

Rule 6 Party

Statement of Evidence of Effect on Living Conditions

Site: 2, 4, 6 And 8 Danson Road, Bexleyheath, Kent, DA6 8HB

Proposal: Demolition of the existing dwellings and erection of a part 1/2/3 storey building to provide a 70-bedroom nursing home, with associated access alterations, car and cycle parking, landscaping and amenity space.

PINS Ref: APP/D5120/W/22/3293225

LBB Ref: 19/03072/FULM

1. Introduction

1.1. This Statement sets out the Rule 6 Party evidence regarding the effect on living conditions with the proposed nursing home development, relating to the appeal against the Council's refusal of planning application ref: 19/03072/FULM for proposals at 2-8 Danson Road, Bexleyheath, involving:

Demolition of the existing dwellings and erection of a part 1/2/3 storey building to provide a 70 bedroom nursing home, with associated access alterations, car and cycle parking, landscaping and amenity space.

1.2. The Statement of Evidence of Need is structured as follows:

- Section 2 – Setting the scene
- Section 3 – Detrimental Effect on Living Conditions – Loss of Light and Privacy
- Section 4 – Detrimental Effect on Living Conditions – Air Quality
- Section 5 – Detrimental Effect on Living Conditions – Road Safety
- Section 6 – Conclusions
- Section 7 – References (Additional Sources of Evidence)

1.3. This statement has been prepared by:

NAME: Amy Hubbard



Signed:

Date: 21st November 2022

On Behalf of the Rule 6 Party

2. Setting the scene

- 2.1. This report focuses on the Planning Committee's reason for refusal number 6 which was:

The proposed development by reason of its position and built form would result in loss of sunlight an overbearing impact on 1 Danson Mead, detrimental to the amenities of the occupiers of this property and contrary to saved policy ENV39 Bexley Council Unitary Development Plan (2004) and Paragraph 130 of the National Planning Policy Framework (2021).

- 2.2. Whilst the reason specifically mentions 1 Danson Mead, there will also be an impact on No.10 Danson Road and the potential effects on this property will also be explained.
- 2.3. Representations have been made by neighbours opposite the site and those who feel that they will be overlooked by the property if it is built.
- 2.4. There have been a number of process anomalies which have resulted in the Council not informing affected residents of important decisions and changes within the set timescales set out by the National Guidelines and the Inspectorate. These issues will also be addressed as, now the Council has decided not to defend the planning committee's reasons for refusal, a lot more of Bexley's residents will potentially be affected, not just those residing in the dwellings specifically mentioned.

3. Detrimental Effect on Living Conditions – Loss of Light and Privacy

- 3.1. Bexley's Urban District Planning Policy ENV39 seeks to ensure that developments are of a high standard of design and layout, being compatible with the character of the surrounding area and not adversely affecting the street scene.
- 3.2. In determining applications for development the Council will consider the extent to which the proposal:

'is compatible with the character of the surrounding area, would not prejudice the environment of the occupiers of adjacent property, or adversely affect the street scene by reason of its

- (a) scale,*
- (b) massing,*
- (c) height,*
- (d) layout,*
- (e) elevational treatment,*
- (f) materials*

and/or

- (g) intensity of development'*

- 3.3. At the planning committee meeting, on the 18th November 2020, Councillor June Slaughter was rushed into making a decision around the last reason for refusal by the Chairman, who wanted to move on to other matters. This was witnessed by several people in attendance at the meeting.
- 3.4. The meeting was recorded and the Council provided a link to the recording on their website. Unfortunately, they only make recordings available to the public for 6 months, so this recording is now unavailable for interrogation, and we have been told that it has since been deleted. The committee minutes do not reflect the amount of time that was spent discussing this case. Neither does it capture the amount of public opposition to it.
- 3.5. In their Statement of Case the Appellant states at 3.31:
- ‘The Council’s final reason for refusal alleges harm to the occupants of no.1 Danson Mead arising from a loss of sunlight and an overbearing impact. This objection is unsupported by any evidence to indicate that there would be a loss of light and given the substantial separation provided between the proposed nursing home and the house and garden of no.1 Danson Mead, the Council is invited to withdraw this objection, which lacks any credibility.’*
- They have dismissed this point of refusal without due care, consideration, or evidence.
- 3.6. Whilst we agree that there is substantial separation between the proposed site and 1 Danson Mead, there will be a certainly be some degree of loss of light, not just to 1 Danson Mead but also to No.10 Danson Road and most definitely to the main pedestrian pathway into the park.
- 3.7. The proposed development will cast a permanent shadow over the busy park entrance, particularly during the winter months. As a result of restricted sunlight, frost, snow and ice will remain for longer periods causing potential hazards for park users. The Council no longer put down salt/grit to reduce the risk of slips and falls amongst park users.
- 3.8. The proposal sees the addition of 16 basement rooms, in which it is alleged that light will be able to infiltrate, but this is unsubstantiated and is unacceptable for a nursing home. It will certainly not be appropriate for residents with dementia. Dementia friendly environments should support good orientation and have access to light and fresh air. This is well documented (Social Care Institute for Excellence). Even with the provision of the proposed courtyard there will be insufficient light to those rooms, especially during the winter months.

