
Appeal Decision

Site visit made on 23 July 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2019

Appeal Ref: APP/R0335/W/19/3225337

Holly Cottage, London Road, Popeswood, Binfield, Bracknell, Berkshire RG42 4AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by CHOICE Ltd against the decision of Bracknell Forest Borough Council.
 - The application Ref 18/00662/FUL, dated 23 June 2018, was refused by notice dated 12 November 2018.
 - The development proposed is described as 'demolition of existing dwelling (use class A3) and redevelopment of site for Residential Care Home (Use Class C2) with associated access, parking and landscaping'.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 12 bedroom Residential Care Home (Use Class C2) with associated access, parking and landscaping following demolition of Holly Cottage at Holly Cottage, London Road, Popeswood, Binfield, Bracknell, Berkshire RG42 4AA, in accordance with the terms of the application, Ref: 18/00662/FUL, dated 23 June 2018, subject to the conditions set out at the end of this decision.

Application for costs

2. An application for costs was made by CHOICE Ltd against Bracknell Forest Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. I have used the description of development as set out on the Council's Decision Notice and the appeal form, as opposed to that contained on the application form. This is because it precisely describes the form of development proposed.
4. The planning application that is now the subject of this appeal was originally refused for 3 separate reasons. The Council has however confirmed in writing that it no longer wishes to defend its second and third reasons for refusal, which related to the Thames Basin Heaths Special Protection Area (the SPA) and to a travel plan. I shall determine the appeal on this basis.

Main Issues

5. The main issues are:
 - The effect on the character and appearance of the area;

- The effect on the living conditions of neighbouring occupiers; and
- The effect on the integrity of the SPA.

Reasons

Character and appearance

6. The appeal site is in a predominantly residential area characterised by dwellings of a variety of styles that are typically positioned on individual plots of generous size. It is particularly the case on the southern side of London Road that an informal pattern of development is in place, with buildings being set on a variety of different orientations and building lines and finished in a range of materials. Several large villa-type properties are located along the northern side of London Road opposite to the site. The area thus has a mixed character and appearance.
7. The existing dwelling (Holly Cottage) takes the form of a linear bungalow of uncomplicated pitched roof design that is approximately centrally positioned within a spacious plot and is orientated to face London Road. The land level falls away from the road into the site such that Holly Cottage is set at a noticeably lower ground level comparative to the road, a relationship that is similarly in evidence between the road and neighbouring properties to either side of the site.
8. The proposal would introduce a 2 storey building that would loosely follow the footprint position currently occupied by Holly House, albeit in an extended form. I am satisfied that the height of the proposed building would be closely reflective of neighbouring properties to either side. Indeed, it was apparent from inspection that numerous properties with an immediate visual relationship to the site were at least 2 stories in height.
9. It is also evident from the plans before me that the newly proposed building would be set in from the side boundaries of the site by distances that are only slightly less in extent when compared to the distances currently exhibited by Holly House. I also accept the appellant's argument that the staggered and hipped roof form would assist in tempering the visual prominence of the building and in providing for a well-proportioned structure that would sit comfortably within its plot.
10. I am satisfied that the extent of plot coverage proposed, when considered alongside the design approach that has been taken, would not lead to a building of excessive bulk or mass, nor to an overdevelopment of the site. This is even when factoring in the different car parking and hard surfaced areas that are proposed as part of the development.
11. For the above reasons, the proposal would not cause harm to the character and appearance of the area. The proposal accords with saved Policy EN20 of the Bracknell Forest Borough Local Plan (2002) (the Local Plan) and Policy CS7 of the Core Strategy Development Plan Document (February 2008) (the Core Strategy) in so far as these policies require new development to be in sympathy with the appearance and character of the local environment and appropriate in scale, mass, design, materials, layout and siting, both in itself and in relation to adjoining buildings, spaces and views.

