of the main features of the considerable and exhausting challenges faced by the Appellant, his principal carer.

i) His behaviour is exuberant and difficult to monitor and control. He is a danger to himself and others.

ii) He obsessively runs up and down the stairs and jumps from them in this three-storey town house. He has had falls. He is prone to absconding through doors (which he is able to unlock) and unrestricted windows (the Accommodation being close to main roads) which poses a high chance of his jumping out of windows on the upper floors.

iii) He gathers and throws gravel from the rear garden over the fences and at people and puts it in his mouth.

iv) If he is in the living room area on the first floor he will "escape" into the kitchen area to play with equipment and utensils if left unguarded.

v) He is at risk of putting rodent faeces in his mouth and there is concern that he would do the same with rodent poison put down if not carefully hidden. When he discovered a dead rat at the Accommodation his curiosity led to his handling of it.

vi) He experiences episodes of urinary incontinence.

vii) Although he shares the largest bedroom on the second floor with the Appellant, he does not always sleep through the night leaving him exposed to the risks that the Accommodation presents – such as the stairs and windows. Using a smaller, ground floor bedroom would increase the risk of absconding.

38. The occupational therapist reports on 27 August 2024 [258] that the stairs are a significant risk for Zubair's safety and [259] he is at risk of injuring himself and others in the context of a number of Accommodation related matters. She reports that the Accommodation is more dangerous than previous properties occupied by the family and that a move is urgently required to minimise the risk of deterioration in Zubair's condition and behaviour. She reports a downturn in Zubair's behaviour since moving to the Accommodation [254]. Her recommendations (see paragraph 14 above) focus on Zubair's safety and are confirmed by a brisk medical needs assessment [216].

39. There is a small photograph [256] illustrating the type of stairs servicing the upper floors of the Accommodation.

Grounds of Appeal

40. There are four Grounds [26].

41. Ground 1 is not pursued.

42. Ground 2 focuses on *Boreh* and the contention that in five specified respects the review officer's decision was based on potential improvements or adjustments to the Accommodation that were not "*certain, binding and enforceable*" at the time of the review and reflect little more than optimistic ambitions and so the decision was irrational.

43. Ground 3 concentrates on rationality in the context of the occupational therapist's report and the dangers and risks the Accommodation poses to Zubair and by extension others particularly with regard to the staircase and the risk of absconding.

44. Ground 4 brings into the equation the Children Act 2004 and the Public Sector Equality Duty as part of the rationality assessment.

45. Mr Clarke recognises that a challenge based on irrationality presents a high hurdle. However, to demonstrate irrationality does not mean that a person must show "*a decision so bizarre that its author must be regarded as temporarily unhinged*", rather "*it means a decision which does not add up in which…there is an error of reasoning which robs the decision of logic*." (*R v Parliamentary Commissioner for Administration ex p Balchin* [1997] JPL 197).

The Respondent's Position

46. Mr Paget, on behalf of the Respondent, seeks to uphold the review officer's decision in the following way.

    i) No accommodation could be regarded as "safe" for Zubair. He will always present a risk to himself and others wherever he is accommodated.

    ii) The decision is predicated on the justified assumption that Zubair must be and is supervised at all times and that the review officer was entitled to consider suitability on the inevitable basis that such supervision will always be necessary wherever the family is accommodated. If the provision of appropriate supervision is questioned and more is required that is a matter for a care plan not a suitability assessment of the Accommodation.

iii) The PHP suggests 4 bedroomed accommodation with 2 toilets. The Accommodation in question is such a property.

iv) The living arrangements within the Accommodation can be configured to minimise risks to Zubair were he to be based on the ground floor in a ground floor bedroom albeit with use of the smaller ground floor wet room facilities.

v) Adjustments can be made (such as window locks and a grassed garden) to minimise remaining risks to level below which no property is likely to achieve.

vi) Disrepair matters, such as rodent infestation and damp can and should be addressed by the landlord (although we never identified who the landlord is).

vii) Suitability is classically a matter of fact and degree and the decision based on a factual evaluation is that of the Respondent and the review officer. The nature of the Accommodation as temporary is a relevant factor.

viii) It is for the Appellant to demonstrate some error of law.

ix) He reminds the Court that the duties arising from the Children Act 2024 and the Public Sector Equality Duty are not duties that require the Respondent to achieve a particular result, but rather duties to have due regard to achieve the goals identified.

x) The decision under appeal was infused from start to finish with a close and detailed consideration of the needs of the Appellant and Zubair bearing in mind the continued need for and provision of constant supervision. The decision must be approached as a whole, in the round and without "nit-picking".