3.9. The Social Care Institute for Excellence states that:

'Good lighting is particularly important for people with dementia as it can help them make sense of their environment. Make the best use possible of natural daylight.'

3.10. The Appellant admits in their statement of case 3.32 that they will:

'consider the submission of shadow diagrams and a daylight and sunlight impact assessment to demonstrate conclusively that the development will not have any impact on the residents at no.1 Danson Mead.'

But have not made any attempt to do so. They also threaten to:

'seek to reclaim this unnecessary and wasted expense as part of a future costs claim against the Council.'

It is our belief that one of the reasons the Council have withdrawn their objections is due to the threat of legal action by the appellant.

3.11. Bexley's Urban District Planning Policy ENV39 states that developments:

'would not prejudice the environment of the occupiers of adjacent property'

The impact on No.10 Danson Road has been completely overlooked throughout this proposal by both main parties.

3.12. No.10 Danson Road is close to 100 years old and does not have deep foundations. Excavation of the proposed basement could potentially cause damage to the property. Excavation of basements has not been permitted along this road, so it is not known what potential damage this could cause.

3.13. The appellant is asked to make assurances that if damage is caused during excavation the owners will be compensated accordingly.

3.14. Representations received by neighbours echo the concerns around loss of privacy and light. They include the following comments:

- *'If the development goes ahead, we will be overlooked on all sides. The height of the proposed building will mean that sunlight is lost sooner at the end of the day, effectively shortening each day in our house. We would lose light and suffer loss of privacy.'*
- *'We currently have a lovely view out of our back windows, but if you build the care home we are going to be looking at a massive modern brick building. The reason we moved to Danson Road was that we could look out at the park.'*

- *‘It will cause loss of privacy in overlooking neighbouring properties. If it is going to be a 3-storey building it will cause a loss of light and overshadowing.’*
- *‘We will lose a certain amount of privacy as we will be overlooked.’*
- *‘The proposal of such a tall building will advertently overlook ours, and neighbouring properties. Over seventy residents and staff will have unbridled views into our homes. We and the over residents value our privacy and this proposed development seeks to irrevocably sever this.’*
- *‘There will be loss of light and overshadowing once the new building is up.’*
- *‘My property will be overlooked by residents, staff and visitors at the care home; from all levels of the building through the large single pane windows; from bedrooms, day spaces, bistro/dining room and reception.’*

3.15. The development will see the creation of 32 bedrooms to the rear of the property, along the existing hedge line between the property and the park (8 bedrooms on the lower ground floor, 12 bedrooms on the ground floor and 12 bedrooms on the first floor). There are concerns that if planning permission is granted then retrospective planning permission will be sought by the developer to build on the other 8 bedrooms on the lower ground floor to mirror those along the hedge line. Resulting in the creation of another 24 bedrooms. This will directly affect the privacy of the residents of 10 Danson Road, other neighbours and the nursing home residents.

3.16. A Nursing home of this type (for residents with dementia and end of life care) should not see the creation of bedroom windows overlooking a public park.

- Privacy for neighbours, nursing home residents and park users will be compromised.
- Often people with dementia are not able to protect their own privacy and/or dignity and this will be compromised if their bedrooms are facing a busy public footpath.

3.17. The council’s report to the planning committee states that:

‘It is not considered that it would be overbearing or introduce any unacceptable loss of privacy or overlooking.’

When in fact the introduction of 6-bedroom windows at first storey height would directly impact the privacy of No.1 Danson Mead, No. 10 Danson Road and the privacy of both nursing home residents and the privacy of the members of the public who enter the park on a daily basis.

