

**TOWN AND COUNTRY PLANNING ACT 1990
SECTION 78 APPEAL**

BY

CAREBASE LIMITED

PROOF OF EVIDENCE – PLANNING

MARK BATCHELOR BSc (Hons), MSc, MRTPI

**2, 4, 6 and 8 Danson Road
Bexleyheath
Kent
DA6 8HB**

**PINS REF: APP/D5120/W/22/3293225
LPA REF: 19/03072/FULM**

November 2022

Report Control

Project:	Danson Road, Bexleyheath
Client:	Carebase Limited
Reference:	19.5132
File Origin:	19.5123/4/4.02
Primary Author	MB
Checked By:	MB

<i>Issue</i>	<i>Date</i>	<i>Status</i>	<i>Checked By</i>
01	14 April 2022	Draft 1	MB
02	29 April 2022	Draft 2	MB
03	23 May 2022	Draft 3	MB
04	25 May 2022	Final	MB
05	24 October 2022	Proof (v1)	MB
06	10 November 2022	FINAL	MB

TABLE OF CONTENTS

1. Qualifications and Experience	2
Personal Introduction	2
The appeal proposal and scope of evidence	2
2. Housing matters	4
Bexley housing land supply	4
Bexley housing delivery	4
3. The Development Plan	6
Whether the development plan is up to date	7
London Plan (2021)	7
Bexley Core Strategy (2012)	8
Unitary Development Plan (2004)	8
Summary	9
4. Reason for refusal 5: Loss of Family Housing	13
Housing stock in LB Bexley	15
Delivery of nursing home accommodation	16
Relevant permissions in LB Bexley	17
5. Reason for refusal 6: Impact on no.1 Danson Mead	19
Light impact	22
Overbearing impact	23
6. Planning balance	25
7. Conclusion	27

1. QUALIFICATIONS AND EXPERIENCE

Personal Introduction

- 1.1 My name is Mark Batchelor. I am a Director at Boyer, based in the London office. I am instructed to present evidence to this appeal on behalf of Carebase Limited (“the appellant”).
- 1.2 I have been a Member of the Royal Town Planning Institute since March 2010 and I hold a Bachelor of Science Honours Degree in Geography and Town and Country Planning from the University of Birmingham (2004) and a Master of Science Degree in Town Planning from University College London (2007).
- 1.3 I have been a Director at Boyer for approaching 5 years and previous to that I was a Senior Associate in Peacock and Smith’s London office from 2015. Prior to that I was employed at Robinson Escott Planning, a small family-run consultancy based in Bromley for approximately 10 years following completion of my Bachelor’s degree. In total, my professional career spans approximately 18 years.
- 1.4 Across my career I have given professional advice to clients on a wide range of planning projects, including residential (including care), leisure, commercial and industrial development proposals both through the planning application and appeal processes. My experience includes supporting numerous planning appeals heard by way of informal hearing and public inquiry for a broad spectrum of clients and landowners.
- 1.5 I was first introduced to the site in 2019 and have been continuously involved in the preparation, submission and management of the planning application since then, including attending site meetings and speaking in support of the application at Planning Committee.

The appeal proposal and scope of evidence

- 1.6 This Proof of Evidence has been prepared on behalf of Carebase Limited following the submission of an Appeal against the decision taken by the London Borough of Bexley (“the Council”) to refuse detailed planning permission against officer’s recommendation to approve at 2, 4, 6 and 8 Danson Road, Bexleyheath (the “Appeal Site”).
- 1.7 The development proposed (“the appeal proposal”) comprises:

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

- 1.8 Planning permission was refused for this development by decision notice dated 30 November 2021 (copy at **Appendix 1**). This decision was taken contrary to the recommendation of the Council's expert planning officers, who wrote a detailed Committee Report addressing comprehensively all relevant planning considerations and concluded that the development was policy compliant (I enclose a copy of that Report at **Appendix 2**). The appellant has obtained a transcript of the Committee's discussion of the application and this is provided at **Appendix 13**.
- 1.9 Following the change of appeal procedure to an Inquiry, the Danson Neighbours Residents' Group has been awarded Rule 6 status ("the Rule 6 party"). Where relevant, my evidence also responds to matters raised in their Statement of Case.
- 1.10 It is noted that the Council no longer contests the appeal, accepting, therefore that the proposed development is in accordance with the objectives of the development plan and that its previously identified reasons for refusal cannot be substantiated. However, the Rule 6 party has confirmed that it will continue to object to the proposed development on all grounds and as such, my evidence addresses the fifth and sixth reasons for refusal.
- 1.11 My Proof also addresses the questions of the status of the development plan, the tilted balance and undertakes an overall assessment of the proposal in the context of both tilted balance and flat balance scenarios. In arriving at my conclusions, I have relied upon the evidence of other experts and witnesses.
- 1.12 The appellant's Statement of Case provides a detailed description of the appeal site and an assessment of policies relevant to this appeal. For the avoidance of repetition, I do not set out the same hereunder, but instead would refer the Inspector to the relevant passages of the Statement.
- 1.13 My evidence is accompanied by a number of appendices and is structured as follows:
- **Section 2:** The Development Plan;
 - **Section 3:** Reason for refusal 5: Loss of Family Housing;
 - **Section 4:** Reason for refusal 6: Impact on no.1 Danson Mead; and
 - **Section 5:** Conclusion and the Planning Balance
- 1.14 The evidence which I have prepared and provide for this appeal is true and has been prepared and is given in accordance with the guidance of the Royal Town Planning Institute and I confirm that the opinions expressed are my true and professional opinions.

2. HOUSING MATTERS

2.1 In view of the nature of the proposed development, it is important to have regard to the situation in Bexley in respect of housing land supply and delivery and these matters are reviewed below.