47. I also take judicial notice of the fact that, for the Respondent, the housing challenges presented by the Appellant and Zubair must seem, subjectively, to be almost insurmountable. Given the resources likely to be available to the Respondent and the many calls on those scarce resources, finding a four or five bedroomed bungalow or ground floor flat within the Borough is likely to be a daunting task.

48. However, in my judgment the review officer's decision was legally flawed and irrational in the sense described above.

The Stairs

49. The review officer concludes ("Stairs") [7] that Zubair has some "challenging" behaviour on the stairs because of which he needs to be under enhanced supervision on the stairs and when using the two upper floors of the Accommodation. This needs to be constant [9] and due to the fact that most environments would present similar hazards and supervision is in place, and *hazards … can be minimised if the correct measures are put in place…"* the Accommodation is suitable. Apart from supervision it is not entirely clear what the *"correct measures"* might be, although the review officer may have had in mind gates, banister barriers or some other reconfiguration of the staircases.

50. In my judgment there are three flaws in this approach.

50.1 The first is that the occupational therapist [258] concludes that there is a significant risk to Zubair's safety and well-being with the stairs (including jumping from upper floors or falling) *notwithstanding* the care and supervision regime in place. It is more dangerous than previous properties [259 - §13.1]. No account has been taken of Zubair's night wanderings. The enhanced supervision provided by the Appellant (and intermittently others) does not counteract the risks posed by the stairs. Zubair is 13 years old, not 13 months.

50.2 The second is that any adaptations or alterations (such as they may be) are not subject to "*certain, binding and enforceable*" proposals (*Boreh*). Indeed, there are no specific proposals at all for the stairs.

50.3 Thirdly, the review officer has not (by reason of the above) had any or any sufficient regard to safeguarding or promoting the welfare and best interests of Zubair applying the focus demanded in the context of this Accommodation and this child despite the section in the review at [12].

Windows

51. Although there is discussion about windows and window restrictors in the pre-review correspondence and representations this is dealt with in the review decision as "other hazards" [10] which can be mitigated by "correct measures". In fact, it is common ground that windows should have opening restrictors to minimise the risk of Zubair absconding (or provide a carer time to respond to an attempt) through a window or injuring himself in the attempt, particularly at night. There are no such restrictors in place.

52. The review officer also deals with window locks under the heading of "Disrepair" [11]. This is an error of principle. The absence of window locks is not "Disrepair". There is no apparent reason why the landlord should fit window locks however often the review officer has discussed this with the caseworker.

53. Adaptations or alterations for window restrictors are not subject to "*certain, binding and enforceable*" proposals (*Boreh*). There are no specific proposals at all for the windows on any of the floors of this town house (see the occupational therapist's report @ [256 § 6.7]). There is no focused consideration of the fact that the risk of absconding through an unlocked window is inferentially likely to be greater if Zubair moves to a ground floor bedroom.

54. The review officer has not had any or any sufficient regard to safeguarding or promoting the welfare and best interests of Zubair applying the focus demanded in the context of this accommodation and this child with regard to window locks.

Garden

55. At [8] the review officer concentrates only on the risk of Zubair's absconding from the garden. He does not deal with the occupational therapist's observation [259 §12.8] concerning the risk of injury from Zubair throwing handfuls of gravel at the Accommodation and over the fence onto a busy thoroughfare or putting gravel in his mouth (similar to the risk posed with rodent faeces and poison) or the risk of injury to himself and others this presents.

56. The notion that these problems can be eradicated or minimised by using playmats with constant supervision is, in my judgment, illogical and unrealistic. Neither safeguard will stop or minimise the risk of such behaviour. The somewhat "breezy" reliance on playmats says nothing about what products might be available or at what, or who's cost. Asking the landlord (whoever that may be) to grass over the garden is, in my judgment, clearly a thoughtless and unrealistic idea. A gravelled garden in not "Disrepair".