Living conditions

12. The proposal would provide a materially larger replacement building, when compared to Holly Cottage, that would thus be positioned closer to the various boundaries of the appeal site. Indeed, it is proposed that a dwellinghouse be replaced by a 12-bedroom care home, which the Council considers would inevitably lead to external areas of the site being used in a more intensive way and thus increased levels of activity in proximity to neighbouring dwellings.
13. I accept that the proposed use of the site would be likely to generate increased levels of activity when compared to the existing situation. In terms of anticipated vehicular movements, whilst I acknowledge the potential for some external visitors, most would realistically be undertaken by members of staff at shift turnovers. The appellant has confirmed the anticipated frequency and timing of these turnovers, which would be limited in number and would not involve movements during night time hours. I am satisfied that these anticipated arrangements are realistic and appear to correspond with the type and size of the facility that is proposed where the site would constantly be under the supervision of staff. I am content, given the moderate scale of the proposed 12-bedroom facility, that associated vehicle movements would be relatively modest.
14. I note that the proposal involves the provision of a vehicular accessway running the eastern boundary of the site. It is however the case that a driveway area and garage are currently in place in this location. In any event, a mere 3 parking spaces are proposed to be located to the rear of the site and thus accessed via this route. I do not consider that this arrangement would give rise to unduly frequent vehicular movements to the rear of the site.
15. It would appear inevitable that the site's external areas would be more intensively used when compared to how such areas would realistically be used as part of a single residential plot. This is mainly because of staffing requirements and the increased number of occupiers anticipated. However, it does not necessarily follow that such circumstances would lead to harm being caused. Indeed, a maximum of 12 residential occupiers would be on site at any one time and a generously sized communal rear garden area would be provided alongside various new planted features. The development, I consider, is proportionate in scale to the site it would occupy and would not result in an unduly intensive use of external areas.
16. Furthermore, I do not consider that the provision of a smoking shelter would realistically lead to an associated level of activity that could cause harm to neighbouring living conditions. This is particularly due to the limited maximum number of occupants that could be accommodated by the facility.
17. I note that interested parties have raised the potential for the proposal to result in overlooking and a loss of privacy. It is however apparent that the 2 side-facing first floor window openings are proposed to be obscure glazed in order to guard against potential privacy concerns. The Design Supplementary Planning Document (March 2017) sets out that for two-storey houses a minimum back to back distance of 22m between facing windows is accepted as providing a reasonable degree of privacy and that, furthermore, overlooking impacts can be mitigated by oblique siting relationships. It is apparent that dwellings situated to the rear of the site are orientated at an oblique angle to the site. From consideration of the plans before and my own site inspection, I

am content that adequate distance separation to the rear of the site would be provided to guard against any undue loss of privacy.

18. Whilst a building of increased bulk and mass is proposed, built development would continue to be set away from the boundaries of the site such that I do not consider that the living conditions of neighbouring occupiers would be adversely affected because of any undue loss of outlook. This is even noting the limited extent of new planting that would be anticipated to take place along the side boundaries of the site.
19. For the above reasons, the proposal would not cause harm to the living conditions of neighbouring occupiers. The proposal accords with saved Policy EN20 of the Local Plan in so far as it requires that new development does not adversely affect the amenity of surrounding properties and the adjoining area.

Special Protection Area

20. The site lies in the proximity of the SPA and therefore I must consider the appeal against The Conservation of Habitats and Species Regulations 2017. These regulations require that, where the project is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), the competent authority must make an appropriate assessment of the implications of the project in view of the relevant site's conservation objectives.
21. I note from the evidence before me that the Council, in the process of determining the planning application that is now the subject of this appeal, undertook its own appropriate assessments. This process ultimately identified a total SPA-related financial contribution for the proposal of £28,812 which Natural England has raised no objection to. A completed legal agreement dated 18 July 2019, which has been signed by various parties, including the appellant and the Council, is before me which secures the relevant financial contributions set out in the Council's evidence. As stated in the Procedural Matter above, this has allowed the Council to formally withdraw its second reason for refusing to grant planning permission.
22. However, for the purposes of this appeal, I am the competent authority and must undertake my own appropriate assessment prior to considering the issue of mitigation. It is apparent from the evidence before me that the SPA is comprised of a network of heathland sites which are designated for their ability to provide a habitat for the internationally important bird species of woodlark, nightjar and Dartford warbler. The SPA was designated in 2005 due to Natural England research at the time indicating that recreational pressure was having a detrimental impact upon these bird species, which are ground-nesting.
23. As set out in Policy CS14 of the Core Strategy, any net increase in residential development between a 400m and 5km straight-line distance from the SPA is likely to have a significant effect. In this instance the Council has stated that the site is located approximately 3.75km from the boundary of the SPA and I have no reason to doubt the accuracy of this measurement. Based on the site's evident proximity to the SPA, the impact of the proposed development would lead to a likely significant adverse effect on the SPA through the increased local population and associated recreational activity.

