

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

APPELLANT'S CLOSING SUBMISSIONS

1. 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.
2. Accordingly, they recommended "Grant planning permission" subject to 18 conditions and the entering into a section 106 agreement.
3. The Rule 6 party, which, as its name suggests, appears to be largely made up of neighbours from Danson Road and Danson Mead, but includes one former elected Councillor, has submitted a Statement of Case in which they appear to have adopted the Council's (withdrawn) reasons for refusal at para 2.1 of their Statement of Case.
4. 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".
5. There has been no serious attempt on the part of the R6 party to balance the issues and the issue of living conditions appears to have expanded from what was a simple issue of alleged (but unfounded) overshadowing to include wider claimed impacts on residential living conditions and consideration of the living-conditions of the residents of the new nursing home; all of which are entirely without foundation, as Hannah Bryan patiently explained.
6. In opening the case for the appellant on Tuesday, I sought to identify the main issues in the case:
 - (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
7. There is no SoCG between the R6 Party and the Appellant.

(1) Need

8. The Inspector asked the witnesses in both parties on the subject of “need” whether the issue of need is a material consideration.
9. The appellant’s case is that if the development causes no material harm to any interests of importance, it would not be necessary for the appellant to demonstrate the need for the development.
10. However, in this case, the question of “need” is, without question, a material consideration and other Inspectors dealing with similar proposals in recent years have attached considerable weight to this in the planning balance (ref: all the appeal decisions appended to NNT’s Proof).).
11. So great is the level of need that long gone are the days when this had to be demonstrated at application stage; now policies accept that need exists in the same way that they accept that need for market and affordable housing exists. The issue here is that need is already significant given the undersupply in Bexley and the number of poor quality of homes in the Borough with the forecast being bleak given the local demographics and ageing population.
12. Government guidance (Housing for Older and Disabled People) identifies that the need to provide housing for older people is “critical”. As NNT points out in his Proof (para. 3.1), no other housing type has such an elevated need identified. The

Government's policy position has filtered down into the NPPF (2021) and London Plan (2021), both of which establish permissive policy positions which seek to catalyse nursing home development. The Local Plan documents (UDP and Core Strategy) lag behind and are out of date in this regard.

13. Not only is need a relevant material consideration, but so severe is the situation both nationally and locally that MB's assessment of the planning balance in this case correctly attributes "no less than very substantial weight" to this as a benefit of the development.
14. The fact that the proposal is made by the future operator of the home strengthens the weight to be given to the beneficial delivery of the nursing home (see para. 61 of the Turners Hill Road appeal case (PINS ref: 3281350) at MB Appendix 3). This is not a speculative development and is promoted by an award winning nursing home operator.
15. In this case, the point has been raised that the proposals would lead to the loss by demolition of 4 houses from the housing stock in the Borough, which the Rule 6 Party says is not outweighed by the benefits of providing the 70 bed nursing home. They have also claimed that there is no need for a further nursing home in the Borough. The appellant has therefore treated need as a material consideration and provided expert evidence on the scale and nature of the need for a further nursing home in Bexley.
16. The appellant's case is that there is a compelling and urgent need; both quantitative and qualitative, for additional nursing care home accommodation in Bexley, within a particularly acute need in the vicinity of the appeal site.
17. In the SoCG, the LBB accepts that there is a need for further nursing home accommodation in Bexley.
18. The evidence of need comes from a number of sources:
 - (1) Quantitative need, applying the
19. Mrs Joanna Dwyer for the R6 party did not challenge NNT's statistical need evidence; nor did she dispute the appellant's case that the high proportion of shared rooms and communal or shared bathrooms and toilets in the local nursing homes was unacceptable and means that there was also a substantial qualitative need for

new accommodation. That is consistent with what she said in response to consultation in her email dated 9 May 2021 timed at 18.12, where she conceded: “We agree with the need for increased nursing provision for local residents.”

