



Appeal Decision

Inquiry held between 13 and 16 December 2022

Site visit made on 16 December 2022

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th January 2023

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

2, 4, 6, 8 Danson Road, Bexleyheath DA6 8HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Carebase Limited against the decision of the Council of the London Borough of Bexley.
 - The application Ref 19/03072/FULM, dated 20 December 2019, was refused by notice dated 30 November 2021.
 - The development proposed is the demolition of the houses at 2 to 8 Danson Road and erection of a part 1, part 2, part 3 storey 70 bedroom nursing home, with associated access alterations, car and cycle parking, landscaping and amenity space.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the houses at 2 to 8 Danson Road and erection of a part 1, part 2, part 3 storey 70 bedroom nursing home, with associated access alterations, car and cycle parking, landscaping and amenity space at 2, 4, 6, 8 Danson Road, Bexleyheath DA6 8HB in accordance with the terms of the application Ref 19/03072/FULM, dated 20 December 2019, and subject to the conditions in the attached schedule.

Preliminary Matters

2. During the course of the appeal the Council withdrew all its reasons for refusal. It took no further part in the Inquiry other than for administrative purposes and to attend the round table session on planning obligations and conditions.
3. Notwithstanding the withdrawal of the Council's reasons for refusal, the Danson Road Neighbours Residents' Group (hereafter the 'Residents' Group'), who had sought and obtained Rule 6 status, maintained their objection to the scheme and confirmed that they wished to present evidence and ask questions of the appellant. For those reasons, the appeal continued to be heard by way of an Inquiry.
4. A legal undertaking has been submitted with the appeal securing a number of planning obligations. I comment on these obligations under other matters.
5. The draft Bexley Local Plan is in the process of being examined. A consultation on main modifications ran between 25 November 2022 and 8 January 2023, finishing after the Inquiry had closed. Limited reference has been made to this draft plan by the appellant, Residents' Group or Council in the course of the appeal. As responses to that consultation have yet to be considered, and the

examining Inspectors' report has yet to be published, I do not give the draft plan any significant weight.

Main Issues

6. Although the Council has withdrawn its reasons for refusal, the Residents' Group maintains objections on all the same grounds (in some cases expanding the extent of objection). In addition, it queries the need for the development, a matter which the appellant also wishes to address. Having regard to these views, I consider the main issues to be:
- Whether there is a need for a nursing home
 - The effect on highway safety and congestion
 - Whether there would be pressure for on-street parking and if so the effects thereof
 - The effect on the character and appearance of the area
 - The effect on the setting of the grade II registered Danson Park
 - The loss of housing stock
 - The effect on the living conditions of neighbouring and future occupants.

Reasons

Need

7. I acknowledge that the preferred approach to providing residential accommodation for older people is with an emphasis on them living independently for as long as possible, with a range of housing products from which to choose depending on need. Notwithstanding the appellant's criticism of the 2018 Household Survey methodology, I can understand why that is the preference of the majority of those who responded to the survey. However, such an approach does not preclude the provision of nursing accommodation for those people who require it because of their physical or mental conditions, or an expectation that such care will be needed in the near future. Even in a more diverse housing market for elderly people, nursing accommodation will continue to form an important element of the housing needed.
8. On the extent of the need for nursing home accommodation in the borough, the Council acknowledges that there is an arithmetic error in the Strategic Housing Market Assessment 2020, and that the predicted need for residential care is more significant, considerably higher than that proposed in the appeal. This is consistent with the quantitative and qualitative assessment of need carried out by the appellant which demonstrates a current shortfall in nursing home capacity compared to demand. While I note the telephone survey carried out on behalf of the Residents' Group, I consider the longer period analysis of the capacity of the nursing home at Heathfield Court to more accurately reflect the limited capacity that currently exists in nursing homes in the Bexley area.
9. With a growing population, and with a proportionately older population than either the London or national average, the demand for nursing home accommodation in Bexley is expected to continue to increase. That demand will remain irrespective of whether a broader range of housing accommodation

aimed at elderly people is provided. The proposed nursing home would help meet some of that demand, irrespective of where it arises. Its location is therefore not dependent on it being in any particular ward within the borough.

10. The Residents' Group also raises concern at the pressure the development may put on health services, and the difficulty in staffing a new nursing home. Neither of these concerns are directly relevant to the issue of need for nursing accommodation, being more related to the indirect effect of the development and its future operation.
11. I address matters arising from additional pressure on public health services as part of my consideration of the legal obligations. So far as staffing is concerned, this would be a management issue for any future operator. It is not a matter that would therefore prevent the development being acceptable in planning terms. I do however note that the development is proposed by an established healthcare company experienced in operating in the south-east, which has demonstrated its ability to adequately staff nursing homes similar to that now proposed. Future operation would also be subject to review by the Care Quality Commission.
12. There are no development plan policies that relate directly to nursing or care home accommodation provision, although the supporting text to London Plan Policy H13 advises 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.
13. The site lies within the built up area of Bexley, designated for primarily residential use. As a form of residential accommodation, I consider that use of the site for a nursing home is acceptable in principle. There is therefore no requirement to establish a need for the development in order for the use to be found acceptable. The development differs from some other appeal decisions referred to by the appellant where need was an issue because the locations were not in areas normally allocated for residential use.
14. Even if I am wrong in that conclusion, based on the evidence before me I am satisfied that a need has been demonstrated for additional nursing home accommodation in the area. Either way, the principle of using the site for a nursing home is acceptable on the facts of the case.