24. The Thames Basin Heaths Special Protection Area Supplementary Planning Document (April 2018) (the TBHSPASPD) sets out a two-pronged approach to avoiding likely significant effect on the SPA, which consists of the provision of Suitable Alternative Natural Greenspace (SANG), to attract people away from the SPA, and Strategic Access Management and Monitoring (SAMM) measures to reduce the effect of people who visit the SPA.
25. The legal agreement that is before me secures contributions to be paid to the Council that have been calculated in line with the expectations of TBHSPASPD. In fact, the appellant has confirmed that payment has already occurred with the proviso that the contributions be repaid if the appeal is dismissed. The TBHSPASPD states that avoidance and mitigation strategies for care homes should be considered on a case by case basis.
26. In this instance the main parties have agreed that a contribution akin to that which would be required for 6 single bed dwellings would be appropriate. This is, I understand, based on it having been established that due to the particular care needs of the future occupiers, an average of 43% of them would be unlikely to visit the SPA. From the evidence before me, which includes reference to a continual staff presence being required and to working towards providing greater levels of independence for individual occupiers so that they can move on from the facility as an independent citizen in the future, I am satisfied that an occupier of the proposed facility would be significantly less likely to visit and place pressure on the SPA when compared to the occupier(s) of a single bed market dwelling. I thus have no reason to disagree with the outcome of the negotiations that have occurred between the main parties. I am satisfied that the mitigation package that has been agreed is both suitable and reasonable.
27. The legal agreement places a covenant upon the Council to use all reasonable endeavours to carry out SANG enhancement works within a specified 3-month time period and in full accordance with criteria set out in the TBHSPASPD. It also places a covenant upon the appellant not to occupy the development until written confirmation has been issued by the Council confirming that such works have been carried out. A further covenant requires the Council to pay the SAMM contribution to the County Council for it to be applied in accordance with a SAMM agreement that is in place (dated 14 July 2011) between the various Councils in the County and Natural England. This agreement, I understand, relates to the delivery of a programme of strategic access management and monitoring. I am content that adequate assurances are in place to ensure that the intended mitigation and avoidance measures would be implemented expediently should planning permission be granted.
28. For the above reasons, the proposal would mitigate its impact upon the SPA and I am thus satisfied that the development would not adversely affect the integrity of the SPA. The proposal accords with retained Policy NRM6 of the South East Plan, saved Policy EN3 of the Local Plan and Policy CS14 of the Core Strategy in so far as these policies require that new residential development which is likely to have a significant effect on the ecological integrity of the SPA will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects.

