

Planning Application F/TH/24/0302 – Kent House Nursing Home Fairfield Road Broadstairs

Meeting: Planning Committee - 18th December 2024

Report Author: Vicky Kendell-Bryant, Senior Planning Officer

Planning Reference: F/TH/24/0302

Site Address: Kent House Nursing Home Fairfield Road Broadstairs

Agent: Mr Jason Drew

Status: For Decision

Classification: Unrestricted

Previously Considered by: Planning Committee 16th October 2024

Ward: St Peters

Executive Summary:

This report concerns the planning application for a change of use from an existing care home (Use Class C2) to a 21 bed house in multiple occupation (HMO), together with the erection of a bin store, and alterations to landscaping and parking.

The application was considered by the Planning Committee on 16th October 2024 where Members resolved to defer to Officers to bring back to Members to consider reasons for refusal of the application.

There are no changes to the proposed development previously considered by Members.

Recommendation:

Members approve the application subject to the safeguarding conditions as set out within the report contained within Annex 1.

Corporate Implications

Financial and Value for Money

The Planning Committee is not bound to follow the advice of Officers. However, should Members decide not to accept the advice of Officers it should be mindful of the potential cost implications in doing so.

The advice from Central Government within the National Planning Practice Guidance sets out the circumstances in which costs may be awarded against either party in planning appeals. Costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Costs may be awarded following an application by the

appellant or unilaterally by the Inspector. An authority is considered to have behaved unreasonably if it does not produce evidence to substantiate each reason for refusal.

The advice outlined is that if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority. There are no funds allocated for any potential fines meaning cost awards will result in spend that is outside of the budgetary framework.

Legal

The Planning Committee is not bound to follow the advice of Officers. However, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.

The reasons for any decision must be formally recorded in the minutes and a copy placed on file.

If Members decide not to accept the advice of Officers it should be mindful of the potential for legal challenge and associated cost implications.

Corporate

The delivery of new housing through the Local Plan and planning applications supports the Council's priorities of supporting neighbourhoods ensuring local residents have access to good quality housing, and promoting inward investment through setting planning strategies and policies that support growth of the economy.

Equalities Act 2010 and Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

In the opinion of the author of this report the Public Sector equality duty is not engaged or affected by this decision.

1.0 Background

- 1.1 Members considered this application under planning reference F/TH/24/0302 for the change of use from existing care home (Use Class C2) to 21No bedroom HMO together with erection of bin store, and alterations to landscaping and parking.

- 1.2 The application was brought to the Planning Committee on 16th October 2024 and Members voted to defer to officers to bring back a report to the Planning Committee outlining potential reasons for refusal of the application for decision.

2.0 Analysis

- 2.1 Members raised three primary concerns in relation to the proposal presented, these being the impact on living conditions (both for future occupiers and neighbouring occupiers), the impact on trees, and the impact on highways matters.

Living Conditions

- 2.2 In terms of living conditions Members expressed concerns about future occupiers being required to share bathrooms or shower facilities and whether this would result in a good standard of accommodation for an HMO. Some Members commented that it is typical for HMO occupants to share certain facilities, including bathrooms and kitchens, and this was highlighted by Mr Livingstone, who confirmed that from Officer's understanding the provision of 17 en-suite bathrooms, along with shared bathroom facilities is a high level of provision.
- 2.3 Paragraph 123 of the NPPF states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Policy QD03 of the Thanet Local Plan sets out that development should be of appropriate size and layout with sufficient usable space to facilitate comfortable living conditions.
- 2.4 In considering the living conditions of future occupiers Officers had regard to the Council's own HMO Amenity Guidelines (see Annex 2) and the above policies. There is no presumption as part of these adopted guidelines, or the policies contained within the Local Plan that HMO's will provide private washing facilities, and provisions exist at paragraph 14 of the guidance onwards for requirements around ensuring the suitability of any shared facilities of this kind, setting out that:

"14. Unless private bathrooms are provided in all units of accommodation, an adequate number of suitably located shared bathrooms must be provided.

15. An adequate number is considered to be one shared bathroom for every five occupiers. No more than five occupiers should be required to share a bathroom.

16. Suitably located means no more than one floor distant and within reasonable distance of the units of accommodation the shared bathroom is intended to serve.

17. A shared bathroom must contain a suitable fixed bath or shower and be of adequate size and layout. Fixed baths and showers must be fit for purpose.

18. All fixed baths, showers and wash-basins provided in shared bathrooms must be kept in good repair and proper working order and be maintained with an adequate and constant supply of hot and cold water and satisfactory provision for drainage.

19. Adequate provision for tiled surfaces (or other appropriate impervious wall finish) and suitable floor coverings must be provided in all shared bathrooms.