Highway safety and congestion

15. The existing 4 domestic driveways would be replaced by a single ingress at the southern end of the site and a single egress at the northern end of the site. This access arrangement has been subject to a safety audit, which found no safety issues with its layout other than difficulty in turning right (south bound) out of the site. The egress point was subsequently amended to require left turn movements only (north bound) out of the site through the design of the access point and the use of signage.
16. Vehicular and pedestrian visibility would be good in both directions from both access points, and reducing the number of access points and preventing right turn movements across the northbound traffic flow would have the potential to improve rather than reduce highway safety. I am satisfied that the proposed access arrangements would accord with current highway standards and would be safe in operation.

17. Evidence on traffic generation presented by the appellant indicates that the proposed development would result in an increase of between 8-10 additional 2-way vehicle movements per hour in the peak periods through the junction to the north of the site. This would represent an increase of approximately 0.4-0.5% in traffic flows. No alternative estimate of traffic generation was provided by the Residents' Group, and no cogent arguments were put forward that refuted the evidence presented by the appellant.
18. I acknowledge that the junction is a busy one, with vehicles queuing on the approach roads at peak times and significant pedestrian flows, including children. However, an increase in traffic of the order suggested by the appellant's evidence would be very modest and almost imperceptible when compared to existing traffic flows.
19. Criticism was raised at the accuracy of traffic counts in 2017 and 2021 because of their age, the effect of Covid-19 and the recent opening of the Queen Elizabeth line at Abbey Wood. Even with projected traffic growth of 8%, traffic flows would still be less than the theoretical capacity of the junction¹. I consider that the very modest increase in traffic using the junction would not materially worsen congestion at the junction or the wider highway network. It certainly would not amount to the severe residual cumulative impact required by paragraph 111 of the National Planning Policy Framework (the 'Framework') to justify preventing development on highway congestion grounds.
20. Evidence was presented by the Residents' Group of the accident record of the junction and also damage to highway furniture. While I understand the concerns expressed about the safety of the junction, given the minimal impact on congestion identified above, the development itself would not have any appreciable effect on the operation of the junction and would not therefore materially worsen highway safety on this part of the network.
21. I conclude that the development would not have an unacceptable impact on highway safety, nor result in any significant increase in congestion on the local road network. It would therefore accord with Policy T4 of the London Plan 2021, Policy CS15 of the Bexley Core Strategy 2012 and saved Policy T6 of the Bexley Council Unitary Development Plan 2004, which collectively require that development proposals do not increase road danger and take account of cumulative impacts on the road network.

Parking

22. The proposed development would provide 17 parking spaces for staff and visitors. The most up-to-date parking standards for the area in the London Plan 2021 do not set a standard for nursing homes. Where no standard is provided the Plan states that the level of parking should be determined on a case-by-case basis taking account of Policy T6, current and future Public Transport Access Levels (PTAL) and wider measures of public transport, walking and cycling connectivity.
23. Policy T6 seeks to restrict car parking in line with levels of public transport accessibility and connectivity, with development designed to provide the minimum necessary parking. In this case the site lies within a PTAL of 3-4 (moderate to good), with frequent bus services available nearby along Crook

¹ Ian Wharton, proof of evidence, paragraph 5.79

Log and Park View Road. Staff and visitors would therefore have a realistic option to travel by public transport from a wide catchment area around the site.

24. A parking accumulation survey undertaken at Heathfield Court, another of the appellant's nursing homes, indicated a maximum demand of 12 vehicles at any one time. This home is slightly smaller than that proposed but lies within an area with a lower PTAL rating. The survey is consistent with data taken from the Trip Rate Information Computer System (TRICS) database for similar developments. A comparison with other nursing homes run by the appellant indicates that the proposed 17 spaces is comparable with the 16-20 space parking provision at each of the other homes.
25. The Residents' Group criticises the proposed number of parking spaces as being inadequate, but has not put forward any justification for holding that view, other than some anecdotal experiences. Based on the result of the accumulation survey and TRICS data, and the level of parking provided at other similar nursing homes, I am satisfied that the 17 spaces would be sufficient to meet the parking needs of the proposed nursing home. Efficient use of the parking spaces and encouragement for staff and visitors to walk, cycle or use public transport in place of private vehicles would also be possible through the management of the site as a single institution, and through a Travel Plan that could be secured by condition.
26. The appellant submitted further evidence on the availability of on-street parking capacity on surrounding residential streets. This was criticised by the Residents' Group, whose experience is of neighbouring streets being parked up, particularly when events are held in Danson Park or at summer weekends, when there is a charge for parking in the park. While that may be the case, given my finding that the proposed parking provision would be sufficient to meet the needs of the nursing home, I do not anticipate the development causing on-street parking stress in surrounding roads. Even were that to be the case, Policy T6 states that an absence of local on-street parking controls should not be a barrier to new development and boroughs should look to implement these controls wherever necessary to allow existing residents to maintain safe and efficient use of their streets.
27. I conclude that the proposed development would provide sufficient parking in this particular location, and would not give rise to on-street parking stress. It would therefore accord with Policy T6 of the London Plan 2021 and saved Policy T17 of the Bexley Council Unitary Development Plan 2004, in so far as that policy remains consistent with later elements of the development plan.