Bexley housing land supply

- 2.2 On 1st April 2022, the Council published a five year housing land supply assessment which identifies the supply of deliverable sites, sufficient to provide five years' worth of housing against the targets set out in the London Plan.
- 2.3 The London Plan sets the Council a minimum target of 685 additional homes per year with a small sites target of at least 305 additional homes per year. The NPPF's buffer (either 5% or 20% in the event of persistent under-delivery) is then added to these targets.
- 2.4 Paragraph 1.3 of the assessment confirms that non-self-contained accommodation for older people in Use Class C2 counts towards the Borough's targets on the basis of 1 bedroom being counted as a single home. This approach is consistent with that set out in the London Plan.
- 2.5 The Council's assessment finds that it is currently able to demonstrate a 5.25 year supply of housing land.
- 2.6 In relation to this matter, it is noted that the Council is at an advanced stage of preparing a new Local Plan, which includes new housing allocations. The EiP was carried out earlier this year and on 18 October 2022, the Inspectors wrote to the Council to advise that subject to main modifications being implemented, the emerging Plan is likely to be found sound. It is understood that progress is being made in making those modifications, but that it is unlikely that the emerging Plan will be adopted ahead of this appeal being heard.

Bexley housing delivery

2.7 In addition to housing land supply, delivery is also relevant and is part of the London Plan's policy focus. Table 1 below shows the Council's housing delivery performance over the last 6 reporting years.

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	Total
Target	335	347	446	446	571	456	2,601
Delivery	-75	764	314	530	215	632	2,380
Percentage	-22%	243%	70%	118%	37%	138%	91%

Table 1: Housing delivery results in Bexley over the last 6 years

- 2.8 It can be seen from the table above that housing delivery in Bexley is erratic with sharp peaks and troughs. There are years with significant under-delivery followed by years where targets are substantially exceeded, resulting in the Council being able to demonstrate a 91% delivery against targets across the last 6 reporting years.
- 2.9 The 2021 Housing Delivery Test shows that the Council has delivered 93% of the number of homes required, but given the alarmingly poor performance in 2017-18 and 2019-20, Bexley's 2020 Housing Delivery Test score was only 81%, meaning the NPPF's 20% buffer was added to the Council's targets for the following year.
- 2.10 Based on the current position, the 5% NPPF buffer is added to the Council's London Plan housing target.

3. THE DEVELOPMENT PLAN

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 3.2 The statutory development plan for Bexley relevant to this appeal currently comprises:
- The London Plan (2021);
 - Bexley Core Strategy (2012);
 - Saved policies of the Unitary Development Plan (2004);
- 3.3 As noted above, the Council is at an advanced stage of preparing a new Local Plan. In the light of Mr Newton-Taylor's evidence, the appellant submitted an objection to the emerging policies which address the delivery of care and nursing home accommodation in the Borough on the basis that the Council's calculations are fundamentally flawed. At present, therefore, the emerging Local Plan policies relating to care and nursing home delivery carry no weight.
- 3.4 Paragraph 10 of the NPPF sets out that at the very heart of the Framework is a presumption in favour of sustainable development. Paragraphs 11c and d then set out the meaning of this in the context of decision taking. Paragraph 11c explains that where a development is in accordance with an up-to-date development plan, planning permission should be approved without delay.
- 3.5 Paragraph 11d sets out that where there are no policies, or the policies in the Plan are out of date, planning permission should be granted unless either i) the application of the policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing development; or ii) any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 3.6 Where a plan is out of date, the NPPF's "tilted balance" is triggered and there is a presumption in favour of granting planning permission for sustainable development, pursuant to paragraph 11d).
- 3.7 In the light of the foregoing, the crucial questions in this case are whether the development plan is up to date and whether the tilted balance and the presumption in favour of sustainable development are engaged.

Whether the development plan is up to date

- 3.8 Notwithstanding the paragraphs below, if the development plan is found to be up to date, it is the appellant's case that the appeal proposal is compliant with its objectives and should have been granted planning permission without delay, pursuant to paragraph 11c) of the NPPF.
- 3.9 By reference to the conclusions set out in Mr Newton Taylor's Statement, it is clear there is a significant shortfall¹ in the supply of nursing home accommodation to meet the needs of residents in the Borough and that the existing policies in the development plan fail to address this need.
- 3.10 It is, therefore, my opinion that aspects of the development plan are not up to date and I expand detailed reasons for this conclusion below. It is my opinion that paragraph 11d)ii and the tilted balance are engaged in this case, meaning planning permission should be granted unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 3.11 In this case, NPPF paragraph 11d)i is not relevant.
- 3.12 Having identified generally above my opinion that the development plan is not up to date, I now turn to interrogate the relevant parts.
- 3.13 The weight attributed to the policies in the development plan is necessarily affected by their level of consistency with the guidance contained in the NPPF. Paragraph 219 of the Framework is therefore relevant. It sets out that existing policies are not necessarily out of date simply because they were adopted under a previous version of the NPPF, but instead weight should be given to them according to their consistency with the current Framework on the basis that the closer the policies in the plan are to the policies in the Framework, the greater the weight to be given to them.