20. Adequate means of ventilation must be provided in all shared bathrooms. Where natural ventilation is not available by means of an adequately sized and located openable window, mechanical ventilation (minimum 15 l/s) should be provided in accordance with the latest edition of the Building Regulations (Part F).

21. Any shared bathrooms that contain a WC must also contain a wash-basin.

22. Shared bathrooms must be cleaned thoroughly on a regular basis.”

- 2.5 The guidance considers up to 5 occupiers sharing a bathroom is suitable and the proposal would not exceed this, with only 4 out of 21 rooms relying on shared bathroom and wash facilities. One of these would be on the ground floor and located adjacent to a shower room, which is unlikely to be required or relied heavily on by other occupiers in the adjacent rooms given private facilities available, and three across the first floor. Bedroom 17 to the rear at first floor would be located adjacent to a shower room which would be similar in terms of use to the ground floor situation. Bedrooms 12 and 13 at the front of the property would be likely, given proximity and layout, to share a bathroom. Given the overall limited number of rooms reliant on sharing (likely to be 2 out of 21), and a lack of any prohibitive policies on such, along with the position that the Council's Licensing Team reviewed the application and did not raise any concerns (it is likely that if planning permission were given a license would follow, ensuring suitable levels of amenity), officers do not consider that a refusal reason on this ground would be well-founded.
- 2.6 Members also raised concerns about a lack of formalised garden space. There is no requirement in the Local Plan for HMOs to provide garden space. Policy GI04 of the Thanet Local Plan sets out that new family dwellings, defined as those having two or more bedrooms, will be required to provide safe doorstep playspace. This is not the case for HMOs where living is more self-contained and less likely to attract families. All rooms are considered to be private here. Whilst garden space would be a benefit for future occupiers, it is recognised by officers that in this instance the proposal would be for the reuse of an existing building. The garden space for the site is limited to small pockets around the side and rear that would be outside of the private living areas and bedrooms of other occupiers, therefore providing shared garden space or even private garden space for some rooms would not be realistically achievable. The site is in proximity to two public parks, open fields and footpaths, and Viking Bay. Given the lack of any policy conflict officers do not consider that a refusal reason on this ground would be well-founded.
- 2.7 In terms of the impact on neighbouring living conditions members expressed concerns about the impact on occupiers of The Mansions in terms of comings and goings generated by separate households when compared with the existing users of the care home. This issue was reviewed by both Planning Officers and the Council's Environmental Health Team, who raised no objections. Whilst the HMO can accommodate up to 22 unrelated people across 21 rooms, there is no reason to assume that the occupants would cause more noise and disturbance or anti-social behaviour than people living in a single household property. Should noise nuisance become a problem here there is separate environmental legislation to deal with this.

However, it is recognised that HMOs can, by virtue of their size, have some neighbour impacts. There is no immediate evidence before the Council that this particular site would be more likely to negatively impact neighbouring amenity, however Members could defer to officers to request the applicant provide a management plan, or request a condition for one, to address how the site would be managed and maintained to help mitigate against any potential future harm. Alternatively, if members consider that due to the number of residents, a management plan would not be sufficient to mitigate the harm, then they could refuse that application due to the level of activity from 22 unrelated people living in the building resulting in noise and disturbance to neighbouring properties in the absence of any mitigation measures being outlined/noise assessment being provided.

Trees

- 2.8 Members also raised concerns about the loss of protected trees from the site and a proposal to relocate these to the rear. There is a group Tree Preservation Order (TPO) on the entrance to Fairfield Road and north of this (TH/TPO/10(1986)G1) on the adjacent piece of land between Kent House and The Mansions. Two trees to the western entrance of the site, where parking is currently proposed, were previously proposed to be felled owing to poor health (application TPO/TH/21/0069 refers). The trees in question have not yet been removed, however it was agreed that they could be and replacement trees should be planted. At the time the Council's Tree Consultant reviewed the proposal and had discussed the matter with the applicant at the time, where agreement was made for replacement with four smaller trees (suggested as fruit trees). The Tree Consultant discussed the possibility of fruit trees along the back wall, in the location currently proposed for three trees, along with other enhancements to help fruit production. It was suggested in the consultation response (attached at Annex 3), that a columnar tree could be planted further forward of this along with hedging. Although it was not within the Council's ability at that time to require additional planting or hedgerows, given that the applicant then agreed with the Tree Consultant to replant 4 trees, this was conditioned as part of the approval to remove the Sycamores at the front of the site. It was further agreed to remove the Sycamores as part of application F/TH/23/0273 which allowed for a change of use from care home to 8No. 2 bed self-contained flats. Given that the current scheme follows the approximate location of replacement tree planting previously agreed, officers do not consider that a refusal reason on this ground would be well-founded. However, if Members consider that there are other policy grounds or reasons why this is not a suitable arrangement, they could consider a refusal reason based on the proposed location of the 4 replacement trees to be agreed or seek an amended landscaping scheme from the applicant or via condition.