- 3.18. The Appellant's proposal to remove the existing 2.5 metre high, established, trimmed hedging along the existing boundary is unnecessary. And to suggest that it is replaced by new hedging, which will be planted further into the park areas, is unacceptable and will result in the loss of publicly owned parkland (encroachment). As well as loss of privacy whilst the suggested new hedge grows.

4. Detrimental Effect on Living Conditions – Air Quality

- 4.1. Policy CS15 of the Core Strategy sets out the Council's objective to achieve an integrated and sustainable transport system. The policy primarily sets out the Council's plans for the improvement and expansion of public transport in the Borough. It confirms that the Council will make the most of existing transport infrastructure within the borough, which includes managing the existing highway network to ensure the free flow of traffic, improving the environment, in particular **air quality**, and promoting safety, health, and wellbeing. This proposal will impede traffic flow, have a detrimental effect on the environment and on-air quality and will go against the strategy's aims of promoting safety, health and wellbeing.

- 4.2. The Highways Authority Statement of Case states that:

'overspill parking will occur in the surrounding residential streets, such as The Grove and Bean Road on the east side of Danson Road to the south of the site.'

But does not mention Dallin Road, Sydney Road, North and South Close, Balcombe Close. Nor does it mention those roads to the North and West of the site including; Parkview Road, Danson Mead or the residential roads on the opposite side of Parkview Road such as Lewis Road, Bethal Road, South Gypsy, Granville Road which would adversely impact the amenity of residents living in those roads. This will have a detrimental effect on air-quality and pollution due to excessive journey times made by visitors trying to find a parking space.

- 4.3. The proposed site is on the pedestrian route to at least 6 schools (Crook Log, Fosters, Westbrook, Brampton Blackfen and Bexley Grammar). Children walk this route every weekday and the quality of the air around the site will be impacted by the increase in vehicle movements and the increase in the amount of the existing standing traffic, on this already extremely busy and heavily congested road. The Mayor of London has stated that:

'It goes without saying that children everywhere deserve to breathe clean air. Air quality around schools in outer London is still unacceptably poor.'

(Source: Twitter October 2022)

4.4. The Mayor's Air Quality Audit states:

'Poor air quality is a major public health issue and cause of inequality in our city. It is shocking that in London alone, air pollution contributes to thousands of early deaths every year, and has been linked to strokes, heart attacks, asthma, dementia and smaller lungs in our children.'

(Source: Mayor of London's Air Quality Audit (Foreword 2022))

4.5. Bexley's Local Implementation Plan 2019-20 to 2021-22 (2.5.45) states that:

'TfL data shows that the poorest air quality is on the borough's main road network...The whole borough was declared an Air Quality Management Area in 2007. Reducing motor vehicle traffic will contribute towards better air quality...The Council requires Air Quality Impact Assessments such as for proposals for major developments and new build developments in areas of sub-standard air quality.'

The air quality assessment has been carried out on behalf of the Appellant and the results of this can be found at point 4.9.

4.6. One of the representations made by a local resident (2460788-Public Comment-PUBLIC COMMENT) questions the Air Quality Assessment presented by the Appellant and states:

'The air quality impact of the proposed development on the local environment has not been assessed appropriately. The emissions from the heating system in the proposed system has been assessed using emissions data from another development, without any justification or evidence that the data is representative.'

4.7. It goes on to state:

'With regards to air quality neutral, building emissions have not been taken into account and no mitigation measure has been offered in light of the transport emissions from the proposed development not meeting the calculated benchmark.'

4.8. It questions the robustness of the assessment stating:

'There is a lack of clarity on the model verification carried out for road traffic emissions modelling. A kerbside monitoring station has been used (which according to Defra LAQM TG16 this is not recommended) and it appears that not all significant road sources within 200m of the station has been included in the dispersion model. These are fundamental to, or in this case the lack of, robustness of the assessment.'

4.9. The Air Quality Assessment states that:

'The proposed development is above the transport benchmarks for both NO_x (Nitrogen Oxides) and PM₁₀ (small particles found in dust and smoke).'