London Plan (2021)

- 3.14 I consider that the London Plan is up to date, including Policy H13 – Specialist older persons housing, which encourages Councils to work with providers to identify sites suitable for specialist older persons housing (including nursing homes), taking into account local needs, site connections and *“the increasing need for accommodation suitable for people with dementia”*.
- 3.15 Paragraph 4.13.13 – 4.13.14 are also relevant and provide up to date evidence which underscores the need for dementia and care home accommodation (within Use Class C2 such as proposed in this appeal). This includes, at 4.13.13 the GLA's recommendation that *“Boroughs should consider the need for accommodation for people with dementia within specialist older persons housing developments”* and at 4.13.14, the GLA's confirmation that *“To meet the predicted increase in demand for care home beds to 2029, London needs to provide an average of 867 care home beds a year.”*

¹ Paragraph 7.6 of Mr Newton-Taylor's Statement

Bexley Core Strategy (2012)

- 3.16 The Bexley Core Strategy was adopted on 22 February 2012. The Government published the first version of the NPPF on 27 March 2012 and as such, the Core Strategy was drafted, consulted upon and adopted under the previous framework of PPGs and PPSs.
- 3.17 PPS3 (June 2011) related to Housing and took a very broad approach to housing matters, requiring that developments deliver a wide choice of homes to address the requirements of the community. There were limited references to housing for older people with the requirement being that authorities “have regard to” the needs of older people.
- 3.18 The current NPPF goes beyond this and sets out at paragraphs 61-62 that policies should be based on a local housing need assessment which reflects current and future demographic trends. Paragraph 62 states “the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities...)”
- 3.19 Indeed, Planning Practice Guidance on Housing for older and disabled people sets out in the first sentence that “*The need to provide housing for older people is critical.*” It goes on to explain that people are living longer lives and the proportion of older people in the population is increasing and that it is therefore important for plan making and decision taking to have an understanding of how the ageing population affects housing needs.
- 3.20 Together, the NPPF and PPG require development plans to set clear policies to address the housing needs of the community, including those who require residential care or nursing home accommodation such as is proposed in this appeal.
- 3.21 The Bexley Core Strategy includes no such policy and in fact makes only scant reference to the needs of the elderly and those requiring care, but not in any of the policies within the Plan. The Core Strategy is therefore inconsistent with the NPPF and pursuant to paragraph 219, the most relevant policies in the Core Strategy which would relating to housing development (including residential care and nursing homes) are out of date.

Unitary Development Plan (2004)

- 3.22 I need not rehearse again the points made at paragraphs 217-221, but it is evident from the dates involved that the saved policies of the UDP were conceived, consulted upon and adopted under a now somewhat historic national policy framework.
- 3.23 UDP Policy H13 – Large residential developments applies to proposals of over 25 units (noting the appeal proposal is for a 70 bed care home and therefore 66 net additional homes) and at part 3 requires generally that such developments are designed to meet housing needs. The policy is fairly generic and does not specifically relate to proposals for residential care and nursing home proposals.

3.24 In the absence of any policy specifically designed to meet the needs of the elderly and those requiring care, the UDP is inconsistent with the NPPF and pursuant to paragraph 219 of the NPPF, the most relevant policies in the Plan which would relate to housing development (including residential care and nursing homes) are out of date.

Summary

- 3.25 In summary, it is my opinion that the London Plan (2021) is up to date and consistent with the objectives of the NPPF such that the strategic, London-wide objectives in this Plan relevant to the determination of the application attract full weight.
- 3.26 However, it is my opinion that both the UDP (2004) and the Core Strategy (2012) contain policies which are now out of date. There has been a very clear Government policy shift which requires Local Plans to set out both what the total housing requirement is and how it should be apportioned across different accommodation types. The London Plan achieves this, identifying that across London there is an annual requirement to deliver 867 care home beds. However, the Core Strategy and UDP both fail to undertake a detailed assessment of local needs in Bexley. They are, therefore, inconsistent with the NPPF and are out of date.
- 3.27 My conclusion on this first main matter is that paragraph 11d) of the NPPF is engaged and the tilted balance is triggered.
- 3.28 I set out in Table 2 a summary of the relevant policies in the UDP and Core Strategy, identify if they are most important to the determination of the appeal and the weight to be attributed to them.

Policy	Most Important?	Up to date?	Does the appeal proposal accord with the policy?	Weight
Core Strategy (2012)				
CS01 Achieving sustainable development	Yes	No. The policy fails to address the need for care and nursing home development as required by the NPPF and PPG.	Yes, in respect that there is no conflict with the policy's objectives as confirmed in the Committee Report.	Limited weight given the lack of specific policy to meet C2 needs.
CS07 Welling geographic region	No	Yes. The policy establishes a range of broad objectives for the Welling geographic region, covering topics such as design, flooding and heritage impacts.	Yes.	Full weight.
CS10 Housing Need	Yes	No. The policy fails to address the need for care and nursing home development as required by the NPPF and PPG.	Yes, in so far as the development will meet identified local need for nursing home bedspaces and will contribute to housing supply and delivery in the Borough.	Very limited weight given the lack of specific policy to meet C2 needs and the acute need which exists.
CS12 Bexley's Future Economic Contribution	No	Yes.	Yes. The development will generate employment and other benefits to the local economy.	Full weight.
CS13 Access to jobs	No	Yes.	Yes, the development will generate employment for local residents.	Full weight.
CS16 Reducing the need to travel and the impact of travel	Yes	Yes. The policy encourages developments to be in the areas most accessible by public transport.	Yes. The development is in PTAL 4 and is accessible by a range of public transport connections.	Full weight.

Policy	Most Important?	Up to date?	Does the appeal proposal accord with the policy?	Weight
CS18 Biodiversity and Geology	No	No. Although the policy sets out to protect and enhance biodiversity assets, it does not refer to net gain.	Yes, although additional evidence is being produced to address new net gain requirements.	Moderate weight.
CS19 Heritage and archaeology	Yes	No. The policy's tests are inconsistent with those outlined in the NPPF.	Yes. Although the policy tests are now out of date, the proposal is compliant. There is no objection from the Council's conservation officer.	Limited weight.
Unitary Development Plan (2004)				
ENV39 Built environment	No	Yes	Yes. Following a detailed appraisal of the area's character and the relationship of the development to its surroundings, there are no objections from the Council's design officer.	Full weight.
H3 Character	No	Yes	Yes, in line with the Council's design officer's comments, the development will not give rise to any harm to the area's character.	Full weight.
H13 Large residential developments	No	No. The policy establishes a range of criteria relevant to developments of 25 homes or more, but fails to account specifically for residential nursing home development.	Yes.	Limited weight.