Highway Safety and Parking

- 2.9 Finally Members raised concerns about highway safety and parking. In terms of highway safety, Members raised concerns about known incidents involving cars and pedestrians in or around the site and discussed crash data. The current Crash Map data for the area indicates two serious and two minor incidents along Fairfield Road,

south of the site connecting onto and other accidents/incidents recorded north on Broadstairs Road.

- 2.10 Mr Livingstone confirmed that KCC reviews crash data as part of their consultation response and have considered potential highway safety issues at the site resulting from the proposed works, and raised no concerns.
- 2.11 In order to sustain a reasonable reason for refusal on highway safety grounds Members would need alternative or conflicting evidence to demonstrate the harm identified from the proposed use and that the use itself would cause harm to highway safety.
- 2.12 Members mentioned crash data and discussed local knowledge surrounding accidents nearby, along with public events and drop-ins that raised concerns. If therefore Members consider there is substantial evidence available, above anecdotal information or concerns, they could consider refusing the application based on the strength of that evidence, or they could seek further clarification and commentary from KCC on specific statistics concerning accidents/incidents in the locality.
- 2.13 In terms of parking Policy HO19 of the Thanet Local Plan sets out that proposals for HMOs will be supported where they provide suitable arrangements for car parking, or adequate on-street parking is available within the vicinity of the site. Policy SP43 outlines that the Council will work with developers to manage travel demand by promoting and facilitating walking, cycling and the use of public transport. Policy QD02 outlines that new development proposals should incorporate a high degree of permeability for pedestrians and cyclists and provide safe and satisfactory access for pedestrians, public transport and other vehicles. Policy TP03 outlines that development should include cycle parking facilities. Policy TP06 outlines that proposals for development will be expected to make satisfactory provision for the parking of vehicles.
- 2.14 Paragraph 108 of the NPPF requires that transport issues be considered at the earliest stages of plan-making and development proposals and requires that opportunities to promote walking, cycling and public transport are identified and pursued. Paragraph 115 of the NPPF sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 2.15 Suitable levels of cycle parking have been provided to encourage sustainable transport methods in accordance with the aims of the above policies. KCC considers that suitable on-street parking, together with on-site parking, is available to serve the development.
- 2.16 The applicant produced a parking survey undertaken over three days (Tuesday 11th, Wednesday 12th and Saturday 15th June 2024) at the request of the Highway Authority. The times of the survey were 15:00PM until midnight. A member of the public raised concerns about whether the parking survey that was undertaken was

done so during school holiday times. Kent County Council do not have half terms or holidays in June and therefore there is no known conflict here.

- 2.17 Members raised concerns about the findings in the survey and whether the final figures were accurate in terms of displacement of vehicles from the proposal onto the surrounding road network, the roads that had been included as suitable for additional vehicles, and the absence of any surveys during peak morning flows.
- 2.18 During the determination period, several objections were received from members of the public surrounding the survey and the evidence base provided that closely aligned with concerns raised by Members. These were copied to KCC Highways and flagged as express concerns of local residents that Officers wanted KCC to consider in giving their advice, and was addressed by the Highway Authority. In their formal response KCC also identified inaccuracies or dissent with some of the findings, including the number of unrestricted parking spaces identified and the suitability of particular roads for parking, focusing on only Fairfield Road.
- 2.19 However KCC were satisfied that the parking demand put forward (10.2 (10)) vehicles, taking into account that there is no evidential basis for the view that all occupants in an HMO would require a parking space or be comparable to the situation for flats) would be accurate for the type and size of HMO proposed, and that the methodology used in the survey was correct.
- 2.20 At the time of providing advice the proposal was for 8 vehicle parking spaces (six for occupants and two for visitors), however KCC considered one of the spaces was too small and discounted this. The space was later updated and enlarged in line with the requirements of the Highway Authority. KCC assessed that if there was a need for 10.2 vehicles and 7 spaces would be provided, 3 cars would be displaced onto the surrounding highway network. This was an over-assumption based on the undersized space discounted, and therefore the total number once the parking space in question had been updated, was 2 cars. Based on KCC's findings (for 3 cars), it was considered that of 38 spaces available on Fairfield Road an additional 3 cars could be accommodated, also having regard to the edge of centre location and good transport links associated with the site. In order to address concerns about parking on roads identified as insufficient or unsafe, considering the need to refuse freighters to manoeuvre, KCC recommended additional double yellow lines on Fairfield Park via a Traffic Regulation Order (TRO), which could be secured by a legal agreement. The overall evidence base available indicates a relatively low displacement figure and KCC confirms that this can be accommodated locally. The displacement figure is to be distinguished from the occupancy figure for the HMO, with the agreed need identified as being 10.2 vehicles. Members raised concerns that the level of parking was insufficient and drew comparisons with another application in Sea Road (application F/TH/24/0335). This was an application to vary an existing permission for new build flats, and therefore the criteria for parking was different.
- 2.21 Members expressed concerns that the roads identified in the survey were not sufficient for parking, and this was addressed by KCC. Members also expressed concerns about safety around school pick-up and drop-off times, and KCC

