

2,4,6 and 8 DANSON ROAD, BEXLEYHEATH, DA6 8HB

APPELLANT'S OPENING SUBMISSIONS

1. This is a rather unusual section 78 appeal and public inquiry, as Bexley Council, the Local Planning Authority that originally refused the application, has pulled out leaving the Rule 6 party: "Danson Neighbours Residents' Group" to support the LPA's refusal on some, but not all of the reasons for refusal that were given by the Council's planning committee.
2. In fact the position of the Council seems to have shifted on a number of occasions.
3. The application was initially supported by the officers in their report to committee. The Planning Officers Report of some 40 unpaginated pages reached the conclusions that in respect of the principle of development, the impact on heritage assets, design, character and appearance, highway safety and access, neighbours' residential amenity, the need for nursing residential accommodation, especially for dementia sufferers, parking, quality of accommodation, the development would be acceptable, would comply with Bexley's own planning policy and the London Plan, the NPPF and the PPG.
4. Accordingly, they recommended "Grant planning permission" subject to 18 conditions and the entering into a section 106 agreement.
5. Unfortunately, the Committee did not agree and voted to refuse permission on the basis of six stated Reasons for Refusal. As the refusal and its reasons were diametrically opposite to the professional views of the planning officers, we will never know the thinking behind the reasons as they were not derived from the Officer's Report and we (and everyone else) are left to guess the basis for Committee's decision.
6. Although they subsequently produced a Statement of Case and an "Appeal Statement of the Local Planning Authority" and a separate "Statement of the Local Highway Authority", the Council changed its mind again and by letter of November 2022, offered to withdraw its objections to the application and has subsequently withdrawn from the appeal. That withdrawal is unconditional and means that the LPA does not appear as objectors to any aspect of the application. It follows that the reasons for refusal are no longer supported by the LPA and the LPA's Appeal Statement and the Highways Appeal statement should not be treated as evidence in the appeal.
7. The Council and the Appellant have produced a Statement of Common Ground, which identifies areas of both agreement and a single area of "disagreement". The SoCG also states that "there are no areas of disagreement between the parties other than those elements of disagreement of emphasis as set out above." Below this statement the SoCg provides a single area of disagreement which concerns Paragraph 11(d) of the NPPF. Quite how the LPA proposes to promote those "areas of disagreement" remains opaque.

8. To complicate matters further they have now added a further “expansion” of the “area of disagreement” after signing the Statement of Common Ground. I propose to make the appellant’s submissions on the meaning of application of paragraph 11 of the NPPF in closing. In short, the Appellant’s position is that the presumption in favour of sustainable development supports the appeal proposals which are in accordance with the development plan, considered as a whole, and although certain key policies in the Local plans (both of which are now somewhat antiquated) are out of date, as they do not comply with the NPPF, the tilted balance applies in favour of the proposal.
9. The Rule 6 party, which appears to be largely made up of neighbours in Danson Mead, but includes one elected Councillor, has submitted a Statement of Case in which they appear to have adopted the Council’s (withdrawn) reasons for refusal at para 2.1 of their Statement of Case.
10. They have also submitted 5 proofs of evidence on the subjects of “Need”, “Highway Safety, Parking and Congestion”, “Effect on Living Conditions”; two proofs of evidence addressing “Setting of Danson Park”; and “Character and Appearance, Height, Bulk and Scale”.
11. There is no attempt to balance the issues and the issue of living conditions appears to have expanded from what was a simple issue of alleged overshadowing to include wider claimed impacts on residential living conditions and consideration of the living-conditions of the residents of the new nursing home.
12. The Appellant’s evidence addresses the same topics as were covered in the 6 reasons for refusal, but as the Rule 6 party’s evidence seems to go both short of and at the same time beyond the six reasons for refusal that were previously relied on by the Council, they will add a certain amount of oral commentary on the R6 proofs.
13. The main issues in the case are:
 - (1) Whether there is a need for nursing/care home accommodation in Bexley.
 - (2) Whether there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe;
 - (3) Whether the development would have an adverse effect on the character and appearance of the area;
 - (4) The effect on the setting of Danson Park; whether the significance of the heritage asset is harmed and if so the degree of harm and whether outweighed by the benefits of the scheme.
 - (5) The effect of the loss of 4 dwellings on housing stock in the Borough;
 - (6) The effect on living conditions
 - (7) The benefits of the scheme and the planning balance;
 - (8) The need for Conditions and the Section 106
14. There is no SoCG between the R6 Party and the Appellant.
15. The appellant’s case is that there is a compelling and urgent need for additional nursing care home accommodation in Bexley, within a close vicinity of the appeal site. The provision of 70 new units within the care home will be an important contributor to meeting the need identified in the London Plan and the appellant’s