20. In her evidence it became clear that her particular concern is the need for Extracare Beds.
21. Whether or not there is a need for Extracare beds in the Borough is not relevant to the proposal before you which is for Nursing Home beds, to be considered on its own merits. There is no competing application for Extracare development on the site.
22. The CQC definition at paragraph 2.2 of NNT’s proof defines as a residential home *“with qualified nursing care provided to ensure that the full needs of the person using the service are met”* . In the end, Mrs Dwyer accepted that there is a need for additional nursing home beds and agreed that she did not dispute the scale of need identified by NNT and (b) the R6 party did not provide any alternative superior site to meet that need.
23. Mrs Dwyer also accepts that there is a need to enhance and replace poor homes across the Borough.
24. She agreed all points in the wider picture summarized by NNT in his proof: rapidly increasing population, increasing life expectancy with associated ailments both mental and physical; ageing population; older than average elderly population in Bexley, resulting with an existing need **today** and a growing **future** demand over time, unless new homes come forward.
25. I invite you to find that the provision of 70 new units within the proposed nursing home will be an important contributor to meeting the current and future need for nursing care in the Borough, identified by the appellant and explained in the evidence of Mr Newton Taylor and Nicola Coveney.
26. 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.
27. Mrs Coveney provided an insight into the operation of a modern up to date nursing home. Her direct evidence of the level of occupation in recent times (100% in in the

post Covid 2020 count) indicates the pressure for further nursing home beds and corroborates NNT's statistical and qualitative analysis of need.

28. The **current** need figure of 450 beds, within 3 miles of the appeal site demonstrates that the appeal proposals are urgently needed.

(2)Highways safety, parking and Transport

29. Mr Ian Wharton provided the only professional evidence in relation to highway safety and associated matters. However, it is backed up by the Council which has withdrawn its objection and Highway Authority do not object to the appeal proposals, having accepted that the Transport assessment carried out by the Mr Wharton for the applicant is reasonable. The Council's formal position is stated in the SoCG, where they set out the agreed position that the scheme is "*considered to be acceptable in highway safety and congestion terms and would not be considered to have a severe impact in relation to NPPF Paragraph 111*".

30. The bar is set high by para 111 of the NPPF for any objection on highway safety or cumulative impacts, but in any case, far from causing or increasing highway problem, the appeal scheme provides a number of improvements to access onto and from what the appellant accepts is a busy part of a congested London network.

31. In particular, and at the specific request of the Council, the development will provide for a new single access at the southern end of the site, closing off two individual driveway accesses and will require a left turn movement only out of the site. This will seek to prevent traffic leaving the site from taking a right turn across the traffic flows on Danson Road.

32. The site enjoys a PTAL score of 4 with regular and frequent bus services on Crook Log and Park View and Danson Road. Valerie Clark conceded this was high in the local context.

33. Although the London Plan policy seeks to achieve parking free development where the public transport links are good, parking for 17 cars is considered sufficient given the nature of the use as demonstrated through analysis both of the appellant's own existing operational site at Heathfield Court and through comparison to the industry-standard approach through the TRICS database (an evidence-based approach as is advocated in both the London Plan and the emerging draft Local Plan). 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.

(3)Character and Appearance

34. 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.
35. The appeal proposal, by contrast will create a distinctive new building, using carefully chosen materials. 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 uses¹*".
36. The development does not directly affect any designated heritage assets and the effect on setting of the Registered Park does not affect its significance. The 1920s neo Georgian ornamental gateway and the track leading into the northern end of the park (the least historic and most municipalised 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.
37. The first reason for refusal refers to several policies which were alleged to have been breached. Of course the Council has now unequivocally withdrawn its objection. The Rule 6 party does not claim the development would be in breach of policy.
38. 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.
39. His conclusion is that "*....the proposal would not harm the character and appearance of the area and would therefore not lead to the policy conflict claimed in that*

¹ Danson Registered Park Listing : Steven Handfoorth appendix...

reason.² He notes that the his view of this matter *“was shared by the LBB’s planning officer, as set out in the officer’s report, which identified no policy conflict which would justify a refusal of planning permission and made a clear and unequivocal recommendation for approval of the application.”*

40. The planning officer’s report concluded that: *“On balance, it is considered that the proposal would deliver a high quality contemporary design which would provide a meaningful contribution to the street scene without harming the existing character and appearance of the locality.”*

41. The scheme architects Ruth French and Hannah Bryan of award-winning Ryder Architecture provided a full description of the process by which the design of the scheme was progressed. The application should enjoy the benefit of paragraph 132, of NPPF, given the description by Ms Bryan of how the appellant’s architects worked with the Council’s planners to achieve a well-designed scheme for the site.