Character and appearance

28. In evidence, the Residents' Group equated the character of the area as being that established by the houses along Danson Road and Danson Mead, which were seen as distinct from the townscape beyond. My impression of the character of the area is somewhat wider in that while the predominant built form is of large, 2 storey houses fronting those roads, there are other more mixed elements such as the leisure centre and flats along Crook Log, which form part of the area and comprise larger and taller buildings. This is particularly so at the northern end of Danson Road, where they and the busy junction with its safety barriers and other street furniture give the area a more varied and urbanised character.

29. Another important element in the character of the area is Danson Park. The park is not readily visible from the northern end of Danson Road but a set of ornamental gates and a wide pedestrian path leading from the corner of the junction to it, with the canopies of parkland trees beyond, signal its presence. I consider the impact on Danson Park later, so for the purposes of this issue have focused my attention on how the development would appear in relation to views from the adjacent roads.
30. The proposed nursing home has been designed with 2 main elements: a series of 4 interlinked blocks along the Danson Road frontage; and a rear wing running parallel to the northern side boundary. A third element consisting of a basement floor would not be readily seen from outside the site. While it would increase the amount of floorspace within the scheme, it would not have any appreciable visual impact on the locality.
31. The 4 blocks along Danson Road would be of a similar scale to the existing houses, with the links between the buildings set back from their front elevations and predominantly glazed. The blocks would maintain a similar set back from the road as other houses along Danson Road, including the splayed orientation of the 2 houses nearest the park entrance.
32. I consider that in any vantage point other than directly in front of the site, there would be visual separation between the blocks, which would echo the rhythm and spacing of the existing houses. This would articulate the building in such a way as to avoid it appearing bulky or out of scale with other buildings in Danson Road. Even when in front of the site, the use of glazed links to contrast with the brick elevations would provide sufficient variation to avoid an unrelieved frontage.
33. The blocks would appear 2 storeys high at the southern end of the site rising to 3 storeys at the northern end. The third floor would be contained under shallower pitched roofs than is typical of houses in the area, reducing their maximum height. This would still result in the element of the building closest to the corner being higher than other buildings in Danson Road. However, given the examples of taller buildings nearby, and the greater sense of space around the northern corner of the site resulting from the park entrance and splayed position of the building, I do not consider this would appear out of place or obtrusive in the street scene.
34. The rear wing would be subservient in height to the front element and itself divided into a number of sections separated by recessed links. It would be clad with a coated metal panel system, not typical of building materials in the area but intended to minimise the visual prominence of the building. Because of its position along the northern side boundary only oblique views of it would be seen from around the junction behind the existing boundary hedge and ornamental gates. I consider its impact on Danson Park later, but so far as other viewpoints are concerned it would have only a limited visual impact compared to that of the front element.
35. Policy D3 of the London Plan 2021 requires that all development must make best use of land by following a design-led approach that optimises the capacity of a site. From evidence given at the Inquiry, it is clear that this is the approach that has been taken by the scheme architects in the design of the nursing home. Contemporary building design and materials as proposed for the nursing home may not be to everyone's liking, but given the degree of

variation that exists in the built environment in terms of form and materials, I consider that the modern approach taken would not appear discordant and is an acceptable design solution in this case.

36. The development would result in change, including a degree of densification greater than the buildings currently present on the site. However, that change would not be harmful to the character and appearance of the area, for the reasons set out above. The greater amount of floorspace is actively encouraged by current planning policy. Consequently, it would accord with Policies D1, D3 and D4 of the London Plan 2021, which require new development to deliver good design that responds to the existing character of a place while optimising development opportunities on the site. It would also accord with Policies CS01 and CS07 of the Bexley Core Strategy 2012 and saved Policies ENV39 and H3 of the Bexley Council Unitary Development Plan 2004 which seek to achieve sustainable development that, amongst other criteria, is sympathetic to and compatible with the local character of the area.