Other Matters

29. Concerns have been raised by interested parties to this appeal that the site is not suitable for the proposed use and that better suited sites would be available. Indeed, it has been stated that local services and facilities are not conveniently located. It is however apparent that the site is situated in a built-up area and that the nearest bus stops, whilst not situated in the immediate vicinity of the site, are accessible on foot. I am content that the site is suitably located for the proposed use and note that the Council has raised no objections in this context.
30. Through inspection I observed London Road to be a busy route with regular flows of traffic along it. It is proposed that the existing access be upgraded to provide both an in and an out lane and I am content that satisfactory levels of visibility could be attained, particularly noting the generous width of the footway that runs London Road. It is also proposed that a separate path in to the site be provided for cyclists and pedestrians. I also note here that there would not be expected to be implications for an existing tree that is positioned alongside the access, as the intended upgrading/widening would be focussed to the opposite side of the existing access.
31. The current access arrangements for the site require a sloped gradient to be negotiated. I am satisfied from inspection that this is not of such steepness to compromise safe vehicular movements. I am also content that refuse and recyclables could be moved up the slope to the roadside for collection in a sensible fashion, even if stored in large containers. The Highway Authority has raised no objection to the proposal, and this is a matter of importance as they are responsible for the safety of road users on the local highway network. I am thus satisfied that the proposal would not have an adverse effect upon highway safety.
32. In terms of car parking, the submitted site layout indicates the provision of 8 spaces on-site. The Parking Standards Supplementary Planning Document (March 2016) (the Parking SPD) sets out a series of parking standards for a variety of different development types. It is stated in the Parking SPD that some flexibility in the application of parking requirements shall be allowed where robust evidence demonstrates that this is appropriate.
33. I accept that a shortfall in parking spaces would be calculated if the standard for nursing homes was rigidly applied to the scheme before me. A specialist mental health facility is however proposed. It is apparent, from the evidence before me, that the appellant has considered the operational requirements of similar facilities elsewhere and the likely requirements of future staff. Whilst the eighth proposed space would involve tandem parking within the site, I am satisfied that an acceptable level of car parking is proposed and note that the Highway Authority has raised no objection in this context. I also note that the intended parking layout provides adequate opportunities for turning and manoeuvring on-site.
34. I note reference by third parties to other care home facilities existing or being provided/planned for in the local area. It is not however the role of the planning system to restrict competition and, in any event, a specialist facility is proposed that would provide valuable living quarters for a narrow and potentially vulnerable customer group. Whilst possible security risks have been referenced by interested parties, I am content that rigorous assessments of the

suitability of potential residents would be carried out and that there would be various associated care quality standards to fulfil outside of the planning process. I also do not consider that the proximity of the site to London Road would render it unsuitable for accommodating care facilities of the type proposed.

35. The proposal is supported by an Ecological Assessment that assesses the site's ecological baseline and the proposal's effects in an ecological context. This work uncovered the presence of a bat roost within Holly Cottage and notes the presence of a badger run along the southern boundary of the site. A number of suggested mitigation measures are set out in the Ecological Assessment, which make it clear that a protected species licence must be sought from Natural England before any works that effect the bat roost are carried out. This licence application would need to be supported by a method statement detailing the methods to be followed to maintain the conservation status of the species at the site. Furthermore, additional roosting and nesting features are recommended to be installed.
36. With respect to the badger run, netted Heras fencing is to be erected along the southern boundary of the site during construction and additional planting is to be undertaken to ensure a dark corridor is maintained. I am satisfied that protected species would not be adversely affected by the proposal, subject to the specified mitigation measures being undertaken as set out in the submitted Ecological Assessment.
37. Despite concerns raised by an interested party, there is no indication from the relevant statutory undertaker that existing sewage/surface water drainage infrastructure in the area has insufficient capacity or capability to accommodate the proposed development.
38. The proposal accords with the development plan when read as a whole and material considerations do not lead me to a decision otherwise.

Conditions

39. The Council has suggested several conditions and the appellant has had the opportunity to comment upon these. I have considered the suggested conditions against advice in the National Planning Policy Framework (February 2019) and Planning Practice Guidance. As a result, I have made amendments to some of the Council's suggested conditions for consistency and clarity purposes. Pre-commencement conditions have only been applied where agreed to by the appellant in writing and where necessary to guide initial works on site.
40. In the interests of certainty, a condition specifying the approved plans is required. In the interests of ensuring the development is carried out and subsequently used in accordance with the terms of the application made, a condition is required specifying that the facility shall be used only as a mental health unit for up to 12 service users.
41. In the interests of protecting the appearance of the area, a condition is required to secure full details of the external facing materials. For the same reason, as well as to encourage biodiversity, full details of intended hard and soft landscaping are required to be secured by condition. This is due to a detailed planting scheme not appearing on the suite of submitted plans before

me. The same condition would secure the scheme's implementation and suitable maintenance and replanting requirements. Also, to protect the appearance of the area and to encourage biodiversity, a further condition ensuring that any existing planting of significance intended to be retained is properly protected during construction works is reasonable.