Policy	Most Important?	Up to date?	Does the appeal proposal accord with the policy?	Weight
T6 Optimising use of the existing transport network	Yes	Yes, insofar as it seeks to encourage development in the most sustainable and accessible parts of the Borough with good public transport access.	Yes. The Highway Authority have not objected to the development.	Full weight
T17 Regulation of vehicle parking	No	No. The policies in the London Plan set the parking standards for London and should take precedence.	Yes. The Highway Authority have not objected to the development.	Limited weight

Table 2: Assessment of relevant policies and weight attracted

4. REASON FOR REFUSAL 5: LOSS OF FAMILY HOUSING

4.1 This reason for refusal is no longer contested by the Council. The Council now accepts that the development is in accordance with the development plan, including Policy H8 of the London Plan and Policies CS01 and CS03 of the Core Strategy.

4.2 The fifth reason for refusal on the Council's decision reads:

The proposed development results in the loss of the four family dwelling houses which is not outweighed by the benefits of the scheme, including the provision of 70 care homes beds, contrary to Policies H8 of the London Plan (2021) and policies CS01 and CS03 of the Bexley Core Strategy (2012).

4.3 It is first to be noted that of the policies quoted in the reason for refusal, none set out any formal protection for family houses in the Borough. I would immediately, therefore, conclude that the Council's fifth reason for refusal has no foundation in policy and is unsustainable.

4.4 As the Rule 6 Party is maintaining its objection on this ground, I set out below my opinions on this particular matter, taking a broad view on identified housing needs in Bexley and London more generally. I also explain my opinion that this case is not one involving a loss of family housing, but rather is about the delivery of residential nursing home accommodation (including dementia care) to meet the advanced care needs of Bexley's residents. In turn, as Mr Newton Taylor has explained in his Witness Statement², the development will facilitate the recycling of family homes in the Borough, providing enhanced opportunities for homeownership for families who need to up-size.

4.5 Moreover, Mr Newton Taylor's evidence shows (at his Appendix VII) that there is no shortage of family housing stock in Bexley Borough, but that there is frequent under-occupation of such homes, leading to a perceived undersupply. This, in part can be resolved through the delivery of accommodation appropriate to the "downsizer" market, which will include the delivery of care and nursing home accommodation in addition to other smaller housing products.

4.6 My evidence further reviews the beneficial effect of the proposed development on housing land supply and delivery in Bexley, recognising that this development is appropriate, viable and deliverable now and will generate an uplift of 66 homes, making a meaningful contribution to housing land supply and delivery statistics in the Borough.

4.7 Following this, I have identified two recent appeal decisions across different authority areas, which are instructive in the context of this appeal, helpfully establishing the approach and weight other Inspectors have given to developments involving the delivery of residential care and nursing homes in areas where unmet need is identified. Copies of these appeal decisions are provided at my **Appendices 3, 4 and 5**.

² Paragraph AVII.5 of Mr Newton-Taylor's Statement

- 4.8 Finally, I have identified a number of planning permissions granted in the Borough, involving the loss of family housing in favour of smaller unit types. In each case, the Council has plainly not been concerned with a loss of family housing arising from the development.
- 4.9 Before addressing these matters, it is first relevant to note that the NPPF and London Plan both encourage housing development on small and medium sized windfall sites, noting the important contribution such developments can make to meeting local housing requirements given the quick build-out rate.
- 4.10 Paragraph 69c) of the NPPF explains that Councils should 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”*.
- 4.11 Consistent with this, the London Plan includes Policy H2 ‘Small Sites’, which sets each Borough a minimum target to be met in relation to housing delivery on small sites. The appeal site area exceeds the 0.25ha threshold at Policy H2, meaning it is not directly relevant, but more generally it is notable that the Mayor is keen to see housing being delivered across a range of site sizes, recognising the important contribution each can make to housing supply and delivery locally.

Housing stock in LB Bexley

- 4.12 At Appendix VII of his Witness Statement, Mr Newton Taylor examines the availability of family housing in the Borough and his evidence takes data from the 2011 Census, which shows that the proportion of homes in Bexley offering 3+ bedroom family accommodation exceeds the national average (63% in Bexley compared with 60% nationally).
- 4.13 The findings of Mr Newton Taylor's evidence are endorsed by the Council's own Housing Strategy 2020-2025 (copy enclosed at **Appendix 6**), which includes an infographic in the Executive Summary which shows that 70% of the housing stock in the Borough is houses with the first paragraph of the introduction (at page 8) stating "*Three bedroom houses currently represent 46% of the total housing stock in Bexley...*". The Introduction goes on to explain that the Borough "*...the housing needs of an ageing population need to be carefully considered...*".
- 4.14 The Council's November 2021 Strategic Housing Market Assessment ("SHMA") (copy enclosed at **Appendix 7**) provides further informative evidence in relation to housing stock in the Borough. It confirms (pages 10 – 11 and addressed in detail at paragraphs 3.7 – 3.8) that 70% of the occupied housing stock in the Borough are houses with 63.9% of occupied properties in the Borough having 3 or more bedrooms.
- 4.15 The SHMA further explains that "A major strategic challenge for the Council is to ensure a range of appropriate housing provision ... to support the Borough's older generation." The SHMA further notes (page 13) that there are currently around 3,644 units of specialist older person accommodation including around 1,186 units of residential care dwellings within Use Class C2. Upon analysing predicted demographic changes, the SHMA predicts a need for an additional 448 units of residential care by 2038.
- 4.16 Paragraphs 2.43 to 2.45 of the SHMA address the housing market dynamics of welling and Bexleyheath. It explains at paragraph 2.44, "*The major house type across both areas are semi-detached and detached family homes.*"
- 4.17 Tables 3.5A (page 56) and 3.5B (page 58) provide detail on property type and size by Ward, based on the 2018 Household Survey. The appeal site is in Crook Log Ward, where the dwelling stock comprises 81.6% housing (10.5% detached house; 47.5% semi-detached house; 15.2% terraced house; 8.4% bungalow) with only a very small proportion of flatted properties.
- 4.18 In terms of dwelling size, the Ward comprises 74.1% 3+ bedroom accommodation (50.8% 3 bedroom; 19.2% 4 bedroom; and 4.1% 5+ bedroom) with only a small proportion of 1 and 2 bedroom homes.
- 4.19 It can, therefore, reasonably be inferred from the above that there is no actual shortage of 3+ bedroom family accommodation in the Borough and this part of the Borough specifically. Rather, it instead appears to be the case that there is a stagnant population in Bexley with the ageing population having limited options available for downsizing in the local area.