57. Whether on *Boreh* principles or otherwise I am satisfied that the review officer has not had any or any sufficient regard to safeguarding or promoting the welfare and best interests of Zubair applying the focus demanded in the context of this accommodation and this child with regard to the gravelled garden.

Infestation

58. Some would pause to reflect whether any property affected by a rodent infestation (as with the Accommodation) could be suitable for a family to live in. Nonetheless, an occupant experiencing such problems is likely to have recourse to a landlord on disrepair or fitness for human habitation grounds, subject to there being some "*certain, binding and enforceable*" proposals for addressing such a problem. The threshold for fitness for human habitation being so low may mean that many offerees would have to accept a least-worst option in terms of suitability and address the infestation subsequently.

59. However, in the present case, the problem has particular resonance and consequences relevant to particular occupants. The particular problems are engaged as regards Zubair and the risk of ingesting faeces and poison [256 § 6.5] notwithstanding enhanced supervision. The measures taken to stuff plastic bags into entry-holes and limiting poison to corners to which Zubair cannot have access are inadequate. They indicate that the infestation cannot be addressed given Zubair's particular disabilities.

60. I am satisfied that the review officer has failed to take into account the particularities of this family and Zubair (see § 34 and 36 above) and has not properly applied the requirements of the Children Act 2004 or the Public Sector Equality Duty in the context of the infestation. It is one thing to expect a landlord to address an infestation, it is quite another to have to do this whilst trying to prevent a child eating faeces or poison.

Temporary Accommodation

61. The review officer concluded [9] that the Accommodation is suitable for the household to "*continue to occupy in the short term".* The occupational therapist recommends an urgent removal on the basis that the Accommodation is worse than that previously occupied and poses specific identifiable risks.

62. Mr Paget does not suggest in his written submissions that the feature of temporary accommodation plays a pivotal role in this appeal and no time was invested on this issue at the oral hearing.

63. The fact that the Accommodation is temporary is a relevant factor amongst the many engaged with the question of suitability. What may be suitable for a short period may be unsuitable for a longer period. However, in my judgment, the fact that this is designated as temporary accommodation cannot get the Respondent off the hook in the

present case. Just how temporary is not discussed by the review officer nor is it taken into account. There was no evidence before the review officer as to what steps were being taken by the Respondent to see an end to the temporary nature of the allocation. Had it been considered it would have had to take into account the fact that there are several respects in which this accommodation is considered positively dangerous for Zubair.

Quashing or varying the decision

64. S.204(3) of the Act provides:

> "On appeal the court may make such order confirming, quashing or varying the decision as it thinks fit."

65. The review decision of 2 December 2024 should only be varied to a decision that the Accommodation is not suitable accommodation if there is no real prospect that a fresh review could reach a different result. In *Deugi v Tower Hamlets LBC* [2006] HLR 28 May LJ said at § 36-37:

> "The question for the judge was whether there was any real prospect that Tower Hamlets, acting rationally and with the benefit of further enquiry, might have been satisfied that Mrs Deugi was intentionally homeless".

66. I conclude that if the review officer were to have proper regard to all of the relevant factors there is no real prospect that a fresh review decision could conclude other than that the Accommodation is unsuitable. Accordingly, I vary the review decision to state that the Accommodation is unsuitable.

67. Mr Paget invites me, in the event that the appeal is allowed, to remit the matter to the Respondent in order for further steps to be taken. I decline that invitation.

Conclusions

68. The appeal is allowed. The decision is varied. The Accommodation is unsuitable.

69. I am satisfied that in the respects detailed in this Judgment the challenges to the review officer's decision set out in Grounds 2, 3 and 4 are made out.

70. This Judgment is circulated and handed down electronically, effective at 10.30am on Monday 28 April 2025.

28 April 2025.

Alan Saggerson

JUDICIARY OF ENGLAND AND WALES

His Honour Judge Saggerson, Circuit Judge, County Court at Central London

Thomas More Building | Royal Courts of Justice | Strand | London WC2A 2LL

[Court 62; Room 1101]