42. A scheme of means of enclosure is reasonable and necessary to secure via condition in the interests of protecting the appearance of the area, the living conditions of neighbouring occupiers and biodiversity (noting the sensitivity of the southern boundary of the site in the context of badgers). In the interests of safeguarding biodiversity and protected species, a condition securing the undertaking of all mitigation and compensation measures contained in the submitted Ecological Assessment is reasonable and necessary, as is specific reference to the need for a protected species licence to be sought. Also, in the interests of safeguarding protected species, a condition securing the submission and implementation of an external lighting scheme is reasonable and necessary.
43. In the interests of safeguarding the living conditions of future and neighbouring residents, a condition is reasonable and necessary to secure full details of bin storage. As is, for the same reason with respect to neighbouring residents, the submission of a Working Method Statement to be complied with during construction and demolition activities. This statement would not need to incorporate details of working hours because these would be secured by a separate specific condition that I also consider to be reasonable and necessary to protect neighbouring living conditions. To protect against loss of privacy for neighbouring occupiers a condition is required to secure the implementation of first-floor level obscure glazed windows to the side elevations of the main building to be constructed.
44. In the interests of highway safety, a condition securing full details of the intended off-site highway works is reasonable and necessary. Such works, which are set out indicatively on the site layout plan submitted, would be undertaken off-site and therefore outside of the full control of the appellant. However, in the absence of any evidence to the contrary, I am satisfied that the land in question falls under the full control of the Highway Authority who are supportive of the intended works being undertaken as part of the intended redevelopment of the site. I am thus sufficiently satisfied that a condition to this effect would be both implementable and enforceable. In acknowledgement to the importance of these works being undertaken, it is appropriate for this condition to require the details of the scheme to be submitted and agreed prior to the commencement of development.
45. A condition securing that the intended means of vehicular and pedestrian access to the building itself have been constructed prior to the first occupation of the facility is both reasonable and necessary. As would conditions be to secure the marking out and subsequent retention of intended parking and turning areas and full details of how the site is to be parked/serviced/laid out during construction. All conditions covered in this paragraph would be in the interests of highway safety.
46. In the interests of encouraging cycling as a sustainable form of transportation, a condition is required to ensure the implementation and ongoing retention of the intended cycle storage.

Conclusion

47. For the reasons set out above, the appeal is allowed subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out only in accordance with the following approved plans: HC/2018/LOCATION; HC/2018/Block Rev C; HC/2018/GA101 Rev A (for the avoidance of doubt off-site highway works are not approved by this plan, see Condition 6); HC/2018/GA102; HC/2018/GA103; HC/2018/GA104; HC/2018/GA105; HC/2018/GA106; HC/2018/GA107; HC/2018/GA108; HC/2018/GA109; HC/2018/GA110; HC/2018/GA007 Rev B.
- 3) The residential care home hereby permitted shall be used as a mental health unit for up to 12 service users and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 4) No development (including demolition) shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority, to accommodate: (a) parking of vehicles of site personnel, operatives and visitors (b) loading and unloading of plant and vehicles (c) storage of plant and materials used in constructing the development (d) wheel cleaning facilities (e) temporary portacabins for site operatives. Each facility shall be retained throughout the course of construction of the development, free from any impediment to its designated use. No other areas on the site, other than those making up part of the approved scheme shall be used for the purposes listed (a) to (e) above.
- 5) The development hereby permitted (including any demolition) shall not be begun until details of a scheme (Working Method Statement) to control the environmental effects of demolition and construction work has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include: (i) specifications of control of noise arrangements for construction and demolition; (ii) methodology of controlling dust, smell and other effluvia; (iii) site security arrangements including hoardings; (iv) proposed method of piling for foundations; (v) construction and demolition methodology; (vi) hours during the construction and demolition phase, when delivery vehicles or vehicles