- 4.20 As Mr Newton Taylor observes in his evidence (paragraph AVII.5), "...the development of the nursing home may serve to 'free up' family housing within the Borough through the provision of a more appropriate accommodation for the most elderly...".
- 4.21 In summary, therefore, it is clear both from the appellant's and the Council's own evidence that there is no local issue of an undersupply of family housing and this explains why there is no policy in the adopted development plan which seeks to protect the same.
- 4.22 Furthermore, it is instructive in this case that the emerging Local Plan also does not contain a draft policy which would protect family housing from redevelopment. In fact, in addressing housing mix, the emerging plan requires new development to deliver 53.5% of new homes as 1 or 2 bedroom units, strongly reflecting, therefore, that there is reduced local need for family housing, but instead a need for smaller housing types which can facilitate downsizing and the recycling of existing family housing stock.
- 4.23 Setting aside the fact that there is no policy protection for family housing, the evidence from the SHMA (Table 3.5A at page 56) shows that 70% of the Borough's housing stock is family housing with 81.6% of homes in Crook Log Ward being houses or bungalows and 74.1% of homes in the Ward being family sized 3+ bedrooms in size (Table 3.5B at page 58). Accordingly, the local housing market provides for more family housing than the average across the Borough.
- 4.24 In view of the evidence in this case, it is my very firm opinion that the Council's objection to the development on the basis of a loss of family housing is unsustainable and unsupported by any existing or emerging policy or evidence. In deciding not to contest the appeal, the Council has confirmed that this objection cannot be substantiated and that planning permission should not have been refused on this ground.

Delivery of nursing home accommodation

- 4.25 Mr Newton Taylor's evidence is clear in identifying a significant unmet need for nursing home accommodation within Use Class C2. The Council's emerging Local Plan erroneously sets a low target for such across the plan period, based on an arithmetic miscalculation, which is corrected in the November 2021 SHMA, which identifies a need for an additional 448 units of residential care by 2038.
- 4.26 As Mr Newton Taylor points out (paragraphs 5.4 to 5.11), the issue in Bexley is not only quantitative, but also qualitative with a number of existing homes not meeting current standards and expectations such as basic requirements like ensuite facilities. As such, the emerging policy fails to address the issue properly in Bexley and post-adoption of the policy in its current form, there will continue to be a Plan failure to meet local needs and the appellant has objected to the emerging plan on this basis.

- 4.27 What is clear, however, is that by any measure, there is significant unmet need for Class C2 accommodation in the Borough and the delivery of a 70 bed nursing home on the site will make an important contribution towards this.
- 4.28 At Policy H13, the London Plan pro-actively supports the development of Class C2 accommodation, seeking the delivery of 867 bedspaces per annum. This policy reflects the Government's own assessment, which has identified the lack of such accommodation as now being a "critical" issue.
- 4.29 As I note above and will be clear to the Inspector given the identity of the appellant, this is an operator-led development proposal, not a speculative proposal by a landowner looking to boost land value. This is a viable proposal and will be quickly delivered by the appellants upon a grant of planning permission.
- 4.30 In view of the significant level of unmet need both in Bexley and across London as a whole, the delivery of a nursing home at the site is a benefit of the development which in my assessment must carry not less than very substantial weight in the planning balance.

Relevant permissions in LB Bexley

- 4.31 In this section, I identify a number of permissions granted in the Borough involving a loss of family housing. The examples identified below are not exhaustive but demonstrate a clear pattern for "loss of family housing" not being a reason for opposing development in the Borough. Indeed, the question of such loss is not even addressed in the Committee Reports or Delegated Reports which have been obtained, underscoring my opinion that this is not a policy consideration in Bexley.
- 4.32 Under reference 21/03619/FUL, planning permission was granted for the demolition of the 3 bedroom bungalow at 28 Blackfen Road, Sidcup and the construction of a block of flats comprising a mix of 3 one bedroom and 2 two bedroom flats. The application form, decision notice and approved plans are enclosed at **Appendix 8**.
- 4.33 Under reference 19/00039/FUL, planning permission was granted for the demolition of 176-178 Bexley Road (2 bedroom and 3 bedroom houses, respectively) and the construction of 9 two bedroom flats. The application form, decision notice and approved plans are enclosed at **Appendix 9**.
- 4.34 Under reference 18/03183/FUL, planning permission was granted for the demolition of the 3 bedroom family dwellinghouse at 33 Monterey Close, Bexley and the construction of 6 two bedroom bungalows. Copies of the application form, approved plans and decision notice are provided at **Appendix 10**.