42. Mr Leslie Osborn criticised the scheme as “overdevelopment”. However, policy D3 the London Plan reflecting national policy in NPPF 130 encourages *“optimising site capacity through the design-led approach.”* While D4 recognises the importance of *“delivering good design”*.

43. I invite you to find that the proposals represent a high quality of design, which is justified by a transparent design-led process, and which optimises the use of land, with appropriate use of form and materials and without compromising on quality.

44. The development responds well to the site, taking cues from the residential character of Danson Road and will add interest and variety to what is currently a rather bland suburban scene. Mr Osborn’s fears that it will affect house prices is without foundation and in any case, such matters are not a planning consideration.

(4)Heritage

45. 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 Msc IHBC considers that there is no material harm to Heritage

² Jon Etchells main proof para 8.12

Assets or their settings, caused by this development, while the R6 party considers that the harm is in the lowest third of “less than substantial” harm.

46. Danson Park is listed Grade 2 under section 8C of the Historic Buildings and Ancient Monuments Act 1953 within the Register of Historic Parks and Gardens by Historic England for its “*special historic interest*”. Registration brings about no additional statutory control, and they are not protected by a separate consent regime, although applications for planning permission will give great weight to their conservation.
47. The NPPF defines them as “*designated heritage assets*” in the glossary. As such RPGs enjoy the protection provided by policy in the NPPF. There is no statutory duty as arises in respect of listed buildings through operation of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, or conservation areas through operation of section 72.
48. The parties agree that there is no direct physical effect on the Park. The concern that is raised is the effect on appeal site and its contribution as part of the setting of the Park, which is not, in itself, a designated heritage asset. In fact, as Mr Handforth and Mr Knight appear to have agreed, the special historic importance of the registered park principally arises from its role as the remains of a C18/C19 landscape in providing the setting of the Grade 1 listed C18th House and the grade 2* listed stables. Mr Handforth explained that the significance of the Park primarily lies in its surviving 18th and 19th century landscape elements and their relationships with the Grade I listed Manor House and Grade II* listed stables. The proposed development would not impact upon this key significance and as such would cause no material harm to the Heritage Asset or its setting.
49. As Mrs Witney conceded the appeal site played no part in the setting of the house and stables; rather it provided the setting to the park; as the Inspector put it, the appeal site is part of the setting of the setting of the historic buildings.
50. Yet the appeal site shares no historic or architectural relationship with the history and architecture of the Park. The dwellings on the site area ordinary and much altered larger suburban mid C20th ribbon development along the Danson Road on what was open land as part of the park. The domestic gardens shared none of the

landscape characteristics of the historic park, save that parts of them were open. In fact they present a dreary and dilapidated fenced urban perimeter with sheds and shacks and the much altered and extended no 2 Danson Park experienced in the access road as a single flat rendered façade with a single first floor UPVC window.