- taking materials are allowed to enter or leave the site. The development shall be carried out in accordance with the approved scheme.
- 6) The development hereby permitted shall not be begun until a scheme has been submitted to and approved in writing by the Local Planning Authority for off-site highway works including the alteration of the junction on to London Road. The residential care home shall not be occupied until the off-site highway works have been completed in accordance with the approved scheme.
 - 7) No construction works above ground level shall be commenced until full details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
 - 8) The first-floor side-facing windows in the east and west facing elevations as depicted on approved plans referenced HC/2018/GA104 and HC/2018/GA105 shall not be glazed at any time other than with a minimum of Pilkington Level 3 obscure glass (or equivalent). These windows shall at all times be fixed with the exception of a top hung openable fanlight.
 - 9) The residential care home hereby approved shall not be occupied until means of pedestrian and vehicular access to it have been constructed in accordance with the approved drawings.
 - 10) The residential care home hereby approved shall not be occupied until the associated vehicle parking spaces and turning spaces have been surfaced and marked out in accordance with the approved site layout referenced HC/2018/GA101 Rev A. The spaces shall thereafter be retained and not used for any purpose other than parking and turning.
 - 11) The residential care home hereby approved shall not be occupied until associated approved cycle parking facilities have been provided in accordance with the approved site layout referenced HC/2018/GA101 Rev A. The facilities shall be retained as approved thereafter.
 - 12) All existing trees, hedgerows and groups of mature shrubs shown to be retained on the approved site layout referenced HC/2018/GA101 Rev A shall be protected during the construction phase of development by 2.3m high (minimum) protective barriers, supported by a metal scaffold framework, constructed in accordance with Section 9 (Figure 2) of British Standard 5837:2005, or any subsequent revision.
 - 13) The residential care home hereby approved shall not be occupied until a scheme depicting hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. All planting comprised in the approved soft landscaping works shall be carried out and completed in full accordance with the approved scheme, in the nearest planting season (1st October to 31st March inclusive) to the completion of the development or prior to the occupation of any part of the approved development, whichever is sooner. All approved hard landscaping works shall be carried and completed prior to the occupation of any part of the approved development. As a minimum, the quality of

all hard and soft landscape works shall be carried out in accordance with British Standard 4428:1989 'Code Of Practice For General Landscape Operations' or any subsequent revision. All trees and other plants included within the approved details shall be healthy, well-formed specimens of a minimum quality that is compatible with British Standard 3936:1992 (Part 1) 'Specifications For Trees & Shrubs' and British Standard 4043 (where applicable) or any subsequent revision. Any trees or other plants which within a period of 5 years from the completion of the development, die, are removed, uprooted, are significantly damaged, become diseased or deformed, shall be replaced during the nearest planting season (1st October to 31st March inclusive) with others of the same size, species and quality as approved.

- 14) The residential care home hereby permitted shall not be occupied until external site lighting has been provided in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the lighting units, levels of illumination and hours of use. The development shall be carried out in accordance with the approved scheme and no lighting shall be provided at the site other than in accordance with the approved scheme.
- 15) The residential care home hereby permitted shall not be occupied until a scheme of means of enclosure has been implemented in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority. The means of enclosure contained in the approved scheme shall thereafter be retained.
- 16) The development hereby permitted shall be carried out in accordance with the various mitigation/compensation measures contained in the Holly Cottage, London Road, Binfield, Bracknell Ecological Assessment (ECOSA September 2018). These measures include seeking a protected species license from Natural England before works which may impact an identified bat roost at Holly Cottage are commenced.
- 17) No demolition or construction work shall take place outside the hours of 0800 to 1800 Monday to Friday and 0800 to 1300 on Saturdays, and shall not take place at all on Sundays or Public Holidays.
- 18) Bin storage shall be provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority before the residential care home is occupied and shall thereafter be retained available for use.