4.35 Under reference 18/02851/FUL, planning permission was granted by the Council's Planning Committee for the demolition of the family dwellinghouse at 4 Broomfield Road, Bexleyheath and the construction of a block of 9 flats, comprising a mix of 2 one bedroom and 7 two bedroom flats. A copy of the decision notice, committee report and approved plans are enclosed at **Appendix 11**. Again, this permission resulted in the loss of a 3 bedroom family dwellinghouse with the new development making no provision for family housing within the approved mix. The loss of family housing was not identified as an "issue" to be justified in the Committee Report, which set out a firm recommendation that permission should be granted for the development, which was accepted by the Committee.

5. REASON FOR REFUSAL 6: IMPACT ON NO.1 DANSON MEAD

- 5.1 The property at no.1 Danson Mead is understood to be a detached 2 storey, 5 bedroom house standing centrally within a triangular plot, which I have approximately outlined in blue in the aerial photograph below at Image 1 (with the appeal site approximately outlined in red). The southern elevation of no.1 Danson Mead stands approximately 24m from the boundary of the appeal site and is separated from the site by the wide, planted footpath entrance to Danson Park.



Image 1: Aerial view showing the appeal site (outlined red) and no.1 Danson Mead (outlined blue)

- 5.2 Planning permission was granted by the Council under reference 15/01590/FUL for the construction of a two storey side extension to no.1 Danson Mead and I attach the decision notice and approved drawings at **Appendix 12**.
- 5.3 The permission provided for the construction of a two storey extension to the east side of the house, maintaining the pre-existing ridge and eave heights. The result of this was the building extending closer to the entrance to Danson Park. The approved extension was separated from the southern site boundary by approximately 2.5m. Condition 3 of the permission required that the extension should be completed using materials matching those on the existing building, including white rendered/painted walls. As a result of the location of the extension, its size and proximity to the boundary with the entrance to Danson Park and the use of a bright white finish to its construction, the house at no.1 Danson Mead is now a visually prominent feature evident when entering Danson Park and is clearly visible from vantage points on Danson Road around the park's entrance and in front of the appeal site.

- 5.4 The extension has been completed and the approved plans reveal that at ground floor level to the east of the house is a large, open plan kitchen and family room, which is a triple aspect room with windows facing north, east and south. It appears, however, from studying aerial photographs that the south-facing window to this room (this being the one which would have faced towards the appeal site) was not in fact built (see Image 2, below).
- 5.5 To the west of the house is a dual aspect lounge, with a small south facing window providing a secondary means of outlook and light with large glazed doors opening onto the rear garden (see Image 3, below).



Image 2: South elevation of no.1 Danson Mead with the approved kitchen window not evident



Image 3: Showing large west-facing double doors opening onto the rear garden

- 5.6 At first floor level, the house provides 5 bedrooms with bedroom 1 being served by a pair of windows facing south across the access to Danson Park, towards the appeal site. This is a single aspect room, which is separated from the closest point of the proposed building by approximately 23.8m. The only other window facing towards the appeal site appears to be a bathroom window in the approved extension (noting that the approved second window serving bedroom 5 appears not to have been installed).
- 5.7 As shown in Image 4, by virtue of the position of the house on its plot, the property has 3 garden areas. To the north is the “front garden” from which access to the property is taken and which provides space for car parking and bin storage. This garden is separated from 2 other private gardens to the east and west of the house, which are enclosed by c.2m tall boundary fences and hedgerows. By virtue of their orientation, these private gardens will receive abundant daylight and sunlight across the whole day. They appear to be laid to lawn with planted borders and evidently provide the occupants of the house with private, generous, high quality outside spaces for rest, recreation and play.

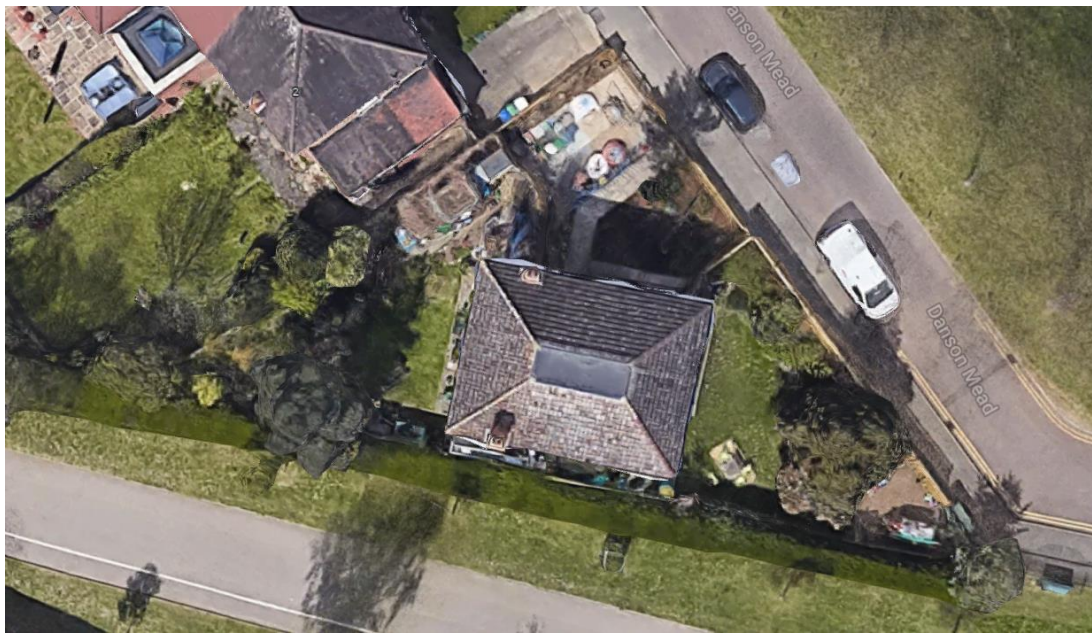


Image 4: Showing the 3 garden spaces at no.1 Danson Mead

- 5.8 The sixth reason for refusal on the Council’s decision reads:

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

- 5.9 It is first easily observed that the reason for refusal is so vague as to be entirely unclear as to how the amenities of the residents at no.1 are impacted. This generic nature of the reason for refusal highlights that the Council, in making its decision, did not give any thought to the arrangement of no.1 Danson Mead on its plot. Had the Council done so, my opinion is that it would properly have been concluded that there was no impact with such a conclusion echoing the reasonable, sensible and considered conclusion of the Council's expert planning officers. I note that the Council formally confirmed its decision not to contest the sixth reason for refusal earlier in the appeal process, before then advising the relevant parties of its decision not to contest the appeal on any ground.
- 5.10 The reason for refusal identifies objections on the ground of light impacts and an overbearing impact on no.1 Danson Mead and I discuss each in turn below.

Light impact

- 5.11 It is clear from reviewing the third party representations that there was no empirical evidence underpinning the Council's sixth reason for refusal. Rather, it was based on the anecdotal objections of neighbouring residents.
- 5.12 At pg.20 the Committee report commences a detailed discussion of the development's impact on neighbour amenity. The planning officers took a systematic approach to the discussion of these impacts, including an assessment of the relationship with no.1 Danson Mead. The report identifies that the proposed development would be separated from no.1 by approximately 24m and that due to the 2 storey height of the development along the boundary to Danson Park, it would not have an overbearing impact and would not introduce any unacceptable loss of privacy or overlooking. I endorse this very sensible and logical conclusion.
- 5.13 I attended the planning committee meeting and at **Appendix 13** attach a transcript of the meeting, which was commissioned by the appellant and taken from the webcast recording so is an accurate record of the event.
- 5.14 First, I note that the neighbours who spoke in objection (Ms Hubbard and Mr Osborne) to the application did not raise an objection on the development's impact on their light amenity during their speeches. In fact, the only times when light impact were raised at the meeting were firstly by Cllr Slaughter (see pg.9) who considered that there would be some loss of sunlight at no.1 Danson Mead and then Cllr. Bishop (pg.17) who advised the Committee that an objection on such grounds (and others) would be unsustainable.

- 5.15 Given the amount of separation between no.1 Danson Mead and the appeal site and given the limited height of the development, my opinion is that it is highly unlikely that there would be any adverse light impacts.
- 5.16 Notwithstanding my opinion, in support of this appeal the appellant has commissioned a shadow study, undertaken by Ryder Architects and this shows that across the course of a year, there would be no discernible impact on the neighbouring residents. In addition, they have commissioned a daylight and sunlight impact assessment by GL Hearn, which demonstrates conclusively that the development would have a negligible effect on neighbouring daylight and sunlight conditions.
- 5.17 In its Statement of Case the Rule 6 Party includes a section titled "Loss of Sunlight and Overbearing Impact on 1 Danson Mead and 10 Danson Road". This heading implies a concern regards a loss of sunlight at no.10 Danson Road, which is located due south of the appeal site. However, the narrative below that heading does not detail any such objection.

Overbearing impact

- 5.18 As to the suggestion in the sixth reason for refusal that the development would have an overbearing impact on no.1 Danson Mead, it is clear from the discussion above that, with the exception of bedroom 1 at first floor level, there are no rooms in that property which have a primary outlook towards the appeal site and in its Statement of Case, the Rule 6 Party has not included any photographs which would illustrate a future unacceptable relationship. Indeed, the objection made out by the Rule 6 Party mainly focusses on the north facing windows at first floor level in the rear limb of the proposed nursing home and does not detail any objection on the basis of the development having an overbearing impact.
- 5.19 Bedroom 1 appears to be a reasonably generous room at first floor level, benefitting from a pair of broadly south facing windows, which will provide a very good level of outlook from that room. As set out in the Committee Report, these windows are set approximately 24m from the proposed nursing home and, being at first floor level, will be approximately level with the first floor accommodation in the 2 storey rear range³. Given the equivalent levels, the windows serving bedroom 1 will continue to have a generous outlook which is in no way unreasonably restricted or limited by the rear range of the proposed nursing home, some 24m away across the landscaped, tree planted entrance to Danson Park.
- 5.20 My conclusion on this first point is that the proposed development cannot reasonably be said to have any overbearing impact on any of the rooms, including bedroom 1, in no.1 Danson Mead.
- 5.21 I turn, therefore, to the development's impact on the east and west gardens at no.1 Danson Mead.

³ This is clarified by the west elevation shown at drawing no. DAN-RYD-00-XX-DR-A-3601-P5 which also includes no.1 Danson Mead.