Danson Park

37. Danson Park is a grade II registered park and garden, recognised for its special historic interest. Within the park but some distance from the site is the grade I listed Danson Park Mansion and grade II* Stables to Danson Park. Little if any of the proposed development would be seen from either of these listed buildings, and both main parties agree it would not affect their settings. The site lies outside but adjacent to Danson Park as defined in the list description. The issue therefore revolves around the effect of the development on the setting of the registered park as a designated heritage asset.
38. Although there has been a park in existence for a long time, its historic significance is primarily related to the period associated with the construction of the current Danson Park Mansion, which replaced an earlier building during the mid-18th century. During that period the park was expanded and remodelled in the English landscape garden style popularised by Capability Brown and included the lake, open parkland interspersed with groups of trees, and ancillary features such as lodge houses, an ornamental bridge and a Grecian temple.
39. Since that period the parkland has reduced in size with parts sold off to be developed for suburban housing. In 1924 the mansion, stables and remaining parkland were bought by Bexley Urban District Council for public use. At that time the parkland was further altered with the sale of land along Danson Road and Danson Mead for housing development, the formation of an entrance in the north east corner together with ornamental gates, and the laying out of parts of the park with recreational facilities and ancillary parking.
40. So far as its historic significance is concerned, the ancillary features have now been lost although the lake and open parkland remain to the south of the mansion. The sports and play facilities, while benefiting local residents in terms of recreation, have interrupted the open parkland character and appearance of the northern part of the park. However, a comparison of 20th century photographs² shows that the area immediately to the rear of houses fronting Danson Road has now returned to a more informal layout interspersed with groups of trees, reminiscent of the earlier 18th-century design. In terms of the

² Steven Handforth, appendix 1, figures 11 and 12.

evolution of the park, the only recent features that could be said to contribute towards its significance are the ornamental gates in the north-east corner, which to my mind enhance the entrance to the park in a manner that is complementary to its historic value while reflecting its changed role.

41. The appeal site itself plays a limited role in the setting of the registered park. It borders only a small part of the north-eastern corner, and the existing lines of houses on and adjacent to it largely screen views of the park from Danson Road and Danson Mead. The rear gardens of the houses do not enhance the open character of the parkland, as they are separated from it by an assortment of walls and fences, and are domestic in nature. This is very different from the open space and wide views characteristic of the parkland. The only feature related to the appeal site that does play some part in enhancing the entrance to the park is the hedge along the northern side boundary, which is to be retained.
42. The part of the park that would be most affected by the proposed development is the pedestrian path adjacent to the northern boundary. Unlike the rest of the park, this area is already characterised by a sense of enclosure which comes from the well-established hedges on either side as well as to some extent the existing buildings at 2 Danson Road and 1 Danson Mead. It is not until one gets to the end of the area bounded by the hedges that views of the park open out, in the form that it was originally designed to achieve.
43. The introduction of the rear wing adjacent to the northern boundary would introduce more building bulk than exists at present, which would increase the sense of enclosure along the entrance path. However, it would not impinge on the part of the park which has retained its parkland character. The greater sense of enclosure along the entrance path would not therefore harm what I have identified as being of historic significance. The canopies of trees in the park would also still be visible signalling its presence in views from outside.
44. Concern has been raised that the development, in particular the 3 storey element on the corner of the site, would dominate the ornamental gates. Having looked carefully at this aspect of the scheme I am satisfied that would not be the case. The gates are set forward adjacent to the pavement whereas the 3 storey element would be set back, in the position of the existing house on 2 Danson Road. It would be seen in relief some way behind the gates when viewed from the road. The separation between the structures would be such that they would not compete with one another visually.
45. Concern has also been expressed at the dark metal cladding proposed for the northern range. This would be a departure from the palette of materials found on other buildings in or around the park. However, it is consistent with the contemporary design approach taken with the rest of the development. As was explained at the Inquiry these materials were deliberately chosen to help the wing 'recede' visually. Having concluded above that a modern design approach is an acceptable design solution, I raise no objection to the use of such materials for the rear wing.
46. The development proposed would remove the collection of sheds, walls and fences along the rear boundary of the site and replace them with a new hedge. Once mature, this would have a beneficial effect on the appearance of the boundary, and would consequently result in a modest enhancement to the setting of the park.

47. I conclude that the proposed development would not harm the setting of Danson Park. While it would result in a visual change to one of the pedestrian approaches to the park, that change would not harm those elements which are of historic significance either to its remaining 18th-century landscape character or the more recent 20th-century ornamental gates. It would therefore accord with Policy HC1 of the London Plan 2021, Policies CS07 and CS19 of the Bexley Core Strategy 2012, and saved Policies ENV39 and H3 of the Bexley Council Unitary Development Plan 2004 which require new development to conserve the significance of heritage assets and their settings.
48. For the same reasons it would have no harmful effect on the openness of Metropolitan Open Land. As I have found no harm would be caused to the heritage asset, there is no need for me to balance its effects against the public benefits of the proposal.