51. Nor does the site share any characteristics in common with the gates, although the gates seem to have been installed in about 1929. They may represent the evolution of the garden in the C20th but that does not give them significant provenance by association with the special historic interest of the RPG. No part of the appeal site demonstrates the characteristics of the RPG that Mr Handforth has identified as comprising the significance of the ROG as a designated heritage asset.
52. There is no intervisibility between the appeal sites and the Mansion and stables and the intervisibility with the Park is limited to the gates, drives and most municipalised part of the RPG.
53. Mrs Witney's key concern seems to have boiled down to the view from the access road where some of the trees in the park to the south and west of the appeal site could be seen across the fence and garden of 2 Danson Road.
54. The National Planning Practice Guidance advises that the effect of harm within either category may vary and "should be clearly articulated". Historic England's document GPA3: "Historic Environment Good Practice Advice in Planning: 3" (2nd Edition - 2017). The document advises that an assessment should be carried out which includes the following steps:
- "Step 1: Identifying which heritage assets and their settings are affected
- Step 2: Assess the degree to which these settings and views make a contribution to the significance of the heritage asset(s) or allow significance to be appreciated
- Step 3: Assess the effects of the proposed development, whether beneficial or harmful, on the significance or on the ability to appreciate it
- Step 4: Explore ways to maximise enhancement and avoid or minimise harm"
55. The planning court has endorsed this process, and determined that "*the sequence in which steps 3 and 4 are addressed could vary from case to case without affecting the*

legality of a decision to grant planning permission.” See Newcastle City Council v SSLUH [2022] EWHC2752(Admin) per Holgate J at para [62].

56. Mrs Witney appeared in support of the R6 objection and on behalf of the Bexley Civic Society. She did not read out her proof of evidence or refer to it. Instead, she presented a power-point of slides which she provided in printed copies. Although she assured the Inspector that there was no new evidence in the slides, in fact there were important additions to her evidence which are not found in her proof, including the conclusions, which provide, for the first time, the objectors’ assessment of the level of harm. Her view was that the development would cause “less than substantial harm” to the RPG, within the bottom third of the spectrum, but her explanation to this was that this assessment was “only because of the limited areas of the total park affected”. It is certainly correct to say that the appeal site occupies only a small area relative to the size of the Park, as Mr Handforth’s Appendix 1 clearly shows.
57. But she has missed the more important point that Mr Handforth made, because she had not followed the guidance in HPA3 and the NPPF. She accepted that she had not carried out the exercise of identifying and describing the significance of the SPG as a designated heritage asset, as required by the NPPF paras 194 and the HE guidance in HPA3. The presentation of her view on the degree of harm and the assessment of public benefit without identifying the significance of the asset meant that her evidence could not properly explain and justify her judgement. Moreover, when her attention was drawn to para 202 of NPPF, her view was that the development would be harmful to the “enjoyment of hundreds and thousands of visitors a year, which outweighs benefits of the care provision for 70 individuals”. This is the most ludicrous conclusion and I propose to leave it to the Inspector to consider to what extent he can rely on or calibrate the Rule 6 party’s judgements when they are able to put forward such an opinion in this public inquiry.
58. Mrs Witney agreed that the statutory duty in s.66 of the Listed Buildings Act 1990 does not arise in respect of the RPG. She accepted that the development doesn’t impact on Danson House and that the housing development on Danson Road and Danson Mead will have harmed the RPG when built.

59. Mr Knight's main concerns were with the loss of the domestic gardens. Ultimately seemed concerned about the impact on the hedge. He accepted that there would be no loss of park land arising from the development. He accepted no impact on Danson House and had not read policy in the NPPF.

Living Conditions

60. The NPPF 69 provides

"Local authorities should....c) support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes;"

61. 130 provides:

"Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."

62. The scheme architects explained how the building has been carefully designed for its future residents and the complexity of designing environments appropriate for those living with various levels of dementia, while being mindful of the proposals affects on the living conditions of its neighbours. They explained how the building ensures excellent and appropriate living conditions for residents and has no significant effect on the living conditions of residential neighbours.
63. The initial concern over daylight and sunlight loss has been answered by the GL Hearn's light impact report and the shadowing exercise. The 6th reason for refusal was without merit and was previously withdrawn by the council following the report's conclusion that there would be no noticeable effect on daylight or sunlight to 1 or 2 Danson Mead.
64. Nor is the development "overbearing" with its relationship with 1 Danson Mead or 10 Danson Road given the distances between the structures concerned. Hannah Bryan made the point that having some bedroom windows facing across the access will increase passive surveillance of the entrance track will reduce the risk of crime. The amount of separation between the new buildings and 1 Danson Mead (24m) is generous, is consistent with the area's character and exceeds the standards which would usually apply in Bexley, noting that views between facing windows would be filtered by trees.
65. Following the further expansion of this point by the R6 party, the architects went on to explain that the proposed rear wing of the building took inspiration from the previous tunnelled entrance feel into the park and that the avenue of trees which have been replanted to reinstate the paths existing character will be carefully supplemented by the proposed design.
66. Furthermore, the existing elevations which either over-sail or sit right on the park boundary are removed or pulled back to reduce the sense of built form as one enters from Danson Road. The R6 group also highlighted recent anti social behaviour along the entrance path to which the architects explained the Secure by Design Principles that have been considered in the proposal. The concept encourages overlooking to public areas as a mode of passive surveillance to enhance the feeling of security.