recommended additional restrictions on parking nearby within Fairfield Park, which would also help to address the issue of safe parking places and would be enforceable under separate legislation (once a Traffic Regulation Order is in force).

2.22 As the competent authority for the determination of parking and highway safety matters, KCC's comments hold significant weight in the determination process. In the absence of alternative evidence that the number of vehicles required, and the figure to be displaced to the surrounding highway network, would be greater than that shown and subsequently reviewed and agreed by KCC, Officers do not consider that a refusal reason on this ground would be well-founded. However if Members consider there is evidence that the additional vehicles on the network would cause harm at a particular time of the day and that this results in severe harm to the network or highway safety, then it would be open to the Planning Committee to refuse the application on this basis.

2.23 Officers revisited the number of existing comings and goings at the site with the applicant who provided the following information:

"..there are 6 members of full-time staff and 4 members of part time staff. As well as staff the home also has frequent daily visitors from families, volunteers, advocates, healthcare professionals, deliveries of food and other purchases, hospices, sales people and many other different roles. The average number of visits per day looking at the fire log book for the last 3 months is in excess of 40 visitors per day."

KCC were also asked to comment on specific concerns raised by Members and gave the following response:

"I would defer back to my formal comments, the number of cars displaced onto the highway is estimated to be 3 based on the census data. The applicant has based this data on flats which typically have a higher rate of car ownership and so 3 is likely to be an overestimation. This is not a significant increase in parking stress.

I am content to accept a 3pm-11pm time frame as it includes school drop off peak, and later hours which are reflective of when residents are most likely to be home.

It is at the discretion of TDC should they feel increased parking restrictions are necessary in the area and any illegal parking for example on double yellows would be a police matter.

I am minded that there is not a basis to recommend refusal especially considering the existing use of site, with 17 employees and additional visitors spread across the day."

2.24 Paragraph 38 of the National Planning Policy Framework (NPPF) sets out that "local planning authorities should approach decisions on proposed development in a positive and creative way..... and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible." It is acknowledged that the area around

the site is busy at certain times of the day, taking into account the nearby schools, and that the site cannot accommodate all the vehicles required. In the opinion of Officers, the final displacement figure of 3/2 cars is considered to be low, however if Members are not satisfied with the final survey, as an alternative Members could ask the applicant to provide a survey covering the times that were raised as a concern (08:00AM - 09:00AM) to satisfy themselves that all peak times have been considered. Members also raised concerns that the survey was undertaken from 15:00PM in the afternoon on the relevant days, however noted that one of the local schools finishes at 14.15pm. According to both schools' websites Charles Dickens finishes at 15:00PM and Dane Court finishes at 15:20PM. If there is reason to believe this is no longer accurate, a new survey could specify particular times Members are concerned about.

3.0 Options

- 3.1 Members to defer and delegate to officers to approve subject to the completion of a legal agreement, as contained with the report at Annex 1.
- 3.2 Members refuse the application due to the impact on highway safety and parking based on substantial evidence that contradicts that presented and the advice given by KCC, and/or on the impact on the living conditions of neighbouring properties, contrary to officer advice.
- 3.3 Members defer and delegate to officers to seek additional traffic surveys and a management plan from the applicant to satisfy themselves that appropriate information, evidence and mitigation has been provided.
- 3.4 Members propose an alternative motion.

4.0 Recommendations

- 4.1 Officers recommend Members of the Planning Committee agree with option 3.1.

Contact Officer: Vicky Kendell-Bryant, Senior Planning Officer
Reporting to: Annabel Hemmings, Principal Planning Officer

Annex List

- Annex 1: Committee Report F/TH/24/0302
- Annex 2: Private Sector Housing Amenity Guidelines for Houses in Multiple Occupation
- Annex 3: Copy of Tree Consultant's response to application TPO/TH/21/0069