Loss of housing stock

49. Policy H8 of the London Plan 2021 requires that any loss of existing housing should be replaced by new housing at existing or higher densities with at least the equivalent level of overall floorspace. For the purpose of calculating housing growth, the London Plan treats bedrooms in residential institutions (Use Class C2) on a 1:1 ratio, with each bedroom being counted as a single home. On this basis the proposed development would result in a net increase in homes, rather than a loss. There would be no conflict with Policy H8.
50. I appreciate why the Residents' Group may not agree with equating nursing home bedrooms with houses, as the two are very different. However, they are both forms of residential accommodation, and as the purpose of Policy H8 is in part to support housing growth in London, the replacement of existing houses with a nursing home would contribute towards that objective. I consider there is also some merit in the argument that the provision of nursing home accommodation would be likely to release underoccupied family housing, albeit that may not all be in the borough or indeed within the London area.
51. The Council's withdrawn reason for refusal relating to the loss of houses refers to Policies CS01 and CS03 of the Bexley Core Strategy 2012. In my view, neither of these policies is directly relevant to the loss of housing stock and I give them little weight in considering this issue. My attention has also been drawn to Policy CS07 which sets out the vision for the Welling geographic area, and which amongst other criteria requires that the heritage assets and areas that are characterised by mainly semi-detached and detached family housing are retained and, where possible, improved. This policy is more relevant to the issue of the effect of the development on the character and appearance of the area and I have dealt with it there.
52. I conclude that under the terms of Policy H8 of the London Plan 2021, there would be no net loss of housing as the demolition of the 4 existing family houses would be more than matched by the provision of 70 nursing home bedrooms.

Living conditions

53. An assessment of the effect of the development on sunlight and daylight to 1 Danson Mead was submitted to the Inquiry. It found even with the sun at its lowest in December there would be a maximum reduction of 7% of sunlight to

the first floor bedroom windows facing the site, which would not be perceptible to users of those rooms. The development would have even less effect on daylight. The methodology used accords with Building Research Establishment (BRE) guidance. On that basis I consider that no harm would result to 1 Danson Mead arising from loss of sunlight or daylight.

54. The wing would cast a shadow over part of the entrance path to the park during the winter period, but that would be relatively localised and unlikely to materially affect the use of the footpath any more than is the case now. There would be no loss of privacy to users of the footpath, as the area is already publicly accessible.
55. 1 Danson Mead and the northern wing would be separated by some 24m. While the development would increase the number of first floor windows along the boundary, the level of separation is such that it would not result in an unacceptable loss of privacy between habitable room windows. Similarly, given the extent of separation, I do not consider that the northern wing would have an overbearing impact on the living conditions of occupants at 1 Danson Mead or people using the footpath to access the park.
56. Separation between the southern flank elevation of the wing and 10 Danson Road would be approximately 17m. While there would be first floor windows along this elevation, the separation is such that it would not result in an unacceptable loss of privacy, particularly as the direction of view would be over rear gardens rather than directly between habitable room windows.
57. Any disturbance to the foundations of 10 Danson Road would normally be a private matter for resolution between the relevant landowners. However, to provide comfort on this matter the appellant offered a condition requiring a construction management plan to minimise the chance of damage to the neighbouring property's foundations.
58. At the Inquiry a detailed explanation was given by the scheme architects on the design of the basement floor and how the width of the sunken garden and the orientation of the rooms have been planned to ensure adequate daylight and privacy. While the north facing windows would not receive direct sunlight, that is true of any north facing window. All rooms would however receive adequate daylight throughout the year.
59. More general concerns relating to noise, dust, construction traffic, tree protection and air quality that may arise during the construction period are considered in the section on conditions. Concerns relating to highway safety are dealt with under the relevant issue above.
60. Having regard to the evidence presented, I conclude that the living conditions of the occupants of 1 Danson Mead and 10 Danson Road would not be harmfully affected, and that living conditions for future residents of the nursing home have been well designed and would meet acceptable standards of daylight and privacy. The development would therefore accord with Policy ENV39 of the Bexley Council Unitary Development Plan 2004, which amongst other criteria, requires that new development would not prejudice the environment of the occupiers of adjacent property.

Other Matters

61. The appellant has submitted a legal undertaking that commits the developer to a number of obligations which address matters that the Council considers are necessary to make the development acceptable in planning terms. A completed copy of the undertaking was received following the close of the Inquiry.
62. The obligations include a commuted sum for the maintenance of the proposed hedge to be planted along the rear boundary of the site. This is necessary because the hedge would be backed by a fence on the appellant's side, meaning that maintenance could only be carried out from within the park.
63. A carbon offset payment is necessary to meet the terms of Policy SI2 of the London Plan 2021 and Policy CS08 of the Bexley Core Strategy 2012, which require major development to be net zero-carbon. Where that cannot be achieved fully on site a contribution towards the borough's carbon offset fund is required, which is used to implement projects that deliver carbon reductions.
64. A payment to cover the cost of implementing signage and the associated traffic management order is necessary to achieve the access arrangements set out in the submitted plans and to ensure that left turn only movements out of the proposed egress are enforceable.
65. A commuted sum is sought to defray additional pressure on public health services arising from the nursing home. Although the appellant raised no objection to this obligation in the statement of common ground, at the Inquiry it questioned whether the Council had adequately demonstrated the need for such a payment. I have some sympathy with the appellant on that point, as the statement justifying why the Council is seeking the commuted sum was submitted late and is light on detail. However, it is the case that both Policy DF1 of the London Plan 2021 and Policy CS21 of the Bexley Core Strategy 2012 require contributions towards infrastructure necessary to support new development. A request for such a contribution has been received from the NHS London Healthy Urban Development Unit, with the extent of the contribution calculated using its HUDU model.
66. Although the appellant would retain a general practitioner to assist with in-house medical care, more serious medical conditions are likely to result in admissions to community or acute public health facilities in the locality. Since residents of the nursing home are likely to have significantly greater medical needs in comparison to those in the general population, it is inevitable that additional pressure will arise on local health services. I consider the obligation is therefore necessary, related to the development, and reasonably related in scale and kind.
67. Obligations are also proposed that would restrict the use of the building to a nursing home and require a minimum number of bed spaces for dementia sufferers. Irrespective of the need for such restrictions, both could be imposed by way of planning conditions rather than through legal obligations. The Framework is clear that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. I therefore consider that both obligations fail the test of necessity, and I place no weight on them in coming to my decision. For the avoidance of doubt, I consider that Section 4 of the legal undertaking is applicable to both these