67. Internal arrangements are entirely satisfactory, with the lower ground floor intended to be used to accommodate those occupiers that are living with Dementia, who will have direct access onto the central courtyard which is not overlooked by the public and does not overlook any public places. The architects explained how this layout has been designed specially for its intended active residents living with dementia to create a homely and stimulating space while inherently being secure and safe through the design.
68. None of the R6 party's concerns as to living conditions has any foundation. They even complained that there would be a loss of privacy in the access into the public park!
69. The relationship with the Park will provide a resource to the residents of the nursing home.
70. I invite you to find that the development is wholly consistent with the policy in paragraphs 69 and 130 the NPPF.

The benefits of the scheme and the planning balance

71. Mark Batchelor weighed the balance between development plan and the material considerations, including the many benefits that the scheme will bring under table 3 of his evidence.
72. In short, those benefits are:
- (1) The overwhelming evidence of need for nursing care home accommodation in Bexley and especially in this part of Bexley; (very substantial weight)
 - (2) The "recycling" of homes – the move of residents to the home would free up their often larger family homes;
 - (3) Provision of new residential accommodation to meet supply and delivery of new homes;
 - (4) Optimising the use of the appeal site;
 - (5) Creating new high quality development providing distinctiveness and interest ;
 - (6) Helping the NHS; and
 - (7) Contributing to economic growth (jobs and investment in the local area)
 - (8) Enhanced road safety through the reduced points of access and the right turn Strategy.

73. 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 while the London Plan is up to date, the Council's UDP (Local Plan) and Core Strategy; both long in the tooth and based on the old PPGs and PPSs are not up to date. They provide scant policy advice concerning nursing homes, against which the scheme can be assessed.

74. NPPF 11 requires that "Plans and decisions should apply a presumption in favour of sustainable development."

75. NPPF 11(c) and (d) provide:

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date [Footnote 8],

granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed [Footnote 7]; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

76. Footnotes 7 and 8 state:

7 The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.

8 This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the

Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

77. None of the Footnote 7 policies provide a clear reason for refusal in this case.
78. If you conclude that the policies in the development plan, considered as a whole, are “up to date”, the appellant asks you to find that the development is not in conflict with the UDP or the Core Strategy and fully complies with the London Plan. (Incidentally, it also complies with the emerging Local Plan which is close to adoption and is in accordance with the London Plan and NPPF).
79. On the other hand, if you agree that the most important policies for determining the application in the adopted UDP and Core strategy are either absent altogether, or out of date, because they conflict with policy in the NPPF (and in particular paragraphs 69 and 130 (above)), then it is submitted that you should apply the so-called “tilted balance”.
80. However, to summarise the point, as the appeal proposals accord with relevant policy in the London Plan and do not conflict with the provisions of the two parts of the adopted Local Plans your first option is 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).
81. Alternatively if you agree with Mr Batchelor that substantial parts of the development plan, considered as a whole, are out of date and there are no relevant policies it would be appropriate to conclude that the presumption in 11(d).
82. It is submitted that any adverse impacts are clearly outweighed by the benefits of this much needed scheme to meet the clearly identified needs of the Bexley community.