*The residential element of the proposed development **does not meet the transport benchmark**. The vast majority of trip generation is from care staff arriving to the proposed development, as well as the delivery of medicines etc. It would not be possible to reduce vehicle numbers...'*

It also states that:

*'An Air Quality Neutral Assessment was compiled to support the planning application. The predicted total NOx and PM10 emissions from road traffic vehicles associated with the residential element of the proposed development are **above the calculated benchmark**.'*

- 4.10. The Council's Environmental Health Officer has stated that the Appellant's commissioned Air Quality Report findings are acceptable (with the imposition of certain restrictions) but have not picked up the conclusions in point 4.9.
- 4.11. There is no mention given to air quality/pollution in the appellant's statement of case and yet this is a very real and pertinent risk to all those living in the immediate area of the proposed site.
- 4.12. The Statement of Common Ground only addresses air quality levels during construction and there is no mention of the increased traffic emissions.

5. Detrimental Effect on Living Conditions – Road Safety

- 5.1. Although Road Safety issues are to be assessed on their own merit. It is hard not to mention them under the umbrella of 'Effect on Living Conditions'.
- 5.2. I stand with my two young children at the pedestrian crossing every day (often up to 8 times a day) on our way to and from school. I am often left terrified by the reckless actions of drivers. Some jumping the lights to get through when the light is green for us to go. It is noted that not all drivers are reckless, but I do not feel safe whilst standing on the pedestrian refuge between the crossings and cannot wait to get to the safety of the opposite pavement.
- 5.3. The number of accidents I have witnessed are too many to count. The photographic evidence submitted provided goes some way to capturing this.
- 5.4. The same is true when looking at the damage to street furniture (which is there to protect pedestrians). The damage caused often requires the complete removal and replacement of street furniture (usually barriers) with temporary plastic ones. When this happens, they are often not replaced for weeks or sometimes months. This is not acceptable and makes me and my family feel even more vulnerable as pedestrians standing in the middle of an extremely busy road.

- 5.5. Accident debris such as broken glass, metal and plastic often left at the scene for several days/weeks, with little regard for the safety of the curious children who would pick it up given half a chance.

6. Lack of transparent and timely communication

- 6.1. Throughout the process the Council have not communicated with affected residents in a timely or transparent manner. Often resulting in residents chasing council officers, and elected Councillors, for updates and information around the proposed development.
- 6.2. There has been a total disregard for the views of MPs, Councillors and Residents as well as the views of the Planning Committee who are there to protect their residents' and provide a voice for them at the panel.
- 6.3. Key documents have not been shared in a timely manner (and in some cases not shared at all – or begrudgingly). Email requests for information have been ignored or dismissed.
- 6.4. Deadlines have not been adhered to and procedures and processes have not been followed.
- 6.5. Although it is noted that the Council and the Appellant are encouraged to work together to achieve planning goals, this relationship appears to have been totally inappropriate from our point of view.
- 6.6. The Timeline document highlights inadequacies with the approach to communication with residents and subsequently with the Rule 6 Party (once that status was awarded to us).

7. Conclusions

- 5.1. The proposed site is not in an appropriate location. It is too close to boundaries with other houses and parkland and much too close to the extremely busy junction.
- 5.2. Anyone who uses this road on a regular basis will have witnessed the accidents, congestion and reckless behaviour displayed by some motorists.
- 5.3. The evidence above highlights the detrimental impact on living conditions for immediate neighbours of the site, as well as all road and park users, and pedestrians.
- 5.4. The increase in the number of elderly visitors to the site will be significant and the Council has a duty of care to all of its residents who use the roads and associated crossings within it.
- 5.5. It also has a duty of care to the proposed nursing home residents and will not be able to guarantee their safety or privacy.

- 5.6. The Inspector is asked to visit the site during rush hour to see for himself the amount of congestion and the sheer volume of traffic the road experiences on a daily basis.
- 5.7. We would also ask the Inspector to take into consideration the views of Bexley's residents who, for the most part, are vigorously against the proposals for the reasons outlined above. Reasons which the Council and the Appellant have dismissed and decided are inconsequential, insignificant and not worth defending whilst they have been working together to secure planning permission.
- 5.8. The Inspector is respectfully asked to refuse this appeal and the associated planning permission.

References (Additional Sources of Evidence)

- Bexley's Urban District Planning Policy ENV39
- Social Care Institute for Excellence:
<https://www.scie.org.uk/dementia/supporting-people-with-dementia/dementia-friendly-environments/>
- Policy CS15 of the Core Strategy
- Mayor of London's Air Quality Audit
- Bexley's Local Implementation Plan 2019-20 to 2021-22
- 2460788-Public Comment-PUBLIC COMMENT
- Timeline