obligations, and as a consequence they should have no effect within the agreement.

68. At the Inquiry the appellant requested that I consider imposing costs against the Council. I have chosen not to do so. It was open to the appellant to seek costs had it considered that the Council had acted unreasonably and that such unreasonable behaviour had resulted in unnecessary or wasted expense.

Conditions

69. I have considered the conditions discussed during the Inquiry against the tests in paragraph 56 of the Framework. I have included those which I consider meet the tests, subject to rewording in the interests of clarity, consistency and enforceability. I have combined conditions where possible for simplicity. The conditions have also been reordered in accordance with the advice in the Planning Practice Guidance. During the round table session to discuss potential conditions, the appellant explicitly agreed to the use of those conditions which require pre-commencement actions in accordance with section 100ZA of the Town and Country Planning Act 1990.
70. In addition to the standard time limit, a condition listing the approved plans is necessary in the interests of certainty.
71. A pre-commencement condition requiring a construction method statement has been added with the agreement of the appellant to address concerns expressed at the Inquiry relating to the possible effect of the development on the stability of the adjacent property at 10 Danson Road.
72. Conditions requiring archaeological investigation, a construction management and logistics plan, registration of construction machinery and arboricultural protection are necessary to ensure the recording of any matters of archaeological interest that may be found on the site, and to control matters such as noise, dust, construction traffic, tree protection and air quality that may arise during the construction phase. All the conditions require details to be approved prior to the commencement of development on the site.
73. Conditions controlling piling, and details of surface water drainage, external materials, hard and soft landscaping are necessary to protect the living conditions of neighbouring occupants and the character and appearance of the area.
74. Conditions requiring details of the access arrangements including visibility splays, fire prevention and detection, cycle parking and storage, travel plan, and a delivery and servicing plan are all necessary in the interests of the safe and efficient operation of the completed development and to encourage sustainable travel by staff and visitors.
75. A requirement to install bird and bat nesting boxes is reasonable in the interests of the site contributing towards biodiversity and supporting local wildlife.
76. A condition requiring certain actions in the event that contamination is found on the site is reasonable in the interests of public health.

77. A condition requiring the installation of electric vehicle charging points is no longer necessary as this is now included in the building regulations³.
78. I have considered whether conditions restricting the use to a nursing home only and requiring a minimum number of dementia beds meet the tests set out in the Framework. Paragraph 54 of the Framework says that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.
79. Notwithstanding the explanations given by the Council in both its CIL compliance statement and the statement of common ground on these matters, I conclude that there is no clear reason that would justify such a restriction on movement within the C2 Use Class, nor why a minimum number of beds should be restricted to dementia sufferers, this being essentially a management issue for the nursing home operator. Such conditions would therefore fail the tests of necessity and reasonableness, and have not been imposed.

Conclusion

80. I have found that the development would not cause harm to any of the matters I have identified as being determining issues in this case. Other matters that may arise in terms of the impact of the development on infrastructure, public services or during the construction phase, can be satisfactorily mitigated or controlled through the obligations in the completed legal undertaking and the imposition of conditions.
81. I therefore conclude that the proposed development accords with the development plan when taken as a whole. There are no material considerations which indicate that a decision should be reached other than in accordance with it.
82. The appellant has put forward arguments in favour of the development, including the benefits of the scheme and the need for nursing home accommodation, as well as querying whether some policies are still consistent with national planning policy. Given that the development accords with the development plan there is no need for me to consider these arguments in any detail, as the Framework advises that in such circumstances development proposals should be approved without further delay.
83. For the reasons given above, I conclude that the appeal should be allowed.