Loss of Housing

83. Mr Batchelor explained that this is not a case involving the unacceptable loss of housing. Rather, it is once which will deliver a 70 bedroom nursing home, which, in line with the requirements of London Plan Policy H1 and the reasoned justification at paragraph 4.1.9, should contribute to housing supply and delivery in the borough on a 1:1 ration with each bedroom constituting 1 dwelling.

84. Mr Batchelor further undertook an assessment of the development plan policies cited in the Council's fifth reason for refusal and explained why, in each case, these policies do not actually resist the proposed redevelopment of the 4 family houses on the appeal site. Rather, as he pointed out, the situation here is that the relevant policies in the development plan set out a strong framework in support of the proposal.
85. The evidence in this case points strongly towards the proposition that Bexley Borough is very well served by family housing. The SHMA explains that there are an estimated 98,599 homes in the Borough, of which 63.9% (c. 63,005 homes) are 3+ bedroom in size. The impact of the development on this local supply is, at most, completely immaterial. By contrast, the development will make a very important contribution to meeting critical housing needs in Use Class C2.
86. London Plan Policy H1(2)(a) challenges Councils to exceed 10 year housing targets through optimizing the potential for housing delivery on all suitable and available brownfield sites with a PTAL of 3-6. Paragraph 4.1.9 of the Plan sets out "Net non-self-contained accommodation for older people (C2 Use Class) should count towards meeting housing targets on the basis of a 1:1 ratio, with each bedroom counted as a single home." It goes on to say "The approach to monitoring net housing provision from different forms of non-self-contained accommodation is based on the amount of self-contained housing this form of supply will free up."
87. The simple fact in this case is that there are no relevant policies in the development plan which would seek to prevent the loss of the 4 family houses at the site; in fact the only policies which exist strongly encourage redevelopment and optimization of the site's use, including the delivery of the proposed nursing home.
88. London Plan Policy H8(A) sets out to resist the loss of existing homes unless replaced by new housing at existing or higher densities with at least the equivalent level of overall floorspace. The proposed development very clearly meets this objective.
89. Core Strategy Policy CS01 sets out to achieve sustainable development. It explains that sustainable development will be achieved by ensuring that housing provision meets the needs of Bexley's current and future population, including those unsuitably housed. It is common ground between the appellant and the R6 party

that the Borough has an ageing population with one of the highest average ages of any London Borough. NNT's evidence further sets out that there is a significant shortfall in C2 accommodation in the Borough and that 46.8% of older households aspire to downsize (his Proof para. AVI.5). In the light of the demographics in Bexley and the significant shortfall in C2 accommodation, the proposed development clearly meets the needs of the current and future population, including those who occupy larger family homes and wish to downsize.

90. Policy CS07 deals with the Welling geographic region and sets out a series of broad objectives for the development of the area. It does not set out any site specific objectives directly relevant to the appeal proposal. The Rule 6 Party claim that criterion (d) of the policy seeks to resist the loss of detached and semi-detached houses in the area. Here the policy states: *"ensuring that ... areas that are characterised by mainly semi-detached and detached family housing are retained and, where possible, improved, including the surrounding environment, and that new development is in keeping with the local and historic character of these areas"*. The development will not result in the loss of this character. It will affect only a very small part of the wider geographic area with the character of this part remaining that of detached and semi-detached houses.

The need for Conditions and the Section 106

91. The appellant is content that the appeal should be determined with conditions that have been discussed and broadly agreed, subject to the Inspector's consideration.

92. There is a section 106 agreement. The appellant does not consider that the Council has demonstrated that the covenant to pay £130,000 meets the requirements of CIL Reg 122 in the Compliance Statement. Applying the Clause 4 condition the appellant invites you to make a finding of fact to that effect and confirm that the NHS Hudu contribution is not payable.

Conclusions

93. Having regard to the development plan and all other material considerations, the appeal should be allowed and planning permission granted subject to the section 106 agreement and such of the conditions, including the conditions precedent as the Inspector thinks fit.

JONATHAN CLAY

CORNERSTONE BARRISTERS

2-3 GRAY'S INN SQUARE

LONDON WC1R 5JH

16 DECEMBER 2022