- 5.22 The east garden is broadly triangular in shape with its apex at the junction of Danson Mead and the entrance to Danson Park. The garden appears to be enclosed by tall hedgerows and fencing which will contain views broadly within the plot. Some views will clearly exist above these and towards the appeal site and from certain vantage points, the 2 storey house at no.2 Danson Road might be visible. If so, there will be no material change given that the height of the proposed nursing home steps down to 2 storeys adjacent to the site's northern boundary.
- 5.23 At its closest point, the eastern garden at no.1 Danson Mead is separated from the north flank elevation of the proposed development by approximately 24m and by reason of this and the existing relationship, my opinion is that the development will not give rise to any material change and certainly will not result in an overbearing or otherwise harmful relationship.
- 5.24 The west garden is also triangular in shape, with the apex at the junction between the boundary to the park entrance and the longer garden of no.2 Danson Mead. Again, the garden appears to be enclosed by tall boundary hedging and fences, which will restrict the southwards views towards the appeal site and the lower 2 storey rear range on the proposed nursing home. Again, there is generous separation between the garden and the proposed home to the extent that I would not anticipate there being any clear view of the proposed home from that garden.
- 5.25 Even if the home could be glimpsed from that garden, its impact will be significantly less than the impact of the house at no.2 Danson Mead, which appears to be quite highly visible from within the western garden given the staggered relationship between the two houses. This relationship is quite well revealed at my Images 2, 3 and 4, above.
- 5.26 My opinion is that the proposed development will not have any material impact on amenity within the western garden at 1 Danson Mead and certainly not an overbearing or otherwise harmful one.
- 5.27 In conclusion on the sixth reason for refusal, it is my very firmly held professional opinion that the objections on light impact and overbearing impact were extremely poorly conceived. They were unsupported by any evidence or objective analysis by the Planning Committee and as such do not attract any policy support. Accordingly the reason for refusal is, in my opinion, an unreasonable and unsustainable.

6. PLANNING BALANCE

- 6.1 In order to undertake the planning balance in this case, I review below the conclusions of the appellant’s expert technical team and identify any harms which have been identified and the weight to be afforded to these. I then move on to identify the scheme benefits and the weight these attract.
- 6.2 Before doing the balancing exercise, it is first necessary to revisit the policy position in this case, which I discuss in detail above at paragraphs 3.1 to 3.28 with my evidence at Table 2 identifying those policies in the development plan most important for the purposes of decision making in this case.
- 6.3 My evidence concludes that the Bexley UDP and Core Strategy are both out of date in respect of the position they take regards the development of nursing home accommodation. The policies in the London Plan are up to date and reflect the Government’s stance, which is to support the delivery of care and nursing home accommodation.
- 6.4 As the policies in the development plan most important to decision making in this case are out of date and the site is not an area or asset of particular importance, the NPPF’s tilted balance is engaged and there is a presumption in favour of granting planning permission in this case unless the adverse impacts of the development “significantly and demonstrably outweigh the benefits”. Accordingly, I set out in Table 3 below the benefits identified and quantify these in order that the planning balance can be carried out.

Topic	Summary of benefit	Weight
Nursing home bedspace delivery.	Significant unmet need which is not addressed through existing and emerging policy.	Not less than very substantial.
Recycling of family homes.	Development will assist in mobilising the community who are in need for nursing home accommodation, facilitating existing family housing stock coming to market for those young families in the Borough who need homes.	Significant.
Housing supply and delivery	The development will make a meaningful contribution to Bexley’s housing land supply and delivery (+66 homes). The Council’s record on delivery is characterised by significant peaks and troughs.	Considerable.
Optimising use of housing land	As set out at paragraph 69c) of the NPPF. Making best use of existing	Great.

	housing land in a highly sustainable and accessible location within an established settlement for additional housing.	
Reduced pressure on NHS services.	The development will result in reduced pressure on GP surgeries, reduced GP visits and reliance on District Nurses; and reduced hospital visits. It has been calculated that the development will save the NHS at least £25,000 per annum ⁴ .	Moderate.
Economic growth.	Significant job creation during the construction and operational phases; local economic growth; increased local spend, CIL receipts.	Moderate

Table 3: Assessment of benefits

- 6.5 The conclusions of the appellant's technical experts is that the development does not give rise to any harm in respect of other matters, including in respect of heritage impacts and highways matters, with Mr Handforth and Mr Wharton both concluding that the development is acceptable.
- 6.6 In the light of the circumstances and evidence available in this case, it is clear that the planning balance falls heavily in favour of a grant of planning permission.

⁴ Economic Benefits Report, page 16

7. CONCLUSION

- 7.1 It is my firmly held opinion that the Council's decision to refuse planning permission in this case, against the expert advice of their officers was entirely unreasonable and unsustainable.
- 7.2 Specifically, the fifth reason for refusal has no policy basis whatsoever and the reason for this is evidenced through the Witness Statement of Mr Newton Taylor and the Council's own SHMA, which demonstrates that the majority of homes in the Borough are houses. The issue of a lack of family housing on the market is not to do with a shortage of stock, but is due to a combination of an ageing population and a lack of housing types available to meet the needs of the would be downsizers in the Borough. If the Council had properly understood and interrogated the case, it seems to me that the correct and sustainable conclusion is that the proposed development will facilitate the recycling of family housing in the Borough.
- 7.3 The Council's objection at its sixth reason for refusal is nothing more than a spurious objection which is unsupported by any proper interrogation of the facts in the case. It has nevertheless been demonstrated through the above, the shadow study by Ryder Architects and the light impact assessment by GL Hearn that the development will not have any harmful impact on the residents at no.1 Danson Mead.
- 7.4 In overall terms, the evidence in this case shows that the development will not give rise to any harm. Against this, it has been shown above that the Bexley UDP and Core Strategy are both out of date as they fail to make sufficient provision for the delivery of care and nursing home accommodation to meet identified local needs.
- 7.5 The London Plan proactively supports the type of development proposed in this appeal, requiring the delivery of 867 bedspaces in the City and Government guidance makes clear that the need to provide housing for older people is critical.
- 7.6 As the development plan is out of date, the presumption in favour of sustainable development applies to this case and planning permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits. I have shown above that there is a wide range of material benefits in this case, each attracting weight in the planning balance. There are no countervailing harms to be weighed against these benefits and as such, it is my opinion that the balance falls heavily in favour of a grant of planning permission.