Guy Davies

INSPECTOR

³ The Building Regulations – Approved Document S: infrastructure for charging electric vehicles

APPEARANCES

FOR THE APPELLANT:

Jonathan Clay, of Counsel, who called:

Nigel Newton Taylor	Director, Healthcare Property Consultants Ltd
Nicola Coveney	Managing Director, Carebase Limited
Ian Wharton	Associate Director, Ardent Consulting Engineers
Jon Etchells	Jon Etchells Consulting
Hannah Bryan	Senior Architect, Ryder Architecture Limited
Ruth French	Associate Architect, Ryder Architecture Limited
Steven Handforth	Director, Handforth Heritage
Mark Batchelor	Director, Boyer
Michael Hirsch	Property Director, Carebase Limited

FOR THE DANSON NEIGHBOURS RESIDENTS' GROUP:

Joanna Dwyer	Resident
Valerie Clark	Resident
Leslie Osborn	Resident
Robert Knight MBE	Resident
Sarah Witney	Resident
Amy Hubbard	Resident

INTERESTED PARTIES:

Nigel Betts	Councillor, Falconwood and Welling Ward
Nicholas Trower	Planning Officer, Bexley Borough Council, participated in round table discussion on legal undertaking and conditions

DOCUMENTS

Received during or after the Inquiry:

1. Opening submissions on behalf of the appellant
2. Opening submissions on behalf of the Residents' Group
3. Additional statement by Joanna Dwyer
4. Copy of consultation response – Housing and New Initiatives (Bexley Borough Council)
5. Copy of consultation response – National Health Service Property Services
6. Additional statement by Valerie Clark
7. Photographs of accident damage at Crook Log junction by Amy Hubbard
8. Building footprint analysis, drawing 9003 Rev P1
9. Hard copy of power point presentation slides by Sarah Witney
10. CIL Compliance Statement, Bexley Borough Council
11. Closing submissions on behalf of the Residents' Group
12. Closing submissions on behalf of the appellant
13. Updated wording for draft condition 12 in the Statement of Common Ground
14. Proposed wording for draft condition on a construction method statement
15. Completed copy of the legal undertaking.

Schedule of Conditions:

1. The development hereby permitted shall begin not later than 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
3000 Rev P10, 3001 Rev P8, 3002 Rev P8, 3003 Rev P7, 3004 Rev P3, 3601 Rev P5, 1003 Rev P7, 12395/P09, 3602 Rev P1, 190322-005, 190320-004 Rev B, 12395_TG_P_001, 12395_TG_P_100, 12395_TG_P_300, 9003 Rev P1.
3. No development shall take place, including demolition, until a construction method statement has been submitted to and approved in writing by the local planning authority. The statement shall include details of the proposed methods of demolition and site clearance, foundation construction and basement excavation, and works associated with the construction of the development, indicating how those works will be carried out without causing disturbance or subsidence to land outside the site. The development shall be carried out in accordance with the approved construction method statement.
4. No development shall take place, including demolition, until a written scheme of archaeological investigation has been submitted to and approved in writing by the local planning authority. The written scheme of investigation shall include a programme and methodology of site investigation, nomination of a competent person or organisation to undertake the agreed works, and a programme for post-investigation assessment and publication of any findings of archaeological interest. Development of the site shall only take place in accordance with the approved scheme of investigation. The development shall not be occupied until the approved programme of post-investigation assessment has been published.
5. No development shall take place, including demolition, until a demolition, construction management and logistics plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of:
 - a) The location of notice boards on the site to include details of the site manager and contact details, including out of hours contact details
 - b) A strategy of the parking of vehicles of site operatives and visitors
 - c) A strategy for the loading and unloading of plant and materials
 - d) A strategy for the storage of plant and materials used in the construction of the development
 - e) Details of days/hours of work and deliveries of construction materials
 - f) Measures to be adopted to maintain the site in a tidy condition in terms of the disposal of rubbish and storage of construction materials
 - g) Measures to be adopted to ensure that pedestrian access past the site on the public footpath is safe and unobstructed during construction works
 - h) Construction site lighting
 - i) Measures to be adopted to minimise any damage to adjacent streets throughout the construction period

- j) Location of vehicle and construction machinery access during the construction period including any works necessary to provide a means of access thereof
- k) The number and timing of construction vehicle movements throughout the day and the proposed routes
- l) Vehicle holding areas
- m) Construction traffic routes
- n) Means of minimising noise and vibration and compliance with British Standard 5228
- o) Procedures for controlling sediment runoff and dirt, and a procedure for removing any sediment and dirt that is deposited on the public highway
- p) An air quality management plan, including details of mitigation and monitoring measures in accordance with Air Quality: Best Practice Guidance – The Control of Dust and Emissions during Construction and Demolition Supplementary Planning Guidance, GLA, July 2014
- q) A noise management plan, including details of how noise will be mitigated during the construction period
- r) A demolition and construction site waste management plan, including details of managing demolition and construction waste
- s) Location of site operatives' conveniences
- t) Details of the position and maintenance of security hoarding, including any decorative displays and facilities for public viewing.

The development hereby permitted shall be carried out in accordance with the approved plan.

- 6. No development shall take place, including demolition, until the development hereby permitted has been registered on the Non-Road Mobile Machinery Register. Throughout the duration of construction activities, all non-road mobile machinery to be used on the site shall be submitted to the register. The development shall be carried out in accordance with the details submitted to the Non-Road Mobile Machinery Register.
- 7. No development shall take place, including demolition, until an arboricultural method statement in accordance with British Standard 5837:2012 has been submitted to and approved in writing by the local planning authority. The method statement shall include details of:
 - a) A plan showing the location of each existing tree on the site, showing which trees are to be removed and which are to be retained and the crown spread of each retained tree
 - b) Details of the species, size, approximate height and state of health of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs c) and d) below apply
 - c) Details of any proposed topping or lopping of any retained trees or of any tree on land adjacent to the site
 - d) Details of any proposed alterations in existing ground levels, and of the position of any excavation works in relation to any nearby trees
 - e) Details for the protection of any retained tree from damage during the course of development
 - f) Details for measures to protect any retained tree for works approved within its root protection zone.