evidence, in the proofs of evidence of Mr Newton Taylor and by Nicola Coveney. We are fortunate in having the benefit of the direct experience of providing nursing care at Carebase Ltd's existing care home at Heathfield Court, Northumberland Heath, within the Borough. We hope that you will be able to visit the home. We are lucky having Nicola Coveney who will provide the inquiry with direct evidence of the operation of the Heathlands facility and the need for further such facilities in the Borough.

16. Mr Ian Wharton will give evidence in relation to highway safety and associated matters. You will be aware that the Council as Highway Authority supported the proposal and raised no objection at the Committee. Shamefully, they toed the party line when the Committee decided to refuse permission and issued an Appeal Statement opposing the development on highways grounds. That document provides no explanation for their volte face.
17. The bar is set high by para 111 of the NPPF for any objection on highway safety or cumulative impacts. Far from causing or increasing highway problem, the appeal scheme provides a number of improvements to what the appellant accepts is a busy part of a congested London network.
18. Adequate parking is provided on site and the PTAL score for the site is high. It is a good sustainable location for both clients and care home staff, with regular and frequent bus services on Park View road and to a lesser extent, Danson Road.
19. The proposals would have little effect on the wider character and appearance of the area. The four houses to be demolished are of little distinction, interest and character, much modified mid 20th century suburban mass housing which contribute nothing of significance to the character of the area.
20. The effect on significance of the heritage assets and, in particular the setting of the Registered Historic Park and Garden is in issue, as the appellant's expert witness Steven Handforth MA HBC; MIHBC considers that there is no material harm to Heritage Assets or their settings, caused by this development.
21. The Appellant's case is that the new scheme will contribute a new architect-designed bespoke high-quality building well-suited to the specific location for which it has been specially designed. The site abuts the Northern part of the park that has almost entirely lost its 18th and 19th century characteristics to sports uses. .
22. The development does not directly affect any designated heritage assets and the effect on setting of the Registered Park is not significant. The 1920s neo ornamental gateway and the track leading into the northern end of the park (the least historic and most municipal part of the Park) is untouched by the development and the planting within the site offers an opportunity to add to the leafy attractive features of this part of urban Bexley.
23. The appellant has engaged Jon Etchells, a Chartered Member of the Landscape Institute to provide the Appellant's landscape evidence and to carry out and present a full LVIA in accordance with the guidance published by the Landscape Institute, which provides a transparent and objective assessment of the impact on the townscape within the vicinity of the appeal site.

24. The scheme architects Ruth French and Hannah Bryan of award winning Ryder Architecture will explain how the building ensures excellent living conditions for residents and has no significant effect on the living conditions of residential neighbours.
25. Finally, Mark Batchelor will weigh the balance between development plan and the material considerations, including the many benefits that the scheme will bring.
26. The development plan is, of course the starting point for consideration of any application for planning permission and it is the appellant's case that the London Plan is up to date while the Council's UDP (Local Plan) and Core Strategy; both long in the tooth and based on the old PPG and PPS are not up to date. They provide scant policy advice concerning nursing homes, against which the scheme can be assessed.
27. However, the appeal proposals accord with relevant policy in the London Plan and do not conflict with the provisions of the two out dated Local Plans and I look forward to asking you, in due course, to determine the appeal on the basis that the scheme is sustainable development which achieves each of the objectives identified in para 8 of the NPPF and can be approved without delay as required in paragraph 11(c) or with the support of the presumption in 11(d) as any adverse impacts are clearly outweighed by the benefits of this much needed scheme to meet the clearly identified needs of the Bexley community.

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