The development shall be undertaken in accordance with the approved method statement. In the event that any part of the protective measures approved in the method statement is damaged or removed during the

course of development, development shall cease until such time as the protective measures are repaired or replaced. No protective fencing shall be removed until all construction equipment, machinery and materials have been removed from the site.

8. No piling shall take place until a piling method statement has been submitted to and approved in writing by the local planning authority. The statement shall include details of the depth and type of piles and the methodology for piling including measures to prevent and/or minimise damage to subsurface water infrastructure. Any piling shall be undertaken in accordance with the approved method statement.
9. No development shall take place other than demolition until a scheme for a sustainable drainage system in accordance with the Bexley Sustainable Drainage Design and Evaluation Guide 2018 and the drainage hierarchy set out in London Plan Policy IS13 has been submitted to and approved in writing by the local planning authority. The scheme shall include details of:
 - a) How reduction in surface water discharge to a greenfield discharge rate shall be achieved
 - b) Calculations to demonstrate that the proposed system has adequate capacity to achieve its designed discharge rate
 - c) Installation of petrol/oil interceptors as necessary
 - d) Distribution of foul water discharge to the public sewerage network
 - e) Installation of rainfall storage units to enable reuse of water on site
 - f) Information about the design storm period and method for controlling surface water discharge from the site
 - g) A timetable for implementation
 - h) A management and maintenance plan for the life time of the development
 - i) Demonstrate how the drainage hierarchy set out in the London Plan has been followed.

The development shall not be occupied until the approved scheme has been implemented, and the scheme shall thereafter be maintained in working order.

10. No development shall take place other than for demolition and the construction of foundations until a schedule and specification of the materials and finishes to be used in the external surfaces of the development hereby permitted has been submitted to and approved in writing by the local planning authority. The schedule and specification shall include details of: brickwork including bonding and mortar, cladding, windows and doors, soffits, balconies and privacy screens, canopies, external guttering, roofing materials, and boundary treatments. The development shall be carried out in accordance with the approved details.
11. No development shall take place other than demolition and the construction of foundations until a scheme of soft and hard landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include details of car parking, footpaths and means of access to the communal amenity areas, planting plans and specifications, and a management plan for future maintenance. The development shall not be occupied until the approved hard landscaping works have been implemented. The soft landscaping works shall be carried out prior to

occupation or in the first seeding season following occupation, whichever is later, in accordance with the approved details. Maintenance shall be carried out in accordance with the approved management plan.

12. Details of the proposed ingress and egress to the site onto the highway, generally in accordance with the Right Turn Mitigation Strategy by Ardent Consulting Engineers shall be submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved access arrangements have been implemented.
13. The development hereby permitted shall not be occupied until the actions detailed in the Fire Statement DR004 dated May 2021 by Fire Training International Ltd have been implemented. The fire prevention and detection installations forming part of those actions shall thereafter be retained in working order.
14. The development hereby permitted shall not be occupied until details of cycle parking and storage, including means of enclosure, for 12 long stay and 4 short stay spaces have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved cycle parking has been provided, and shall thereafter be retained for its designated purpose.
15. The development hereby permitted shall not be occupied until a travel plan encouraging travel to and from the site by means of transport other than the private motor car has been submitted to and approved in writing by the local planning authority. The travel plan shall include a methodology for its implementation and monitoring. The development shall be operated in accordance with the approved travel plan.
16. The development hereby permitted shall not be occupied until a delivery and servicing plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the anticipated number and timing of delivery and servicing movements to the site, their management while on site, and the means for monitoring the effectiveness of the plan in minimising disturbance and maintaining highway safety. The development shall be operated in accordance with the approved delivery and service plan.
17. The development hereby permitted shall not be occupied until details of bird and bat nesting boxes have been submitted to and approved in writing by the local planning authority. The details shall include the number, location and design of each type of box. The development shall not be occupied until the approved details have been implemented, and the boxes shall thereafter be retained.
18. The egress to the site shall be provided with 2.4m x 2.4m pedestrian visibility splays to be accommodated within the site in both directions and shall be maintained free of all obstacles to visibility between heights of 0.6m and 2m above the level of the adjoining highway.
19. If unexpected contamination is found after development has begun, development must halt on that part of the site affected by the contamination

and shall not restart until a risk assessment and remediation scheme has been submitted to and approved in writing by the local planning authority. All subsequent development must be carried out in accordance with the approved scheme. The development hereby permitted shall not be occupied until a verification report demonstrating the effectiveness of the remediation scheme has been submitted to and approved in writing by the local planning authority.

*****End of conditions*****